

VIII. APPENDIX A

RELEVANT CHARTER LANGUAGE, MARYLAND COUNTIES

ANNE ARUNDEL COUNTY CHARTER

<http://www.aacounty.org/countycode/index.cfm>

Article VII. Budgetary and Fiscal Procedures

Sec. 715. Appropriation control and certification of funds.

(a) During any fiscal year, an office, department, board, commission, or other agency of the County government may not spend, or contract to spend, any money or incur any liability, or enter into any contract, which by its terms involves the expenditure of money, for any purpose in excess of the amounts appropriated for the same general classification of expenditure in the budget for that fiscal year, or in any supplemental appropriation as provided in this Article.

(b) (1) Except as otherwise authorized under paragraph (2) of this subsection and under Section [718\(g\)](#) of this Charter, an office, department, board, commission, or other agency of the County government may not make any payment over One Hundred Dollars (\$100) or incur any obligation or liability over One Hundred Dollars (\$100) unless the Controller certifies that the funds for the designated purpose are available.

(2) The County Council may increase the limit set in paragraph (1) of this subsection for uncertified expenditures and then decrease the limit by ordinance to any amount not lower than that set in paragraph (1).

Article IX. Centralized Purchasing

Sec. 901. Responsibility for purchasing.

The Central Services Officer shall be responsible to the Chief Administrative Officer for the execution of the County purchasing policies established in this Article.

Sec. 902. County purchasing policies and practices

The Central Services Officer shall appoint a County Purchasing Agent in accordance with the provisions of [Article VIII](#) who shall have the following purchasing functions which he may delegate to Deputy Purchasing Agents in his office and under his supervision:

(a) The making of all purchases, leases and contracts for all public works and for all supplies, material, equipment and services for all offices, departments, institutions, boards, commissions and other agencies of the County government for which payment is to be made out of County funds.

(b) If recommended by the County Executive and approved by ordinance of the County Council, the establishment and operation of a County warehouse for the County supplies, material and equipment and the maintenance of a sufficient stock of stable commodities to meet the requirements of the County government.

(c) The operation of a uniform and modern system of property accounting and stores control as established by, and under the direction of, the office of finance.

(d) The establishment, after consultation with the appropriate County officials, of suitable specifications and standards for all supplies, materials and equipment to be purchased, and the inspection of all deliveries to determine compliance with such specifications and standards.

(e) The establishment and maintenance of a system of requisitions and receipts covering the furnishing of supplies, materials and equipment to the various offices, departments, institutions, boards, commissions and other agencies of the County.

(f) The establishment, with the approval of his superiors and by ordinance of the County Council, of reasonable rules and regulations governing emergency purchases and contracts and those involving material, equipment or services of an unusual or noncompetitive nature which shall not be subject to competitive bidding.

(g) The sale of real property and of surplus, old and waste supplies, materials, and equipment of the County, or the transfer of the same between offices, departments or other agencies of the County government.

(h) The making of purchases for a stores revolving fund, which the Council is hereby authorized to establish, and of making sales from the stores to using agencies of the County.

(Bill No. 86-72; Bill No. 73-82)

Sec. 904. Competitive bidding.

(a) Any single purchase or contract under the jurisdiction of the County Purchasing Agent and involving an expenditure of more than Three Thousand Dollars (\$3,000), except for purchases for which the County Council has set a higher minimum requirement under Section [911](#) of this Article, emergency purchases, and those involving material and equipment of a non-competitive nature, as may be defined and governed by the regulations adopted under Section [902](#)(f) of this Article, shall be made from or let by sealed bids or proposals. The sealed bids and proposals shall be publicly opened after public notice for the period and in the manner that the Purchasing Agent or his authorized deputy determines, however, a purchase or contract may not be made under this section for at least one week after the public opening of bids. The purchases and contracts shall be made from or awarded to the lowest responsible bidder who shall give security or bond for the performance of his contract as determined by the Purchasing Agent or his deputy. In all cases, the County shall reserve the right to reject any and all bids.

(b) All construction, maintenance and repair work shall be subject to the requirements of competitive bidding provided in this section, unless the work is to be done directly by the County through the use of its own laboring force. All materials and supplies used by the County laboring force shall be purchased in accordance with the provisions of this Article.

(c) The County may not sell real property that it owns unless the property is first declared surplus by the County Executive. The County Council shall enact furthering legislation to implement the procedure for the disposition of said surplus property.

(d) No sale, contract, or purchase shall be subdivided to avoid the requirements of this section.

(Bill No. 73-82)

Sec. 905. Conformity with budget limitations.

No deliveries of supplies, materials or equipment shall be made to any office, department, board, institution, commission or agency of the County government in excess of the available appropriation therefor, and except for small purchases in an amount less than the amount specified in or authorized under Section [715](#) of this Charter for uncertified purchases, no payment shall be made out of County funds for the purchase of supplies, materials or equipment, unless the Controller shall first certify that the funds for the designated purpose are available. Any purchase or contract not so certified-by the Controller shall be invalid and the County shall not be bound thereby.

(Bill No. 73-82; Res. No. 19-06)

Editor’s note – The 2006 amendment deleted the reference to budgetary allotments. Although former Sec. 714 pertaining to work programs and allotments was eliminated from the Charter in 1988, references to allotments remained throughout various articles and sections of the Charter.

Sec. 906. Service contracts.

Contracts for professional services and for services for which the rate or price is fixed by a public authority authorized by law to fix rates or prices, shall be let without resource [resort] to competitive bidding.

Sec. 907. Uniform bidding.

It shall be the duty of the Purchasing Agent to discourage uniform bidding by every possible means and to endeavor to obtain as full and open competition as possible on all purchases and sales. For competitive sealed bids and proposals, the Purchasing Agent shall require each bidder to accompany his bid with a statement made under oath that he has not been a party with other bidders to an agreement to bid a fixed or uniform price or to share price bid information. Violation of such statement shall render void the bid of such bidders. Any disclosure to or acquisition by a competitive bidder, in advance of the opening of the bids, of the terms or conditions of the bid submitted by a competitor shall render the entire proceedings void and shall require readvertising for bids.

(Res. No. 38-02)

Sec. 908. Contract execution.

All contract bid forms and all contracts shall be approved by the County Attorney as to form and legal sufficiency. Following such approval, all contracts shall be signed in behalf of the County by the County Executive or his designee. A copy of each signed contract shall be forwarded promptly to the Controller.

(Bill No. 94-80)

Sec. 909. Cooperative purchasing.

As appropriate, the Purchasing Agent may undertake programs involving joint, or cooperative purchases with other public jurisdictions.

(Res. No. 37-02)

Sec. 910. Negotiations with vendors.

No officer or employee of the County shall negotiate directly or indirectly with any vendor except with the approval of the Purchasing Agent pursuant to the furthering legislation prescribed in Section [911](#) of this Charter.

Sec. 911. Furthering legislation

The County Council shall enact furthering legislation, not inconsistent with the provisions of this Charter or with the public general laws of this State, to implement the purchasing policies herein established. Such legislation may regulate the practices of the County Purchasing Agent and other officers, agents and employees of the County in regard to the issuance of inquiries, the receipt of bids, the placement of orders and other matters relating to the making of purchases and the award of contracts. Such legislation may prescribe special procedures governing the letting of bids and the award of contracts for the construction of roads, bridges, streets, buildings and those relating to water, sewer and storm water facilities, and may increase the minimum dollar requirement for competitive bidding with respect to such contracts from Three Thousand Dollars (\$3,000.00) as provided in Section [904](#) to a figure up to, but not greater than Twenty-Five Thousand Dollars (\$25,000). All such legislation shall be subject to amendment from time to time by the County Council.

(Bill No. 93-80; Bill No. 73-82; Res. No. 19-04)

BALTIMORE CITY CHARTER

ARTICLE VI. BOARD OF ESTIMATES

§ 1. Establishment and organization.

(a) *In general.*

There shall be a Board of Estimates composed of the Mayor, President of the City Council, Comptroller, City Solicitor, and Director of Public Works, none of whom shall receive any additional salary as members of the Board.

The President of the City Council shall be President of the Board, and one of the members shall act as Secretary.

The Board may employ such employees as may be necessary to discharge its duties; their number and compensation shall be fixed in the Ordinance of Estimates.

(b) *Meetings.*

The first meeting of the Board in every year shall be called by notice from the Mayor or President of the City Council personally served upon members of the Board. Subsequent meetings shall be called as the Board may direct.

(c) *Representatives.*

If a member is unable to attend a Board meeting, that member's representative, as designated in the Charter, may attend and exercise the powers of the member. The Mayor may designate a municipal officer or member of the Mayor's personal staff to represent the Mayor and exercise the Mayor's power at Board meetings in the Mayor's absence.

§ 2. Powers and duties.

The Board of Estimates shall formulate and execute the fiscal policy of the City to the extent, and in the manner provided for, in the Charter. To exercise its powers and perform its duties, the Board may promulgate rules and regulations and summon before it the heads of departments, bureaus or divisions, municipal officers, and members of commissions and boards.

§ 11. Procurement.

(a) *Board of Estimates responsible.*

The Board of Estimates shall be responsible for awarding contracts and supervising all purchasing by the City as provided in this section and elsewhere in the Charter.

(b) *Contracts of \$25,000 or more.*

(i) In contracting for any public work, or the purchase of any supplies (unless otherwise provided by ordinance for foodstuffs and related perishables), materials, equipment, or services other than professional services, involving an expenditure of twenty-five thousand dollars or more, for the City or by any municipal agency, advertisements for proposals shall first be published at least twice in two or more daily newspapers published in Baltimore City unless otherwise provided by the Charter. The first publication shall be made not less than ten nor more than ninety days prior to the day set for opening the bids.

(ii) The City Council, by ordinance adopted by a majority of the members, may increase or decrease the dollar amounts provided in this subsection (b) for contracts requiring published advertisements.

(iii) The contract for any public work or the purchase of any supplies (unless otherwise provided by ordinance for foodstuffs and related perishables), materials, equipment, or services other

than professional services, involving an expenditure of five thousand dollars or more shall be made by the Board of Estimates in the manner provided in subsection (g).

(c) *Professional services.*

All professional services contracted for by the City shall be engaged in the manner prescribed by resolution of the Board of Estimates.

(d) *Emergencies, etc.*

(i) When any supplies, materials, equipment, services, or public works are of such a nature that no advantage will result in seeking, or it is not practicable to obtain, competitive bids, or when the need for such supplies, materials, equipment, services, or public works is of an emergency nature, and the using agency certifies this in writing to the Board of Estimates, with written notice to the Department of Finance, the provisions of subsection (b) may be dispensed with, but such purchase shall not be made, nor shall the City incur any obligation therefor, until approved by the Board of Estimates after considering the recommendation of the Department of Finance.

(ii) In the event of an emergency of such a nature that the public welfare would be adversely affected by awaiting the approval of the Board of Estimates, the Department of Finance, upon application by the head of the municipal agency involved, may proceed to obtain the supplies, materials, equipment, services, or public works required without reference to the provisions of subsection (b); a full report of any such action shall be promptly submitted to the Board of Estimates.

(e) *Contracts of \$5,000 - \$25,000.*

All purchases of services other than professional services, of property other than real estate or interests therein (except as may be otherwise provided by ordinance for foodstuffs and related perishables), and all other contracts involving an expenditure of more than \$5,000 and less than \$25,000 except those awarded by the Board of Estimates pursuant to the provisions of subsection (g), made by any municipal agency, in addition to compliance with other applicable provisions of the Charter, shall be submitted to the Board of Estimates for its approval and shall be binding upon the City only when so approved. The Board of Estimates may adopt rules and regulations governing the procedures and requirements to be followed by any municipal agency in making purchases or other contracts involving an expenditure of less than \$25,000.

(f) *Prequalification of bidders.*

In contracting for any public work or the purchase of any supplies, materials, equipment, or services for the City or by any municipal agency, the Board of Estimates may establish, maintain, and modify rules, regulations, and standards for the prequalification of bidders.

(g) *Bid awards.*

(1) (i) All bids made to the City in response to the formal advertising procedures contained in this section, for materials, supplies, equipment, services, or public works, or for any other purpose, unless otherwise provided in the Charter, shall be opened by the Board of Estimates.

(ii) After opening the bids, the Board of Estimates shall award the contract, as an entirety to the lowest responsive and responsible bidder or by items to the respective lowest responsive and responsible bidders, or shall reject all bids. However, whenever alternative bids are invited for two or more different things, then, after all bids have been opened, the Board may select the particular thing that will be procured, and shall award the contract to the lowest responsive and responsible bidder for that particular thing.

(iii) In the event of tie bids, the using agency, with written notice to the Department of Finance, shall make a written recommendation and report to the Board of Estimates setting forth all pertinent considerations and the reasons for its recommendation. The Board, after also considering the recommendation of the Department of Finance, may then award the contract in its discretion, as long as the total cost to the City does not exceed the amount of the tie bid.

(iv) Once filed, bids are irrevocable.

(v) Any recommendation that is made by any municipal agency to the Board of Estimates as to the appropriate award to be made by the Board is advisory only and not binding on the Board.

(vi) Notwithstanding the competitive bid provisions of this Charter, the Board of Estimates may adopt rules and regulations that establish uniform procedures for providing, on a neighborhood service, neighborhood public work, or neighborhood public improvement contract, limited bid preferences to responsive and responsible bidders who are residents of, or have their principal places of business in, that neighborhood.

(2) (i) All bids shall be accompanied by a check or a bid bond.

(ii) Except as otherwise provided in this paragraph (2), the check shall be a certified check of the bidder, a bank cashier's check, or a bank treasurer's check, drawn on a clearing house bank. The check shall be in an amount provided by ordinance, by the bid specifications, or by an order or regulation of the using agency. In the case of bid checks of \$5,000 or less, the check may be of any type drawn on any banking institution of the United States.

(iii) The bid bond shall be in the form and amount provided by the rules and regulations of the Board of Estimates, and shall be filed by the bidder with the Department of Finance.

(3) (i) The successful bidder promptly shall execute a formal contract, to be approved as to its form, terms, and conditions by the City Solicitor, and the bidder shall also execute and deliver to the Mayor a good and sufficient performance bond, irrevocable letter of credit, or certification that the successful bidder meets the requirements under the City's self-insurance program for performance coverage.

(ii) The bond, letter of credit, or certification shall be:

1. in an amount equal to the full contract price; or
2. for each year in a multi-year contract (other than a construction contract), in an amount equal to the estimated contract price for that year, as determined by the Director of Finance.

(iii) Any successful bidder who fails to execute promptly and properly the required contract, performance bond, irrevocable letter of credit, or certification, as applicable, shall forfeit the amount deposited, or an equivalent amount under the bid bond. This amount shall be taken and considered as liquidated damages and not as penalty for the bidder's failure.

(4) On execution of the contract and bond by the successful bidder, the bid checks shall be returned to all bidders, or the equivalent amounts charged against their bid bond shall be released. If the City has deposited bid checks of \$5,000 or less, the City shall reimburse these bidders in the amounts of the bid checks.

(5) (i) The Director of Finance, with the approval of the Board of Estimates, may exempt from the bid bond and performance bond requirements of paragraphs (2) and (3) of this subsection the procurement of any standard items of commerce and services that

are from standard trades and professions and not altered or customized to unique City specifications.

(ii) If a bidder exempted under this Paragraph fails to execute and perform any contract awarded to that bidder, the exempted bidder shall forfeit the right to bid on any future City contract for a period of time determined by the Board of Estimates, and shall be liable for any costs incurred by the City as a result of the default.

(Res. 07-031, ratified Nov. 6, 2007.)

(h) *Performance bonds.*

(i) Notwithstanding any other provision of this section, a bidder on a contract for any public work or the purchase of any supplies, materials, equipment, or services for the City or by any municipal agency, is not required to post a bid bond if the bid is equal to or less than the amount authorized by ordinance.

(ii) Notwithstanding any other provision of this section, a contractor on a contract for any public work or the purchase of any supplies, materials, equipment, or services for the City or by any municipal agency, is not required to post a performance bond if such contract is for an amount equal to or less than the amount authorized by ordinance.

(iii) At such time as the value of the contract, through amendment or adjustment, including changes in scope or in estimated quantities, exceeds the authorized amount, the contractor shall be required to post a performance bond in the amount of 100% of the value of the contract in excess of the authorized amount.

(iv) Upon a finding that one or more of the following conditions exist, the Board of Estimates may require bidders to post bid bonds with their bids and performance bonds with the execution of contracts otherwise exempt from such requirements:

1. the contract is for the purchase of goods to be specially manufactured or assembled or which are otherwise not normally available in suppliers' inventories;

2. the contract involves services which, if improperly or inadequately performed, pose a substantial risk of injury to persons or damage to property, with potential liability or loss in excess of \$100,000;

3. the contractor and/or bidder has no prior record of performance by which the Board of Estimates may use to determine the contractor's or bidder's ability to perform.

(v) Where any condition listed above is found to exist prior to advertising, the advertisements and specifications shall state the bond requirements.

(vi) No payment or partial payment shall be made to a contractor proceeding without a bond under this section unless and until evidence satisfactory to the Director of Finance is presented showing that the contractor has completed the contract or portion thereof for which payment or partial payment is sought, in accordance with the terms of the contract and satisfactory to the Contract Compliance Officer and either the Purchasing Agent or City Engineer, and that the contractor is entitled to the payment or partial payment.

ARTICLE VII. EXECUTIVE DEPARTMENTS

§ 17. Department of Finance: purchasing.

(a) *Central purchasing system.*

The City shall have a centralized purchasing system, and the Department of Finance and all other municipal agencies shall cooperate fully to obtain the maximum benefits from this system.

(b) *Department to procure or approve procurement; competitive bidding.*

The Department shall procure, by purchase, lease or other acquisition, or shall approve the

procurement of, all materials, supplies, and equipment, and all services, other than professional services, that municipal agencies use (“using agencies”).

The Department shall insure that competitive bidding is used, and competitive prices are obtained, in purchasing these materials, supplies, equipment and services, to the fullest practicable extent.

(c) Rules and regulations; standards.

Subject to the approval of the Board of Estimates, the Department shall adopt rules and regulations that prescribe when, and the manner and form in which, using agencies will submit estimates of their procurement needs, make requisitions, and enter into contracts.

In cooperation with the using agencies, the Department shall adopt standards for materials, supplies, equipment, and services required by the using agencies.

(d) Responsibility for storing, distributing, etc.

Except as otherwise provided by the Charter as to the Department of Education, and unless special exception is made by resolution of the Board of Estimates, the Department shall be responsible for storing, distributing, disposing of and reclaiming materials, supplies, and equipment purchased for municipal agencies.

(e) Exceptions.

Unless otherwise provided by the Board of Estimates, nothing in this section shall be construed to apply to public works done under contract, to records and briefs printed for the Department of Law, or to professional services.

(f) Board of Estimates to settle agency disputes.

In the event of a disagreement between departments, the Board of Estimates shall determine whether a proposed procurement is for public works, materials, supplies, equipment, services or professional services.

BALTIMORE CITY CODE

ARTICLE 5. FINANCE, PROPERTY, AND PROCUREMENT

(Current through March 31, 2008)

SUBTITLE 24

CONTRACT BONDING REQUIREMENTS

§ 24-1. Surety bonds generally.

Hereafter, in all cases where any bond shall be taken from any contractor for the execution of any work to be done under and by virtue of any ordinance or resolution of the Mayor and City Council, or by any authority thereof, there shall be inserted in said bond, and as one of the conditions thereof, an express stipulation on the part of such contractor that he will defend, indemnify, and save harmless the Mayor and City Council of Baltimore against any suit or suits, loss, damage, or expense, to which the said Mayor and City Council of Baltimore may be subjected by reason of any default or negligence, want of skill, or care on the part of such contractor, his agent or employees, or of any subcontractor, in or about the performance and execution of said work.

(City Code, 1893, art. 1, §59; 1927, art. 1, §76; 1950, art. 1, §13; 1966, art. 1, §15; 1976/83, art. 1, §18.) (Ord. 1879-052.)

§ 24-2. Bid bonds.

Pursuant to the provisions of Article VI, § 11(h) of the City Charter, a bidder on a contract for any public work or the purchase of any supplies, materials, equipment, or services for the City or by any municipal agency is required to post a bid bond if the bid is more than \$100,000.

(City Code, 1976/83, art. 1, §18A(1st par.)) (Ord. 89-349.)

§ 24-3. Performance bonds.

A contractor on a contract for any public work or the purchase of any supplies, materials, equipment, or services for the City or by any municipal agency is required to post a performance bond if the contract is for more than \$100,000.

(City Code, 1976/83, art. 1, §18A(2nd par.)) (Ord. 89-349.)

§ 24-4. Letters of credit for certain school contracts.

When a sole source contract between the City of Baltimore and a vendor to provide instructional, supervisory, or administrative services to the Board of School Commissioners is renegotiated, the vendor shall post an irrevocable letter of credit if the contract is for more than \$100,000.

(City Code, 1976/83, art. 1, §18B.) (Ord. 95-559.)

SUBTITLE 36

PURCHASE ORDERS

§ 36-1. Drafts authorized.

The City Purchasing Agent is authorized to send out with certain purchase orders to city suppliers a draft or other form of payment to cover the cost of the goods or services on the order.

(City Code, 1976/83, art. 5, §13B(1st sen.)) (Ord. 80-182; Ord. 82-663.)

§ 36-2. Signatures.

(a) *By whom.*

The drafts shall bear the signatures of:

- (1) the City Purchasing Agent or the Acting City Purchasing Agent in the absence of the City Purchasing Agent; and
- (2) another person from the Bureau of Purchases designated by the Director of Finance.

(b) *How.*

1 of the 2 signatures must be manual.

(City Code, 1976/83, art. 5, §13B(3rd, 4th sens.).) (Ord. 80-182; Ord. 82-663.)

§ 36-3. Maximum amount.

The maximum dollar amount of a draft shall be \$2,000.

(City Code, 1976/83, art. 5, §13B(2nd sen.).) (Ord. 80-182; Ord. 82-663.)

BALTIMORE COUNTY CHARTER

<http://www.baltimorecountymd.gov/Agencies/law/countycode.html#code>

ARTICLE V. THE ADMINISTRATIVE SERVICES

Sec. 502. Composition, restrictions on creation of additional offices and departments.

The administrative services shall consist of the offices and departments enumerated in sections 503 and 504, provided that offices and departments may be created, merged or abolished by legislative act proposed by the county executive and passed by a majority plus one of the total number of county council members established by this Charter, with the total number of offices and departments being determined by budgetary requirements. Existing or additional duties and functions may, however, from time to time be assigned to or reassigned among existing offices or departments by directive of the county administrative officer or by legislative act of the county council. New bureaus or divisions of existing offices and departments shall not be created except by legislative act of the county council. (Bill No. 84, 1978, § 1; approved by voters Nov. 7, 1978; effective Dec. 8, 1978; Bill No. 131, 1990, § 1; approved by voters Nov. 6, 1990; effective Dec. 7, 1990)

Sec. 503. Offices.

There shall be the following offices in the administrative services:

- (1) Office of law.
- (2) Office of personnel.
- (3) Office of finance.
- (4) Office of the budget.
- (5) Office of central services.
- (6) Office of planning and zoning. (Bill No. 67, 1968, § 1; Bill No. 131, 1990, § 1; approved by voters Nov. 6, 1990; effective Dec. 7, 1990)

Sec. 504. Departments.

There shall be the following departments in the administrative services:

- (1) Department of public works.
- (2) Department of permits and licenses.
- (3) Department of recreation and parks.
- (4) Department of environmental protection and resource management.
- (5) Department of education.
- (6) Department of libraries.
- (7) Department of health.
- (8) Department of social services.
- (9) Police department.
- (10) Fire department.
- (11) Department of aging.
- (12) Department of community development. (Bill No. 60, 1978, § 1; approved by voters Nov. 7, 1978; effective Dec. 8, 1978; Bill No. 131, 1990, § 1; approved by voters Nov. 6, 1990; effective Dec. 7, 1990)

ARTICLE IX. CENTRALIZED PURCHASING

Sec. 901. Responsibility for purchasing.

There shall be a county purchasing agent who shall be responsible to the county administrative officer for the enforcement of the county purchasing policies established in this article.(Bill No. 87, 1978, § 1; approved by voters Nov. 7, 1978; effective Dec. 8, 1978; Bill No. 129, 1990, § 4; approved by voters Nov. 6, 1990; effective Dec. 7, 1990)

Sec. 902. County purchasing policies and practices.

Unless changed pursuant to section 502 of this Charter, the director of budget and finance shall be the county purchasing agent and shall have the following purchasing functions which he may delegate to a deputy purchasing agent in his office and under his supervision or to another county official if authorized by legislative act of the county council:

- (a) The making of all purchases and contracting for all public work and services, and for all supplies, material and equipment for all offices, departments, institutions, boards, commissions and other agencies of the county government for which payment is to be made out of county funds.
- (b) If recommended by the county administrative officer and approved by legislative act of the county council, the establishment and operation of a county warehouse for county supplies, material and equipment and the maintenance of a sufficient stock of stable commodities to meet the requirements of the county government.
- (c) The development and operation of a uniform and modern system of property accounting and stores control based upon perpetual inventory.
- (d) The establishment, after consultation with the appropriate county officials, of suitable specifications and standards for all supplies, materials and equipment to be purchased, and the inspection of all deliveries to determine compliance with such specifications and standards.
- (e) The establishment and maintenance of a system of requisitions and receipts covering the furnishing of supplies, materials and equipment to the various offices, departments, institutions, boards, commissions and other agencies of the county.
- (f) The establishment, with the approval of the county administrative officer and by legislative act of the county council, of reasonable rules and regulations governing the circumstances under which the use of competitive bidding is not appropriate or feasible. When such bidding is not appropriate, a contract shall be awarded only by competitive negotiations, unless such negotiations are not feasible. When neither competitive bidding nor competitive negotiations are feasible, contracts may be awarded by noncompetitive negotiations. Whenever a contract is awarded by a process other than competitive bidding, a copy of the contract shall be given to the county council and, at the next legislation session-day following the award of the contract, the secretary to the county council shall formally announce to the council the nature of the contract and the parties to the contract. The announcement shall be recorded in the minutes of the County Council, a permanent record, which shall be available for inspection by the public.(Bill No. 87, 1978, § 1; approved by voters Nov. 7, 1978;

effective Dec. 8, 1978; Bill No. 117, 1982, § 1; approved by voters Nov. 2, 1982; effective Dec. 3, 1982; Bill No. 102-96, § 1; approved by voters Nov. 5, 1996; effective Dec. 5, 1996)

Editor's Note:

The publisher corrected a former reference to “or reasonable rules” in subsection (f) of this section to read “of reasonable rules”. All prior versions of the Charter contained the latter language. The publisher believes that the error occurred inadvertently in Bill No. 102-96.

Sec. 903. Application of this Article to departments and agencies under state law.

The provisions of this Article shall apply to the department of education and other departments and agencies created by or operating under the public general laws of this state only to the extent requested by them. In the interests, however, of promoting uniformity and of effecting maximum savings for all purchases out of county funds, the purchasing facilities of the office of central services shall always be available to such departments and agencies, and their use shall be encouraged.

Sec. 904. Competitive bidding.

Any single purchase or contract under the jurisdiction of the county purchasing agent and involving an expenditure of more than seven thousand five hundred dollars or such amount as may be set by legislative act of the county council, except only one for which the use of competitive bidding is not appropriate or feasible as may be defined and governed by the regulations mentioned in section 902(f) hereof, shall be made from or let by sealed bids or proposals publicly opened after public notice for such period and in such manner as the purchasing agent or his authorized deputy shall determine. Such purchases and contracts shall be made from or awarded to the lowest responsive and responsible bidder who shall give security or bond for the performance of his contract as determined by the purchasing agent or his deputy; provided, however, that no such purchase or contract shall be made or awarded within a period of three business days from the date of the public openings of bids. In all cases, the county shall reserve the right to reject any and all bids. All construction, maintenance and repair work shall be subject to the requirements of competitive bidding provided in this section, unless such work is to be done directly by the county through the use of its own laboring force. All materials and supplies used by the county laboring force shall be purchased in accordance with the provisions of this article.(Bill No. 87, 1978, § 1; approved by voters Nov. 7, 1978; effective Dec. 8, 1978; Bill No. 117, 1982, § 1; approved by voters Nov. 2, 1982; effective Dec. 3, 1982; Bill No. 129, 1990, § 4; approved by voters Nov. 6, 1990; effective Dec. 7, 1990)

Sec. 905. Conformity with budget limitations and allotments.

No deliveries of supplies, materials or equipment shall be made to any office, department, board, institution, commission or agency of the county government in excess of the available appropriation or allotment therefor, and except for small purchases in an amount less than one hundred dollars or such amount as may be set by the legislative act of the county council, no payment shall be made out of county funds for the purchase of supplies, materials or equipment, unless the director of finance shall first certify that the funds for the designated purpose are available.(Bill No. 117, 1982, § 1) (Approved by voters Nov. 2, 1982; effective Dec. 3, 1982)

Sec. 906. Furthering legislation.

At its first annual legislative session, the county council shall enact furthering legislation, not inconsistent with the provisions of this Charter or with the public general laws of this state, to implement the purchasing policies herein established. Such legislation may regulate the practices of the county purchasing agent and other officers, agents and employees of the county in regard to the issuance of inquiries, the instructions to bidders, the receipt of bids, the placement of orders and other matters relating to the making of purchases and the award of contracts. Such legislation may prescribe special procedures governing the letting of bids and the award of contracts for the construction of roads, bridges, streets, buildings and those relating to water, sewer and storm water facilities, and may increase the minimum dollars requirement for competitive bidding. All such legislation shall be subject to amendment from time to time by the county council.(Bill No. 117, 1982, § 1) (Approved by voters Nov. 2, 1982; effective Dec. 3, 1982)

HOWARD COUNTY CHARTER

www.municode.com/resources/gateway.asp?pid=10016&sid=20

ARTICLE VIII. CENTRALIZED PURCHASING

Section 801. Responsibility for purchasing.

The Chief Administrative Officer shall be responsible to the Executive for the execution of the County purchasing policies established in this Article.

Editor's note: An amendment to § 801 proposed by Res. No. 125, 1996 was approved at an election held Nov. 5, 1996, and became effective Dec. 5, 1996.

Section 802. County purchasing policies and practices.

The Chief Administrative Officer shall be the County Purchasing Agent and shall have the following purchasing functions which he or she may delegate to a Deputy Purchasing Agent in his or her office and under his or her supervision:

- (a) The making of all purchases, leases and contracts for all public works and services, and for all supplies, material and equipment for all offices, departments, institutions, boards, commissions and other agencies of the County government for which payment is to be made out of County funds.
- (b) If recommended by the Executive and approved by legislative act of the Council, the establishment and operation of a County warehouse for County supplies, material and equipment and the maintenance of a sufficient stock of stable commodities to meet the requirements of the County government.
- (c) The development and operation of a uniform and modern system of property accounting and stores control based upon perpetual inventory.
- (d) The establishment, after consultation with the appropriate County officials, of suitable specifications and standards for all supplies, materials and equipment to be purchased and the inspection of all deliveries to determine compliance with such specifications and standards.
- (e) The establishment and maintenance of a system of requisitions and receipts covering the furnishing of supplies, materials and equipment to the various offices, department, institutions, boards, commissions and other agencies of the County.
- (f) The establishment, with the approval of the Executive and by legislative act of the Council, of reasonable rules and regulations governing emergency purchases and contracts and those involving material, equipment or services of an unusual or noncompetitive nature which shall not be subject to competitive bidding.
- (g) The sale of surplus, old and waste supplies, materials and equipment of the County, or the transfer of the same between offices, departments or other agencies of the County government.
- (h) The making of purchases for a stores revolving fund, which the Council is hereby authorized to establish, and of making sales from the stores to using agencies of the County.

Editor's note: An amendment § 802 proposed by Res. Nos. 125 and 126, 1996 was approved by an election held Nov. 5, 1996, and became effective Dec. 5, 1996.

Section 803. Application of this article to departments and agencies under State law.

The provisions of this Article shall apply to the Department of Education and other departments and agencies created by or operating under State law to the extent requested by them or as permitted by law. In the interests, however, of promoting uniformity and of effecting maximum savings for all purchases out of County funds, the

purchasing facilities of the County government shall always be available to such departments and agencies, and their use shall be encouraged.

Section 804. Competitive bidding.

The Purchasing Agent shall employ competitive bidding in accordance with policies established by the Council.

Section 805. Conformity with budget limitations and allotments.

No deliveries of supplies, materials or equipment shall be made to any officer, department, board, institution, commission or agency of the County government in excess of the available appropriation or allotment therefor, and except for small purchases in an amount to be established from time to time by ordinance, no payment shall be made out of County funds for the purchase of supplies, materials or equipment, unless the Director of Finance shall first certify that the funds for the designated purpose are available.

Editor's note: An amendment to § 805 proposed by Res. No. 123, 1988 was approved at an election held Nov. 8, 1988, and became effective Dec. 8, 1988.

Section 806. Contract execution.

All contract bid forms and all contracts shall be approved by the County Solicitor as to form and legality. Following such approval, all contracts shall be signed in behalf of the County by the Executive or his or her designee. A complete file of all contract bid forms and all contracts shall be maintained in the office of the County Purchasing Agent. A copy of each signed contract shall be forwarded promptly to the Director of Finance.

Editor's note: An amendment to § 806 proposed by Res. No. 126, 1996 was approved at an election held Nov. 5, 1996, and became effective Dec. 5, 1996.

Section 807. Cooperative purchasing.

As appropriate, the Purchasing Agent may undertake programs involving joint or cooperative purchases with other public jurisdictions within the State, or with the State of Maryland, and with other public entities.

Editor's note: An amendment to § 807 proposed by Res. No. 121, 1996 was approved at an election held Nov. 5, 1996, and became effective Dec. 5, 1996.

Section 808. Furthering legislation.

The Council, upon recommendations received from the Executive, or if he or she fails to do so, shall enact furthering legislation, not inconsistent with the provisions of this Charter or with the public general laws of this State, to implement the purchasing policies herein established. Such legislation shall provide for regulating the practices of the County Purchasing Agent and other officers, agents and employees of the County in regard to the issuance of inquiries, the receipt of bids; the placement of orders and other matters relating to the making of purchases and the award of contracts. Such legislation shall also prescribe procedures and establish minimum dollar amounts for competitive bidding.

Editor's note: An amendment to § 808 proposed by Res. No. 135, 1982 was approved at an election held Nov. 2, 1982, and became effective Dec. 2, 1982. An amendment proposed by Res. No. 126, 1996 was approved at an election held Nov. 5, 1996, and became effective Dec. 5, 1996.

ARTICLE X. MANNER OF AMENDING OR TERMINATING THIS CHARTER

Section 1001. Amendment.

Amendments to this Charter may be proposed by a resolution of the Council approved by not less than two-thirds of its members. Amendments may also be proposed by petition filed with the Chairperson of the County Council and signed by not less than twenty per centum of the registered voters of the County, or 10,000 of such registered voters in case twenty per centum of the number of registered voters is greater than 10,000. When so proposed, whether by resolution of the Council or by petition, the Chairperson of the County Council shall make available to the press and public a reasonable number of copies of the question which shall be submitted to the voters of the County at the next general or Congressional election occurring after the adoption of said resolution or the filing of said petition; and if at said election the majority of votes cast on the question shall be in favor of the proposed amendment, such amendment shall stand adopted from and after the thirtieth day following said election. Any amendments to this Charter, proposed in the manner aforesaid, shall be published by the Chairperson of the County Council in at least one newspaper of general circulation published in the County for five successive weeks prior to the election at which the question shall be considered by the voters of the County.

Editor's note: *An amendment to § 1001 proposed by C.B. 86, 1980 was approved at an election held Nov. 4, 1980, and became effective Dec. 4, 1980. An amendment proposed by Res. No. 126, 1996 was approved at an election held Nov. 5, 1996, and became effective Dec. 5, 1996.*

MONTGOMERY COUNTY CHARTER

http://www.amlegal.com/nxt/gateway.dll?f=templates&fn=default.htm&vid=amlegal:montgomeryco_md_mc

ARTICLE 3. FINANCE

Sec. 313. Purchasing.

The Council shall prescribe by law a centralized system of purchasing and contracting for all goods and services used by the County. The centralized purchasing system shall be administered under the professional supervision of the Chief Administrative Officer subject to the direction of the County Executive.

Editor's note—See County Attorney Opinion dated [4/13/99](#) (4/15/99 on cover memo) analyzing the Chief Administrative Officer's authority to make a sole-source contract in excess of \$25,000 without obtaining consent of the director of procurement or the contract review committee. See County Attorney Opinion dated [9/23/91](#) explaining that State law does not prohibit the Department of Liquor Control from entering into contracts with private entities to operate the liquor stores.

Sec. 313A. Purchasing, Contracting for Goods, Services with C&P Telephone Company.

The County Government may not purchase and contract for goods and services with the C&P Telephone Company (C&P) unless C&P includes telephone subscribers in Gaithersburg, Maryland, and Montgomery Village in the Washington Metropolitan Area Telephone Exchange (MET) at local rates no higher than local rates charged MET subscribers in Bethesda, Silver Spring, Kensington and Rockville telephone exchange areas. (Election of 11-2-82.)

Editor's note—In *Rowe, et al. v. The Chesapeake and Potomac Telephone Company of Maryland, et al.*, 65 Md. App. 527, 501 A.2d (1985), it was held that Charter section 313A could not be given effect because it conflicted with a state Public Service Commission Order.

Sec. 314. Competitive Procurement.

The Council shall prescribe by law for competitive procurement for purchases by or contracts with the County in excess of an amount or amounts established by law. (Election of 11-4-80; election of 11-6-90.)

Editor's note—See County Attorney Opinion dated [11/12/97](#) indicating that the Charter permits the use of merit system employees for pilot programs and enterprise programs, but prohibits the use of contract employees for these programs. See County Attorney Opinion dated [9/23/91](#) explaining that State law does not prohibit the Department of Liquor Control from entering into contracts with private entities to operate the liquor stores.

ARTICLE 5. GENERAL PROVISIONS

Sec. 507. Amendment.

This Charter may be amended in the manner provided in Section 5 of Article XI-A of the Constitution of Maryland.

PRINCE GEORGE'S COUNTY CHARTER

<http://egov.co.pg.md.us/lis/default.asp?File=&Type=TOC>

ARTICLE IV. EXECUTIVE BRANCH

Section 402. Executive Power and Duties.

All executive power vested in Prince George's County by the Constitution and laws of Maryland and this Charter shall be vested in the County Executive who shall be the chief executive officer of the County and who shall faithfully execute the laws. His powers, duties, and responsibilities shall include, but shall not be limited to: (1) preparing and submitting to the Council and the public, within six months after the close of the fiscal year, an annual report on the activities and accomplishments of the County government, including a detailed financial statement; (2) providing the Council, or a committee thereof, with any information concerning the executive branch which the Council may require for the exercise of its powers; (3) recommending to the Council such measures for legislative action as he may deem to be in the best interests of the County; (4) appointing the head of each agency of the executive branch, subject to confirmation by the Council as required by Section 322 of this Charter, and removing the same at his discretion; (5) preparing an executive pay plan which establishes the compensation of the Chief Administrative Officer and the head of each agency of the executive branch, subject to the approval of the Council; (6) appointing the members of all boards and commissions subject to confirmation by the Council as required by Section 322 of this Charter, unless otherwise prescribed by law or this Charter; (7) insuring that County funds in excess of those required for immediate needs are invested in the best interests of the County; (8) signing or causing to be signed on the County's behalf all deeds, contracts and other instruments, including those which, prior to the adoption of this Charter, required the signature of the Chairman or any member of the Board of County Commissioners, and affixing the County Seal thereto; (9) preparing and submitting to the County Council semi-annual reports of certain exempt positions consistent with Section 806 of this Charter; and (10) enforcing all laws in the County except as otherwise provided for by State law or charters of municipalities located within the County.

(Amended, CB-80-1988, ratified Nov. 8, 1988; Amended, CB-58-2006, ratified Nov. 7, 2006)

ARTICLE VI. PURCHASING

Section 601. County Purchasing Agent.

There shall be a County Purchasing Agent, who shall be responsible for the administration of the purchasing policies established by this Charter or by law.

Section 602. Duties of the County Purchasing Agent.

The duties of the County Purchasing Agent shall include responsibility for: (1) the making of all purchases and the contracting for all public work and services for which payment is to be made out of County funds; (2) the establishment, after consultation with the appropriate County officials, of specifications and standards for all supplies, materials and equipment, and the inspection of all deliveries to insure compliance with such specifications and standards; (3) the establishment and maintenance of a system of requisitions and receipts covering the furnishing of supplies, materials, and equipment to the various using agencies; (4) the preparation for legislative action thereon by the Council of reasonable rules and regulations governing emergency purchases, contracts, and services or material and equipment of an unusual or noncompetitive nature which shall not be subject to competitive bidding; (5) the sale or other disposition of surplus, old, and waste supplies, materials,

and equipment or the transfer of same between using agencies; and (6) the conduct of programs involving joint or cooperative purchasing with other public jurisdictions.

(Amended, CB-92-1974, ratified Nov. 5, 1974, Amended, CB-68-2002, ratified Nov. 5, 2002)

Section 603. Competitive Bidding.

Any single purchase or contract under the jurisdiction of the County Purchasing Agent and involving an expenditure in excess of such amount(s) as may be established by legislative act of the County Council, except emergency purchases and those involving services or material and equipment of a noncompetitive nature as may be defined and governed by the rules and regulations mentioned in Section 602 of this Charter, shall be made from or let by sealed bids or proposals publicly opened after public notice for such period and in such manner as the County Purchasing Agent or his authorized deputy shall determine. Such purchases and contracts shall be made from or awarded to the responsive and responsible bid that is most favorable to the County with respect to technical requirements and costs. A security or bond for the performance of work as determined by the County's Purchasing Agent may be required for purchases and contracts. No such purchase or contract shall be made or awarded within a period of one week from the date of the public opening of bids. In all cases, the County shall reserve the right to reject any and all bids. No contract or purchase shall be subdivided to avoid the requirements of this section. Anything to the contrary of this Section 603 notwithstanding, the Council may authorize the County Purchasing Agent to negotiate extensions of existing contracts for garbage and refuse collection, without competitive bidding, upon such terms and for such duration as the Council may by law prescribe; provided, however, that any such law shall require the County Purchasing Agent to poll the residents of the service area covered by a collection contract, and shall provide that the County Purchasing Agent not conclude any agreement for an extension unless a certain number of the residents of the service area, as prescribed by the Council, indicate their concurrence in the extension.

(Amended, CB-92-1976, ratified Nov. 2, 1976; Amended, CB-137-1986, ratified Nov. 4, 1986; Amended, CB-117-1987, ratified Nov. 8, 1988; Amended, CB-68-2002, ratified Nov. 5, 2002)

Section 604. Nondiscrimination in Employment.

No contractor who is the recipient of County funds shall discriminate in employment because of religion, race, color, sex, or national origin. The Council shall enact furthering legislation to implement the provisions of this section. (Amended, CB-93-1976, ratified Nov. 2, 1976)

Section 605. Application to Agencies Operating under State Law.

To the extent permitted by law, the provisions of this Article shall apply to agencies created by or operating under State law and which receive or disburse County funds. In the interests of promoting uniformity and of effecting maximum savings for all purchases out of County funds, the purchasing facilities of the County government shall always be available to such agencies, and their use shall be encouraged.

Section 606. Cooperative Purchasing.

As appropriate, the County Purchasing Agent may undertake programs involving joint or cooperative purchases with other public jurisdictions.

Section 607. Local and Minority Business.

The County is committed to the encouragement and support of local and minority businesses consistent with requirements of Federal and State law.
(CB-58-2006, ratified Nov. 7, 2006)

ARTICLE VIII. BUDGET AND FINANCE

Section 819. Appropriation Control and Certification of Funds.

No agency of the County government shall during any fiscal year expend, or contract to expend, any money or incur any liability, or enter into any contract which, by its terms, involves the expenditure of money for any purpose in excess of the amounts appropriated in the budget for such fiscal year, or in any supplemental appropriation as herein provided; and no such payment shall be made nor any obligation or liability incurred, except for purchases in an amount to be fixed by legislative act, unless the Director of Finance or his designee shall first certify that the funds for the designated purpose are available. If any officer, agent or employee of the County government shall knowingly violate this provision, he shall be personally liable and such action shall be cause, after public hearing, for his removal from office by the County Executive or by majority vote of the Council, notwithstanding the provisions of Article IX of this Charter. Nothing in this Charter shall authorize the making of contracts providing for the payment of funds at a time beyond the fiscal year in which such contracts are made for personal service contracts exceeding an aggregate of One Hundred Thousand Dollars (\$100,000.00) per contractor, or such other sum as may be set by legislative act, and an aggregate of Five Hundred Thousand Dollars (\$500,000.00) for all other multiyear contracts, or such other sum as may be set by legislative act, provided the nature of such transactions reasonably requires the making of such contracts, unless such contracts are approved by legislative act. No language in such contract, including language subjecting the contract to further funding availability, shall obviate the requirement that all multiyear contracts shall be approved by legislative act. Any contract, lease, or other obligation requiring the payment of funds from the appropriations of a later fiscal year shall made or approved by legislative act. No contract for the purchase of real property shall be made unless the funds therefor are included in the capital budget.
(Amended, CB-92-1974, ratified Nov. 5, 1974; Amended, CB-95-1978, ratified Nov. 7, 1978; Amended, CB-68-2002, ratified Nov. 5, 2002; Amended, CB-74-2006, ratified Nov. 7, 2006)

Section 824. Furthering Legislation.

The Council may adopt such budget and fiscal laws to implement the objects and purposes of this Article as it shall deem necessary.
(Amended, CB-68-2002, ratified Nov. 5, 2002)

Editor's Note: Former Section 828 was renumbered without amendment to be Section 824.

ARTICLE X. GENERAL PROVISIONS

Section 1008. Newspapers of Record.

The Council shall designate three County newspapers of record for the publication of official County notices. The three newspapers of record shall have a combined circulation of not less than three percent of the population of the County. Such designation shall be for at least one year and shall, insofar as possible, provide

County-wide coverage. At least four weeks' public notice shall be given prior to any change in newspapers of record. Where a newspaper of record is sold to or merged with another newspaper, the designation shall continue in the new newspaper if circulation is continued to the previous subscribers, unless the designation is declined by the paper. Where the circulation of a newspaper of record is not continued, or the designation is declined, for any reason, the County Council may designate another newspaper of record without public notice for a temporary or permanent period.

(Amended, CB-36-1980, ratified Nov. 4, 1980)

ARTICLE XI. EFFECT AND AMENDMENT OF CHARTER

Section 1105. Charter Amendment.

Amendments to this Charter may be proposed by an act of the Council approved by not less than two-thirds of the members of the full Council, and such action shall be exempt from executive veto. Amendments may also be proposed by petition filed with the County Executive and signed by 10,000 registered voters of the County. When so proposed, whether by act of the Council or by petition, the question shall be submitted to the voters of the County at the next general election occurring after the passage of said act or the filing of said petition; and if at said election the majority of votes cast on the question shall be in favor of the proposed amendment, such amendment shall stand adopted from and after the thirtieth day following said election. Any amendments to this Charter, proposed in the manner aforesaid, shall be published by the County Executive in the County newspapers of record for five successive weeks prior to the election at which the question shall be considered by the voters of the County.

Editor's Note: CR-1-2001 established a Charter Review Commission to review the provisions of the Charter and recommend appropriate amendments to the County Executive and County Council.

APPENDIX B. CHARTERS AND RELEVANT CODE PROVISIONS, OTHER U.S. CITIES

ATLANTA CHARTER

<http://www.municode.com/Resources/gateway.asp?pid=10376&sid=10>

ARTICLE 3. EXECUTIVE

CHAPTER 1. THE MAYOR

Section 3-104. Powers and Duties

(10) When authorized by the council, negotiate deeds, bonds, contracts, and other instruments and documents on behalf of the city and execute same after final approval by the council;

(14) Purchase supplies, material, equipment and personal property of every type and description, and services for the rental, repair, or maintenance of equipment, machinery, and other city-owned property; provided, however, the purchase amount does not exceed \$300,000.00, such purchases conform with the provisions within Chapter 4 of Article 6 herein and any purchasing and procurement ordinances of the city, and a duly enacted appropriation by the council authorizes expenditures for such purposes. Any award of contract not competitively procured in accordance with the Charter or ordinances of the city, or not awarded to the lowest bidder or offeror, shall be approved by the city council prior to an award;

ARTICLE VI REVENUE AND FUND ADMINISTRATION

CHAPTER 4. PROCUREMENT AND DISPOSITION OF PROPERTY

Section 6-401. Contracting procedures.

(a) The governing body shall prescribe by ordinance or resolution the procedures to be followed in the making of contracts which shall bind the city. The governing body is authorized to remedy discrimination or the present effects of past discrimination by an affirmative action program which is in compliance with the Constitution and laws of the United States of America and the State of Georgia. All contracts shall be approved as to form by the city attorney. The mayor shall sign all contracts; however, the governing body may authorize the mayor by ordinance to designate another appropriate official to sign any type contract. The municipal clerk shall authenticate all contracts. The original of all contracts shall be maintained on file in the office of the chief financial officer.

(b) Notwithstanding the foregoing, all contracts which bind the city and Fulton County jointly in accordance with the terms and conditions of a joint venture agreement for the construction and operation of a water treatment plant and appurtenances may be signed and approved by duly authorized officers of said joint venture, provided that sufficient funds for each such contract have been appropriated by the city and Fulton County. (1996 Ga. L. (Act No. 1019), p. 4469)

Section 6-402. Purchasing procedures.

(a) The governing body shall prescribe by ordinance or resolution the procedures for all purchases of real and personal property by the city. The following alternative methods of securing contracts are hereby authorized, as set forth in and defined by ordinances currently effective or hereafter adopted or amended by the city council: competitive sealed bidding; competitive sealed proposals; small purchases not exceeding \$50,000.00; sole-source procurement; emergency procurement; and competitive selection procedures for professional and consultant services. Awards of contracts shall be made to the most responsible and responsive firms, said

responsibleness and responsiveness to be determined by factors including those set forth in subsection (b) below, including but not limited to compliance with the requirements of any existing minority and female business opportunity development plans and any local preference program as established by City ordinance. The terms "competitive bidding" and "most responsible and responsive firm" shall be defined to include compliance with the requirements of any minority and female business participation plan which has been implemented by city ordinance pursuant to:

- (1) A finding by the city that such a plan is necessary to remedy the effects of prior private and public discrimination in the procurement and contracting practices of the city;
 - (2) A requirement by federal law that the city maintain such a plan for purposes of receiving any federal grants or loans;
 - (3) A finding by a judicial tribunal that such a plan is necessary to remedy past or present private and public discrimination in the procurement and contracting procedures of the city.
- (b) In determining the most responsible and responsive firm, the purchasing and contracting authority shall consider the following factors:
- (1) The ability, capacity, and skill of the firm to perform the contract or to provide the services required;
 - (2) The capability of the firm to perform the contract or provide the service promptly, or within the time specified, without delay or interference;
 - (3) The character, integrity, reputation, judgment, experience, and efficiency of the firm;
 - (4) The quality of performance of previous contracts or services;
 - (5) The previous and existing compliance by the firm with laws and ordinances relating to the contract or services;
 - (6) The sufficiency of the financial resources and ability of the firm to perform the contract or provide the service;
 - (7) The compliance of the firm with the requirements of an equal employment opportunity in contracting program as may be prescribed by ordinance;
 - (8) The compliance of the firm with the requirements of a minority and female business enterprise participation program as may be prescribed by ordinance;
 - (9) The quality, availability, and adaptability of the supplies or services to the particular use required;
 - (10) The number and scope of conditions attached to the bid by the firm, if any;
 - (11) Price; and
 - (12) The compliance of the bidder or firm with the requirements of a local preference program as may be prescribed by ordinance.
- (c) Any and all bids or proposals may be rejected when it is in the best interest of the city to do so; in addition to the foregoing, the governing body shall prescribe by ordinance the procedure for amending, modifying, or otherwise changing contracts and for authorizations for the purchase of goods, materials, supplies, equipment, and services. Prior to the making of purchases and contracts, or amendments, modifications, or changes thereto, the availability of adequate funds shall be certified by the chief financial officer as provided by ordinance.
- (d) Any and all competitive bids or proposals shall be sealed and shall be opened at the same time in a public place as directed by the council and remain open for public inspection.
- (e) Contractual work related to any competitive sealed bid or proposal shall not be broken into components or parts so as to avoid the council's approval of awards of greater than \$300,000.00.
- (f) In exercising the power of purchasing and procurement provided for in section 3-104 of this Charter, the mayor shall adhere to the provisions within this Charter and any ordinance governing purchasing and procurement; provided, however, when the mayor proposes to let a contract to one other than the lowest bidder or offeror or award a contract which has not been competitively procured, the contract shall be approved by the council prior to an award of contract. Any contracts awarded by the mayor pursuant to the powers provided in

section 3-104 of this Charter and the provisions herein shall be reported monthly by the chief procurement officer to the president of the council and councilmembers.

(g) The governing body may prescribe different procedures for sales and other disposition of real and personal property acquired by the city pursuant to any approved application or amended application under Title I of the Housing and Community Development Act of 1974, as amended.

(h) The governing body may authorize different procedures for all purchases of real and personal property in connection with its joint venture with Fulton County for the construction and operation of a water treatment plant and appurtenances, provided that funds for each such purchase have been appropriated by the city and Fulton County.

(i) As used in this Charter section, the word "firm" shall mean and include any individual, partnership, corporation, association, joint venture, or other legal entity authorized to do business in Georgia which desires to contract with the City of Atlanta.

(1996 Ga. L. (Act No. 1019), p. 4469; Ord. No. 2001-12, §§ 1(A), 1(B), 2-13-01; Ord. No. 2002-74, § 2, 10-15-02; Ord. No. 2007-01, §§ 2, 3, 1-9-07)

Editor's note: Section 4 of Ord. No. 2007-01 provided for an effective date of September 30, 2007.

Charter references: Powers and duties, § 3-104(14).

Cross references: Signing contracts on behalf of mayor, § 2-1140

Atlanta Code of Ordinances

Chapter 2 Administration

Article X Procurement and Real Estate

DIVISION 2. CHIEF PROCUREMENT OFFICER*

***Editor's note:** Ord. No. 2007-05 (06-O-0381), § 3, approved Jan. 22, 2007, amended div. 2 in its entirety to read as herein set out. Formerly, said division pertained to similar subject matter as enacted by Code 1977; as amended.

Editor's note: Qualifications of bureau purchasing and real estate director, § 2-425; officers and employees, § 2-781 et seq.

Sec. 2-1138. Centralization of procurement authority.

(a) *Chief procurement officer.* Except as provided in this article, the chief procurement officer shall have the authority to solicit and enter into contracts for the procurement of supplies, services, construction, professional or consultant services and real estate for all using agencies of the city.

(b) *Purchasing staff.* Under the authority of the chief procurement officer, the purchasing staff shall execute responsibilities at all bid openings which shall include coordination of clock calibration with the National Bureau of Standards, shall stamp all bids received and shall have any subsequent responsibilities as specified prior to and after all bid openings.

(c) *Other city officers or employees.* Except as provided in this article, no city officer or employee shall order the procurement of supplies, services, construction, professional or consultant services and real estate or make any contract other than through the department of procurement.

(d) *Delegation of authority.* The chief procurement officer shall designate a deputy chief procurement officer to execute contracts on behalf of the chief procurement officer once the chief procurement officer has reviewed and approved said contracts. The chief procurement officer shall assume ultimate responsibility to solicit and enter into contracts for the procurement of supplies, services, construction, professional or consultant services and real estate for all using agencies of the city.

(e) *Controls and procedures.* The chief procurement officer shall establish written procedures for the execution of contracts for the procurement of supplies, services, construction, professional or consultant services and real estate for all using agencies of the city. Such procedures shall include explicit delegation of authority to only the specified deputy chief procurement officer to sign contracts to the extent the chief procurement officer has authority to sign said contracts. The chief procurement officer shall inform the municipal clerk and the mayor's office in writing of the name of the individual he designates to sign on his behalf. No person is authorized to enter into any contract on behalf of the city except as provided under the terms of this Article and the written procedures. Authority granted to the deputy chief procurement officer is effective until rescinded or until termination of the person's employment by the city. The chief procurement officer shall be responsible for all transactions undertaken and shall establish a system of controls, to be reviewed by the city attorney, to regulate the activities of the subordinate official. Both the chief procurement officer and the deputy chief procurement officer shall possess sufficient working knowledge and shall possess a master's degree in business

administration, public administration or marketing; five years prior experience as a deputy chief procurement officer or equivalent title in a contracting or procurement system of comparable size and scope. The requirement of a master's degree may be substituted by a bachelor's degree in the same field(s), plus ten year's managerial experience in public or corporate purchasing operations, marketing, or contract administration, economics and securities markets, as well as the supervisory experience and judgment necessary to carry out the responsibilities outlined in this Policy.

(Ord. No. 2007-05 (06-O-0381), § 3, 1-22-07)

Sec. 2-1139. Using agency requirements.

(a) *Relationship with using agencies and other city agencies and departments.* The chief procurement officer shall maintain a close and cooperative relationship with the using agencies. The chief procurement officer shall afford each using agency reasonable opportunity to participate in and make recommendations with respect to procurement and real estate matters affecting the using agency. Notwithstanding any other provision in this chapter, when in consultation with the using agency with respect to a procurement or real estate matter, the chief procurement officer, in cooperation with the head of the using agency, shall consult and seek technical assistance, specialized knowledge and expertise from appropriate subject matter professionals or persons within the affected using agency and, if the knowledge and expertise required are not available within the using agency, then the chief procurement officer shall consult and seek technical assistance, specialized knowledge and expertise from professionals or persons in other appropriate agencies and departments of the city. Such assistance may include, among other things, reviewing bids, evaluating or scoring proposals, making recommendations concerning bids and proposals, and participating during interviews, discussions and negotiations in connection with requests for proposals. The chief procurement officer, to the extent practicable, shall use every effort to reach an agreement with the using agency with respect to procurement or real estate matters affecting that agency.

(b) *Requisitions.* All using agencies, with the authorization of the head of the department under which the using agency operates, shall file with the chief procurement officer detailed requisitions or estimates of the department requirements of supplies, services, construction, professional or consultant services and real property in such manner and at such times and for future periods as the chief procurement officer shall prescribe in writing and as follows:

(1) *Unforeseen requirements.* A using agency may file with the chief procurement officer at any time a requisition or estimate for any supplies, services, construction, professional or consultant services or real property, the need for which was not foreseen or anticipated when the estimates were filed under this subsection; and

(2) *Revisory power of chief procurement officer.* The chief procurement officer shall examine each requisition or estimate and shall have the authority to revise it as to quantity, quality or estimated cost, provided that the needs of the using agency are met and revisions as to quality and quantity shall be made in accordance with standards and specifications established pursuant to this article.

(c) *Estimates.* All using agencies shall file with the chief procurement officer, within 30 days after the adoption of the annual budget and quarterly thereafter, estimates of their needs for the procurement of services, supplies, construction, professional or consultant services and real property for the ensuing fiscal year or calendar quarter. The chief procurement officer shall utilize such estimates for the scheduling of work activities and of procurements to be made by the department of procurement. The chief procurement officer shall compile and consolidate all estimates of supplies needed by using agencies to determine total requirements of a given commodity.

(d) *List of authorized signatures.* Every head of a using agency shall provide the chief procurement officer annually with a list of signatures of persons in the using agency who are authorized to sign requisitions on behalf of the using agency.

(e) *Examination of contracts.* The chief procurement officer and the head of the using agency shall examine all contracts to determine the accuracy of the substance and the inclusion of required bonds and certificates of insurance.

(f) *Receiving reports.* The head of the using agency shall deliver receiving reports to the chief financial officer and to the chief procurement officer upon receipt of supplies procured under city contracts.

(g) *Buy and pay entities.* The chief procurement officer, in cooperation with each using agency, and the chief financial officer, shall establish buy and pay entities for appropriate designation in all procurement and real property transactions, contracts issued by the city pursuant to agreements adhering to special grantor agreements, and city contracts of whatever kind and nature, regardless of what they may be called.

(Ord. No. 2007-05 (06-O-0381), § 3, 1-22-07)

Sec. 2-1140. Signing contracts on behalf of mayor.

Except as otherwise provided in this article, the chief procurement officer shall have the authority to sign contracts on behalf of the mayor, pursuant to section 6-401 of the Charter, in the following circumstances:

(1) For the purchase of supplies of every type and description and contracts which take the form of purchase orders where the city council has authorized the purchase in the normal course of the budget process, without further authorization by the city council; or

(2) For services, construction, professional and consultant services, grant agreements and intergovernmental agreements, when a duly enacted appropriation is passed by the city council which authorizes the expenditure of moneys for such purpose and the purchase amount does not exceed \$300,000.00 individually or in the aggregate. Except in the case of grant agreements or intergovernmental agreements the limitation of \$300,000.00 applies to all individual contracts of the firm and all contracts to the individual principals of the contracting firm associated with a specific project. In computing whether any contract shall exceed \$300,000.00, the chief procurement officer shall include all individual contracts to a firm and any contracts to the principals of the contracting firm. These contracts in total shall not exceed \$300,000.00.

(Ord. No. 2007-05 (06-O-0381), § 3, 1-22-07)

Editor's note: The previous threshold of \$100,000.00 applies prior to September 30, 2007.

Charter references: Powers and duties, § 3-104(14); Purchasing procedures, § 6-402(e).

Sec. 2-1141. Appointment of procurement advisory groups.

The chief procurement officer may appoint procurement advisory groups to assist the chief procurement officer with respect to specifications or procurement in specific areas and with respect to any other matters within the authority of the chief procurement officer.

(Ord. No. 2007-05 (06-O-0381), § 3, 1-22-07)

Sec. 2-1142. Monthly report to city council.

The chief procurement officer shall submit to the council, and to the municipal clerk, before the 15th of each month a report listing for the previous month the following information:

- (1) The titles of all requests for proposals and the method of source selections to be used;
- (2) All contracts authorized by the council, the method of source selection used and the total dollar amount;
- (3) All contracts authorized by the chief procurement officer pursuant to subsection 2-1140(2), the method of source selection, as well as all emergency procurements pursuant to section 2-1192.
- (4) All change orders of contract modifications authorized by the council, the dollar amount, and the reason;
- (5) All change orders or contract modifications authorized by the chief procurement officer pursuant to subsection 2-1292(a)(1), the dollar amount, and the reason;
- (6) An explanation of any changes, and the costs involved, in the scope of services made between the time an award recommendation for a contract is made and the time that a resolution authorizing the contract is sent to the council for adoption.

(Ord. No. 2007-05 (06-O-0381), § 3, 1-22-07)

Secs. 2-1143--2-1160. Reserved.

DIVISION 4. SOURCE SELECTION AND CONTRACT FORMATION*

***Editor's note:** Ord. No. 2007-05 (06-O-0381), § 3, approved Jan. 22, 2007, amended div. 4 in its entirety to read as herein set out. Formerly, said division pertained to similar subject matter as enacted by Code 1977; as amended.

Cross references: Review of proposed contracts by the city council's finance/executive committee, § 2-911.

Sec. 2-1187. Methods of source selection.

Unless otherwise authorized by law, all city contracts, except for the purchase, sale and disposition of real estate, shall be awarded by competitive sealed bidding, pursuant to section 2-1188, except as provided in the following:

- (1) Section 2-1189 (competitive sealed proposals);
- (2) Section 2-1190 (small purchases);
- (3) Section 2-1191 (sole source procurement);
- (4) Section 2-1192 (emergency procurement);
- (5) Section 2-1193 (competitive selection procedures for professional and consultant services);
or
- (6) Section 2-1332 (disposition of surplus supplies).

(Ord. No. 2007-05 (06-O-0381), § 3, 1-22-07)

Sec. 2-1188. Competitive sealed bidding.

(a) *Conditions for use.* Contracts or purchase orders under this article shall be awarded by competitive sealed bidding, except as otherwise provided in sections 2-1187 and divisions 15 and 17 of this article.

(b) *Invitations for bids.* An invitation for bids shall be issued and shall include a purchase description and all contractual terms and conditions applicable to the procurement. Notice of all such invitations for bids shall be forwarded to all members of the finance/executive committee.

(c) *Public notice.*

(1) *General notice.* An advertisement inviting bids shall be posted conspicuously at the department of procurement and advertised on an Internet website of the City of Atlanta, or a website designated by the City of Atlanta for such purpose and clearly indicated for that purpose. In addition, the department of procurement may elect to place an advertisement inviting bids in a newspaper of general circulation and in any other medium permitted under this article. The advertisement shall be posted for 14 consecutive days preceding the date set for receipt of bids. Notice of bid security, if required, shall be included in the public notice. The public notice shall contain a general description of the supplies, services, construction or professional and consultant services to be procured and shall state the location of where appropriate solicitation documents may be obtained and the time and place of opening the documents.

(2) *Additional notice in unusual or special circumstances.*

a. *Notice in trade or industry publications.* When required supplies, services or construction are, in the determination of the chief procurement officer in consultation with the using agency, either unusual in nature or highly specialized, the chief procurement officer shall cause an advertisement to be placed in at least one trade journal or such other specialized industry publication of circulation in the city, whichever is appropriate and most likely to bring responses from qualified and available offerors. The advertisement shall be published once and at least 14 days preceding the date set for receipt of bids. The provisions of this paragraph concerning unusual or special circumstances shall be used in addition to, and not in lieu of, the provisions in subsection (c)(1) of this section.

b. *Assistance of using agency.* The chief procurement officer may rely upon the subject matter expertise and the assistance of personnel of the using agency who shall, prior to competitive solicitation, make a prompt written determination of the appropriate trade journal or specialized industry publication where the advertisement is to be placed. The written determination by the using agency shall be made sufficiently in advance such that notice and advertisement can be timely placed by the chief procurement officer in the next available issue of a journal or industry publication, which will be published at least 14 days preceding the date set for receipt of bids. The using agency shall provide the necessary funds from its budget for the costs and expenses associated with advertisement in trade journals or such other industry publications.

c. *Contents of notice.* Notice of bid security, if required, shall be included in the public notice for the trade journal or such other industry publication. The public notice shall contain a general description of the supplies, services or construction to be procured and shall state the date and location where solicitation documents may be obtained, and the time and place of opening of the bids.

(d) *Receipt of competitive sealed bids.* All bids must be delivered to and received by the chief procurement officer or designated Department of Procurement staff at the bid opening and stamped no later than 1:59 p.m. Eastern Time.

(e) *Clock calibration.* Prior to all bid openings, the chief procurement officer or designated department of procurement staff shall coordinate the clock calibration used in the bid process with the National Bureau of Standards.

(f) *Bid opening.* Bids shall be opened publicly in the presence of one or more witnesses at the time and place designated in the invitation for bids. The name of each offeror, the amount of each bid and such other relevant information as the chief procurement officer deems appropriate shall be recorded.

(g) *Bid acceptance.* Bids shall be received by the chief procurement officer or designated department of procurement staff without alteration or correction, except as authorized in this article, provided that the bids are delivered to the chief procurement officer at the time, place and under the conditions contained in the invitation for bids.

(h) *Bid evaluation.* Bids shall be evaluated based on the requirements set forth in the invitation for bids and the City's Code of Ordinances. Those criteria, including but not limited to discounts, transportation costs and total or life-cycle costs, that will affect the bid and price and be considered in the evaluation for the award shall be objectively measurable. The invitation for bids shall set forth the evaluation criteria to be used.

(i) *Correction or withdrawal of bids.*

(1) *Before bid opening.* Correction or withdrawal of bids may be allowed by the chief procurement officer before the scheduled time and date of bid opening. The offeror may withdraw the bid, without revealing the amount of the bid, by submitting a new sealed bid or providing written notice of withdrawal before bid opening. Notice of withdrawal shall be received by the chief procurement officer prior to bid opening.

(2) *After bid opening.* After bid opening, corrections in bids shall be permitted only to the extent that the offeror can show by clear and convincing evidence that a mistake of a nonjudgmental character was made, the nature of the mistake, and the bid price actually intended. After bid opening, no changes in bid prices or other provisions of bids prejudicial to the interests of the city or fair competition shall be permitted.

(3) The chief procurement officer may also exercise all rights a bidder may have to correct its bid provided in this Code section and may communicate with any bidder concerning the correction or withdrawal of its bid.

(4) *Withdrawal.* In lieu of bid correction, a low bidder alleging a material mistake of fact may be permitted to withdraw its bid if:

a. The mistake is clearly evident on the face of the bid document, but the intended correct bid is not similarly evident; or

b. The bidder submits evidence that clearly and convincingly demonstrates that a mistake was made.

All decisions to permit the correction or withdrawal of bids shall be supported by a written determination made by the chief procurement officer.

(j) *Tie bids.* If two or more offerors are tied in price while otherwise meeting all of the required conditions, the contract shall be awarded to an offeror whose principal place of business is within the city or, if not within the city, within the metropolitan Atlanta area or, if not within the city or metropolitan area, within the state. Where no offeror is located within the state, the chief procurement officer shall award the contract to the offeror whose principal place of business is the closest to the city.

(k) *Award.* The contract shall be awarded with reasonable promptness by written notice to the most responsible and responsive offeror whose bid meets the requirements and criteria set forth in the

invitation for bids. In determining the most responsible and responsive offeror, the chief procurement officer, in consultation with the using agency, shall consider the following:

- (1) The ability, capacity and skill of the offeror to perform the contract and provide the services/supplies required;
- (2) The capability of the offeror to perform the contract and provide the services/supplies promptly or within the time specified without delay or interference;
- (3) The character, integrity, reputation, judgment, experience and efficiency of the offeror;
- (4) The quality of performance of the offeror of previous contracts and provision of services/supplies;
- (5) The previous and existing compliance by the offeror with laws and ordinances relating to the contract and provision of services/supplies;
- (6) The sufficiency of the financial resources and ability of the offeror to perform the contract and provide the services/supplies;
- (7) The compliance of the offeror with the requirements of an equal employment opportunity in contracting program as may be required by ordinance;
- (8) The compliance of the offeror with the requirements of a minority and female business enterprise participation program as may be required by ordinance;
- (9) The compliance of the offeror with the requirements of a local preference program as may be required by ordinance;
- (10) The quality, availability and adaptability of the supplies or services to the particular use required; and
- (11) The price. If all bids exceed available funds as certified by the chief financial officer and the most responsible and responsive bid does not exceed such funds by more than five percent, the chief procurement officer is authorized, when time or economic considerations preclude resolicitation of a reduced scope, to negotiate an adjustment of the bid price, including changes in the bid requirements, with the most responsible and responsive offeror in order to bring the bid within the amount of available funds.

(l) *Multi-step sealed bidding.* When it is considered impractical to initially prepare a purchase description to support an award based on price, an invitation for bids may be issued requesting the submission of unpriced offers to be followed by an invitation for bids limited to those offerors whose offers have been qualified under the criteria set forth in the first solicitation.

(m) *Substitution, replacement by uncertified minority business enterprise or female business enterprise prohibited.* An offeror may not substitute for or replace any minority business enterprise (MBE) or female business enterprise (FBE), as those terms are defined in section 2-1443, when that MBE or FBE has been designated in writing by the offeror as a subcontractor for the contract on which the offeror has submitted a bid, if the MBE or FBE submitted as a part of the bid is not a certified, legitimate MBE or FBE, as determined by the office of contract compliance. If the office of contract compliance determines that the MBE or FBE is not legitimate or certified, the bid of the contractor who submitted the bid shall be rejected.

(n) The office of contract compliance shall evaluate each such bid as to the offeror's compliance with subsections (k)(7) and (8) of this section and shall notify the chief procurement officer, in writing, whether the bid is responsive or nonresponsive.

Sec. 2-1188.1. Local preference.

(a) *Applicability.* This local preference program shall only apply to any city contract (referred to hereinafter as "Eligible local projects") procured under section 2-1188 competitive sealed bidding. It does not apply to procurements utilizing competitive sealed proposals under section 2-1189, small purchases under section 2-1190, sole source procurement under section 2-1191, emergency procurement under section 2-1192, competitive selection procedures for professional and consultant services under section 2-1193 and federally-funded projects.

(b) *Statement of policy.* The city has a significant interest in encouraging the creation of employment opportunities for its residents and for businesses located within the city. As a purchaser of goods and services, the city will benefit from expanded job and business opportunities for its residents and businesses through additional revenues generated by its activities. It is in the interest of the city and its residents to give preference on eligible local projects to those eligible offerors, as defined in section 2-1443, who have direct physical and economic relationships with the city.

(c) *Certification as a local offeror.* Only an approved eligible offeror may be certified as a local offeror. In order to be certified as a local offeror, an eligible offeror must submit a completed application to the department of procurement, and the applicant must be approved and certified by the department of procurement. An eligible offeror must submit a completed and signed written application to become a local offeror before it will be allowed to receive a bid preference on an eligible local project. In order to be approved as a local offeror and receive a bid preference on an eligible local project, the application for approval as a local offeror and all supporting documents must be received by the department of procurement at least 30 days prior to the date bids are received on such eligible local project. An eligible offeror who fails to submit an application for approval as a local offeror at least 30 days prior to the date bids are received on an eligible local project, and who otherwise meets the requirements for approval as a local offeror, will not be qualified for a bid preference on such eligible local project.

(d) *Criteria.* To be certified as a local offeror, the eligible offeror must satisfy no less than two of the following criteria:

- (1) The eligible offeror's principal place of business is located in the city or that the eligible offeror has held a valid city business license for at least one year prior to the date of application.
- (2) A majority of the full time employees, chief officers, and managers of the eligible offeror have regularly conducted work and business in the city for at least one year prior to the date of application.
- (3) A majority of the employees based at the eligible offeror's location(s) in the city have been residents of the city for at least one year prior to the date of application.
- (4) The services the eligible offeror offers to the city have been provided by the eligible offeror in the city for at least one year prior to the date of application.

If the applicant is a joint venture or mentor-protege team, each participant in the joint venture or mentor-protege team must be approved independently as a local offeror in order for the joint venture or mentor-protege team to receive the bid preference on eligible local projects.

(e) *Term.* The certification as a local offeror shall expire two years from the date of the approval of the application. Following the expiration date, a business is no longer a local offeror. An eligible offeror must submit a new application for certification as a local offeror to the department of procurement and establish that it continues to meet the requirements contained in paragraph (d) of this section in order to receive a bid preference on eligible local projects.

(f) *Determining responsiveness of non-local offerors.* The geographic location of an eligible offeror shall be one of the factors considered by the department of procurement in determining whether a bid on an eligible local project is responsive. A bid submitted by a non-local offeror shall be deemed non-responsive on the basis that the eligible offeror is a non-local offeror, unless:

- (1) For eligible local projects valued at less than \$500,000.00, the amount of the bid submitted by the non-local offeror is ten percent lower than the lowest responsible and responsive bid submitted by a local offeror;
- (2) For eligible local projects valued at \$500,000.00 or more, the amount of the bid submitted by the non-local offeror is five percent lower than the lowest responsible and responsive bid submitted by a local offeror;
- (3) The bid submitted by the non-local offeror would be responsible and responsive but for the fact that the eligible offeror is a non-local offeror; and
- (4) The amount of the bid submitted by the non-local offeror is lowest among bids submitted by other non-local offerors that would be responsible and responsive but for the fact that such other eligible offerors are non-local offerors.

(g) *Continuing obligations of eligible offerors certified as local offerors.* Eligible offerors certified as local offerors shall be under a continuing duty to immediately inform the department of procurement in writing of any changes in the eligible offeror's business if, as a result of such changes, the eligible offeror no longer satisfies the requirements of paragraph (d) of this section.

(Ord. No. 2007-05 (06-O-0381), § 3, 1-22-07)

Sec. 2-1189. Competitive sealed proposals.

(a) *Conditions for use.* Under this article, when the chief procurement officer determines that the use of competitive sealed bidding is either not practicable or not advantageous to the city, a contract may be procured by the use of the competitive sealed proposals method.

(b) *Request for proposals.* Proposals shall be solicited through a request for proposals. Notice of all such requests for proposals shall be forwarded to all members of the finance/executive committee.

(c) *Public notice.* When requested by the using agency, the chief procurement officer shall issue public notice for request for proposals from offerors as provided in subsection 2-1188(c).

(d) *Selection.* The chief procurement officer, in consultation with and upon recommendation of the head of the using agency, shall select from among the offerors no less than three offerors deemed to be the most responsible and responsive; provided, however, that if three or less offerors respond to the solicitation, this requirement will not apply. The selection shall be made in order of preference. From the date proposals are received by the chief procurement officer through the date the contract is awarded, no offeror may make substitutions, deletions, additions or other changes in the configuration or structure of the offeror's teams or members of offerors' teams. The selection criteria shall include, but not be limited to, those contained in subsection 2-1188(k) and the following:

- (1) Previous experience demonstrating competence to perform the services involved in the solicitation;
- (2) Past performance of previous contracts with respect to time of completion and quality of services;
- (3) The fee or compensation demanded for the services;

- (4) The ability to comply with applicable laws;
- (5) The ability to comply with the schedule for the performance of the services, as required by the city;
- (6) The financial ability to furnish the necessary bonds;
- (7) The financial condition of the offeror;
- (8) The ability to provide staffing of management personnel, satisfactory to the city; and
- (9) The offeror's compliance with the requirements of equal employment opportunity (EEO) and equal business opportunity (EBO) programs, as may be required by ordinance.

As part of the selection process, the office of contract compliance shall evaluate each proposal as to the offeror's compliance with the requirements of equal employment opportunity (EEO) and equal business opportunity (EBO) programs, as may be required by ordinance. The office of contract compliance shall evaluate each proponent's conformance to the city's EEO ordinance and the city's EBO ordinance according to relative weights assigned by the chief procurement officer. The combined weights may not exceed 15 percent of the total evaluation points.

Each request for proposal shall state with specificity the method by which EEO and EBO compliance is weighted to arrive at numerical evaluation points. Proposals that are noncompliant with the city's EEO or EBO requirements shall be deemed nonresponsive without further evaluation of any other solicitation evaluation factors.

(e) *Evaluation factors.* The request for proposals shall state the relative importance of evaluation factors.

(f) *Discussion with responsible offerors and revisions to proposals.* Discussions may be conducted with responsible and responsive offerors who submit proposals determined to be reasonably susceptible of being selected for award for any purpose in the best interests of the city, including the purpose of clarification to ensure full understanding of and responsiveness to the solicitation requirements. 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 the best and final offers. In conducting discussions, there shall be no disclosure of information derived from proposals submitted by competing offerors.

(g) *Award.* Award shall be made to the most responsible and responsive offeror whose proposal is determined in writing to be the most advantageous to the city, taking into consideration the evaluation factors set forth in the request for proposals, this section and in section 2-1188(k).

(Ord. No. 2007-05 (06-O-0381), § 3, 1-22-07)

Sec. 2-1190. Small purchases.

(a) *General procedures.* Any contract or purchase order for supplies, services and construction not exceeding \$50,000.00 may be made in accordance with small purchase procedures adopted by the chief procurement officer in accordance with this article, provided that procurement requirements shall not be artificially divided so as to constitute a small purchase under this section. Insofar as it is practicable, no less than three businesses shall be solicited to submit quotations. Award shall be made to the business offering the lowest responsive quotation. The name of the business submitting a quotation and the date and amount of each quotation shall be recorded and maintained as a public record.

Editor's note: The previous threshold of \$20,000.00 applies prior to September 30, 2007.

(b) *Authority of using agency.* Heads of all city departments may, in their discretion, make small purchases without the assistance of the chief procurement officer under the following circumstances:

- (1) Where the purchase does not exceed \$50.00 and is paid out of the petty cash fund allocated to the department under a duly enacted appropriation; and
- (2) Where the purchase does not exceed \$20,000.00 and is paid for by a miscellaneous requisition directing the chief financial officer to make payment from funds previously allocated to such department.

(c) *Limitations on small purchases made by city departments.* When small purchases are made by heads of city departments pursuant to subsection (b) of this section the following requirements shall be met:

- (1) The aggregate amount of all such small purchases for each department shall not exceed an amount to be annually set administratively by the mayor during the normal budget process upon the recommendation of the chief procurement officer, based upon the department's expenditures of the previous fiscal year, the department's estimated annual expenditures for the current fiscal year and other relevant factors;
- (2) A copy of any purchase order or miscellaneous requisition shall be sent to the chief procurement officer at the time the purchase is made; and
- (3) Purchases shall not be artificially divided so as to constitute a small purchase under subsection (b) of this section.

(d) *Certification of unencumbered appropriation.* Except for emergency procurements under section 2-1192, the chief procurement officer shall not execute any contracts or purchase orders under this section until the chief financial officer shall have certified, after pre-audit, that there is to the credit of the using agency concerned a sufficient unencumbered appropriation balance, in excess of all unpaid obligations, to defray the amount of the order.

(Ord. No. 2007-05 (06-O-0381), § 3, 1-22-07)

Sec. 2-1191. Sole source procurement.

(a) Under this article, a contract or purchase order for a supply service, construction item or professional or consultant service may be awarded without competition when the chief procurement officer determines in writing, after conducting a good-faith due diligence review of reasonable available sources, that are in the city's best interest, there is only one source for the required supply, service, construction item or professional or consultant service. The due diligence review shall include, but not be limited to, research of available sources and contact with professional and trade associations related to the required supply, service, construction item or professional or consultant service. The determination in writing shall also state the sources reviewed.

(b) The chief procurement officer shall conduct negotiations as to the terms of the sole source procurement. A record of sole source procurements shall be maintained that lists each contractor's name, the name and type of each contract, the item(s) procured under each contract and the identification number of each contract file.

(c) Subsequent to the execution of a sole source contract, the original sole source designee may not assign the contract to any other entity or individual unless the provisions of this subsection are satisfied.

If the original sole source designee desires to assign the contract subsequent to its execution, it must make a request for assignment to the chief procurement officer and include with that request information concerning the proposed assignee. The chief procurement officer will review such request and information (including any additional information he/she may request) to determine if the assignee independently meets the sole source requirements of this section. If the chief procurement officer finds that the assignee meets the sole source requirements of this section, council must approve such assignment before it may become effective.

(Ord. No. 2007-05 (06-O-0381), § 3, 1-22-07)

Sec. 2-1191.1. Special procurements.

Notwithstanding any other provision of this Code, the chief procurement officer may initiate a procurement above the small purchase amount specified in section 2-1190 where he/she determines that an unusual or unique situation exists that make the application of all requirements of competitive sealed bidding or competitive sealed proposals contrary to the public interest and such procurement does not technically qualify as a sole source procurement under Code section 2-1191. If determined as appropriate by the chief procurement officer, any special procurement under this section shall be made with such competition as is practicable under the circumstances; provided however, that the chief procurement officer may determine under appropriate circumstances that there is only one logical choice as to a contractor to provide the goods or services necessitated by the special procurement. A written determination of the basis for the procurement and for the selection of the particular contractor shall be included by the chief procurement officer in the contract file. Nothing in this section shall eliminate the chief procurement officer's obligation to present the recommendation of award of any contract procured under this section to city council for approval, prior to execution of the contract, when the value of the contract exceeds \$300,000.

(Ord. No. 2007-05 (06-O-0381), § 3, 1-22-07)

Sec. 2-1192. Emergency procurement.

(a) When the chief procurement officer determines that an emergency exists, the chief procurement officer may make or authorize others to make emergency procurements for supplies, services, construction items or professional or consultant services. The chief procurement officer shall make such determination when there exists a threat to public health, welfare or safety under emergency conditions. Such emergency procurements shall be made with as much competition as is practicable under the circumstances.

(b) A written determination of the basis for the emergency and for the selection of the particular contractor shall be included in the contract file. As soon as practicable, a record of each emergency procurement shall be made and shall set forth the contractor's name, the amount and type of the contract, a listing of the item procured under the contract and the identification number of the contract file.

(c) If an emergency should arise after office hours which requires immediate action on the part of the using agency involved for the protection of the city or if a like situation arises on a Sunday or holiday and it is not possible or convenient to reach the chief procurement officer, any purchase necessary may be made by the official in charge of such using agency. The purchase shall be reported to the chief procurement officer within 24 hours. When the mayor declares a state of emergency and implements the Atlanta-Fulton County Emergency and Disaster Operations Plan, Annex 10A, additional supplies and equipment needed shall be procured in accordance with the plan, using the most practicable method which will ensure both expeditious procurement and effective control.

(Ord. No. 2007-05 (06-O-0381), § 3, 1-22-07)

Sec. 2-1193. Competitive selection procedures for professional and consultant services.

(a) *Conditions for use.* The chief procurement officer, upon the request or recommendation of the using agency, shall procure professional and consultant services, in accordance with this section, except as authorized under sections 2-1191 and 2-1192.

(b) *Statement of qualifications.* The chief procurement officer shall request and maintain statements of interest from persons interested in providing professional and consultant services that shall include a statement of qualifications and performance data for such persons. Each using agency shall encourage professional and consultant firms, which desire to provide services to the agency, to submit statements of qualifications to the chief procurement officer. The chief procurement officer may specify a uniform format for statements of qualifications. Persons may amend these statements at any time by filing a new statement. Any person placed on the qualifications list shall be removed if found in violation of any provision of this article, including, but not limited to, division 11, 12 or 13, or if such person is found in default under any contract with the city.

(c) *Public notice.* When requested by the using agency, the chief procurement officer shall issue public notice for requests for proposals from professional and consultant offerors as provided in subsections 2-1188(c) and 2-1189(c).

(d) *Selection.* The chief procurement officer, in consultation and upon the recommendation of the head of the using agency, shall select from among the offerors no less than three offerors (the "short-listed offerors") deemed to be the most responsible and responsive; provided, however, that if three or less offerors respond to the solicitation, this requirement will not apply. The selection of the short-listed offerors shall be made in order of preference. From the date proposals are received by the chief procurement officer through the date the contract is awarded, no offeror may make substitutions, deletions, additions or other changes in the configuration or structure of the offeror's teams or members of offeror's teams prior to award. The selection criteria shall include, but not be limited to, those contained in subsection 2-1188(k) and the following:

- (1) Previous experience demonstrating competence to perform work or services involved in the solicitation;
- (2) Past performance of previous contracts with respect to time of completion and quality of work;
- (3) The fee or compensation demanded for the services;
- (4) The ability to comply with applicable laws;
- (5) The ability to comply with the schedule of the commencement and completion of the services, as required by the city;
- (6) The financial ability to furnish the necessary bonds;
- (7) The financial condition of the offeror; and
- (8) The ability to provide staffing of management personnel, satisfactory to the city.
- (9) The offeror's compliance with the requirements of equal employment opportunity (EEO) and equal business opportunity (EBO), as may be required by ordinance. As part of the selection process, the office of contract compliance shall evaluate each proposal as to the offeror's compliance with the requirements of equal employment opportunity (EEO) and equal business opportunity (EBO) programs as may be required by ordinance. The office of contract compliance shall evaluate each proponent's conformance to the city's EEO ordinance and the city's EBO ordinance according to relative weights assigned by the chief procurement officer. The combined

weights may not exceed 15 percent of the total evaluation points. Each request for proposal shall state with specificity the method by which EEO and EBO compliance is weighted to arrive at numerical evaluation points. Proposals that are noncompliant with the city's EEO or EBO requirements shall be deemed nonresponsive without further evaluation of any other solicitation evaluation factors.

(e) *Negotiations and award.* The chief procurement officer shall negotiate a contract with the most responsible and responsive short-listed offeror at compensation that the chief procurement officer determines in writing to be fair and reasonable to the city. In making this decision, the chief procurement officer shall take into account the estimated value, the scope, the complexity and the professional nature of the services to be rendered. Should the chief procurement officer be unable to negotiate a satisfactory contract with the offeror considered to be the most responsible and responsive at a price for the chief procurement officer determines to be fair and reasonable to the city, negotiations with that offeror shall be terminated. The chief procurement officer shall then undertake negotiations with the second most responsible and responsive short-listed offeror. If negotiations with the second most responsible and responsive short-listed offeror are unsuccessful, negotiations shall be terminated and the chief procurement officer shall then undertake negotiations with the third most responsible and responsive short-listed offeror. Should the chief procurement officer be unable to negotiate a contract with any of the short-listed offerors, the chief procurement officer and the using agency may select from the additional offerors that were not short-listed in order of their responsibility and responsiveness and the chief procurement officer may continue negotiations in accordance with this section until an agreement is reached.

(Ord. No. 2007-05 (06-O-0381), § 3, 1-22-07)

Sec. 2-1194. Cancellation of invitations for bids or requests for proposals.

An invitation for bids, a request for proposals or any other solicitation under this article may be canceled or any or all bids or proposals may be rejected in whole or in part, as may be specified in the solicitation, when it is in the best interest of the city.

The reasons therefore shall be made part of the contract file. Each solicitation issued by the city shall state that the solicitation may be canceled and that any bid or proposal may be rejected in whole or in part for good cause when in the best interest of the city. Notice of cancellation shall be sent to all businesses solicited.

(Ord. No. 2007-05 (06-O-0381), § 3, 1-22-07)

Sec. 2-1195. Responsibility of offerors.

(a) *Determination of responsibility.* Responsibility of the offeror under this article shall be ascertained for each city solicitation based upon full disclosure to the chief procurement officer at the time of the submission of a bid or proposal in accordance with the terms of the solicitation and the city's code of ordinances, unless the terms of such solicitation allow subsequent submittals by an offeror.

(b) *Determination of nonresponsibility.* If an offeror who otherwise would have been awarded a contract is found nonresponsive, a written determination of nonresponsibility setting forth the basis of the finding shall be prepared by the chief procurement officer. The unreasonable failure of an offeror to supply information in connection with an inquiry with respect to responsibility may be grounds for a determination of nonresponsibility. A copy of the determination shall be sent to the nonresponsive offeror and shall inform the offeror of the right to protest under division 3 of this article.

(Ord. No. 2007-05 (06-O-0381), § 3, 1-22-07)

Sec. 2-1196. Bid security for nonconstruction contracts.

(a) *Required.* Bid security shall be required for all competitive sealed bidding for contracts for supplies and services when the price is estimated by the chief procurement officer to exceed \$50,000.00. Bid security shall be a bond provided by a surety company authorized to do business in the state by the Georgia Insurance Commissioner or the equivalent in cash, cashier's check or certified check. Nothing in this subsection prevents the requirement of such bonds on contracts for supplies and services under \$50,000.00 when the chief procurement officer determines that the circumstances warrant such requirement.

Editor's note: The previous threshold of \$20,000.00 applies prior to September 30, 2007.

(b) *Amount of bid security.* Bid security shall be in an amount equal to at least five percent of the amount of the bid. Unsuccessful offerors shall be entitled to the return of the bid security. Upon failure of a successful offeror to enter into a contract within ten days after the chief procurement officer tenders the proposed contract, the offeror shall forfeit the bid security.

(c) *Rejection of bids for noncompliance with supplying bid security.* When the invitation for bids requires security, the bid shall be rejected if the chief procurement officer determines that the bid fails to comply in a substantial manner with the security requirements.

(d) *Withdrawal of bids.* If an offeror is permitted to withdraw a bid before award, as provided in subsection 2-1189(g), no action shall be had against the offeror or bid security.

(Ord. No. 2007-05 (06-O-0381), § 3, 1-22-07)

Sec. 2-1197. Performance and payment bonds for nonconstruction contracts.

(a) *Required, amounts.* Under this article, when a contract for supplies or services is awarded in excess of \$50,000.00 or when a contract for professional or consultant services is awarded and the chief procurement officer determines that the circumstances so warrant, the following bonds or security shall be delivered to the city and shall become binding on the parties upon the execution of the contract:

(1) A performance bond satisfactory to the city, executed by a surety company authorized to do business in the state by the Georgia Insurance Commissioner or otherwise secured in a manner satisfactory to the city, in an amount equal to 100 percent of the price specified in the contract; and

(2) A payment bond satisfactory to the city, executed by a surety company authorized to do business in the state by the Georgia Insurance Commissioner or otherwise secured in a manner satisfactory to the city, for the protection of all persons supplying labor and material to the contractor or subcontractor for the performance of the work provided for in the contract, in an amount equal to 100 percent of the price specified in the contract.

Editor's note: The previous threshold of \$20,000.00 applies prior to September 30, 2007.

(b) *Reduction or waiver of bond.* The chief procurement officer is authorized to reduce or waive performance and payment bonds for contracts for supplies and services for \$20,000.00 or less, when the chief procurement officer makes a written determination that it is in the best interests of the city to do so. Nothing in this section prevents the requirement of such bonds on supply or service contracts under \$20,000.00 when the chief procurement officer determines that the circumstances warrant.

Editor's note: The previous threshold of \$20,000.00 applies prior to September 30, 2007.

(c) *Authority to require additional bonds.* Nothing in this section shall be construed to limit the authority of the city to require other security in addition to those bonds or in circumstances other than those specified in subsections (a) and (b) of this section.

(d) *Right to institute suit on payment bond; jurisdiction and time limits for suits upon payment bonds.* The right to institute suit and jurisdiction and time limits for suits upon payment bonds provided under this section will be governed by the provisions of Title 13, Chapter 10, Article 1, p. 4 of the Georgia Code.

(Ord. No. 2007-05 (06-O-0381), § 3, 1-22-07)

Sec. 2-1198. Insurance.

(a) *Generally.* Under this article, the chief procurement officer, in consultation with the chief financial officer, shall, at least annually, determine the minimum insurance requirements of the city and evaluate current insurance policies to determine whether minimum insurance requirements continue to be met. The chief procurement officer, with the approval of the commissioner of administrative services and in consultation with the chief financial officer, shall develop procedures for the purchase of insurance for the city, in accordance with this article. Insurance requirements for the city shall be considered for the following purposes:

- (1) Bonds, covenants or conditions of indebtedness of the city.
- (2) Any employee benefit program.
- (3) Public liability insurance for contractors doing business with the city.
- (4) Any other purpose for which insurance is required or expedient, as determined by the chief procurement officer, after consultation with the chief financial officer.

(b) *Public liability insurance for contracts.* The chief procurement officer is authorized to establish standard ranges for limits of liability in public liability insurance coverage, as appropriate, for all contracts let by the city where work thereunder will expose the general public to the risks of bodily injury and property damage. If the chief procurement officer determines that it is appropriate to the type of work under the contract and maximizes competition in the bidding or proposal process, lower limits of liability may be required.

(Ord. No. 2007-05 (06-O-0381), § 3, 1-22-07)

Sec. 2-1199. Prequalification of offerors.

(a) *Generally.* Under this article, the chief procurement officer, in consultation with the using agency may determine that it is in the best interests of the city to prequalify offerors for particular types of supplies, services, construction and professional and consultant services. Prequalification standards may be imposed by the chief procurement officer that must be met by any offeror in order to qualify to respond to an invitation for bids or a request for proposals. Offerors shall be required to submit information to the chief procurement officer to allow a determination of whether an offeror has met such prequalification standards. When prequalification is required, only those offerors who submit the required prequalification information and who are actually prequalified to submit a bid or proposal for a particular solicitation shall be allowed to submit bids or proposals.

(b) *Public notice.* Public notice of prequalification shall be given in the same manner as provided in subsections 2-1188(c) and 2-1189(c).

(c) *Procedures for prequalifying offerors.* The chief procurement officer and using agency for which the solicitation is being performed shall review all information submitted by offerors, and, if necessary, additional information may be required. If the chief procurement officer, in consultation with the using agency and any other affected city agency, determines that the offeror meets all of the prequalification standards established under this article, the chief procurement officer shall prequalify the offeror as qualified to submit a bid or proposal for the particular solicitation for which the prequalification was performed. The offeror shall be notified in writing of prequalification.

(d) *Failure to prequalify.* If an offeror is found not to meet the prequalification standards established under this article, a written determination setting forth the basis for such finding shall be prepared by the chief procurement officer and delivered to the offeror.

(Ord. No. 2007-05 (06-O-0381), § 3, 1-22-07)

Sec. 2-1200. Equal employment opportunity clause.

(a) *Required.* Unless otherwise authorized by law, all contracts and purchase orders entered into by the city shall incorporate an equal employment opportunity (EEO) clause, as set forth in section 2-1415. Compliance with this section shall be considered met when the EEO clause is set forth in an exhibit attached to the contract and appropriate language incorporating the exhibit into the contract is set forth therein.

(b) *Notice.* The EEO clause shall be included as a specification and shall appear on all invitations for bids, requests for proposals and all other solicitations, contracts and purchase orders prepared and issued by the department of procurement.

(c) *Federal guidelines adopted.* The federal guidelines, relating to nondiscrimination in employment by government contractors and subcontractors promulgated by Executive Order No. 11246 of September 29, 1965, as amended with respect to sex by Executive Order No. 11375 of October 13, 1967, sections 202, 203 and 204 of part II of such orders, are adopted by the city insofar as legally possible, and persons entering into contracts with the city, unless otherwise authorized by law, shall comply with the guidelines.

(d) *Failure to comply with the EEO clause.* The city shall reject any bid or proposal and shall not enter into any contract or purchase order with any person who fails to comply with the equal employment opportunity requirements of this section, and with the requirements of divisions 11 and 12 of this article.

(Ord. No. 2007-05 (06-O-0381), § 3, 1-22-07)

Cross references: Equal employment opportunity in city contracts, § 2-1411 et seq.; human relations, ch. 94.

Sec. 2-1203. Types of contracts.

Subject to the limitations of this article, any type of contract which is appropriate to the procurement and which will promote the best interests of the city may be used, provided that the use of a cost-plus-a-percentage-of-cost contract or a cost-plus-a-percentage-of-construction-cost contract is prohibited. A cost reimbursement contract may be used only when the chief procurement officer determines in writing that such contract is likely to be less costly to the city than any other type or that it is a professional or consultant service contract.

(Ord. No. 2007-05 (06-O-0381), § 3, 1-22-07)

CHARTER OF CITY OF CLEVELAND

<http://caselaw.lp.findlaw.com/clevelandcodes/>

Chapter 13 — Departments and Divisions

Complete to June 30, 2007

§ 77 Establishment and Discontinuance of Departments and Offices

There shall be a Department of Law, a Department of Finance, a Department of Public Utilities, and such other departments and offices as may be established by ordinance, with the concurrence of the Board of Control. The Council may by ordinance, with the concurrence of the Board of Control, discontinue any department or office established by ordinance, and may prescribe, combine, distribute or abolish the functions and duties of departments and offices; but, except as otherwise provided in this Charter, no function or duty assigned by this Charter to a particular department or office shall be abolished or assigned to any other department or office. Departments and offices existing at the time of the adoption of this section, and not specifically mentioned therein, shall continue as though established thereby but subject to alteration or discontinuance by ordinance in the manner provided herein.

(Effective June 3, 1968)

§ 78 Directors

A director for each department shall be appointed by the Mayor and shall serve until removed by the Mayor or until his successor is appointed and has qualified. The director of each department shall have the supervision and control of the department. He shall have power to prescribe rules and regulations, not inconsistent with this Charter, for the conduct of the officers and employees of his department; for the distribution and performance of its business; and for the custody and preservation of the books, records, papers and property under its control.

(Effective November 9, 1931)

§ 79 Departmental Divisions

The work of the several departments shall be distributed among such divisions thereof as are established by this Charter or as may be established by the Council by ordinance, with the concurrence of the Board of Control. There shall be a commissioner or chief in charge of each division who shall be appointed, and may be removed by the director of the department in conformity with the civil service provisions of this Charter. Each commissioner shall, with the approval of the director of his department, appoint all officers and employees in his division and have supervision and control of its affairs.

(Effective November 9, 1931)

§ 80 Board of Control

The Mayor and the directors of the several departments, whether established by this Charter or by ordinance, shall constitute a Board of Control. The Mayor shall be ex-officio President of the Board. The vote of a majority of all members of the Board shall be necessary to the adoption of any question, motion or order. All votes shall be by "yeas" and "nays" and entered on the record. All meetings of the Board shall be public, a record of its proceedings shall be kept, and an abstract of its proceedings shall be printed in the City Record.

(Effective November 9, 1931)

§ 81 Advisory Boards

The director of a department, with the approval of the Mayor, may appoint a board composed of citizens qualified to act in an advisory capacity to the commission of any division under his supervision. The members of any such board shall serve without compensation and their duty shall be to consult and advise with the commissioner, but not to direct his conduct of the division. Any recommendations of such board shall be in writing and become a part of the records of the department. Stated public meetings of such board shall be called by the commissioner for the consideration of the affairs of the division. The commissioner of the division shall be chairman of such meetings.

(Effective November 9, 1931)

§ 82 Reports

The director of each department shall annually, on such date as may be fixed by the Council, render to the Mayor a full report of the transactions of his department for the year, and shall furnish to the Council or Mayor at any time, such information relating to his department as either may require.

(Effective November 9, 1931)

Chapter 17 — Department of Finance

§ 101 Division of Purchases and Supplies

There shall be in the Department of Finance a Division of Purchases and Supplies. The Commissioner of Purchases and Supplies shall make all purchases for the City in the manner provided by ordinance, and shall, under such regulations as may be provided by ordinance and by direction of the Board of Control, sell all property, real and personal, of the City not needed for public use or that may have become unsuitable for use or that may have been condemned as useless by the director of a department. He shall have charge of such store rooms and warehouses of the City as the Council may by ordinance provide.

(Effective November 9, 1931)

§ 102 Governing Regulations

The Commissioner of Purchases and Supplies shall sell any City-owned property under such rules and regulations as the Council shall establish; provided, however, that before making any purchase, said Commissioner shall give opportunity for competition under such rules and regulations as the Council shall establish. Supplies required by any department may be furnished upon requisition from the stores under the control of the Commissioner of Purchases and Supplies, and whenever so furnished shall be paid for by the department furnished therewith by warrant made payable to the credit of the store's account of the Division of Purchases and Supplies. The Commissioner of Purchases and Supplies shall not furnish any supplies to any department unless there be to the credit of such department an available appropriation balance, in excess of all unpaid obligations sufficient to pay for such supplies.

(Effective November 9, 1931)

§ 106 Contracts Certified

No contract, agreement, or other obligation, involving the expenditure of money, shall be entered into, nor shall any ordinance, resolution, or order for the expenditure of money be passed by the Council, or be authorized by any officer of the City, unless the Director of Finance first certifies to the Council or to the proper officer, as the case may be, that the money required for such contract, agreement, obligation, or expenditure, is in the Treasury, to the credit of the fund from which it is to be drawn, and not appropriated for any other purpose, which certificate shall be filed and immediately recorded. The sum so certified shall not thereafter be considered unappropriated until the City is discharged from the contract, agreement or obligation.

(Effective November 9, 1931)

§ 108 Authorization of Contracts

(a) All contracts involving any expenditure in excess of ten thousand dollars (\$10,000.00) shall first be authorized and directed by ordinance of Council. When so authorized and directed, the director of the department involved shall make a written contract with the lowest and best bidder, after advertisement once a week for two consecutive weeks in the City Record and after competitive bidding.

(b) When authorized by ordinance passed by the Council and in accordance with the general laws of the State of Ohio, competitive bidding and advertisement are not required for the City to participate in contracts of the State of Ohio or any of its political subdivisions for the purchase of supplies, services, materials and equipment.

(c) There shall be no splitting of orders to avoid the effect of this section, and any contract made contrary to or in evasion of the provisions of this section shall be illegal and void.

(Effective March 19, 1996)

Chapter 39 — Amendments and Charter Review

Complete to June 30, 2007

§ 200 General Provisions

Proposed amendments to this Charter may be submitted to the electors of the City by a two-thirds vote of the members of Council, and upon petition signed by ten percent of the electors of the City, setting forth any such proposed amendment, prepared and filed with the Council, through its Clerk in the manner and form prescribed in this Charter for the preparation and filing with the Clerk of an initiative petition for an ordinance, such proposed amendment shall be submitted to the electors of the City by the Council. The percentage aforesaid shall be based upon the total vote cast at the last preceding general Municipal election. The ordinance providing for the submission of any such proposed amendment shall require that such proposed amendment be submitted to the electors at the next regular Municipal election if one shall occur not less than sixty days nor more than one hundred and twenty days after its passage; otherwise it shall provide for the submission of the proposed amendment at a special election to be called and held within the time aforesaid. When ten (10) days and two regular meetings of the Council have passed after the filing of a petition fulfilling the requirements of this section, then the Council shall forthwith provide the ordinance for the submission to the electors of the proposed amendment to this Charter. The Clerk of the Council shall transmit to the election authorities prescribed by general law a duly authenticated copy of such ordinance forthwith upon its passage, and not less than thirty days prior to such election the Clerk of the Council shall either mail a copy of the proposed amendment to each elector whose name appears upon the registration books of the last regular or general election held in the City or

pursuant to laws passed by general assembly notice of the proposed amendments may be given by newspaper advertising. If such proposed amendment is approved by a majority of the electors voting thereon it shall become a part of the Charter of the City at the time fixed in the amendment; and if no time is fixed therein, then it shall become a part of the Charter upon its approval by the electors. Proposed amendments to this Charter may be submitted to the electors by ballot title, which shall be clear, concise statements, without argument, descriptive of the substance of such proposed amendments. If conflicting proposed amendments to this Charter shall be approved at the same election, the one receiving the highest number of affirmative votes shall be the amendment to the Charter.

(Effective October 8, 1971)

§ 200-1 Charter Review Commission

Not later than the first day of February in the year 1968 and of each succeeding twentieth year thereafter, the Council shall provide for the selection of a Charter Review Commission and shall appropriate adequate funds for a comprehensive review of the existing Charter provisions.

The Charter Review Commission shall consist of fifteen electors of the City of Cleveland appointed or elected in the manner prescribed by ordinance.

Within thirty days after selection the members shall meet, choose a Chairman and Secretary, and adopt rules to govern the procedure of the Commission. The Commission may employ such necessary assistants and professional services as it deems necessary, within the funds appropriated for such purpose.

Not later than six months after its organization the Charter Review Commission shall report to the Council such proposed amendments to the Charter as the Commission determines to be necessary or desirable and a statement of the reasons for submitting such proposed amendments to the electors; or that no changes in the Charter are required or desired.

Upon receipt of the report of the Charter Review Commission setting forth any proposed amendment or amendments to the Charter, the Council not later than thirty days thereafter shall determine by ordinance whether such proposed amendment or amendments shall be submitted to the electors of the City of Cleveland in the manner provided and governed by the provisions of Section 200 and in conformity with Section 9 of Article XVIII, of the Ohio Constitution.

(Effective November 21, 1967)

§ 201 Severability Clause

If any section or part of a section of this amendment proves to be invalid or unconstitutional, the same shall not be held to invalidate or impair the validity, force or effect of any other section or part of a section of this amendment, unless it clearly appears that such other section or part of a section is wholly or necessarily dependent for its operation upon the section or part of a section so held unconstitutional or invalid.

(Effective November 9, 1931)

§ 202 Effective Date

For the purpose of nominating and electing officers the provisions of this Charter shall be in effect for any regular Municipal election held not less than eighty days from and after their approval by the electors of City.

For all other purposes this Charter shall be in effect on the first Monday following the first election of officers thereunder, on which day Section 3 to 183, both inclusive, of the existing Charter of the City of Cleveland shall be deemed repealed. All members of the Council elected in accordance with the existing provisions of the Charter of the City of Cleveland shall continue to hold such office for the full term for which they were elected.

If, however, the provisions of this Charter are approved at an election held in an even numbered year or at an election held in an odd numbered year on a day which is later than eighty days before the regular Municipal election of that year, the foregoing provisions in this section as to the time the provisions of this Charter shall take effect shall be held for naught and the following provisions shall apply, namely_The provisions of this Charter shall be in effect for all purposes on the first Monday following their approval by the electors of the City and Sections 3 to 183, both inclusive, of the existing Charter of the City of Cleveland shall be deemed repealed on that day, except for the purpose of nominating and electing members of Council the provisions of this Charter shall be in effect for any regular Municipal election held not less than eighty days from and after their approval by the electors of the City and except that meanwhile candidates for Council may be nominated and elected, and members of Council may be recalled and persons may be chosen to fill vacancies in Council, all in accordance with the existing provisions of the Charter of the City of Cleveland. Members of Council elected in accordance with the existing provisions of the Charter of the City of Cleveland shall continue to hold such office for the full term for which they were elected.

(Effective November 9, 1931)

CLEVELAND

Part One: Administrative Code

- Title XV: Purchases And Contracts
 - [Chapter 181, Purchases And Supplies](#)
 - [Chapter 183, Real Estate Transactions](#)
 - [Chapter 185, Construction And Improvement Contracts](#)
 - [Chapter 186, Public Art](#)
 - [Chapter 187, Minority Business And Female Business Enterprise Code](#)
 - [Chapter 188, Fannie M. Lewis Cleveland Resident Employment Law](#)
 - [Chapter 189, Cleveland Fair Employment Law](#)

Title XV — PURCHASES AND CONTRACTS

Chapter 181 — Purchases and Supplies

Complete to June 30, 2007

CROSS REFERENCES

Division of Purchases and Supplies, [Charter § 101](#)

Contracts certified, [Charter § 106](#)

Authorization of contracts, [Charter § 108](#)

Conditions when contracts are void, [Charter § 109](#)

Contract interest, [Charter § 195](#)

Restrictions on contracts, RC 715.68, 731.48

Board of Control approval of contracts, RC 733.22 et seq.

Advertising for City improvement contracts, [CO 185.01](#)

Commissioner of Purchases and Supplies to advertise for bids for rehabilitation, [CO 321.13](#) et seq.

181.01 Commissioner of Purchases and Supplies

The Commissioner of Purchases and Supplies shall make all purchases, and by direction of the Board of Control, sell all property, real and personal, as provided in Charter Section 101, in the manner and with opportunity for competition under the rules and regulations established by this chapter and Chapter 183. (Ord. No. 1119-61. Passed 6-12-61, eff. 6-14-61)

181.02 Commissioner's Authority over Storerooms

(a) The Commissioner of Purchases and Supplies, pursuant to the authority of Charter Section 101, shall have charge of and supervise all storerooms and warehouses now established in the several departments and divisions of the City, and all storekeepers, stockkeepers and other persons employed in such storerooms and warehouses shall work under his supervision.

(b) The Commissioner shall have authority to increase or diminish the number of storerooms and warehouses, with the approval in each case of the Director of Finance. He shall cause to be kept adequate stock records, which shall at all times show the number or amount and the value of all items carried in such storerooms and warehouses; the receipt of all items by the storerooms and warehouses, and the cost of all such items, the issuance of all items by the storerooms and warehouses to City departments and offices upon requisition therefore and the charges made thereupon. At the end of each year the Commissioner shall cause an inventory to be taken of all items in the storerooms and warehouses of the City under his supervision, compare such inventory with the stock records of the same date and furnish copies thereof to the Director.

(c) Whenever articles, commodities, supplies, materials or equipment is purchased and delivered to the storerooms or warehouses of the City in anticipation of requisitions from the several departments, divisions and offices, and it is impracticable at the time of such delivery to apportion the cost thereof or any part of such cost, to the several departments, divisions and offices, payment shall be made from the City Storeroom Fund of the Division of Purchases and Supplies, to be repaid by the several departments, divisions and offices as they receive such supplies upon requisitions.

(Ord. No. 1119-61. Passed 6-12-61, eff. 6-14-61)

181.03 Estimates and Summary of Requirements

On or before December 1 of each year, and at such other times as contracts for supplies are to be let, the director of each administrative department or the responsible head of each office other than an administrative department, shall submit to the Director of Finance an estimate upon forms to be furnished by the Director, of all articles, commodities, supplies, equipment and materials anticipated to be needed by such department or office for its regular operation during the ensuing year. Such estimate shall specify the quantity and character of each item needed, in accordance with standard specifications of the City. All such estimates shall be transmitted to the Commissioner of Purchases and Supplies, who shall prepare a summary statement which shall show the total quantities estimated to be required by all departments and offices, of each item of such articles, commodities, supplies, equipment and materials. The estimates and the summary shall show also the amount of all such articles, commodities, supplies or equipment and materials, estimated to be on hand or in stock in such departments and offices or in the City storerooms or warehouses, and the net quantities which it will be necessary or advisable to purchase during the ensuing year. The estimates and the summary shall also show the quantity, character and estimated value of all articles, commodities, supplies, equipment and materials or other property on hand in the several departments or in the storerooms and warehouses of the City, which is no longer usable or needed and which may be condemned and sold by the City.

(Ord. No. 1119-61. Passed 6-12-61, eff. 6-14-61)

181.04 Standard Specifications

The Commissioner of Purchases and Supplies shall prepare or cause to be prepared and shall adopt and may alter, change and amend standard specifications for each class, grade or description of the various articles,

commodities, supplies, equipment and materials ordinarily required by the City, in every case where it is practicable to do so. Standard specifications shall be such as will procure for the City articles, commodities, supplies, materials and equipment of the best quality and character and design of the goods required for the purposes to be served, and shall be so drawn as to facilitate the making of bids therefrom, and as to encourage bidding from as many persons, corporations and concerns as may be prepared to furnish the articles, commodities, supplies, materials or equipment, as the same may be needed by the City.
(Ord. No. 1119-61. Passed 6-12-61, eff. 6-14-61)

181.05 Requisitions to Conform to Standard Specifications

When standard specifications have been adopted covering any article, commodity, supply, material or equipment, officers or employees thereafter making requisitions for items to be used for purposes covered by standard specifications shall make such requisitions in accordance with such standard specifications, unless by reason of special circumstances any change therein is necessary or economical in such special case. No exception shall be made unless the requisition requesting it is accompanied by a written statement explaining the necessity therefor and unless such statement and requisition are approved by the Director of Finance.
(Ord. No. 1119-61. Passed 6-12-61, eff. 6-14-61)

181.06 Procedures for Requisitions

Requisitions for articles, commodities, supplies, materials or equipment by any department or office shall be addressed to the Commissioner of Purchases and Supplies, approved by the director of such department or the head of such office and shall cite the City's standard specifications for the items desired, or shall be accompanied by samples or by adequate specifications, or by both, in cases where the standard specifications are not applicable. If the department or office has available a sufficient appropriation balance, the Commissioner shall either furnish the items requisitioned from the storerooms or warehouses of the City, or shall procure them by purchase under a purchase contract previously made, or shall procure them by purchase in the market.
(Ord. No. 1119-61. Passed 6-12-61, eff. 6-14-61)

181.07 Supplies or Services from Other Departments

Whenever any office or division of the City requires services, supplies or equipment which another office or division of the City is able to furnish, suitable requisition may be made and such services, supplies or equipment may be furnished. In such cases bids need not be obtained. Appropriate charges and credits shall be made to accounts affected by such transactions.
(Ord. No. 1119-61. Passed 6-12-61, eff. 6-14-61)

181.08 Purchases Not Exceeding \$10,000

All purchases or contracts involving an expenditure of not more than ten thousand dollars (\$10,000) shall, whenever possible, be based on at least three bids and shall be awarded to the lowest and best bidder giving full consideration to the goals set forth in division (c)(1) of Section 187.03 of these Codified Ordinances. The Commissioner of Purchases and Supplies shall post a list of the requisitions requesting such purchases upon a bulletin board open to public inspection for a period of not less than forty-eight hours prior to the time fixed for the taking of bids, and if no satisfactory bid is received pursuant to such posting, he shall solicit bids by direct mail or by telephone to prospective vendors.
(Ord. No. 2725-89. Passed 12-18-89, eff. 12-22-89)

181.09 Purchases Not Exceeding \$1,000.00

Notwithstanding, and as an exception to the requirements set forth in Section 181.08, whenever any office or department requisitions articles, commodities, supplies, material or equipment which is seldom needed and is not stocked in the storerooms or warehouses of the City and which costs a total of one thousand dollars (\$1,000.00) or less, the Commissioner of Purchases and Supplies is authorized to procure such articles, commodities, supplies, material or equipment by noncompetitive purchase in the market for the best price obtainable, provided the approval of the Director of Finance is first obtained.

(Ord. No. 1286-96. Passed 9-30-96, eff. 10-9-96)

181.10 Purchases Exceeding \$10,000 to be Authorized by Ordinance; Bids; Contracts

No purchase amounting to more than ten thousand dollars (\$10,000), except as provided in Section 181.08, shall be made until authorized and directed by ordinance of Council. After being so authorized and directed by ordinance of Council the Commissioner of Purchases and Supplies, in addition to the posting required in Section 181.08 shall cause advertisements for bids to be made in the City Record once a week for two consecutive weeks and the Commissioner shall immediately report the bids received to the director of the department involved, who in turn shall transmit such bids with his recommendations thereon to the Board of Control, for consideration at its next regular meeting. Any or all bids may be rejected. No purchase contract shall be awarded without the approval of the Board, and only to the lowest and best bidder. Purchase contracts so approved shall be reduced to writing and signed on behalf of the City by the director of the department involved, and no such purchase contract shall be made unless it is reduced to writing and entered into pursuant to the ordinances of the City.

(Ord. No. 2725-89. Passed 12-18-89, eff. 12-22-89)

181.11 Noncompetitive Purchases; Purchase of Coal

The Commissioner of Purchases and Supplies is hereby authorized to make noncompetitive purchases for the best price obtainable in the following circumstances:

- (a) When the purchase is for the purpose of determining the fitness or suitability of any product to meet the special requirements of the City and is limited to the smallest amount sufficient for such test purposes, in no event more than one thousand dollars (\$1,000.00).
- (b) Where emergency repairs or necessary replacement parts are required immediately for the continued operation of any automotive or other equipment involving an expenditure of not more than ten thousand dollars (\$10,000.00).
- (c) When the director of the department involved requisitions the purchase of any commodity or article by brand name setting forth the reasons why no other commodity or article except the one specified is suitable for the intended use, when the amount involved is less than one thousand dollars (\$1,000.00) and the director of finance has approved such purchase, and with the additional approval of the Mayor when the amount is more than one thousand dollars (\$1,000.00) but not more than ten thousand dollars (\$10,000.00).
- (d) The purchase of coal for the various divisions of the City shall be based upon the certified copy of the analysis of the coal made by a recognized independent testing laboratory which shall be filed with the bid and made a part thereof, and the specified satisfactory burning quality of the coal in the equipment for which

purchased. Conformity of the coal to the certified analysis shall be determined by chemical tests conducted by the City and the satisfactory burning quality of the coal shall be determined by test in use in the equipment for which the coal is purchased. Failure of the coal to meet the chemical test and the burning test shall be cause for rejection of the bid. The delivery of coal not meeting the chemical test and the satisfactory burning quality shall be cause for cancellation of the contract if a contract is awarded. The costs incurred by the City in making all chemical tests shall be charged to the bidder or contractor in the event that the coal tendered does not meet such tests. For the purpose of determining conformity to the chemical analysis and satisfactory burning quality of any coal proposed to be sold to the City, the bidder may be required to supply from one to ten car loads of such coal. (Ord. No. 1286-96. Passed 9-30-96, eff. 10-9-96)

181.12 Emergency Purchases and Contracts

When an emergency occurs requiring an immediate purchase in order to prevent the interruption of public service endangering public health, safety or welfare, the Commissioner of Purchases and Supplies may make such purchase notwithstanding that the amount involved exceeds ten thousand dollars (\$10,000), if the Mayor, the President of Council, the Chairman of the Finance Committee of Council and the Director of Finance determine such immediate purchase necessary, provided that such purchase shall be reported to Council at the next regular meeting thereof. It is provided further, that nothing contained in this section shall be deemed to authorize any contract for service to be performed beyond the period of the second meeting of Council following the authorization of such contract by the officials so empowered hereunder.

(Ord. No. 2725-89. Passed 12-18-89, eff. 12-22-89)

181.13 Purchases of Surplus Federal Commodities

The Commissioner of Purchases and Supplies is hereby authorized and directed to purchase from the United States or any instrumentality or agency thereof charged with the disposal of surplus commodities, any materials, supplies or equipment which may be determined by the Board of Control to be necessary or desirable for any of the several departments of the City at the price fixed by the United States or such instrumentality or agency thereof. When any department receives a Federal grant, the Commissioner may utilize procurement sources available throughout the General Services Administration Agency of the United States prior to private source procurement in the expenditure of Federal grant money. All purchases under this section of ten thousand dollars (\$10,000.00) or less shall first be authorized by the Board of Control and a written report of every such purchase shall be filed with Council forthwith.

(Ord. No. 1286-96. Passed 9-30-96, eff. 10-9-96)

181.14 Purchase of Materials Produced by State-Owned Institutions

The Commissioner of Purchases and Supplies is hereby authorized to purchase from the State such materials, supplies or equipment as may be manufactured or produced in any of the State-owned institutions as the Board of Control shall determine necessary or desirable for any of the several departments of the City at the prices fixed by the proper authority of the State. However, all such purchases in addition to the authorization by the Board shall, if more than ten thousand dollars (\$10,000.00), be authorized by the Council.

(Ord. No. 1286-96. Passed 9-30-96, eff. 10-9-96)

181.15 Trade-In Allowance

Wherever personal property, which has been used by the City, can in the opinion of the Commissioner of Purchases and Supplies, be more advantageously exchanged as part payment of the purchase price of a new article of a similar nature, the Commissioner shall advertise for bids for prices at which a new article will be furnished the City. Such bid shall recite, in addition to such price and the other recitations required by the ordinances of the City, the amount which will be allowed to the City for the used article which is proposed to be given in exchange as part payment for the new article to be purchased by the City.

(Ord. No. 1119-61. Passed 6-12-61, eff. 6-14-61)

181.16 Purchases of Perishable Supplies and Foodstuffs

The purchase of foodstuffs and perishable supplies required for use in the hospitals and similar institutions and the purchase of beer for sale at the golf courses of the City, which the Commissioner of Purchases and Supplies has determined to be impracticable to obtain through a requirement contract basis, may be made on orders given in the open market without posting. The purchases authorized under this section shall not be considered to be splitting of requisitions as prohibited under Charter Sections 108 and 109.

(Ord. No. 9-03. Passed 3-3-03, eff. 3-5-03)

181.17 Analysis of Coal

Whenever any coal is purchased by the City under specifications which require a formal analysis of the coal, such analysis shall be made either by regular employees of the City or by an outside firm of analysis. The Mayor shall determine from time to time by which method analysis shall be made.

(Ord. No. 1119-61. Passed 6-12-61, eff. 6-14-61)

181.18 Sale of Products Resulting from Operation of Municipal Departments; Sale of Recyclable Materials

(a) Subject to division (b) of this section, all products, byproducts, and materials resulting from the operation of municipal departments, including without limitation grease and tankage manufactured by the Division of Waste Collection and Disposal, and rags, waste paper, bottles and scrap metal accumulated by the Division of Streets, shall be sold by the Commissioner of Purchases and Supplies at such times and in such manner as may be directed by the Board of Control.

(b) All materials collected by the City or its contractor pursuant to the City's curbside recycling program may be sold by the Commissioner of Purchases and Supplies to the highest bidder after a full and complete canvass performed by the Director of Public Service. The Director of Public Service shall provide to the Board of Control on a monthly basis a complete listing of all sales agreements entered into pursuant to this division (b).

(c) All contracts for and sales of the products, byproducts, and materials described in division (a) of this section shall be advertised and awarded in the same manner as are purchases of like amount. However, if no satisfactory bids are received following advertisement as herein provided, the director of the department having charge of the products, byproducts or materials is hereby empowered, when so directed by the Board of Control to employ the customarily commercial methods used in private enterprise of a like nature to secure for the City the benefit of a satisfactory contract.

(Ord. No. 934-91. Passed 5-20-91, eff. 5-28-91)

181.181 Purchase of Collection Services for Recyclable Materials

In the event that market conditions cause the City to be unable to sell materials which the City or its contractor has collected as part of the City's curbside recycling program, the Commissioner of Purchases and Supplies is authorized to enter into a purchase contract or contracts for the collection of such materials from the City with the lowest bidder after a full and complete canvass performed by the Director of Public Service, provided that the amount of any contract for the purchase of collection services shall not exceed ten thousand dollars (\$10,000). The Director of Public Service shall provide the Board of Control on a monthly basis with a complete listing of all purchase agreements entered into pursuant to this section.

(Ord. No. 934-91. Passed 5-20-91, eff. 5-28-91)

181.19 Excess Personal Property; Use by Other Departments; Sale

(a) Except as provided in Section 181.15, all personal property of the City not needed by the department or office in whose charge such property is, shall be turned over to the Commissioner of Purchases and Supplies. If any such property is suitable to be used by any other department or office of the City, the Commissioner shall, when so directed, sell such property at its current value to such other department or office, or shall place it in the City storerooms or warehouses until such time as it may be needed by some department or office of the City. If such property is not needed or is not suitable for the use of any department or office of the City, when so directed by the Board of Control it shall be sold by the Commissioner and the proceeds of such sale shall be turned in to the fund of the City from which such property was paid for. Such sale shall be posted and advertised in every case in like manner as are purchases in amounts equal to the anticipated receipts from such sales. However, in the event the Board so directs, the Commissioner may sell such property at public auction, to be held at a place to be designated by the Commissioner, and named in the advertisement of sale to be posted and advertised for two consecutive weeks prior to the date of such sale.

(b) When the Director of Public Safety makes a determination in accordance with Section 101 of the Charter with respect to the service weapon of a police officer with more than twenty-three (23) years of service in the Division of Police or with respect to the helmet of a fire fighter with more than twenty-three (23) years of service in the Division of Fire, or with respect to the badge of an EMT/Paramedic with more than twenty-three (23) years of service, such weapon, helmet and/or badge shall be turned over to the Commissioner of Purchases and Supplies. Military service time purchased by an officer, fire fighter or EMT/Paramedic following twenty (20) years of service shall be applied to the service time necessary for this provision. This provision shall apply to any officer, fire fighter, or EMT/Paramedic under disability retirement. The Commissioner of Purchases and Supplies shall, when so directed by the Board of Control, offer to sell such service weapon, helmet and/or badge to such police officer, fire fighter or EMT/Paramedic for its fair market value. In lieu of paying cash for the weapon, helmet and/or badge, such police officer, fire fighter or EMT/Paramedic may elect to forego all or any portion of any uniform or uniform maintenance allowance to which he is entitled at the time of the purchase; provided, however, that the sum of any cash payment and the allowances devoted to the purchase shall equal the fair market value of the item or items.

(c) When the Director of Public Safety makes a determination in accordance with Section 101 of the Charter with respect to any apparatus, equipment and/or personal property of the Division of Fire, upon resolution of the Board of Control, the Commissioner of Purchases and Supplies may loan such apparatus, equipment and/or personal property to a local museum, or a like entity existing to preserve the history of the Division of Fire, for use in a fire fighter museum.

(d) When the Director of Public Safety makes a determination in accordance with Section 101 of the Charter with respect to any apparatus, equipment and/or personal property of the Division of Police, upon resolution of the Board of Control, the Commissioner of Purchases and Supplies may loan such apparatus, equipment and/or personal property to a local museum, or a like entity, existing to preserve the history of the Division of Police, for use in a museum.

(e) When the Director of Public Safety makes a determination in accordance with Section 101 of the Charter with respect to any apparatus, equipment and/or personal property of the Division of Emergency Medical Service, upon resolution of the Board of Control, the Commissioner of Purchases and Supplies may loan such apparatus, equipment and/or personal property to a local museum, or a like entity, existing to preserve the history of the Division of Emergency Medical Service, for use in a museum.

(Ord. No. 1532-02. Passed 6-11-07, eff. 6-15-07)

181.20 Specifications for Purchases

Specifications for the purchase of supplies, materials or equipment shall be prepared by the Commissioner of Purchases and Supplies with such technical assistance as he may require from the proper officers of the department requesting such purchase. In conformity with the requirements of Charter Section 102 he shall see that such specifications do not unduly restrict competition and are so prepared as to secure the supplies, materials or equipment required for the operation of the department requesting the same at the best available price.

(Ord. No. 1119-61. Passed 6-12-61, eff. 6-14-61)

181.201 Use of Recycled Material

(a) For purposes of this section:

(1) "Recycled paper" shall mean paper which is at least fifty percent (50%) by weight composed of material which otherwise would have been destined for the waste stream, including without limitation newspapers, magazines, paperboard, boxes, tabulating cards, used fibrous material such as rags, and overstock or obsolete inventories from distributors, wholesalers, printers, and others.

(2) "Recycled material" shall mean material other than paper, the components of which, in whole or in part, would otherwise have been destined for the waste stream.

(b) Whenever the City seeks bids on paper products, the Commissioner of Purchases and Supplies shall take all reasonable steps to ensure that vendors of recycled paper products are notified and given the opportunity to submit bids.

(c) In evaluating bids for paper products, the Commissioner of Purchases and Supplies shall give preference to recycled paper products, provided that said Commissioner, in consultation with the director of the user department, determines that the quality of such products is equal or superior to those non-recycled paper products which are bid, and provided further that the price bid for recycled paper products does not exceed the lowest price bid for non-recycled paper products by more than five percent (5%).

(d) All bid specifications for manufactured products other than paper shall request the bidder to determine whether he or she is able to submit a bid using recycled material. If both of the following apply, the bidder shall

submit an alternate bid using the maximum amount of recycled material possible in light of the technology in existence at the time the bid is submitted:

(1) the product which is made of recycled material is of equal or superior quality to that of a like product which is made from non-recycled material; and

(2) the product may be made at a cost which is not more than five percent (5%) greater than the cost of a like product which is made from non-recycled material.

Even if divisions (d)(1) and (d)(2) of this section do not apply, the bidder may, at his or her option, submit an alternate bid using recycled material.

(e) In evaluating bids for a manufactured product other than paper, the Commissioner of Purchases and Supplies shall give preference to a product made from recycled material, provided that said Commissioner, in consultation with the director of the user department, determines that the quality of such product is equal or superior to that of a like product which is bid using only non-recycled material, and provided further that the price bid for the manufactured product made from recycled material does not exceed by more than five percent (5%) the lowest price bid for the manufactured product using non-recycled material. The Commissioner of Purchases and Supplies shall promulgate regulations for the application of the preference. Said regulations shall be published in the City Record and shall include a requirement that the Commissioner shall take into consideration the total percentage of recycled material used in the product.

(Ord. No. 781-A-91. Passed 9-30-91, eff. 10-8-91)

Note: Pursuant to Section 4 of Ord. No. 781-A-91, Section 181.201 shall take effect October 8, 1992.

181.21 Advertisement of Bids

Every advertisement for bids shall specify the place where bids will be received and the day and place where the same will be opened, and shall state that at 12:00 noon on the last day for filing bids made pursuant to advertisement, the Commissioner of Purchases and Supplies will open and read all such bids.

(Ord. No. 2929-76. Passed 12-20-76, eff. 12-27-76)

181.22 Form of Bid

Every bid must be made upon the blank form of bid attached to the invitation to bid, must give the price of each and every item bid on, in figures, must contain the full name of every person, firm or corporation interested in the bid and the address of the person, firm or the president and secretary of the corporation bidding and the name and address of every subcontractor and materialman which the bidder intends to utilize in accomplishment of the contract work. If a corporation, the bidder must give the name of the State in which it is incorporated and the bid must be clearly signed with the full name and address of each person, firm or corporation interested in the bid.

(Ord. No. 792-03. Passed 6-10-03, eff. 6-12-03)

181.23 Bidder's Affidavits

Each bidder shall be required to submit with his bid, an affidavit stating that neither he nor his agents nor any other party for him has paid to or agreed to pay, directly or indirectly, any person, firm or corporation any money or valuable consideration for assistance in procuring or attempting to procure the contract bid upon, and further agreeing that no such money or reward will be hereafter paid. This affidavit must be on a form provided

by the City.

(Ord. No. 2160-84. Passed 10-8-84, eff. 10-15-84)

181.24 Bid Bond; Certified or Cashier's Check

Each bid shall be accompanied by a bid bond signed by a surety company authorized to do business in Ohio, or by a cashier's check or certified check on a solvent bank, which bond or check shall be five percent of the amount of the bid. Except that with purchase contracts not in excess of ten thousand dollars (\$10,000) the amount of such bond or check shall be not less than three percent of the amount of the bid and in no event less than fifty dollars (\$50.00). The bond or check shall be given as security that if the bid is accepted a contract will be entered into and the performance of it properly secured.

(Ord. No. 33-63. Passed 1-28-63, eff. 1-29-63)

181.25 Insufficiency of Certified or Cashier's Check

(a) Where a check has been deposited with a bid which through inadvertence of the bidder has not been certified, or the amount thereof is insufficient by an amount less than ten percent of the required amount under the provisions of Section 185.05, the Board of Control, when satisfied that it is in the public interest to do so, may waive such informality or irregularity and award the contract pursuant to such bidding to the lowest responsible bidder notwithstanding such informality or irregularity.

(b) In the event of any such waiver by the Board, the Mayor shall transmit to Council, at the next regular meeting thereafter, a report of such waiver containing the name of each bidder, the amount of each bid, the purpose and amount of the contract awarded and the nature and reason for such waiver.

(Ord. No. 1119-61. Passed 6-12-61, eff. 6-14-61)

181.26 Disposition of Bid Bond, Certified or Cashier's Check

(a) The bid bond, certified or cashier's check shall be forfeited and the principal amount of the bid bond shall be paid to the City, or the check shall be surrendered to the City as the agreed amount of liquidated damages in case of failure to enter into contract for the work bid upon. The bid bond or check shall be released or returned to the bidder in case his bid is rejected.

(b) In case his bid is accepted, the bid bond or certified or cashier's check shall be returned after the contract has been signed and the performance bond has been furnished to and approved by the City. The bid bond or certified or cashier's check of the next lowest responsible bidder shall be retained until the lowest responsible bidder has signed and secured the performance of his contract, or if he fails to do so, the bid bond or check shall be further retained until the second lowest responsible bidder has signed and properly secured the contract awarded to him. In default thereof the bid bond or certified or cashier's check shall be forfeited to the City as liquidated damages.

(Ord. No. 1119-61. Passed 6-12-61, eff. 6-14-61)

181.27 Unacceptable Bids

No bid will be accepted from, or contract awarded to, any person, firm or corporation that is in arrears or is in default to the City upon any debt or contract, or that is a defaulter as surety or otherwise, upon any obligation to the City, or has failed to perform faithfully any previous contract with the City.

(Ord. No. 1119-61. Passed 6-12-61, eff. 6-14-61)

181.28 Withdrawal of Bids

No bid will be allowed to be withdrawn after it has been deposited with the Commissioner of Purchases and Supplies.

(Ord. No. 1119-61. Passed 6-12-61, eff. 6-14-61)

181.29 Endorsement, Tabulation and Summary of Bids

All bids shall be endorsed with the title or number of the proposed contract, or of the advertisement therefor, and with the name and residence of the bidder, and shall be properly tabulated and summarized immediately after being read. The tabulation and summary shall become a public record in the office of the Commissioner of Purchases and Supplies.

(Ord. No. 1119-61. Passed 6-12-61, eff. 6-14-61)

181.30 Rejection or Acceptance of Bids

The City, through the Board of Control, shall reserve the right to reject any or all bids, and any part of any bid, and also the right to waive any informalities in the bid. In awarding a contract, the City shall reserve the right to consider all elements entering into the question of determining the responsibility of the bidder. Any bid which is incomplete, conditional, obscure or which contains additions not called for or irregularities of any kind, may be cause for rejection of bid.

(Ord. No. 1119-61. Passed 6-12-61, eff. 6-14-61)

181.31 Time of Award

Unless further time is required for analysis of the bids or investigation of the responsibility of any bidder and in the absence of a limitation upon the time of acceptance set forth in the bid, the Board of Control shall make an award or reject all bids not later than the second regular meeting of the Board following the opening of bids. Any extension of time beyond the date fixed by the successful bidder or the fourth regular meeting of the Board, whichever event shall first occur, shall be subject to agreement between the bidder and the Board.

(Ord. No. 1119-61. Passed 6-12-61, eff. 6-14-61)

181.32 Bonds to Secure Performance of Purchase Contracts

Except for a purchase contract awarded in the amount of fifty thousand dollars (\$50,000) or less, or where by reason of the nature of the purchase the Commissioner of Purchases and Supplies, with the approval of the Director of Finance, has determined that it is impracticable or unnecessary to require a bond, or for contracts anticipated to be under \$500,000 and of a type where MBEs or FBEs are determined to be underutilized at a statistically significant level, when the Commissioner of Purchases and Supplies, with the prior approval of both the Director of Finance and the Director of the Office of Equal Opportunity, based on standards promulgated by the directors to protect the City's interests, has determined that to reduce or waive a bond requirement will enhance contract competition by making City contract awards equitably available to all qualified contractors and will benefit the City's interests, the performance of contracts for the purchase of articles, commodities, supplies, materials or equipment, or services shall be secured by a bond with good and sufficient sureties, approved by the Director of Law, and in an amount equal to at least twenty-five percent (25%) of the contract price. Said bond shall be substantially in the following form:

BOND

Know All Men by These Presents, That we, the undersigned _____ as principal, and _____ as surety, are hereby held and firmly bound unto the City of Cleveland in the penal sum of _____ Dollars (\$_____), for the payment of which well and truly to be made, we hereby jointly and severally bind ourselves, our heirs, executors, administrators, successors and assigns by these presents.

The conditions of this obligation are such that whereas the above named principal did, on the _____ day of _____, 20_____, enter into the contract hereto attached with the City of Cleveland, to furnish and deliver to the City of Cleveland the goods, wares, merchandise or services mentioned therein, which said contract is made a part of this bond the same as if fully set forth herein:

Now, if the principal shall well and truly execute all and singular the stipulations by it to be executed in the aforesaid contract, and shall fully perform all and singular the terms, conditions, and requirements of the specifications and contract, and shall indemnify and save harmless the City of Cleveland from any and all suits and expense over and above the expense included in the contract price for royalties or infringements on patents that may be involved in the construction of the goods, wares and merchandise contracted for, or of any part thereof, and further shall indemnify and save harmless said City of Cleveland from all liens, charges, claims, demands, loss, costs and damages of every kind and nature whatsoever in the performing or completing of said contract, then this obligation shall be void, otherwise shall be and remain in full force and virtue of law, it being expressly understood and agreed that the liability of the surety for any and all claims hereunder shall in no event exceed the penal amount of this obligation as herein stated.

Provided that any forbearance on the part of the City of Cleveland toward the above named principal in respect to its neglect or failure to perform any or all of said agreements or obligations on its part to be performed under said contract, shall not in any manner operate to release or discharge the surety from its liability under this bond.

Witness our signatures this _____ day of _____, A.D. 20_____

Principal.

Surety.

(Ord. No. 793-03. Passed 6-10-03, eff. 7-20-03)

181.33 Release of Bond

The contractor's bond will not be released until all of the provisions of the contract or of any contract phase for which the contractor has furnished a separate bond have been fulfilled.

(Ord. No. 794-03. Passed 6-10-03, eff. 6-12-03)

181.34 Requirements for Contract Execution

A contract shall be deemed executed when signed by the parties thereto, certified by the Director of Finance as required by Charter Section 106, secured by the required performance bond and approved by the Director of Law as required by Charter Section 83.

(Ord. No. 1119-61. Passed 6-12-61, eff. 6-14-61)

181.35 Filing of Original Contract

The original contract entered into and executed in accordance with these Codified Ordinances shall be filed in the office of the Commissioner of Accounts. One certified copy shall be filed in the office or department affected by the contract and one copy shall be filed with the contractor.

(Ord. No. 1119-61. Passed 6-12-61, eff. 6-14-61)

181.36 Compliance with Fair Employment Practice in Northern Ireland

(a) All contractors and any subcontractors having more than a fifty percent (50%) interest in a contract, prior to any contract being awarded by the City, shall disclose on a form to be prescribed by the Commissioner of Purchases and Supplies, if said contractor or subcontractor or any controlling shareholder, subsidiary, or parent corporation of said contractor or subcontractor is engaged in any business or trading for profit in Northern Ireland. As used in division (a) of this section, "controlling shareholder" means any shareholder owning more than fifty percent (50%) of the stock in the corporation or more than twenty-five percent (25%) of the stock in the corporation if no other shareholder owns a larger share of the stock in the corporation.

(b) Any contractor or subcontractor making the disclosure prescribed in division (a) of this section shall stipulate to the Commissioner of Purchases and Supplies, that the said contractor or subcontractor, and all enterprises included in the disclosure are taking lawful and good faith steps to engage in fair employment practices which are relevant to the standards embodied in the "MacBride Principles for Fair Employment in Northern Ireland." Any contractor or subcontractor required to make the stipulation pursuant to this division (b) shall have supplied such information concerning their operations in Northern Ireland to Investor Responsibility Research Center, Inc. ("IRRC"), an independent research agency, as is necessary for the IRRC to evaluate their compliance with fair employment practices in Northern Ireland. The Commissioner of Purchases and Supplies shall consider the information supplied to the IRRC in determining whether a contractor or subcontractor has accurately supplied the stipulation prescribed in this division (b).

(c) Any contractor or subcontractor failing to make the disclosure prescribed in division (a) of this section, or failing to accurately make the stipulation prescribed in division (b) of this section, or failing to supply the information to the IRRC prescribed in division (b) of this section, shall not be eligible to provide any goods or services whatsoever for use by the City, in return for payments, fees, or commissions from City funds.

(d) Any contractor or subcontractor which is awarded a contract to supply goods or services whatsoever for use by the City, in return for payments, fees, or commissions with City funds, and which is subsequently deemed to have failed to make the disclosure prescribed by division (a) of this section, falsely made the stipulation prescribed by division (b) of this section or falsely supplied information to the IRRC as prescribed in division (b) of this section shall be declared to have acted in default of its contract and be subject to the remedies for default contained in the contract.

(e) Any contractor or subcontractor which has failed to cure any default of its contract which has been declared in accordance with division (d) of this section shall be automatically excluded without reserve, from tendering or bidding for the supply of any goods or services whatsoever for use by the City, for a period of two (2) calendar years.

(f) Any contractor or subcontractor which enters into contract with the City to supply any goods or services whatsoever, having made the stipulation prescribed in division (b) of this section, and which fails, or refuses to comply with said stipulation, shall be deemed to have acted in breach of contract and shall be deemed to have acted in default of its contract and shall be subject to the provisions of divisions (d) and (e) of this section.

(g) The Commissioner of Purchases and Supplies shall provide a list of the persons, firms or corporations who have (1) refused to make the disclosure called for in division (a) of this section; and/or (2) those that have made a stipulation pursuant to division (b) of this section; and/or (3) those who are in default of their contract under this section to the Clerk of City Council by April 1st of each year. Said list shall be made available for public inspection.

(h) This section shall, by way of limitation, apply to all contracts let by the Commissioner of Purchases and Supplies or that lawfully should be let by the Commissioner of Purchases and Supplies, except any contract entered into pursuant to the emergency procurement procedure set forth in Section 181.12 of the Codified Ordinances or any contract to a contractor or subcontractor where there is no other contractor or subcontractor who will contract to supply goods or services at comparable quality at a comparable price. The Director of Finance shall report to the Council any contract entered into pursuant to the exception specified in this division (h).

(i) The Commissioner of Purchases and Supplies shall not enforce the provisions of this section prior to March 16, 1992.

(Ord. No. 58-97. Passed 1-13-97, eff. 1-22-97 without the signature of the Mayor)

181.37 Subcontractors and Suppliers

(a) The contractor shall not sublet nor shall any subcontractor commence performance of any part of the work included, or any subcontractor or supplier fabricate or deliver materials or supplies to or for the contractor under the contract, without the previous written consent of the Board of Control. Subcontracting, if permitted, shall not relieve the contractor or his surety of any of his or its obligations under the contract.

(b) Failure by the contractor to obtain consent of the Board of Control for any subcontractor or supplier shall be a breach of the contract for which the contractor may incur a penalty.

(c) The contractor shall be and remain solely responsible to City for the acts or faults of his subcontractor and of such subcontractor's officers, agents and employees, each of whom shall, for this purpose, be deemed to be the agent or employee of the contractor to the extent of his subcontract. The contractor shall promptly, on request of the City file a conformed copy of the subcontract with prices deleted, as a condition precedent to the approval of a subcontractor. The contractor and subcontractor shall jointly and severally agree that subcontracting does not obligate the City to pay, or to see to the payment of any sums to any subcontractor.

(Ord. No. 792-03. Passed 6-10-03, eff. 6-12-03)

New York City Charter

<http://www.nyc.gov/html/charter/downloads/pdf/citycharter2004.pdf>

CHAPTER 3 Board of Estimate [repealed 1990]

CHAPTER 13 Procurement

§ 310. **Scope.**

Except as otherwise provided in this charter or by statute,

1. all goods, services or construction to be paid for out of the city treasury or out of moneys under the control of or assessed or collected by the city shall be procured as prescribed in this chapter; provided, however, that for (i) the office of an independently elected city official, or (ii) the council, where the provisions of this chapter require action by the mayor or an appointee of the mayor in regard to a particular procurement except for mayoral action pursuant to subdivision c of section three hundred thirty-four, such action shall not be taken by the mayor or such appointee of the mayor, but shall be taken respectively, by (i) by such elected official or (ii) the speaker of the council, or another member of the council designated by the speaker with the approval of a majority of the members of the council, and 2. all goods, services or construction to be procured by an entity, the majority of the members of whose board are city officials or are individuals appointed directly or indirectly by city officials shall be procured as prescribed in this chapter; provided, however, that where the provisions of this chapter require action by the mayor or an appointee of the mayor in regard to a particular procurement except for mayoral action pursuant to subdivision c of section three hundred thirtyfour, such action shall not be taken by the mayor or such appointee of the mayor, but shall be taken by the governing board of such entity or by the chair of the board or chief executive officer of such entity pursuant to a resolution adopted by such board delegating such authority to such officer.

§ 311. **Procurement Policy Board.**

a. There shall be a procurement policy board consisting of five members, three of whom shall be appointed by the mayor and two of whom shall be appointed by the comptroller. Each member shall serve at the pleasure of the appointing official. Members shall have demonstrated sufficient business or professional experience to discharge the functions of the board. At least one member appointed by the mayor and one member appointed by the comptroller shall not hold any other public office or public employment. The remaining members shall not be prohibited from holding any other public office or employment provided that no member may have substantial authority for the procurement of goods, services or construction pursuant to this chapter. The mayor shall designate the chair.

b. The board shall promulgate rules as required by this chapter, including rules establishing:

1. the methods for soliciting bids or proposals and awarding contracts, consistent with the provisions of this chapter;
2. the manner in which agencies shall administer contracts and oversee the performance of contracts and contractors;
3. standards and procedures to be used in determining whether bidders are responsible;
4. the circumstances under which procurement may be used for the provision of technical, consultant or personal services, which shall include but not be limited to, circumstances where the use of procurement is (a) desirable to develop, maintain or strengthen the relationships between non-profit and charitable organizations and the communities where services are to be provided, (b) cost-effective, or (c) necessary to (i) obtain special expertise, (ii) obtain personnel or expertise not available in the agency, (iii) to provide a service not needed on a long-term basis, (iv) accomplish work within a limited amount of time, or (v) avoid a conflict of interest;

5. the form and content of the files which agencies are required to maintain pursuant to section three hundred thirty-four and such other contract records as the board deems necessary and appropriate;
 6. the time schedules within which city officials shall be required to take the actions required by this chapter, sections thirteen hundred four and thirteen hundred five, or by any rule issued pursuant thereto, in order for contracts to be entered into, registered or otherwise approved, and time schedules within which city officials should take action pursuant to any other provision of law or rule regarding individual contracts, which rules shall specify the appropriate remedies, including monetary remedies, for failure to meet the terms of any applicable schedule for taking such actions. The board may set forth exceptions to these rules. The promulgation of rules defining time schedules for actions by the division of economic and financial opportunity of the department of small business services and the division of labor services of such department shall require the approval of each division, as such rules pertain to actions required of such divisions, prior to the adoption of such rules by the procurement policy board;
 7. procedures for the fair and equitable resolution of contract disputes; and
 8. such other rules as are required by this chapter.
- c. The board may promulgate such additional rules, policies and procedures consistent with and as may be necessary to implement the provisions of this chapter. The board shall annually review all of its rules, policies and procedures and make such revisions as the board deems necessary and desirable. Nothing herein shall prevent the board from reviewing its rules, policies, and procedures, and making such revisions as the board deems necessary and desirable, more than once per year.
 - d. The board shall promulgate rules to facilitate the timely and efficient procurement of client services, and to ensure that such contracts are administered in the best interests of the city. Such rules shall include but not be limited to: (i) rules authorizing city agencies to meet annual financial audit requirements through the acceptance of consolidated audits across multiple contracts and multiple agencies; (ii) rules providing for expedited renewal or extension of existing client services contracts; (iii) rules mandating the promulgation of draft and final contract plans by all agencies procuring client services.
 - e. The board shall submit an annual report to the mayor, comptroller, and council setting forth the professional standards for agency contracting officers adopted by the mayor, including any applicable certification process.
 - f. In the promulgation of any rules pertaining to the procurement of construction or construction related services, the board shall consult with any office designated by the mayor to provide overall coordination to the city's capital construction activities.
 - g. The board shall make such recommendations as it deems necessary and proper to the mayor and the council regarding the organization, personnel structure and management of the agency procurement function including, where appropriate, recommendations for revision of this charter or local laws affecting procurement by the city. Such reports may include recommendations regarding agency use of advisory groups to assist in preparation of bids or proposals and selection of contractors. The board shall also review the form and content of city contract documents and shall submit to the law department recommendations for standardization and simplification of contract language.
 - h. The board shall not exercise authority with respect to the award or administration of any particular contract, or with respect to any dispute, claim or litigation pertaining thereto.

§ 312. **Procurement; general rule and exceptions.** a. Prior to entering into or renewing a contract valued at more than one hundred thousand dollars to provide technical, consultant, or personal services, an agency shall follow the procedure established herein.

1. Prior to issuing an invitation for bids, request for proposals, or other solicitation, the agency shall determine whether such contract will directly result in the displacement of any city employee. If the agency determines that such result would not occur, it shall include a certification to that effect, signed by the agency head, in any

invitation for bids, request for proposals, or other solicitation. If the agency determines that such result would occur, the agency shall determine the costs incurred and the benefits derived in performing the service, consistent with the scope and specifications within the solicitation, with city employees, and shall submit such analysis, with all supporting documentation, prior to issuance of any solicitation, to the comptroller.

2. Immediately upon receipt of bids and proposals, the agency shall submit such determination, analysis, and supporting documentation to the council and to the appropriate collective bargaining representatives representing employees who would be affected pursuant to paragraph 1 of subdivision a of this section.

3. Prior to award of a contract, the agency shall perform a comparative analysis of the costs expected to be incurred and the benefits expected to be derived from entering into a contract with the proposed vendor, based on such vendor's best and final offer, and such agency's analysis of the costs incurred and the benefits derived from providing the service with city employees. If the agency head intends to award the contract, he or she shall submit the reasons therefor, together with such analysis, and all supporting documentation, to the comptroller, the council, and the appropriate collective bargaining representatives representing employees who would be affected pursuant to paragraph 1 of paragraph a of this section.

4. The council may, within thirty days after receipt of such reasons, analysis, and supporting documentation hold a hearing on this matter. No contract award shall be made prior to the expiration of this thirty-day period or a council hearing, whichever is sooner.

5. a. All cost and comparative analyses required under this section shall be conducted in accordance with standard methodology of the office of management and budget, and consistent with the rules of the procurement policy board, as both are modified herein, subject to further modification by local law. Such analyses shall include all reasonable costs associated with performing the service using city employees and all reasonable costs associated with performing the service under the proposed contract.

b. Such analyses shall further include, the total number, qualifications, job descriptions, and titles of all personnel to be employed by the vendor under the proposed contract, as well as the nature and cost of salaries and benefits to be provided to such personnel.

c. Such analyses shall further include, but not be limited to, the cost of employee supervision directly related to the provision of the service, vendor solicitation, contract preparation, contract administration, monitoring and evaluating the contractor, capitalization of equipment over the period such equipment shall be in use, supplies; the cost of providing the equivalent quantity and quality of service by city employees compared to the cost of providing such service by contract, based upon the best and final offer of the proposed vendor, and such other factors as will assist in arriving at full and accurate cost determinations and comparisons.

6. The reasons given to award the contract shall include all factors that have been considered in determining whether contracting for this service is in the best interest of the city, whether or not such reasons are contained within the cost or comparative analyses. Such factors shall include, but not be limited to, the potential for contractor default, the time required to perform the service, and the quality of the service to be delivered.

7. The mayor or his or her designee may prepare and implement a plan of assistance for displaced city employees, which may include, but need not be limited to, training to place such employees in comparable positions within the contracting agency or any other agency. The cost of such assistance plan may be included within the cost of contracting-out in the cost and comparative analyses.

8. For the purpose of this section, "displacement" shall mean any employment action that results in a reduction in the number of funded positions, including but not limited to, those resulting from the layoff; demotion; bumping; involuntary transfer to a new class, title, or location; timebased reductions, or reductions in customary hours of work, wages, or benefits of any city employee.

b. 1. Except as provided for in sections three hundred fourteen, three hundred fifteen and three hundred sixteen, contracts shall be awarded by competitive sealed bidding under such rules as shall be made by the procurement policy board, except that, in a special case as defined in subdivision b of this section, the head of an agency proposing to award such contract may order otherwise in accordance with policies and procedures established by the procurement policy board.

2. A determination by the head of an agency to use other than competitive sealed bidding except as provided for by sections three hundred fourteen and three hundred sixteen shall be made in writing, stating the reasons why competitive sealed bidding is not practicable or not advantageous and why the method of procurement selected pursuant to section three hundred seventeen is the most competitive alternative that is appropriate under the circumstances. The head of the agency shall include the determination or a summary of the determination in the notice of solicitation, or for an emergency procurement in the notice of award, required to be published pursuant to section three hundred twenty-five of this chapter.

c. 1. For the purposes of this chapter, the term "special case" shall be defined as a situation in which it is either not practicable or not advantageous to the city to use competitive sealed bidding for one of the following reasons:

- i. specifications cannot be made sufficiently definite and certain to permit selection based on price alone;
- ii. judgment is required in evaluating competing proposals, and it is in the best interest of the city to require a balancing of price, quality, and other factors;
- iii. the good, service or construction to be procured is available only from a single source;
- iv. testing or experimentation is required with a product or technology, or a new source for a product or technology, or to evaluate the service or reliability of such product or technology; or
- v. such other reasons as defined by rule of the procurement policy board.

2. The procurement policy board may provide by rule that it is either not practicable or not advantageous to the city, for one of the reasons set forth in paragraph one of this subdivision, to procure a specified type of good, service or construction by competitive sealed bidding.

§ 313. **Competitive sealed bidding.**

a. The term competitive sealed bidding shall mean a method of procurement where the award of a contract is made to the lowest responsible bidder whose bid meets the requirements and criteria set forth in the invitation for bids.

b. Procedures for competitive sealed bidding.

1. Bids shall be solicited through an invitation for bids, which shall include a purchase description and a notice of where vendors may obtain a copy of all contractual terms and conditions applicable to the procurement. A notice of the intention to solicit bids shall be publicly advertised in accordance with the provisions of section three hundred twenty-five of this chapter. The terms of such contracts shall be settled by the corporation counsel as an act of preliminary specification to an invitation for bids.

2. The agency letting the contract may reject all bids if it shall deem it for the interest of the city

so to do; if not, it shall, without other consent or approval, award the contract to the lowest responsible bidder, unless the mayor shall determine in writing, justifying the reasons therefor, that it is the best interest of the city that a bid other than that of the lowest responsible bidder shall be accepted. Such determination shall be published in the City Record. Tie bids are to be decided by the agency letting the contract and the award made. Whenever a contract is awarded to other than the lowest bidder because the lowest bidder is determined by the agency not to be a responsible bidder or because the lowest bid is determined by the agency to not meet the requirements and criteria set forth in the invitation for bids, the agency making such determination and awarding such contract shall immediately notify the lowest bidder of such determination and shall file in the agency contract file a statement in detail of the reasons therefor.

3. Any bidder who is declared not responsible by an agency and any bidder whose bid is determined by an agency to not meet the requirements and criteria set forth in the invitation for bids may, within five days of receipt of notice of the agency decision, appeal such decision to the agency head. A determination of an agency head of an appeal of a decision of non-responsibility may be appealed to the mayor who shall take final action regarding such matter. A determination of an agency head of an appeal of a decision that a bid does not meet the requirements and criteria set forth in the invitation for bids shall be final.

c. No bid shall be valid unless accompanied by a deposit in the amount and manner set forth and specified in the proposal; provided, however, that the procurement policy board shall establish such requirements for bid deposits as are necessary and practicable, and, pursuant to rules and standards, may waive the bid deposit requirement for specific classes of purchase or types of transactions. Upon the award of the contract the deposits of unsuccessful bidders shall be returned to them, and the deposit of the successful bidder shall be returned upon execution of the contract and furnishing of the required security.

d. Every invitation for bids shall contain a provision that in the event of the failure of the bidder to execute the contract and furnish the required security within ten days after notice of the award of the contract, the deposit or so much thereof as shall be applicable to the amount of the award made shall be retained by the city, and the bidder shall be liable for and shall agree to pay on demand the difference between the price bid and the price for which such contract shall be subsequently relet, including the cost of such reletting and less the amount of such deposit. No plea of mistake in such accepted bid shall be available to the bidder for the recovery of the deposit or as a defense to any action based upon such accepted bid.

§ 314. **Small purchases.**

a. Notwithstanding any other provision of this charter, the procurement policy board and the council may, by concurrent action, establish dollar limits for procurement of goods, services, construction, or construction-related services that may be made without competition or without public advertisement. Awards pursuant to this section shall be made in accordance with rules of the procurement policy board.

b. On or before September thirtieth, two thousand and three, and on or before the last day of every quarter thereafter, the mayor or his or her designee shall submit to the council and the comptroller a report detailing each small purchase award made pursuant to this section during the quarter that ended three months before such report is due and for which information is required to be contained in the computerized data base maintained pursuant to subdivision a of section 6-116.2 of the administrative code. Such report shall provide the name of the vendor selected to fulfill the requirements of each such small purchase award, the date and dollar amount of each

such small purchase award and the type of goods or services provided.

§ 315. Emergency procurement.

Notwithstanding the provisions of section three hundred twelve of this chapter, in the case of an unforeseen danger to life, safety, property or a necessary service, an emergency procurement may be made with the prior approval of the comptroller and corporation counsel, provided that such procurement shall be made with such competition as is practicable under the circumstances, consistent with the provisions of section three hundred seventeen of this chapter. A written determination of the basis for the emergency and the selection of the contractor shall be placed in the agency contract file and the determination or summary of such determination shall be included in the notice of the award of contract published pursuant to section three hundred twenty-five of this chapter.

§ 316. Intergovernmental procurement.

Notwithstanding any other requirement of this chapter, a. any goods may be procured, ordered or awarded through the United States General Services Administration, or any other federal agency if the price is lower than the prevailing market price; any services or construction may be procured, ordered or awarded through the United States General Services Administration, or any other federal agency if the price is fair and reasonable, and

b. any goods may be procured, ordered or awarded through the New York State office of general services, or any other state agency, if the price is lower than the prevailing market price; any services or construction may be procured, ordered or awarded through the New York State office of general services, or any other state agency, if the price is fair and reasonable.

§ 317. Alternatives to competitive sealed bidding.

a. If, in accordance with section three hundred twelve, an agency determines that the use of competitive sealed bidding is not practicable or not advantageous to the city, the agency shall select the most competitive alternative method of procurement provided for by sections three hundred eighteen through three hundred twenty-two which is appropriate under the circumstance. Each agency contract file shall contain documentation of such determination and of the basis upon which each contract is awarded, as is required by the procurement policy board.

b. Each contract for goods, services or construction in value of more than five million dollars proposed by an agency to be awarded which is let by other than (i) competitive sealed bidding, (ii) competitive sealed bids from prequalified vendors, or (iii) competitive sealed proposals, where the weight assigned to each of the factors or criteria to be considered in selecting the proposal most advantageous to the city was set forth in a writing filed in the agency contract file prior to the opening of proposals, shall require the approval of the mayor prior to its execution. Notwithstanding the preceding sentence, the mayor may, where the mayor has determined that it is appropriate, exclude an agency's contracts or a particular category of contracts from the approval requirement of this subdivision.

§ 318. Competitive sealed bids from prequalified vendors.

In accordance with section three hundred seventeen, bids may be solicited from vendors who have been prequalified for the provision of a good, service or construction pursuant to section three hundred twenty-four by mailing notice to each prequalified vendor or, if special circumstances require, to a selected list of prequalified vendors. Award of the contract shall be made in accordance with the provisions of section three hundred thirteen of this chapter. A determination to employ selective solicitation for a particular procurement or for a particular category of procurement shall be made in writing by the agency and approved by the mayor; unless the mayor,

upon adequate assurances of an agency's capacity to comply with procedural requirements in relation to this section, has determined that such approval is not required for an agency's contracts or particular categories of contracts.

§ 319. Competitive sealed proposals.

In accordance with section three hundred seventeen, proposals may be solicited through a request for proposals with award to the responsible offeror whose proposal is determined to be the most advantageous to the city, taking into consideration the price and such other factors or criteria as are set orth in the request for proposals. No other factors or criteria shall be used in the evaluation and award of the contract except those specified in the request for proposals. Discussions may be conducted with responsible offerors who submit proposals, provided that offerors shall be accorded fair treatment with respect to any opportunity for discussion and revision of the proposals.

§ 320. Competitive sealed proposals from prequalified vendors.

In accordance with section three hundred seventeen, proposals may be solicited from vendors who have been prequalified for the provision of a good, service or construction pursuant to section three hundred twenty-four by mailing notice to each prequalified vendor or, if special circumstances require, to a selected list of prequalified vendors. Award of the contract shall be made in accordance with the provisions of section three hundred nineteen. A determination to employ selective solicitation for a particular procurement or for a particular category of procurement shall be made in writing by the agency by the mayor; unless the mayor, upon adequate assurance of an agency's capacity to comply with the procedural requirements in relation to this section, has determined that such approval is not required for an agency's contracts or particular categories of contracts.

§ 321. Sole source.

a. In accordance with section three hundred seventeen, a contract may be awarded for a good, service or construction without competition when an agency determines, pursuant to rules promulgated by the procurement policy board, that there is only one source for the required good, service or construction. The agency contract file shall contain the agency's determination that only a single source is available for the required good, service or construction, including the process by which the agency made such determination. Copies of such notice shall be filed with the comptroller.

b. Whenever an agency determines that there is only a single source for a good, service or construction, an agency shall give immediate notice in the City Record of such determination and shall in such notice solicit the application of vendors qualified to provide such good, service or construction, or interested in providing such good service or construction in the future. The procurement policy board shall by rule define the timing and duration of such notification to ensure that vendors qualified to provide such good, service or construction have sufficient opportunity to express their interest to the agency prior to the initiation of any sole source negotiation; provided, however, that if the agency has determined that it should not reveal to the vendor with whom it is negotiating that it is doing so on a sole source basis under circumstances defined by rule of the procurement policy board, the notice required by this subdivision shall be made upon the completion of such negotiations or the award of the contract. Vendors interested in providing such good, service or construction in the future shall be prequalified in accordance with section three hundred twenty-four, or shall be included for receipt of notice in accordance with subdivision a of section three hundred twenty-five.

§ 322. Alternative procurement procedures.

In accordance with section three hundred seventeen, a contract may be awarded according to another procurement procedure established by rule of the procurement policy board, under circumstances, defined by

rule of the procurement policy board, in which the use of such procedures is in the best interest of the city. An agency determination to utilize such an alternative procurement procedure for a particular procurement or for a particular type of procurement shall require the written approval of the mayor prior to seeking bids or proposals. The agency contract file shall contain the determination to use an alternative procurement procedure which shall state (1) which circumstances defined by the board to be in the best interest of the city apply to the procurement, including the basis upon which the agency made such determination, and (2) which procedure, as defined by the board pursuant to this section, was used in awarding the contract.

§ 323. Multi-step sealed proposals.

A preliminary request for proposals may be issued requesting the submission of unpriced offers. Submissions in response to such a preliminary request for proposals may be relied upon by an agency (a) to solicit competitive sealed bids in accordance with section three hundred thirteen of this chapter; (b) to solicit competitive sealed bids from prequalified vendors in accordance with section three hundred eighteen; (c) to solicit competitive sealed proposals in accordance with section three hundred nineteen; or (d) to solicit proposals from prequalified vendors in accordance with section three hundred twenty.

§ 324. Prequalification.

a. Agencies may maintain lists of prequalified vendors and entry into a prequalified group shall be continuously available. Prospective vendors may be prequalified as contractors for the provision of particular types of goods, services and construction, in accordance with general criteria established by rule of the procurement policy board which may include, but shall not be limited to, the experience, past performance, ability to undertake work, financial capability, responsibility, and reliability of prospective bidders, and which may be supplemented by criteria established by rule of the agency for the prequalification of vendors for particular types of goods, services or construction or by criteria published in the City Record by the agency prior to the prequalification of vendors for a particular procurement. Such prequalification may be by categories designated by size and other factors.

b. Any vendor who is denied prequalification or whose prequalification is revoked by an agency may appeal such decision to the agency head. A determination of an agency head may be appealed to the office of administrative trials and hearings for a hearing and such office shall take final action regarding such matter. A decision by an agency to suspend a vendor's prequalification may be appealed to the agency head, provided that if such suspension extends for more than three months, it shall be deemed a revocation of the prequalification for the purposes of this section.

§ 325. Planning and Notification.

a. Agencies that award client services contracts shall produce a draft and final plan and schedule detailing anticipated contracting actions for the upcoming fiscal year, and shall hold at least one public hearing each year immediately following the release of the draft plan and schedule to receive testimony regarding the plan and schedule. The draft and final plan and schedule shall include, but not be limited to: the type of services to be provided, the authorized maximum amount of funding associated with the program, the authorized number of contracts to be let for a particular program, the month and year of the next planned competitive solicitation. Failure to include a contract in the plan and schedule issued pursuant to this section shall not be grounds for invalidating the contract. The procurement policy board shall promulgate rules governing the issuance of the draft and final plans and schedules, which shall ensure that the draft plan and schedule is issued promptly following the submission of the executive budget and that the final plan and schedule is issued no later than September thirtieth each year.

- b. Pursuant to rules of the procurement policy board, each agency shall
1. for each category of goods, services or construction which is regularly procured by the agency, periodically publish in the City Record a notice soliciting the names of vendors interested in being notified of future procurement opportunities in each such category,
 2. for each category of goods, services or construction for which the agency prequalifies vendors for future procurement, periodically publish in the City Record a notice soliciting the names and qualifications of vendors interested in being considered for prequalification for such category, and
 3. publish in the City Record, and, where appropriate, in newspapers of city, state or national distribution and trade publications, notice of
 - (a) the solicitation of bids or proposals pursuant to section three hundred thirteen and three hundred seventeen through three hundred twenty-two, where the value of a contract is estimated to be above the small purchase limits, except where the agency has determined pursuant to section three hundred eighteen or three hundred twenty that solicitation should be limited to prequalified vendors,
 - (b) the award of a contract exceeding the small purchase limits in value. Each such notice of award shall indicate the name of the contractor, the dollar value of the contract, the procurement method by which the contract was let, and for contracts let by other than competitive sealed bidding, a citation of the clause of subdivision b of section three hundred twelve pursuant to which a procurement method other than competitive sealed bidding was utilized.
- c. The procurement policy board, in consultation with the commissioner of citywide administrative services, shall promulgate rules providing for the publication and content of notices of contract actions required by this chapter. Such rules shall include provisions regarding,
- i. the timing and frequency of notices,
 - ii. the required duration of solicitation periods,
 - iii. the form and content of notices, including the organization and presentation of such notices within standard categories of goods, services and construction which are sufficiently detailed to provide meaningful distinctions among categories.
- d. The notice required by subparagraph a of paragraph three of subdivision a of this section shall not apply to contracts awarded on an emergency basis pursuant to section three hundred fifteen, provided that the agency shall, as soon as is practicable, publish notice that such a contract has been entered into, pursuant to rules of the procurement policy board, nor shall such notice requirements apply where the notice would disclose litigation strategy or otherwise impair the conduct of litigation by the city.

§ 326. Public hearings on contract awards.

- a. Prior to entering into any contract for goods, services or construction to be awarded by other than competitive sealed bidding or competitive sealed bids from prequalified vendors, the value of which exceeds one hundred thousand dollars, the agency shall upon reasonable public notice conduct a public hearing to receive testimony regarding the proposed contract. Notwithstanding the preceding sentence, if, within a period of time after such notice, which period of time shall be determined by the procurement policy board, no individual requests an opportunity to speak at such a public hearing with respect to any such proposed contract the value of which does not exceed one million dollars, then such public hearing need not be conducted. The procurement policy board may by rule exempt from this public hearing requirement contracts to be let which do not differ materially in terms and conditions, as defined by the board, from contracts currently held by the city where the parties to such contracts are the same; provided, that under no circumstance may such exemption apply to any contract in value exceeding ten million dollars.
- b. The requirements of this section shall not apply to any procurement
- (i) let pursuant to a finding of an emergency under section three hundred fifteen,
 - (ii) required to be made on an accelerated basis due to markets which experience significant, short-term price fluctuations, as identified by rule of the board, or
 - (iii) where a public hearing would disclose litigation strategy or otherwise impair the conduct of litigation by the city.

§ 327. Certification of legal authority and procedural requisites.

- a. In the case of any contract which is let by other than competitive sealed bidding, the mayor shall certify, prior to the filing of the contract with the comptroller for registration in accordance with section three hundred twenty-eight of this chapter, that the procedural requisites for the solicitation and award of the contract have been met. The mayor may delegate such function to the agency proposing to award a contract only upon adequate assurance of an agency's capacity to comply with procedural requirements.
- b. The corporation counsel shall certify prior to the filing of a contract with the comptroller for registration in accordance with section three hundred twenty-eight of this chapter, that each agency proposing to award a contract has legal authority to award each such contract.

§ 328. Registration of contracts by the comptroller.

- a. No contract or agreement executed pursuant to this charter or other law shall be implemented until (1) a copy has been filed with the comptroller and (2) either the comptroller has registered it or thirty days have elapsed from the date of filing, whichever is sooner, unless an objection has been filed pursuant to subdivision c of this section, or the comptroller has grounds for not registering the contract under subdivision b of this section.
- b. Subject to the provisions of subdivision c of this section, the comptroller shall register a contract within thirty days unless the comptroller has information indicating that:
 - i. there remains no unexpended and unapplied balance of the appropriation or fund applicable thereto, sufficient to pay the estimated expense of executing such contract, as certified by the officer making the same;
 - ii. that a certification required by section three hundred twenty-seven of this chapter has not been made; or
 - iii. the proposed vendor has been debarred by the city in accordance with the provisions of section three hundred thirty-five.
- c. The comptroller may, within thirty days of the date of filing of the contract with the comptroller's office, object in writing to the registration of the contract, if in the comptroller's judgment there is sufficient reason to believe that there is possible corruption in the letting of the contract or that the proposed contractor is involved in corrupt activity. Such objection shall be delivered within such thirty day period to the mayor setting forth in detail the grounds for the comptroller's determination. After the mayor has responded to the comptroller's objections in writing, indicating (i) the corrective actions if any, that have been taken or will be taken in response to the comptroller's objections, or (ii) the reasons why the mayor disagrees with the comptroller's objections, the mayor may require registration of the contract despite the comptroller's objections. Such response by the mayor shall not serve as the basis for further objection by the comptroller, and the comptroller shall register the contract within ten days of receipt of the mayor's response.
- d. The requirements of this section shall not apply to (1) an emergency contract awarded pursuant to section three hundred fifteen or to an accelerated procurement as defined under section three hundred twenty-six, provided that the agency shall, as soon as is practicable, submit any such contract to the comptroller for an audit of the procedures and basis for the determination of the need for an emergency or accelerated procurement, or (2) a contract awarded pursuant to this chapter for the provision of goods, services or construction that is not to be paid for out of the city treasury or out of moneys under the control of the city, provided that the board of the entity awarding such a contract shall within ten days of awarding contract, file a copy of such contract and any related materials specified by the mayor, with the mayor or the mayor's designee for purposes of section three hundred thirty-four of this charter.

§ 329. By whom procured.

- a. All services to be performed by contract, including the furnishing of goods incident thereto, shall be obtained by the agency for whose use the appropriation therefor shall have been made, except as otherwise provided by law or by rule of the procurement policy board.
- b. All other goods shall be purchased or procured by the department of citywide administrative services, except as otherwise provided pursuant to this chapter or other law.
- c. Pursuant to rules of the procurement policy board and subject to other sections of this chapter, each agency may purchase directly goods in an amount not to exceed one thousand dollars for each transaction or, with the prior approval of the commissioner of citywide administrative services, in an amount not to exceed five thousand dollars for each transaction. The limitation of this subdivision shall not apply to purchases by an agency under a vendor contract entered into by the commissioner of general services.
- d. The dollar limits for direct agency purchases without the prior approval of the commissioner of citywide administrative services pursuant to subdivision c of this section may be raised to five thousand dollars for each transaction for any or all agencies by the commissioner of citywide administrative services with the approval of the mayor. Any proposed increases in the limits for such purchases above five thousand dollars shall be subject to the further approval of the comptroller. Any increase in dollar limits pursuant to this subdivision shall be published in the City Record and may be rescinded by the commissioner of citywide administrative services, the mayor, or the comptroller.
- e. Subject to the approval of the comptroller, a specific procurement of a specific good may be delegated by the commissioner of citywide administrative services, in the best interest of the city, to any agency for direct purchase by such agency, and shall not be subject to the provisions of subdivisions b, c or d of this section; provided, however, that such delegation shall not be made for goods that are to be generally used by city agencies.

§ 330. Inspection.

Inspection and acceptance or rejection of all deliveries of goods shall be made by the agency that makes the direct purchase other than under a vendor contract. The commissioner of citywide administrative services may authorize an agency to which delivery is made to perform such functions on purchases made by the department of citywide administrative services subject to standards and policies of the commissioner. The comptroller may continue to perform such inspectional duties as are necessary for auditing purposes, including ascertainment of whether items purchased and paid for by the department of citywide administrative services or other agencies have been received and put to use by agencies.

§ 331. Specifications.

All purchases shall be based upon specifications which are definite and certain, which permit of competition and which shall not be at variance with standard specifications for the various classes of goods approved by the commissioner of citywide administrative services. Before adopting standard specifications the commissioner shall obtain and consider the recommendations of agencies using the items to be standardized.

§ 332. Payments procedure.

The procurement policy board shall promulgate rules for the expeditious processing of payment vouchers by city agencies and departments including (i) the maximum amount of time allowed for the processing and payment of such vouchers from the later of (a) the date such vouchers are received by the agency, or (b) the date on which the goods, services or construction to which the voucher relates have been received and accepted by the agency, (ii) a program for the payment of interest, at a uniform rate, to vendors on vouchers not paid within the maximum amount of time pursuant to clause i of this subdivision, (iii) a process for the allocation and charging of any such interest payments to the budget of the agency responsible for the delay leading to the interest

payments and (iv) agency reporting on the promptness of such payments in such form and containing such information as the board shall prescribe. The board shall coordinate and publish such agency prompt payment reports.

§ 333. Evaluation and monitoring of contractor performance.

a. Each agency letting contracts shall monitor the performance of every contractor. Information with respect to contractor performance shall be maintained in a central place in accordance with subdivision c of section three hundred thirty-four.

b. 1. If a borough president determines there is reason to believe a term or condition of a contract providing for the delivery of services in the borough is not being complied with and that the contract should be terminated for noncompliance, modified, not renewed, modified at the time of renewal, or that the existing terms of the contract should be enforced, the borough president shall document in writing the reasons for that determination and present such determination, with a recommendation for appropriate action, to the agency head for review. In the case of a recommendation that a contract should not be renewed or should be modified at the time of renewal, such recommendation shall be made to the agency head at least one hundred and twenty days prior to the expiration of the contract.

2. The agency head shall respond to the borough president's findings within ten days from receipt of such findings, indicating what action, if any, shall be taken. If such action is not satisfactory to the borough president, the borough president shall, within thirty days of receipt of such responses, be authorized to require that a hearing be held in the borough by a contract performance panel consisting of the public advocate, the comptroller and the mayor, or their designees, to receive the testimony of the borough president and other interested persons on the borough president's recommendations. The hearing shall be held within twenty days from the borough president's request for the hearing. The head of the agency which procured the services in question, or designee of such agency head, and the contractor whose performance is being evaluated, shall have the right, and it shall be their duty when requested by the panel to appear and be heard.

3. The panel shall recommend, within thirty days of the date of such hearing, such action as it deems appropriate and shall promptly deliver its recommendations in writing to the agency head, borough president and contractor. Within thirty days of receipt of the panel's recommendation, the agency head shall respond in writing to the panel and the borough president, indicating which of the panel's recommendations shall be acted upon and what, if any, alternative action will be taken.

4. In the case of any contract regarding which more than one borough president has submitted a determination in accordance with paragraph one of this subdivision, the agency receiving such determinations shall notify each such borough president of the agency response submitted in accordance with paragraph two of this subdivision. A hearing, if any, held shall include the comments of all such borough presidents.

§ 334. Information on city contracts.

a. Agency contract files. Each agency shall maintain files containing information pertaining to the solicitation, award and management of each contract of the agency in accordance with standard record maintenance requirements established pursuant to section three thousand four of this charter. The agency contract files shall contain copies of each determination, writing or filing required by this chapter pertaining to a contract and such information as is prescribed by rule of the procurement policy board, in such form as is prescribed by the procurement policy board. Agency contract files shall be open to the public inspection with adequate protection for information which is confidential.

b. Requests by elected officials for contract documentation. Whenever an elected official of the city requests documentation relating to the solicitation or award of any city contract, the mayor and city agencies shall promptly provide such documentation as is requested or shall promptly respond to the requesting official with

reason why such documentation cannot be provided. If the mayor or agency is unable to provide the requested documentation within ten business days of the day the request is received, the mayor or agency shall within such time deliver to the requesting official a statement of the reasons the documentation can not be promptly provided and shall include in such statement a timetable within which the documentation will be provided, not to exceed thirty days from the date of the original request.

c. Centralized contract and contractor information. The mayor shall ensure that copies of city contracts and other standard information regarding city contracts and contractors are reasonably available for public inspection in accordance with provisions of section one thousand sixty-four of this charter.

§ 335. Centralized evaluation of contractor integrity, performance, and capability.

The mayor may evaluate the integrity, performance, and capability of entities that contract with the city, are seeking to contract with the city, or may seek to contract with the city. The mayor may designate one or more agencies to participate in such efforts. The evaluations of the mayor and any agency designated by the mayor may include conclusions regarding whether the entity should be considered a responsible contractor. The mayor and any agency designated by the mayor may make such evaluations and conclusions available to agencies and the public through a centralized data base.

CHAPTER 45. CITY ADMINISTRATIVE PROCEDURE ACT

§ 1042. Regulatory agenda.

- a. Each agency shall publish by the first day of May annually, a regulatory agenda which shall contain:
 - 1. a brief description of the subject areas in which it is anticipated that rules may be promulgated during the next fiscal year, including a description of the reasons why action by the agency is being considered;
 - 2. a summary, to the extent known, of the anticipated contents of each such proposed rule, its objectives and legal basis;
 - 3. a description of the types of individuals and entities likely to be subject to the rule;
 - 4. an identification, to the extent practicable, of all relevant federal, state, and local laws and rules, including those which may duplicate, overlap or conflict with the proposed rule; and
 - 5. an approximate schedule for adopting the proposed rule, and the name and telephone number of an agency official knowledgeable about each subject area involved.
- b. Each agency the single head of which is appointed by the mayor shall forward to the mayor its regulatory agenda. The mayor shall review such regulatory agenda to determine whether regulations contemplated by city agencies are consistent with the policy objectives of the administration.
- c. Failure to include an item in a regulatory agenda shall not preclude action thereon. If rulemaking is undertaken on a matter not included in the regulatory agenda the agency shall include in the notice of proposed rulemaking the reason the rule was not anticipated. The inadvertent failure to provide the reason such rule was not included in the regulatory agenda shall not serve to invalidate the rule.

§ 1043. Rulemaking

- a. Authority. Each agency is empowered to adopt rules necessary to carry out the powers and duties delegated to it by or pursuant to federal, state or local law. No agency shall adopt a rule except pursuant to this section. Each such rule shall be simply written, using ordinary language where possible.
- b. Notice. 1. Each agency shall publish the full text of the proposed rule in the City Record at least thirty days prior to the date set for a public hearing to be held pursuant to the requirements of subdivision d of this section or the final date for receipt of written comments, whichever is earlier. A proposed rule amending an existing rule shall contain in brackets any part to be deleted and shall have underlined or italicized any new part to be added.

A proposed rule repealing an existing rule shall contain in brackets the rule to be repealed, or if the full text of the rule was published in the Compilation required to be published pursuant to section one thousand forty-five, shall give the citation of the rule to be repealed and a summary of its contents. Such published notice shall include a draft statement of the basis and purpose of the proposed rule, the statutory authority, including the particular sections and subdivisions upon which the action is based, the time and place of public hearing, if any, to be held or the reason that a public hearing will not be held, and the final date for receipt of written comments. If the proposed rule was not included in the regulatory agenda, such notice shall also include the reason the rule was not anticipated, as required in subdivision c of section one thousand forty-two of this chapter.

2. Copies of the notice shall be transmitted to the council and the corporation counsel, and mailed to each council member, the chairs of all community boards, the news media and civic organizations; provided that an inadvertent failure to fully comply with the notice requirements of this paragraph shall not serve to invalidate any rule.

3. (a) News media, for the purposes of this subdivision, shall include (i) all radio and television stations broadcasting in the city of New York, all newspapers published in the city of New York having a city-wide or borough-wide circulation, and any newspaper of any labor union or trade association representing an industry affected by such rule, and (ii) any community newspaper or any other publication that requests such notification on an annual basis.

(b) Civic organizations, for the purposes of this subdivision, shall include any city-wide or borough-wide organization or any labor union, trade association or other group that requests such notification on an annual basis.

c. Review of statutory authority. The corporation counsel shall review the proposed rule to determine whether it is within the authority delegated by law to the agency proposing the rule. If the corporation counsel determines that the proposed rule is not within the agency's delegated authority, the corporation counsel shall notify the agency in writing prior to the publication of the final rule in the City Record.

d. Opportunity for and consideration of agency and public comment. The agency shall provide the public an opportunity to comment on the proposed rule (i) through submission of written data, views, or arguments, and (ii) at a public hearing unless it is determined by the agency in writing, which shall be published in the notice of proposed rulemaking in the City Record, that such a public hearing on a proposed rule would serve no public purpose. All written comments and a summary of oral comments concerning a proposed rule received from the public or any agency shall be placed in a public record and be made readily available to the public as soon as practicable and in any event within a reasonable time, not to be delayed because of the continued pendency of consideration of the proposed rule. After consideration of the relevant comments presented, the agency may adopt a final rule pursuant to subdivision e of this section. Such final rule may include revisions of the proposed rule, and such adoption of revisions based on the consideration of relevant agency or public comments shall not require further notice and comment pursuant to this section.

e. Effective date. 1. No rule shall be effective until (a) the rule is filed by the agency with the corporation counsel for publication in the Compilation, (b) the rule and a statement of basis and purpose is transmitted to the council for its information, and (c) the rule and a statement of basis and purpose have been published in the City Record and thirty days have elapsed after such publication...

f. Petition for rules. Any person may petition an agency to consider the adoption of any rule. Within sixty days after the submission of a petition, the agency shall either deny such petition in writing, stating the reasons for denial, or state the agency's intention to initiate rulemaking, by a specified date, concerning the subject of such petition. Each agency shall prescribe by rule the procedure for submission, consideration and disposition of such petitions. In the case of a board, commission or other body that is not headed by a single person, such rules of procedure may authorize such body to delegate to its chair the authority to reject such petitions. Such decision shall be within the discretion of the agency and shall not be subject to judicial review.

g. Maintenance of comments. Each agency shall establish a system for maintaining and making available for public inspection all written comments received in response to each notice of rulemaking...

§ 1045. Compilation of city rules. a. The corporation counsel shall publish a Compilation of city rules and thereafter keep such Compilation up to date through supplements issued at least every six months and at such other times as the corporation counsel shall determine. The Compilation and its supplements shall be certified by the corporation counsel and shall include every rule currently in effect....An indexed edition of the Compilation shall be published by the first day of July, nineteen hundred and ninety-one, which date shall be deemed the publication date of the Compilation, and shall be updated and republished by the first day of March of every fourth year thereafter.

NEW YORK CITY
Administrative Code

Title 6. Contracts, Purchases and Franchises

§ 6–101 **Contracts; certificate of comptroller.** a. Any contract, except as otherwise provided in this section, shall not be binding or of any force, unless the comptroller shall indorse thereon the comptroller's certificate that there remains unexpended and unapplied a balance of the appropriation or fund applicable thereto, sufficient to pay the estimated expense of executing such contract, as certified by the officer making the same.

b. In contracts for the purchase of food supplies, forage, fuel, printing, stationery, books and other supplies required for daily or continuous use, or of supplies, materials and equipment needed for use immediately after the beginning of the next succeeding fiscal year, to be delivered within a period of one year from the date thereof, the comptroller shall indorse thereon the comptroller's certificate that there remains unexpended and unapplied a balance of the appropriation or fund applicable thereto, sufficient to pay the estimated expense of executing such contract in so far as the same is to be executed during the current fiscal year, as certified by the officer making the same. Upon the first of the following fiscal year the comptroller shall certify by indorsement upon such contract as to the portion of such contract then unexecuted, and such certification by the comptroller shall make any such contract binding and of full force.

c. It shall be the duty of the comptroller to make such indorsement upon every contract so presented to him or her, if there remains unapplied and unexpended the amount so specified by the officer making the contract, and thereafter to hold and retain such sum to pay the expense incurred until such contract shall be fully performed. Such indorsement shall be sufficient evidence of such appropriation or fund in any action.

d. The provisions of this section shall not apply to supplies, materials and equipment purchased directly by any agency pursuant to subdivisions (c) and (d) of section [§](#) three hundred forty-four of the charter.

§ 6–102 **Performance of contracts.** a. Each agency shall require and enforce the faithful performance of every contract made by it.

b. If the contractor or contractors shall fail in any respect to fulfill the contract within the time limited for its performance, then the agency in charge thereof shall complete the same in the manner provided for in the contract. The cost of such completion shall be a charge against such delinquent contractor or contractors.

c. If any work shall be abandoned by any contractor, the appropriate agency, if the best interest of the city be thereby served, and subject to the approval of the board of estimate, may adopt all subcontracts made by such contractor for such work. All subcontractors shall be bound by such adoption. The agency shall readvertise and relet the work specified in the original contract, exclusive of so much thereof as shall be provided for in the subcontracts so adopted.

§ 6–103 **Extension of time for performance.** The board of estimate, by a unanimous vote, may extend the time for the performance of any contract.

§ 6-104 **Release from fines.** a. It shall be unlawful for the comptroller to release any contractor from any fine or penalty incurred under a contract, except upon the unanimous recommendation of the board of estimate.

b. The board of estimate may, by resolution, authorize the comptroller to dispose of such cases without reference to or further action by the board where the sum released does not exceed five hundred dollars.

§ 6-105 **Vouchers.** The comptroller shall issue warrants for work done or supplies furnished only upon proper vouchers rendered by the head of the appropriate agency.

§ 6-106 **Certificate of completion.** Within five days after his or her acceptance of any work under contract, the head of an agency shall file with the comptroller a final certificate of the completion and acceptance thereof, signed by the chief engineer or head of such agency. The filing of such certificate shall be presumptive evidence that such work has been completed according to contract.

§ 6-107 **Warrants upon vouchers.** a. All warrants upon vouchers for payment of amounts due under contracts, duly audited and approved, shall refer by number or other description to the voucher, the fund and the contract upon which the payment is to be made. All checks issued by the commissioner of finance on warrants duly approved and executed pursuant to law, as payments on contracts, may be mailed or delivered to the contractor or the contractor's authorized representative.

b. The indorsement by the contractor upon a check attached to such a warrant, which has been paid by the bank or depository upon which the same has been drawn, shall be considered as a receipt for the amount of such check.

§ 6-108 **Discrimination in employment.** a. It shall be unlawful for any person engaged in the construction, alteration or repair of buildings or engaged in the construction or repair of streets or highways pursuant to a contract with the city, or engaged in the manufacture, sale or distribution of materials, equipment or supplies pursuant to a contract with the city to refuse to employ or to refuse to continue in any employment any person on account of the race, color or creed of such person.

b. It shall be unlawful for any person or any servant, agent or employee of any person described in subdivision a to ask, indicate or transmit, orally or in writing, directly or indirectly, the race, color or creed or religious affiliation of any person employed or seeking employment from such person, firm or corporation.

c. The wording of subdivisions a and b of this section shall appear on all contracts entered into by the city, and disobedience thereto shall be deemed a violation of a material provision of the contract.

d. Any person, or the employee, manager or owner of or officer of a firm or corporation who shall violate any of the provisions of this section shall, upon conviction thereof, be punished by a fine of not more than one hundred dollars or by imprisonment for not more than thirty days, or both.

§ 6–110 **Additional work.** Any contract for work or supplies may contain a provision to the effect that the head of the agency making the contract may order additional work to be done or supplies furnished for the purpose of completing such contract, at an expense not exceeding five per centum of the amount thereof; provided, however, that the board of estimate may by resolution adopt regulations providing that any contract for work or supplies may contain a provision to the effect that the head of the agency making the contract may order additional work to be done or supplies furnished for the purpose of completing such contract, at an expense not exceeding ten per centum of the amount thereof.

§ 6–111 **Bids; opening of.** All bids shall be publicly opened by the officer or officers advertising therefor in the presence of the comptroller, or the comptroller's representative. The opening of such bids shall not be postponed if the comptroller or the comptroller's representative shall, after due notice, fail to attend.

§ 6–111.1 **[Electronic posting of requests for proposals.*]** All requests for proposals and any other public notices of opportunities to contract with the city shall, simultaneously with their publication, be posted on the city's website in a location that is accessible by the public.

§ 6–111.2 **Client services contracts.** No request for proposal for new client services program contracts shall be released to the public unless at least 45 days prior to such release a concept report regarding such request for proposal is released to the public. Prior to the release of concept reports, the city shall publish a notification of the release in five consecutive editions of the city record and electronically on the city's website in a location that is accessible to the public, and upon release, concept reports shall be posted on the city's website in a location that is accessible by the public. For purposes of this subdivision, the term, "new client services program" shall mean any program that differs substantially in scope from an agency's current contractual client services programs, including, but not limited to, substantial differences in the number or types of clients, geographic areas, evaluation criteria, service design or price maximums or ranges per participant if applicable. For purposes of this subdivision, the term, "concept report", shall mean a document outlining the basic requirements of a request for proposal for client services contracts and shall include, but not be limited to, statements explaining:

(i) the purpose of the request for proposal;

(ii) the planned method of evaluating proposals;

(iii) the proposed term of the contract;

(iv) the procurement timeline, including, but not limited to, the expected start date for new contracts, expected request for proposal release date, approximate proposal submission deadline and expected award announcement date;

(v) funding information, including but not limited to, total funding available for the request for proposal and sources of funding, anticipated number of contracts to be awarded, average funding level of contracts, anticipated funding minimums, maximums or ranges per participant, if applicable, and funding match requirements;

(vi) program information, including, but not limited to, as applicable, proposed model or program parameters, site, service hours, participant population(s) to be served and participant minimums and/or maximums; and

(vii) proposed vendor performance reporting requirements.

b. Notwithstanding the issuance of a concept report, the agency may change the above-required information at any time after the issuance of such concept report. Non-compliance with this section shall not be grounds to invalidate a contract.

§ 6–111.3 **Online reverse auction pilot program.** a. The mayor may create a pilot program to determine the efficacy of online reverse auctions. The pilot program shall be for a period of twenty-four months during which period the mayor shall conduct at least six online reverse auctions for purchase contracts chosen by the mayor the combined value of which shall not be less than six million dollars. For purposes of this section the term, "online reverse auction," shall mean an auction for the purchase of goods by the city which is conducted online in electronic interactive format during which potential vendors bid against one another to provide goods for the city. The mayor may promulgate rules to implement the requirements of this section. The mayor shall submit a report to the Council and the Comptroller detailing the results of the online reverse auction pilot program no more than 60 days after the completion of such pilot program.

§ 6–112 **False statements.** Any person who makes or causes to be made a false, deceptive or fraudulent representation in any statement required by the board of estimate to set forth the financial condition, present plant and equipment, working organization, prior experience, and other information pertinent to the qualifications of any bidder, shall be guilty of an offense punishable by a fine of not less than one hundred dollars nor more than one thousand dollars, by imprisonment for a period not exceeding six months, or both; and the person on whose behalf such false, deceptive or fraudulent representation was made, shall thenceforth be disqualified from bidding on any contracts for the city.

§ 6–113 **Security.** Each bidder whose bid is accepted shall give security for the faithful performance of his or her contract in the manner prescribed in the regulations of the board of estimate. The adequacy and sufficiency of such security, as well as the justification and acknowledgment thereof, shall be subject to the approval of the comptroller.

§ 6–114 **Participation in an international boycott.** a. Every contract for or on behalf of the city for the manufacture, furnishing or purchasing of supplies, material or equipment or for the furnishing of work, labor or services, in an amount exceeding five thousand dollars, shall contain a stipulation, as a material condition of the contract, by which the contractor agrees that neither the contractor nor any substantially-owned affiliated company is participating or shall participate in an international boycott in violation of the provisions of the export administration act of nineteen hundred sixty-nine, as amended, or the regulations of the United States department of commerce promulgated thereunder.

b. Upon the final determination by the commerce department or any other agency of the United States as to, or conviction of any contractor or substantially-owned affiliated company thereof, participation in an international boycott in violation of the provisions of the export administration act of nineteen hundred sixty-nine, as amended, or the regulations promulgated thereunder, the comptroller may, at his or her option, render forfeit and void any contract containing the conditions specified in this section. In those instances where the

comptroller determines that no action shall be taken pursuant to this section, the comptroller shall report the basis therefore to the city council.

c. Nothing contained herein shall operate to impair any existing contract, except that any renewal, amendment or modification of such contract occurring on or after the fourth of November, nineteen hundred seventy-eight shall be subject to the conditions specified in this section.

d. The comptroller shall have the power to issue rules and regulations pursuant to this section.

§ 6-116 **Additional contract provisions.** a. Every contract shall contain a provision which permits the agency, in addition to any other right or remedy, to give notice to the contractor that the agency finds the contractor's performance to be improper, dilatory or otherwise not in compliance with the requirements of the contract.

b. The contract shall provide that if such notice is given, upon the termination of the contract the contractor may be declared not to be a responsible bidder for a period of time which shall not exceed three years, following notice and the opportunity for a hearing at which the contractor shall have the right to be represented by counsel.

c. The provisions of the contract and the procedure set forth therein for making the finding and declaration referred to in subdivisions a and b shall be consistent with applicable rules and regulations of the board of estimate.

§ 6-116.1 **Information required to be kept on contractor performance.** All agencies letting contracts shall monitor the performance of every contractor. Information with respect to contractor performance shall be maintained by the city at a central location and shall be accessible to the members of the board of estimate, the members of the city council and city agencies upon request.

§ 6-116.2 **[Reporting of contracted goods and services; computerized data base]*** a. The comptroller and the mayor shall jointly maintain, at the financial information services agency, a computerized data base. Such data base shall contain information for every franchise and concession and every contract for goods or services involving the expenditure of more than ten thousand dollars or in the case of construction, repair, rehabilitation or alteration, the expenditure of more than fifteen thousand dollars, entered into by an agency, New York city affiliated agency, elected official or the council, including, but not limited to:

(1) the name, address, and federal taxpayer's identification number of the contractor, franchisee or concessionaire where available in accordance with applicable law;

(2) the dollar amount of each contract including original maximum and revised maximum expenditure authorized, current encumbrance and actual expenditures;

(3) the type of goods or services to be provided pursuant to the contract;

(4) the term of the contract, or in the case of a construction contract the starting and scheduled completion date of the contract and the date final payment is authorized;

(5) the agency, New York city affiliated agency, elected official or the council that awarded the contract, franchise or concession and the contract registration number, if any, assigned by the comptroller;

(6) the manner in which the contractor, franchisee or concessionaire was selected, including, but not limited to, in the case of a contractor, whether the contractor was selected through public letting and if so, whether the contractor was the lowest responsible bidder; whether the contractor was selected through a request for proposal procedure, and if so, whether the contractor's response to the request offered the lowest price option; whether the contractor was selected without competition or as a sole source; whether the contractor was selected through the emergency procedure established in the charter or the general municipal law, where applicable; or whether the contractor was selected from a list of prequalified bidders, and if applicable, whether the contractor was the lowest responsible bidder; and

(7) the date of any public hearing held with respect to the contract and the date and agenda number of action taken with respect to a concession or franchise by the franchise and concession review committee; and

(8) Reserved

(9) the contract budget category to which the contract is assigned, where applicable.

b. (i) The mayor and comptroller shall be responsible for the maintenance of a computerized data system which shall contain information for every contract, in the following manner: the mayor shall be responsible for operation of the system; the mayor and the comptroller shall be jointly responsible for all policy decisions relating to the system. In addition, the mayor and the comptroller shall jointly review the operation of the system to ensure that the information required by this subdivision is maintained in a form that will enable each of them, and agencies, New York city affiliated agencies, elected officials and the council, to utilize the information in the performance of their duties. This system shall have access to information stored on other computerized data systems maintained by agencies, which information shall collectively include, but not be limited to:

(1) the current addresses and telephone numbers of:

A. the contractor's principal executive offices and the contractor's primary place of business in the New York city metropolitan area, if different,

B. the addresses of the three largest sites at which it is anticipated that work would occur in connection with the proposed contract, based on the number of persons to be employed at each site,

C. any other names under which the contractor has conducted business within the prior five years, and

D. the addresses and telephone numbers of all principal places of business and primary places of business in the New York city metropolitan area, if different, where the contractor has conducted business within the prior five years;

(2) the dun & bradstreet number of the contractor, if any;

(3) the taxpayer identification numbers, employer identification numbers or social security numbers of the contractor or the division or branch of the contractor which is actually entering into the contract;

(4) the type of business entity of the contractor including, but not limited to, sole proprietorship, partnership, joint venture or corporation;

(5) the date such business entity was formed, the state, county and country, if not within the United States, in which it was formed and the other counties within New York State in which a certificate of incorporation, certificate of doing business, or the equivalent, has been filed within the prior five years;

(6) the principal owners and officers of the contractor, their dates of birth, taxpayer identification numbers, social security numbers and their current business addresses and telephone numbers;

(7) the names, current business addresses and telephone numbers, taxpayer identification numbers and employer identification numbers of affiliates of the contractors;

(8) the principal owners and officers of affiliates of the contractor and their current business addresses and telephone numbers;

(9) the principal owners and officers of every subcontractor;

(10) the type, amount and contract registration number of all other contracts awarded to the contractor, as reflected in the database maintained pursuant to subdivision a of this section;

(11) the contract sanction history of the contractor for the prior five years, including, but not limited to, all cautions, suspensions, debarments, cancellations of a contract based upon the contractor's business conduct, declarations of default on any contract made by any governmental entity, determinations of ineligibility to bid or propose on contracts and whether any proceedings to determine eligibility to bid or propose on contracts are pending;

(12) the contract sanction history for the prior five years of affiliates of the contractor including, but not limited to, all cautions, suspensions, debarments, cancellations of a contract based upon such entity's business conduct, declarations of default on any contract made by any governmental entity, determinations of ineligibility to bid or propose on contracts and whether any proceedings to determine eligibility to bid or propose on contracts are pending; (13) the name and telephone number of the chief contracting officer or other employee of the agency, elected official or the council responsible for supervision of those charged with day-to-day management of the contract;

(14) judgments or injunctions obtained within the prior five years in any judicial actions or proceedings initiated by any agency, any elected official or the council against the contractor with respect to a contract and any such judicial actions or proceedings that are pending;

(15) record of all sanctions imposed within the prior five years as a result of judicial or administrative disciplinary proceedings with respect to any professional licenses held by the contractor, or a principal owner or officer of the contractor;

(16) whether city of New York income tax returns, where required, have been filed for the past five years;

(17) outstanding tax warrants and unsatisfied tax liens, as reflected in the records of the city;

(18) information from public reports of the organized crime control bureau and the New York state organized crime task force which indicates involvement in criminal activity;

(19) criminal proceedings pending against the contractor and any principal owner or officer of such contractor;

(20) record of all criminal convictions of the contractor, any current principal owner or officer for any crime related to truthfulness or business conduct and for any other felony committed within the prior ten years, and of any former principal owner or officer, within the prior ten years, for any crime related to truthfulness or business conduct and for any other felony committed while he or she held such position or status;

(21) all pending bankruptcy proceedings and all bankruptcy proceedings initiated within the past seven years by or against the contractor and its affiliates;

(22) whether the contractor has certified that it was not founded or established or is not operated in a manner to evade the application or defeat the purpose of this section and is not the successor, assignee or affiliate of an entity which is ineligible to bid or propose on contracts or against which a proceeding to determine eligibility to bid or propose on contracts is pending;

(23) the name and main business address of anyone who the contractor retained, employed or designated to influence the preparation of contract specifications or the solicitation or award of this contract.

(ii) When personnel from any agency, elected officials or their staff, or members of the council or council staff learn that the certification required by subparagraph twenty-two of paragraph (i) may not be truthful, the appropriate law enforcement official shall be immediately informed of such fact and the fact of such notification shall be reflected in the data base, except when confidentiality is requested by the law enforcement official.

(iii) Information required from a contractor consisting of a contractor's social security number shall be obtained by the agency, elected official or the council entering into a contract as part of the administration of the taxes administered by the commissioner of finance for the purpose of establishing the identification of persons affected by such taxes.

(iv) In the event that procurement of goods, services or construction must be made on an emergency basis, as provided for in section [§](#) three hundred fifteen of the charter, on an accelerated basis as provided for in section [§](#) three hundred twenty-six of the charter, or expedited action is required due to urgent circumstances, or in such other circumstances as may be determined by rule of the procurement policy board, where applicable, or any rule of the council relating to procurement, where it is not feasible to submit the information required by subdivision b prior to contract award, the required information may be submitted after award of the contract. However, all of the information required by subdivision b herein shall be submitted no later than thirty days from the date of the award. A contractor or subcontractor who fails to provide such information as required by this paragraph shall be ineligible to bid or propose on or otherwise be awarded a contract or subcontract until

such information is provided and shall be subject to such other penalties as may be prescribed by rule of the procurement policy board, where applicable, or any rule of the council relating to procurement.

(v) Where a contractor or subcontractor becomes obligated to submit information required by this subdivision by reason of having been awarded a contract or subcontract, the value of which, when aggregated with the value of all other contracts or subcontracts awarded to that contractor or subcontractor during the immediately preceding twelve-month period, is valued at one hundred thousand dollars, or more, such information shall be submitted no later than thirty days after registration of the contract which resulted in the obligation to submit such information. A contractor or subcontractor who fails to provide such information as required by this paragraph shall be ineligible to bid or propose on a contract or subcontract until such information is provided and shall be subject to such other penalties as may be prescribed by rule of the procurement policy board, where applicable, or any rule of the council relating to procurement.

(vi) For the calendar year commencing on January 1, 1992, subcontractors shall be required to provide the information required by subparagraph nine of paragraph i and on or after June 30, 1994, subcontractors shall be subject to paragraph i in its entirety.

(vii) This subdivision shall not apply to any New York city affiliated agency, except that such New York city affiliated agency shall report cautionary information and the name and telephone number of the employee responsible for responding to inquiries concerning such information.

c. The information maintained pursuant to subdivision b shall be made accessible to the computerized data system established pursuant to subdivision a of this section in a form or format agreed upon by the mayor and the comptroller. The information contained in these computerized data systems shall be made available to any other data retrieval system maintained by an agency, New York city affiliated agency, elected official or the council for the purpose of providing information regarding contracts, franchises and concessions awarded and the contractors, franchisees and concessionaires to which they were awarded. The information concerning the past performance of contractors that is contained in a computerized data base maintained pursuant to section [§ 6-116.1](#) of this code for such purposes shall be made available to these data systems.

d. All of the information as required by subdivisions a and b contained in these computerized data bases shall be made available on-line in read-only form to personnel from any agency or New York city affiliated agency, elected officials, members of the council and council staff, and shall be made available to members of the public, in accordance with sections three hundred thirty four and one thousand sixty four of the charter and article six of the public officers law.

e. No contract for goods or services involving the expenditure of more than ten thousand dollars or in the case of construction, repair, rehabilitation or alteration, the expenditure of more than fifteen thousand dollars, franchise or concession shall be let by an agency, elected official or the council, unless the contract manager or other person responsible for making the recommendation for award has certified that these computerized data bases and the information maintained pursuant to section [§ 6-116.1](#) of this code have been examined. This shall be in addition to any certifications required by chapter thirteen of the charter, the rules of the procurement policy board, where applicable, or any rules of the council relating to procurement.

f. Not later than January thirtieth following the close of each fiscal year, the comptroller shall publish a summary report setting forth information derived from the data base maintained pursuant to subdivision a of

this section and the following information for each franchise, concession or contract for goods or services having a value of more than ten thousand dollars or in the case of construction, having a value of more than fifteen thousand dollars, including, but not limited to:

(1) the types and dollar amount of each contract, franchise or concession entered into during the previous fiscal year;

(2) the registration number assigned by the comptroller, if any;

(3) the agency, New York city affiliated agency, elected official or the council entering into the contract, franchise or concession;

(4) the vendor entering into the contract, franchise or concession and the subcontractors engaged pursuant to each contract;

(5) the reason or reasons why the award of each such contract was deemed appropriate pursuant to subdivision a of section 312 of the charter, where applicable; and

(6) the manner in which the contractor, franchisee or concessionaire was selected, including, but not limited to, in the case of a contractor, whether the contractor was selected through public letting and if so, whether the contractor was the lowest responsible bidder; whether the contractor was selected through a request for proposal procedure and if so, whether the contractor's response to the request offered the lowest price option; whether the contractor was selected without competition or as a sole source; whether the contractor was selected through the emergency procedure established in the charter or the general municipal law, where applicable; or whether the contractor was selected from a list of prequalified bidders, and if applicable, whether the contractor was the lowest responsible bidder. For franchises, this information shall also include whether the authorizing resolution of the council was complied with.

g. Nothing in this section shall be deemed to require the disclosure of information that is confidential or privileged or the disclosure of which would be contrary to law.

h. Except for submissions to elected officials or to the council, contractors or subcontractors may only be required to submit information required under subdivision b of this section to a single agency, and any such submission shall be applicable to all contracts or subcontracts or bids for contracts or subcontracts of that contractor or subcontractor with any agency. Any contractor or subcontractor that has submitted to any agency, elected official or the council, the information required to be provided in accordance with subdivision b of this section shall be required to update that information only at three-year intervals, and except as provided in paragraph iv or v of subdivision b, no contract or subcontract shall be awarded unless the contractor or subcontractor has certified that information previously submitted as to those requirements is correct as of the time of the award of the contract or subcontract. The contractor or subcontractor may only be required to submit such updated information to a single agency and such submission shall be applicable to all contracts or subcontracts or bids for contracts or subcontracts of that contractor or subcontractor with any agency. The procurement policy board may, by rule, provide for exceptions to this subdivision.

i. Except as otherwise provided, for the purposes of subdivision b of this section,

(1) "affiliate" shall mean an entity in which the parent of the contractor owns more than fifty percent of the voting stock, or an entity in which a group of principal owners which owns more than fifty percent of the contractor also owns more than fifty per cent of the voting stock;

(2) "cautionary information" shall mean, in regard to a contractor, any adverse action by any New York city affiliated agency, including but not limited to poor performance evaluation, default, non-responsibility determination, debarment, suspension, withdrawal of prequalified status, or denial of prequalified status;

(3) "contract" shall mean and include any agreement between an agency, New York city affiliated agency, elected official or the council and a contractor, or any agreement between such a contractor and a subcontractor, which (a) is for the provision of goods, services or construction and has a value that when aggregated with the values of all other such agreements with the same contractor or subcontractor and any franchises or concessions awarded to such contractor or subcontractor during the immediately preceding twelve-month period is valued at one hundred thousand dollars or more; or (b) is for the provision of goods, services or construction, is awarded to a sole source and is valued at ten thousand dollars or more; or (c) is a concession and has a value that when aggregated with the value of all other contracts held by the same concessionaire is valued at one hundred thousand dollars or more; or (d) is a franchise. However, the amount provided for in clause a herein may be varied by rule of the procurement policy board, where applicable, or rule of the council relating to procurement, or, for franchises and concessions, rule of the franchise and concession review committee, as that amount applies to the information required by paragraphs 7, 8, 9 and 12 of subdivision b of this section, and the procurement policy board, where applicable, or the council, or, for franchises and concessions, the franchise and concession review committee, may by rule define specifically identified and limited circumstances in which contractors may be exempt from the requirement to submit information otherwise required by subdivision b of this section, but the rulemaking procedure required by chapter forty-five of the charter may not be initiated for such rule of the procurement policy board or franchise and concession review committee less than forty-five days after the submission by the procurement policy board or, for franchises and concessions, the franchise and concession review committee, to the council of a report stating the intention to promulgate such rule, the proposed text of such rule and the reasons therefor;

(4) "contractor" shall mean and include all individuals, sole proprietorships, partnerships, joint ventures or corporations who enter into a contract, as defined in paragraph three herein, with an agency, New York city affiliated agency, elected official or the council;

(5) "officer" shall mean any individual who serves as chief executive officer, chief financial officer, or chief operating officer of the contractor, by whatever titles known;

(6) "New York city affiliated agency" shall mean any entity the expenses of which are paid in whole or in part from the city treasury and the majority of the members of whose board are city officials or are appointed directly or indirectly by city officials, but shall not include any entity established under the New York city charter, this code or by executive order, any court or any corporation or institution maintaining or operating a public library, museum, botanical garden, arboretum, tomb, memorial building, aquarium, zoological garden or similar facility;

(7) "parent" shall mean an individual, partnership, joint venture or corporation which owns more than fifty percent of the voting stock of a contractor;

(8) "principal owner" shall mean an individual, partnership, joint venture or corporation which holds a ten percent or greater ownership interest in a contractor or subcontractor;

(9) "subcontract" shall mean any contract, as defined in paragraph three herein, between a subcontractor and a contractor; and

(10) "subcontractor" shall mean an individual, sole proprietorship, partnership, joint venture or corporation which is engaged by a contractor pursuant to a contract, as defined in paragraph three herein.

j. Notwithstanding any other provisions of this section, the information required to be submitted by New York city affiliated agencies pursuant to this section shall be submitted in a form or format and on a schedule to be determined by the mayor and the comptroller. In no event shall New York city affiliated agencies be required to submit such information prior to the award of any contract.

k. Notwithstanding any other provision of this section, the information required to be submitted by New York city affiliated agencies pursuant to this section shall be required only as to contracts funded in whole or in part with city funds, although nothing shall preclude New York city affiliated agencies from submitting information on contracts funded by other than city funds.

2. L.L. 52/1987 provisions

Section one. Legislative Intent. The Council hereby finds that approximately 22% of the City's annual budget is spent on contracted goods and services. However, information pertaining to these contracts is not kept in one central location. It is the intent of this legislation to create a computerized contract registry which would streamline City contract information and make this information accessible to City government officials and employees and members of the public. The Council recognizes the monumental effort necessary to create a central computerized repository for tracking the \$5 billion spent annually on City contracts. Therefore, this legislation mandates that the financial information services agency begin to establish this data base immediately and provides for a period of up to two years for the establishment of this computerized data base.

§ 6-117 **Purchases; statement of.** The department of citywide administrative services shall furnish each agency for which it has purchased supplies, materials and equipment with a monthly statement of such purchases, with details of the quantities and prices paid, showing the quantities delivered for the account of such agency.

§ 6-118 **Printing and stationery.** The department of citywide administrative services shall purchase all printing and stationery for all agencies.

§ 6-119 **Copies; printing of.** It shall be unlawful to print, apart from the City Record, more than two thousand copies of any message of the mayor or report of the head of any agency, or more than one thousand copies of any report of a committee of the council.

§ 6-120 **Standards and specifications.** The commissioner of citywide administrative services shall have power to use the laboratory and engineering facilities of any agency, together with the technical staff thereof, in

connection with work of preparing and adopting standards and written specifications. The commissioner shall consult freely with the heads and other officials of the various agencies to determine their precise requirements, and shall endeavor to prescribe those standards which meet the needs of the majority of such agencies. After adoption , each standard specification shall, until revised or rescinded, apply alike in terms and effect to every future purchase and contract for the commodity described in such specification. The commissioner of citywide administrative services, however, may exempt any such agency from the use of the commodity described in such standard specification.

PHILADELPHIA HOME RULE CHARTER

www.phila.gov/personnel/homerule

ARTICLE II. THE COUNCIL

Chapter 3. Legislation

§ 2-309. Leases and Contracts.⁴

(1) The Council may by ordinance authorize the leasing of real estate for more than one year and the contracting for personal property to be supplied or for services to be rendered over a period of more than one year without making appropriations therefor beyond the current year. Such leases and contracts shall be valid and binding upon the City although no appropriations have been made for the ensuing years during which the leases and contracts are to be operative; but it shall be the duty of the Council to make subsequent appropriations from year to year to pay amounts coming due under such leases and contracts. The obligation of the City under such leases and contracts shall not be considered to be a part of the indebtedness of the City. For purposes of this Section and Sections [8-200](#) and [8-201](#), the following contracts and leases shall be deemed to be for the supply of property or the rendering of services over a period of more than one year or to have a term of more than one year, and therefore require authorization by ordinance to be effective and binding on the City:

(a) Any contract or lease that contains a stated term in excess of one year;

(b) Any contract or lease that grants any party or parties thereto, other than the City, the option to extend the term of said contract or lease beyond one year;

(c) Any contract or lease that grants any party or parties thereto, other than the City, the option to renew said contract or lease for an additional term or terms such that the total of the original and any potential renewal terms exceeds one year; or

(d) Any contract or lease that provides that unless one or more parties to the contract, including the City, give notice of non-extension or non-renewal, the term of the contract or lease will:

(.1) automatically be extended beyond one year; or

(.2) automatically be renewed for an additional term or terms such that the total of the original and any potential renewal terms exceeds one year.

(2) No option to renew or extend the term of a contract or lease shall be exercised by the City if the total of the original and any renewal or extension terms exceeds one year, unless the head of the contracting department or agency files with the Mayor, the President of Council, the Chief Clerk of Council, and the Department of Records a written certification that such renewal or extension is in the best interest of the City. The Department of Records shall make such certifications available for public inspection, and shall arrange for publication of such certifications on the City's official website in a searchable format. No renewal or extension of a contract or lease effected without compliance with this subsection shall be binding upon the City.

(3) Council shall have power by ordinance to address public confidence in the integrity of the City's contracting process by requiring certain disclosures by persons seeking City leases, contracts, concessions, or other agreements of any kind, and persons who have entered into such agreements, including, but not limited to, disclosure of campaign contributions and disclosure of relatives who are City employees, and by providing by ordinance as to whether persons who have made, have solicited or have been otherwise involved in raising certain campaign contributions may be eligible or ineligible for City leases, contracts, concessions, or other agreements of any kind, or for a grant, loan, tax incentive, or other form of financial assistance from the City.

ANNOTATION

Sources: Act of June 25, 1919, P.L. 581, Article XVII, Section 7.

Purposes: This section continues comparable provisions of the Charter of 1919. It permits the City to enter into long-range contracts which may be of advantage to it. See Section [8-200\(3\)](#).

Notes

⁴*Amended, and new subsections (2) and (3) added, by approval of the voters at the election held on November 8, 2005 and certified on December 1, 2005. See Resolution No. 050428 (adopted May 26, 2005).*

ARTICLE VI: EXECUTIVE AND ADMINISTRATIVE BRANCHES – POWERS & DUTIES – Director of Finance, Financial Departments, Boards & Commissions, City Treasurer, Procurement Department & Board of __ & Retirement

CHAPTER 1

DIRECTOR OF FINANCE

§ 6-103. Clearance of Requisitions for Purchase of Equipment, Material and Supplies.

The Director of Finance shall from time to time determine whether equipment, material or supplies are presently available so as to render unnecessary contemplated purchases of additional equipment, material or supplies. To enable him to perform this function, the Procurement Department shall submit to him every proposal for the purchase of equipment, material or supplies except any purchases involving an expenditure of less than such an amount as may be fixed from time to time by order of the Administrative Board. It shall not be lawful to invite bids for any purchase exceeding the exempted amount without first obtaining prior approval from the Director of Finance.

§ 6-104. Contracts.

Before any contract shall be effective, the Director of Finance shall approve it as to the availability of appropriated funds. He shall designate on every such contract, the appropriation under which it is made and shall give it a number in the order of its date. He shall, in the order in which each contract is numbered, charge the appropriation out of which expenditures thereunder will be made.

§ 6-106. Requisitions for the Payment of Money.

The Director of Finance shall receive for transmittal to the Auditing Department every requisition for the payment of money out of the City Treasury. He shall examine the requisition to see whether there is an appropriation available for the requested expenditure and whether the requisition is in accordance with any administrative order of the Mayor relating to current expenditures. If the requisition is proper in these respects, the Director shall note his approval thereon and transmit it to the Auditing Department; otherwise he shall return it whence it came to him. However, if any officer, department, board, commission or agency has failed to comply with the Director's accounting requirements, the Director may decline to approve any requisition for the payment of money out of any appropriation to such officer, department, board, commission or agency until compliance. The Director shall keep among his records copies of all requisitions approved for payment.

CHAPTER 5

PROCUREMENT DEPARTMENT

§ 6-500. Functions.

The Procurement Department shall have the power and its duty shall be to perform the following functions:

(a) Procurement.

(1) Except as otherwise provided in this charter, it shall purchase, and when feasible store and distribute all personal property to be procured with funds from the City Treasury. It shall establish and maintain City storehouses, develop and operate therein a uniform, modern system of stores control based upon perpetual inventory and maintain a sufficient stock of staple commodities on hand to supply the estimated current needs of all departments, boards and commissions of the City and other governmental agencies for whom such commodities are procured with funds appropriated from the City Treasury. All purchases, other than purchases for stock and all deliveries from such stock shall be made only upon proper requisition.

For the purpose of exercising its procurement functions more efficiently and economically, the Department shall classify all items of personal property subject to procurement by it; maintain a laboratory for testing and inspecting such property; adopt as standards the minimum number of qualities, sizes and types of such items consistent with efficient operation; and prepare, promulgate and enforce, written specifications for all such standard items.

(2) The Department shall procure at the cost of the City good and sufficient bonds, to be approved by the City Solicitor and filed with the Department of Records, to meet the requirements of law, in the case of all City officers and employees required to give surety bonds to the City, for the faithful performance of their official duties or to account for City funds or property in their possession. When authorized by the Administrative Board, it shall also procure liability insurance, covering liability of the City and its officers and employees. It shall also procure any other kind of insurance which it may be lawful for the City or any officer, department, board or commission of the City to carry and for which an appropriation has been made to the Department.

(3) The Department shall let all contracts for utility services which are required by any department, board and commission of the City and other governmental agencies and which are to be paid for with funds from the City Treasury.

(4) The Department shall from time to time notify the chief clerk of the Council, the Mayor, the several officers, departments, boards and commissions of the City and other governmental agencies whose procurement requirements are to be purchased with funds appropriated from the City Treasury, respectively, to furnish, at such time as it may require, lists of all requirements that may be needed by each of such officers, departments, boards, commissions and agencies for such periods as the Department shall prescribe, excepting only perishable food stuffs for City institutions. Upon receipt of such lists, the Department shall, as far as practicable,

consolidate and classify the requirements named therein, and shall prepare annual, semi-annual, or quarterly schedules thereof, as deemed for the best interest of the City. The Department shall have the power to make such changes in the schedules as may be deemed proper, and may standardize any or all requirements therein. The schedules as finally prepared, shall be used by the Department for procuring the requirements specified therein.

(5) In the performance of its procurement functions, the Department shall consult with and consider recommendations of the Council, the Mayor, the officer, department, board or commission of the City or other governmental agency, whose requirements it is procuring.

(6) Whenever the Department shall procure any item which is to be paid for, out of an appropriation made to another department, board or commission of the City or to any other government agency or from a special fund, the Department shall act as agent for such department, board, commission or agency.

(7) The Department may permit any officer, department, board or commission of the City or other agency to make a particular purchase or class of purchases directly, but in any such case the Department shall first approve in writing the specifications for such purchase.

(b) Printing and Publications.

(1) The Department shall furnish by contract or otherwise all printing and binding, engraving and publications required by the City.

(2) The Department shall distribute all printed matter of the City. It may sell, at prices to cover the cost of publication, any printed matter which it distributes. The Department shall compile, edit and publish annually a City Manual. It shall copyright, in the name of the City, all City publications which it regards desirable to have copyrighted.

(c) Contracts. After advertising and the receipt of competitive bids, the Department shall let all contracts to be paid for with funds appropriated from the City Treasury for which competitive bids are required, including contracts for concessions whether or not the specifications were prepared and the performance of the contract is to be supervised by another department, or by a board, commission or other governmental agency.

(d) Sales of Unserviceable Personal Property. The Department shall receive from departments, boards and commissions of the City and other governmental agencies, unserviceable personal property owned by the City or acquired with funds appropriated from the City Treasury and, if no other department, board or commission of the City or other governmental agency supported by funds appropriated from the City Treasury is able to make use of it presently, dispose of it by sale, either at public auction or private sale, or by transfer, exchange or otherwise after public advertisement or other appropriate public notice and receipt of bids.

ARTICLE VIII PROVISIONS OF GENERAL APPLICATION

CHAPTER 2 CONTRACTS, PROCUREMENT, PROPERTY AND RECORDS

§ 8-200. Contracts.

(1) Except in the purchase of unique articles or articles which for any other reason cannot be obtained in the open market, competitive bids shall be secured before any purchase, by contract or other-wise, is made or before any contract is awarded for construction, alterations, repairs or maintenance or for rendering any services to the City other than professional services and the purchase shall be made from or the contract shall be awarded to the lowest responsible bidder; provided, however, that City Council may, by ordinance, prescribe bid preferences for businesses located in or doing business in Philadelphia, and provided further that Council may, by ordinance, regulate the process by which purchases and contracts not subject to the lowest responsible bidder requirement of this paragraph are awarded, and may require that contracts with agencies (as that term is defined in subsection 6-400(c) of this Charter) or with other entities include provisions obligating such agencies or entities to comply with any process established by Council under the authority of this subsection, except that such regulations may not require Council authorization of a contract unless Council authorization is required by some other provision of this Charter. [22](#)

(2) If any purchase or contract for which competitive bidding is required involves an expenditure of more than twenty-five thousand (\$25,000) dollars, which amount shall be adjusted every five (5) fiscal years as rounded to the nearest one thousand (\$1,000) dollars to reflect the percentage change in the most recently published Consumer Price Index for All Urban Consumers (CPI-U) All Items Index, Philadelphia, Pennsylvania, United States Department of Labor, Bureau of Labor Statistics, the following procedure shall be applicable: [23](#)

(a) The Procurement Department shall advertise for sealed bids at least once a week for two weeks in one of the three newspapers having the largest paid circulation in the City and in such other newspapers as it deems necessary. The Department shall require a certified check in an appropriate amount which shall be stated in the specifications to accompany all bids unless a bidder has filed an annual bid bond in excess of such amount;

(b) Bids shall publicly be opened and tabulated in the presence of a representative of the City Controller at the time specified for their opening. The Department may reject all bids if it shall deem it in the interest of the City so to do. Otherwise the contract shall be awarded to the lowest responsible bidder;

(c) Within ten days after the award of a contract, the successful bidder shall substitute for his certified check a performance bond, and where appropriate, a labor and materials bond containing such terms as the Department and the City Solicitor shall require and in such amount as the Department may determine;

(d) The contract shall be in writing and shall be executed in behalf of the City by the Procurement Department but only after it has been approved as to form by the City Solicitor and as

to availability of funds under the budget and appropriations by the City Controller and the Director of Finance. It shall contain a provision that in the performance of the contract the contractor will not discriminate nor permit discrimination against any person because of his race, color, religion or national origin;

(e) The Procurement Department may in its discretion, permit a bidder to file an annual bond to cover bids that may be made by, or the performance of contracts that may be awarded to, such bidder during an annual period. Such bond shall be in such an amount as the Department may determine and may be increased from time to time, as the Department may require, in order to keep it commensurate with the bids made or contracts awarded during the annual period.

(3) Contracts may be made for the leasing of real estate and for personal property to be supplied or services to be rendered over a period of more than one year only when permitted by ordinance. Otherwise no contract shall be binding upon the City unless there is an appropriation available for its payment. When the term of a contract exceeds four years, there shall be inserted a clause reserving to the City the right to terminate it at the option of the City at any time after the expiration of four years without liability to the other party for damages or loss of profits which would have been realized had the contract not been terminated. The limitations of this paragraph shall not apply to any contract entered into between the City and any authority.

(4) The Procurement Department may participate in a cooperative arrangement with the procurement office of any public agency for the joint procurement of any services, supplies, equipment or construction where the public agency conducts the procurement, provided the cooperative arrangement is conducted in accordance with a written agreement entered into between the participants and the public agency uses a process comparable to such process as would otherwise be required by this section. [24](#)

§ 8-202. Procurement and Building Construction.

Except as otherwise provided in this charter, it shall be unlawful for any department, board or commission of the City or for any officer, board, commission or other governmental agency whose purchases are paid for with funds from the City Treasury, to purchase or contract for any personal property or any printing, engraving or publication of any kind or character, or to enter into any contract for which competitive bidding is required, except through the Procurement Department.

It shall likewise be unlawful for any such officer, department, board, commission or agency to contract for the services of a public utility company, or for bonds or insurance of any kind or description, or to subscribe to publications except through the Procurement Department, or to erect, remodel, alter or add to any building except through the Department of Public Property.

This section shall not apply to the purchase of books, prints, manuscripts, curios and specialties for libraries and museums, and animal and plant-life for aquariums, zoological and horticultural gardens.

AMENDMENTS SINCE 1951

Approved November 1991:

Competitive Bid Minimum (\$2,000 to \$10,000) (§ [8-200](#)(2)).

Approved November 2003:

Competitive Bid minimum (\$10,000 to \$25,000) (§§ [8-200](#), [8-201](#));

Cooperative Purchasing Agreements (§ [8-200](#)).

Approved November 2005:

Contract Reform (§§ [2-309](#), [8-200](#), [8-201](#)).

PHILADELPHIA CODE
(selected sections)

TITLE 17. CONTRACTS AND PROCUREMENT^[1]

§17-102. Rights and Liabilities of Persons Who Solicit or Bid for City Contracts. [6]

- (1) If any prospective bidder makes a false or deceptive statement in any such certified statement or makes any material omission therein, he shall be liable to the City in the amount of the certified check filed as security for his bid, as liquidated damages.
- (2) Unless an advertisement or other written invitation to bid competitively for a City contract expressly provides for a different period, any person may withdraw any bid filed and any security therefor and may refuse to enter into any contract with the City if his bid has not been accepted within 60 days of the opening for bids.^[7]
- (3) Any bidder, not lawfully released from his bid, who refuses to execute a contract in accordance with his bid which the Procurement Department has accepted, or refuses to furnish required bonds, shall be liable to the City in the amount of the certified check filed as security for his bid, as liquidated damages; or shall be comparably liable on any annual bid bond which the Procurement Department has accepted pursuant to Section 8-200(2)(a) of the Charter; or where the damages are readily ascertainable, such bidder shall be liable for the actual loss or damage sustained by the City by the failure of such bidder to perform the contract.^[8]
- (4) The cost to successful bidders for the preparation of the contract documents shall be in accordance with such schedule of fees as the Law Department may establish to cover the costs of such preparation.^[9]
- (5) (a) As to each bid which is advertised by the Procurement Department and publicly opened, each person submitting a bid shall pay a processing fee, as follows:
- (i) During the City's Fiscal Year 1993, the following fee depending on the amount of the bid:

<i>Amount of the Bid</i>	<i>Processing Fee</i>
\$10,001 - 100,000	\$ 10
\$100,001 - 300,000	\$ 30
\$300,001 - 500,000	\$ 50
\$500,001 - 1,000,000	\$100
\$1,000,001 - 2,000,000	\$200
\$2,000,001 - 3,000,000	\$300
\$3,000,001 - 4,000,000	\$400
\$4,000,001 - 5,000,000	\$500

Over \$5,000,000

\$600

(ii) During the City's Fiscal Year 1994 and thereafter, the fee shall be in an amount set by the Procurement Department by regulation. In promulgating such regulations, the Procurement Department shall determine the fees that are required to reimburse the City for the costs it incurs in processing bids to which this subsection 17-102(5) applies. Until the Procurement Department promulgates such regulations, the fees set forth in subsection 17-102(5)(a)(i) shall continue in effect.

(b) The Procurement Department shall not accept any bid from any person who has: (i) failed to pay any processing fee imposed by this section as to any previously submitted bid; and (ii) failed to comply with a written request for such payment within the time period specified in the notification sent by the Procurement Department pursuant to subsection 17-102(5)(c). In addition, in every contract awarded based on a bid to which this subsection 17-102(5) applies, a provision shall be included that obligates the bidder to pay any unpaid processing fees imposed by this section before any payments are made to the bidder under the contract.

(c) The Procurement Department shall notify any bidder who has failed to pay any processing fee imposed by this section of such fact. Such notification shall inform the bidder of the consequences of the failure to pay such fee as set forth in subsection 17-102(5)(b), and shall request payment within a specified time period.

(d) In addition to the remedies set forth in subsection 17-102(5)(b), any unpaid processing fees imposed by this section shall be considered a debt due and owing the City and shall be collected in the manner provided by law.

§17-103. Bonds Relating to Procurement Contracts.

(1) The Procurement Department, with the consent of the Law Department, may permit the reduction of a contractor's bond or the substitution of a new bond in smaller amount whenever a contractor has satisfactorily performed his basic obligation to perform duties of maintenance or repair as to work done or goods supplied.^[10]

(2) *Labor and Materials Bonds.* The Procurement Department shall, in accordance with the Acts of June 22, 1931, P.L. 880 and P.L. 881, 53 P.S. §§ 523 et seq., require labor and materials bonds before work is commenced under any contract for the construction, erection, installation, completion, alteration, repair, or addition to, any public work or improvement of any kind where the amount of the contract is in excess of \$1000.^[11]

§17-106. General Provisions Relating to City Contracts and Bonds.

(1) No surety bond required for the protection of the City shall be approved by the Law Department unless the condition thereof is guaranteed by a surety company duly authorized and licensed to act as surety by the Insurance Commissioner pursuant to the laws of the Commonwealth of Pennsylvania, Act of April 28, 1978, P.L. 202, 40 P.S. § 832 et seq., as amended.

(2) The Law Department may cancel or terminate liability upon any bond given to the City when the conditions of the bond have been performed and complied with or other security approved by the Law Department has been substituted.

(3) The Procurement Department may establish such monitoring procedures and reporting requirements for surety companies as are deemed necessary for the protection of the City.

(4) The Law Department may cancel or terminate liability upon any bond given to the City when the conditions of the bond have been performed and complied with or other security approved by the Law Department has been substituted.^[18]

CHAPTER 17-1400. NON-COMPETITIVELY BID CONTRACTS; FINANCIAL ASSISTANCE⁶⁴

§ 17-1401. Definitions.

(1) *Applicant*. A Person who has filed an application to be awarded a Non-Competitively Bid Contract.

(2) *Business*. A Person other than an individual.

(3) *Candidate*. As defined in the Pennsylvania Election Code, 25 P.S. § 3241.

(4) *Charter*. The Philadelphia Home Rule Charter.

(5) *City Agency*. Any office, department, board, commission or other agency of the City of Philadelphia.

(6) *Consultant*. Any Person used by an Applicant or Contractor to assist in obtaining a Non-Competitively Bid Contract through direct or indirect communication by such Person with any City Agency or any City officer or employee, if the communication is undertaken by such Person in exchange for, or with the understanding of receiving, payment from the Applicant or Contractor or any other Person; provided, however, that "Consultant" shall not include a full-time employee of the Applicant or Contractor.

(7) *Contractor*. A Person who has entered into a Non-Competitively Bid Contract with a City Agency.

(8) *Contribution*. As defined in the Pennsylvania Election Code, 25 P.S. § 3241.

(9) *City-Related Agency*. All authorities and quasi-public corporations which either: receive appropriations from the City, have entered into continuing contractual or cooperative relationships with the City, or operate under legal authority granted to them by City ordinance.

(10) *Immediate Family*. As defined in § [20-601](#), or a Life Partner, as defined in § [9-1102](#).

(11) *Incumbent.* An individual who holds an elective City office.

(12) *Non-Competitively Bid Contract.* A contract for the purchase of goods or services to which the City or a City Agency is a party that is not subject to the lowest responsible bidder requirements of Section [8-200](#) of the Charter, including, but not limited to, a Professional Services Contract, and any renewal of such a contract (other than a renewal term pursuant to an option to renew contained in an executed contract).

(13) *Person.* An individual, corporation, limited liability company, partnership, association, joint venture, or any other legal entity.

(14) *Political Committee.* As defined in the Pennsylvania Election Code, 25 P.S. § 3241.

(15) *Professional Services Contract.* A contract to which the City or a City Agency is a party that is not subject to the lowest competitive bidding requirements of Section [8-200](#) of the Charter because it involves the rendition of professional services, including any renewal of such a contract (other than a renewal term pursuant to an option to renew contained in an executed contract).

(16) *Financial Assistance.* Any grant, loan, tax incentive, bond financing subsidy for land purchase or otherwise, or other form of assistance that is realized by or provided to a Person in the amount of fifty thousand dollars (\$50,000) or more through the authority or approval of the City, including, but not limited to, Tax Increment Financing (TIF) aid, industrial development bonds, use of the power of eminent domain, Community Development Block Grant (CDBG) aid or loans, airport revenue bonds, and Enterprise Zone or similar economic development zone designations (such as Keystone Opportunity Zones, Keystone Opportunity Expansion Zones, Keystone Opportunity Improvement Zones, and Economic Development District Zones), but not including any assistance to which a Person is entitled under a law enacted before the Person applied for or requested such assistance. [65](#)

§ 17-1402. Open and Public Process Required For Non-Competitively Bid Contracts.

(1) A Non-Competitively Bid Contract shall be awarded in compliance with the following:

(a) A City Agency that seeks to enter into a Non-Competitively Bid Contract shall so notify the Procurement Department, and shall coordinate with the Procurement Department in carrying out the requirements of this Chapter. The Procurement Commissioner shall develop procedures to ensure that such contracts are advertised and approved in a timely, efficient and coordinated manner in the best interest of the City. The Procurement Commissioner shall develop applications, disclosure forms, and procedures and guidelines to assist Applicants, Contractors and Disadvantaged Business Enterprises in complying with the provisions of this Chapter. The City Agency that seeks to enter into a Non-Competitively Bid Contract shall publish on the City's official website and file with the Procurement Commissioner, the Finance Director and the Commerce Director a notice of the availability of such contracting opportunity, and shall award such contract only to a party that completes an application form supplied by such City Agency, which application form shall contain all disclosure forms required by subsection (1)(b) and shall

include a summary of the provisions and requirements of this Chapter. The required notices shall appear on the City's official website for at least fourteen days before the time by which application forms must be filed. The Procurement Commissioner, the Finance Director and the Commerce Director shall each keep a printed copy of all required notices in a registry organized by the date application forms must be filed, and make such registry available for public inspection during regular business hours. The required notices must be available for public inspection in such registries at least fourteen days before the time by which application forms must be filed. The required notices shall set forth:

(i) The City Agency seeking to enter into the contract;

(ii) The nature of the goods or services being sought;

(iii) The requirement that no party may be awarded the contract unless it files an application form provided by the City Agency, and the manner and time by which such application forms must be filed;

(iv) The requirements of subsection (1)(b) that the Applicant disclose the names of subcontractors the Applicant intends to use on the contract, the names of Consultants used to assist in securing the contract, certain contributions made by the Applicant and such Consultants, and the continuing disclosure requirements of subsection (1)(e) concerning such contributions made during and after the term of the contract; and

(v) The criteria by which the selection will be made.

(b) *Mandatory Disclosures.*

(i) An Applicant must disclose, by completing and signing disclosure forms attached to the application:

(.1) The names, business addresses and phone numbers of all Consultants used by the Applicant with respect to the contract at issue within the year prior to the date the application must be filed, and the amount paid or to be paid to each such Consultant for such services, or certify that no Consultants were so used;

(.2) All contributions of money or in-kind assistance made by the Applicant or by a Consultant during the two years prior to the date the application must be filed to any candidate for nomination or election to any public office in the Commonwealth of Pennsylvania or to an individual who holds such office, or to any political committee or state party in the Commonwealth of Pennsylvania, or to any group, committee or association organized in support of any such candidate, office holder, political committee or state party in the Commonwealth of Pennsylvania, and the date and amount of each such contribution, or certify that no such contributions have been made. The attribution rules of § [17-1405](#) shall apply to determine what contributions must be disclosed as contributions of the Applicant or of a Consultant under this subsection (1)(b);

(.3) The names, business addresses and phone numbers of all subcontractors the Applicant intends to use on the contract, and the amount or percentage to be paid to each such subcontractor;

(.4) The name and title of each City officer or employee who, within two years prior to the date the application must be filed, asked the Applicant, any officer, director or management employee of the Applicant, or any Person representing the Applicant, to give money, services, or any other thing of value (other than a Contribution as defined in § [17-1401](#)) to any Person, and any payment of money, provision of services, or any other thing of value (other than a Contribution as defined in § [17-1401](#)) given to any Person in response to any such request. The Applicant shall also disclose the date of any such request, the amount requested, and the date and amount of any payment made in response to such request;

(.5) The name and title of each City officer or employee who, within two years prior to the date the application must be filed, directly or indirectly advised the Applicant, any officer, director or management employee of the Applicant, or any Person representing the Applicant that a particular Person could be used by the Applicant to satisfy any goals established in the contract for the participation of minority, women, disabled or disadvantaged business enterprises. The Applicant shall also disclose the date the advice was provided, and the name of such particular Person.

(ii) The City Agency awarding the contract shall forward a copy of all disclosure forms it receives to the Mayor, Finance Director, Procurement Department, and the Department of Records.

(iii) No Non-Competitively Bid Contract shall be awarded unless all required disclosure forms are completed, signed and attached to the application for such contract and on file with the Mayor, Finance Director, Procurement Department, and the Department of Records.

(c) After the City Agency has selected the Applicant with which it intends to contract, the City Agency shall publish a notice on the City's official website setting forth the names of all Applicants, the Applicant to which the contract will be awarded, and the basis for the award, including a statement as to whether the Applicant to be awarded the contract was the lowest bidder and if not, why the applications of all lower bidders were rejected. Such notice shall appear on the City's website for at least one week before the contract is executed. No later than the date the notice first appears on the City's website, the City Agency shall file a copy of the notice with the President and Chief Clerk of Council, and the Mayor, Finance Director, Procurement Department, and Department of Records.

(d) If Council approval of a Non-Competitively Bid Contract is required under Section [2-309](#) or other provision of the Charter, then such contract must be specifically approved by ordinance. An ordinance approving a Non-Competitively Bid Contract shall include as exhibits:

(i) A copy of the notice required by subsection (1)(a);

(ii) A copy of the application form submitted by the Applicant to whom the contract is proposed to be awarded, together with a copy of all disclosure forms required to be submitted by such Applicant under subsection (1)(b); and

(iii) A copy of the notice required by subsection (1)(c).

(e) Every Non-Competitively Bid Contract shall include the following provisions:

(i) The Contractor shall covenant that during the term of the contract, contributions will not be made that would render the Contractor ineligible to apply for or enter into a Non-Competitively Bid Contract under the provisions of § [17-1404](#)(1). Breach of such covenant shall render the contract voidable at the City's option, and shall make the Contractor liable for liquidated damages to the City in the amount of 10% of the maximum payments to the Contractor allowed under the contract, regardless whether actually paid.

(ii) The Contractor shall, during the term of such contract and for one year thereafter, disclose any contribution of money or in-kind assistance the Contractor or any Consultant has made during such time period to a candidate for nomination or election to any public office in the Commonwealth of Pennsylvania or to an individual who holds such office, or to any political committee or state party in the Commonwealth of Pennsylvania, or to any group, committee or association organized in support of any such candidate, office holder, political committee or state party, and the date and amount of such contribution. Such disclosure shall be made on a form provided by the City Agency awarding the contract, and the form shall be signed and filed with such agency within five business days of the contribution. The City Agency receiving the disclosure form shall forward copies to the President and Chief Clerk of Council, and to the Mayor, Finance Director, Procurement Department, and the Department of Records. The attribution rules of § [17-1405](#) shall apply to determine what contributions must be disclosed under this provision as contributions of the Contractor or of a Consultant.

(iii) The Contractor shall, during the term of such contract and for one year thereafter, disclose the name and title of each City officer or employee who, during such time period, asked the Contractor, any officer, director or management employee of the Contractor, or any Person representing the Contractor, to give money, services, or any other thing of value (other than a Contribution as defined in § [17-1401](#)) to any Person, and any payment of money, provision of services, or any other thing of value (other than a Contribution as defined in § [17-1401](#)) given to any Person in response to any such request. The Contractor shall also disclose the date of any such request, the amount requested, and the date and amount of any payment made in response to such request. Such disclosure shall be made on a form provided by the City Agency awarding the contract, and the form shall be signed and filed with such agency within five business days after a request was made or a payment in response to a request was made, as the case may be. The City Agency receiving the disclosure form shall forward copies to the President and Chief Clerk of Council, and to the Mayor, Finance Director, Procurement Department, and the Department of Records.

(iv) The Contractor shall, during the term of such contract, disclose the name and title of each City officer or employee who directly or indirectly advised the Contractor, any officer,

director or management employee of the Contractor, or any Person representing the Contractor that a particular Person could be used by the Contractor to satisfy any goals established in the contract for the participation of minority, women, disabled or disadvantaged business enterprises. The Contractor shall also disclose the date the advice was provided, and the name of such particular Person. Such disclosure shall be made on a form provided by the City Agency awarding the contract, and the form shall be signed and filed with such agency within five business days after the Contractor was so advised. The City Agency receiving the disclosure form shall forward copies to the President and Chief Clerk of Council, and to the Mayor, Finance Director, Procurement Department, and the Department of Records.

(f) Every Non-Competitively Bid Contract shall include a representation and covenant by the Contractor that the Contractor's disclosures required by subsection (1)(b) contain no material misstatements or omissions. Breach of such representation and covenant shall render the contract voidable at the City's option, and shall subject the Contractor to liquidated damages to the City in the amount of 10% of the total value of the payments to be made to the Contractor under the contract.

(g) Every Non-Competitively Bid Contract shall be approved in writing by the Procurement Commissioner, the Finance Director, and the City Solicitor prior to execution, except that Non-Competitively Bid Contracts entered into by Council shall require only the approval in writing of the Council President prior to execution.

(h) No Non-Competitively Bid Contract shall be amended to increase the amount to be paid under the contract by more than twenty percent (20%) or by more than \$25,000, whichever is greater, unless such amendment is approved in writing by the Procurement Commissioner, the Finance Director, and the City Solicitor prior to execution, except that such amendments to Non-Competitively Bid Contracts entered into by Council shall require only the approval in writing of the Council President prior to execution. The City Agency seeking to amend the contract shall publish on the City's official website a notice identifying the contract and explaining the need for the amendment. Such notice shall appear on the City's website for at least one week prior to execution of the amendment, and no later than the day the notice first appears on the City's website, the City Agency shall send a copy of the notice to the President and Chief Clerk of Council, and to the Mayor and Department of Records.

(2) *Failure to Disclose Consultant Contributions.*

(a) It shall not be a violation of subsection (1)(b)(i)(.2) if an Applicant fails to disclose a contribution made by a Consultant because the Applicant was unable to obtain such information from the Consultant, provided the Applicant demonstrates that it used reasonable efforts to attempt to obtain such information, including, at a minimum:

(i) Entering into a written agreement with the Consultant for such Consultant's services, before the filing of the application for the contract, and before the Consultant communicated with a City Agency, official or employee on behalf of the Applicant;

(ii) Including in such agreement a provision requiring the Consultant to provide the Applicant in a timely manner with all information required to be disclosed under the provisions of this Chapter, and providing, in effect, that the agreement will be terminated by the Applicant if the Consultant fails to provide all required information on a timely basis and that no further payments, including payments owed for services performed prior to the date of termination, will be made to the Consultant by or on behalf of the Applicant as of the date of such termination;

(iii) Communicating regularly with the Consultant concerning the Consultant's obligations to provide timely information to permit the Applicant to comply with all provisions of this Chapter; and

(iv) Invoking the termination provisions of the written agreement in a full and timely manner.

(b) The contract provision required by subsection (1)(e)(ii) shall include provisions excusing the failure to disclose a Consultant's contributions during the term of the contract under the same terms and conditions set forth in subsection (2)(a).

(3) Nothing in this Chapter shall be construed to require the award of a Non-Competitively Bid Contract to the lowest responsible bidder, nor shall this Chapter be construed in any other way to limit the discretion of a City Agency in awarding or not awarding a Non-Competitively Bid Contract if the procedures required by this Chapter have been followed.

§ 17-1403. Public Information; Reporting. ⁶⁶

(1) After a Non-Competitively Bid Contract has been executed, all applications for such contract shall become public information, except that the City Agency awarding such contract may redact proprietary information or other information protected by law prior to making such applications available for public inspection, provided that the information required to be disclosed by § [17-1402](#)(1)(b) shall never be redacted.

(2) At least thirty (30) days before the start of each fiscal year, a written report, signed by the Mayor, shall be filed by the Mayor with the President and Chief Clerk of Council, with copies sent to the Procurement Commissioner, the Finance Director, the Commerce Director, and the Department of Records and published on the City's official website, listing for each City Agency (other than Council) the number of Non-Competitively Bid Contracts the City Agency anticipates awarding in the upcoming fiscal year (to the extent known at the time the report is filed) and for each such contract:

- (a) The subject matter of the contract;
- (b) The term of the contract; and
- (c) The total dollar amount of the contract.

The report shall also include, for each City Agency (other than Council) the dollar amount of each type of Financial Assistance the City Agency anticipates awarding in the upcoming fiscal year (to the extent known at the time the report is filed). The Procurement Commissioner, Finance Director and Commerce Director shall each make a copy of the report available for public inspection during regular business hours at the same place the registry of notices required by subsection [17-1402\(1\)\(a\)](#) is kept.

(3) On January 31, April 30, July 31 and October 31 of each year, a written report, signed by the Mayor, shall be filed by the Mayor with the President and Chief Clerk of Council, with a copy to the Department of Records and a copy published on the City's official website, setting forth for each Non-Competitively Bid Contract (except for contracts awarded by Council) under which goods were provided or services were rendered to the City during the three month period ending one month prior to the date the report must be filed, and for each contract for which reporting is required by § [17-1406\(1\)\(d\)](#):

- (a) The parties to the contract and the subject matter of the contract;
- (b) The term of the contract and the length of the term remaining;
- (c) The total dollar amount of the contract and the total of all payments that have been made under such contract to date; and
- (d) A copy of any disclosure forms filed in compliance with the requirement of § [17-1402\(1\)\(e\)](#) since the date of the last report.

The report shall also detail each provision of Financial Assistance made during the reporting period, and for each provision of Financial Assistance: (i) the City Agency providing such assistance; (ii) the type of Financial Assistance awarded; (iii) the recipient of such assistance; and (iv) the dollar amount of such assistance.

(4) By September 30 of each year, the Mayor shall file an annual report with the President and Chief Clerk of Council, and the Department of Records (with a copy also published on the City's official website) summarizing the award of Non-Competitively Bid Contracts (other than contracts awarded by Council) during the prior fiscal year. Such report shall be signed by the Mayor, and shall list for each City Agency (other than Council) the number of contracts awarded by type of contract, the total dollar amount of such contracts, and the total payments made under such contracts. The report shall also include the Finance Director's analysis of the City's experience with the requirements of this Chapter during the previous fiscal year, and the Finance Director's recommendations, if any, to amend the requirements of this Chapter or otherwise to improve the procurement process to ensure efficiency, economy and productivity, including the use of innovative means of procurement that will be competitive and in the best interest of the City. The report shall also summarize the provision of Financial Assistance, detailing for each City Agency the number and dollar amount of each type of Financial Assistance the City Agency awarded during the prior fiscal year.

(5) The Council President shall sign and file the reports required by subsections (2), (3) and (4) in the same manner, form and content as required in those subsections, with respect to Non-Competitively Bid Contracts awarded or to be awarded by Council.

(6) Any document that must be filed with the Department of Records under this Chapter shall be kept on file and available for public inspection by those agencies during regular office hours.

§ 17-1404. Eligibility for Non-Competitively Bid Contracts and Financial Assistance.

(1) *Determining Eligibility.*

(a) If an individual makes contributions in excess of \$2,500 (as such amount is adjusted from time to time under § [17-1404\(1\)\(c\)](#) or § [17-1404\(1\)\(d\)](#)) in the aggregate during a calendar year to a candidate for nomination or election to any elective City office or to an Incumbent, then, during the term of office to which such candidate is elected or during the Incumbent's term of office, the individual shall not be eligible to apply for or to enter into any Non-Competitively Bid Contract in excess of \$10,000, nor shall said individual be eligible to be a sub-contractor (at any tier) of any such contract, nor shall the individual be eligible to receive Financial Assistance. [68](#)

(b) If a Business makes a contribution in excess of \$10,000 (as such amount is adjusted from time to time under § [17-1404\(1\)\(c\)](#) or § [17-1404\(1\)\(d\)](#)) in the aggregate during a calendar year to a candidate for nomination or election to any elective City office or to an Incumbent, then, during the term of office to which any such candidate is elected or during the Incumbent's term of office, the Business shall not be eligible to apply for or to enter into any Non-Competitively Bid Contract in excess of \$25,000, nor shall said Business be eligible to be a sub-contractor (at any tier) of any such contract, nor shall the Business be eligible to receive Financial Assistance. [69](#)

(c) On January 1, 2008 and on January 1 every four years thereafter, the maximum amounts set forth in § [17-1404\(1\)\(a\)](#) and (b) shall be adjusted, as follows. On the December 15 immediately preceding the adjustment, the Finance Director shall calculate the "CPI Multiplier" by dividing the average consumer price index for Philadelphia during the then-current calendar year by the average consumer price index for Philadelphia during calendar year 2005. To determine the average consumer price index for Philadelphia, the Finance Director shall use the latest available figures for the Consumer Price Index for all Urban Consumers (CPI-U) All Items Index, Philadelphia, Pennsylvania, as measured by the United States Department of Labor, Bureau of Labor Statistics. After calculating the CPI Multiplier, the Finance Director shall calculate the new maximum amounts, as follows:

(i) The maximum amount for purposes of § [17-1404\(1\)\(a\)](#) shall equal \$2,500, multiplied by the CPI Multiplier, rounded to the nearest \$100.

(ii) The maximum amount for purposes of § [17-1404\(1\)\(b\)](#) shall equal \$10,000, multiplied by the CPI Multiplier, rounded to the nearest \$100.

The Finance Director shall certify the new maximum amounts in writing to the Mayor, the Council President and Chief Clerk of Council.

(d) If a candidate (as defined in Section [20-1001](#), relating to political contributions and expenditures) for any City elective office contributes \$250,000 or more from his or her personal resources to his or her candidate political committee (regardless of the time period over which such contribution is made), then the maximum amounts set forth in § [17-1404](#)(1)(a) and (b), as they may be adjusted pursuant to subsection (c), shall double with respect to contributions to candidates for that same elective office. [70](#)

(2) The attribution rules of § [17-1405](#) shall apply to determine the amount of contributions made by an individual or Business for purposes of subsection (1).

(3) *Disclosure by Applicants for Financial Assistance.*

(a) A Person seeking Financial Assistance shall file with the City Agency providing such assistance all disclosure forms that Applicants seeking Non-Competitively Bid City Contracts must file under § [17-1402](#)(1)(b).

(b) The City Agency providing the Financial Assistance shall forward a copy of all disclosure forms it receives to the Finance Director, and the Department of Records.

(c) No Financial Assistance shall be provided unless all required disclosure forms are completed, signed and filed with the City Agency providing such assistance and are on file with the Finance Director, and the Department of Records.

(d) If Council approval of the Financial Assistance is required by law, the ordinance approving such Financial Assistance must include as exhibits copies of all disclosure forms required by this subsection (3).

(e) Every recipient of Financial Assistance shall, for a period of five years after receiving such assistance, be subject to the provisions of § [17-1402](#)(1)(e), requiring certain covenants and disclosures, as if such recipient were a Contractor executing a Non-Competitively Bid Contract. The City Agency providing the Financial Assistance shall enter into such agreements with the recipient of Financial Assistance as the City Solicitor deems necessary to carry out the purpose and intent of this subsection.

§ 17-1405. Attribution Rules.

The following attribution rules shall apply throughout this Chapter to determine what contributions shall be considered to be contributions of an Applicant, Consultant, Contractor or Person seeking Financial Assistance: [71](#)

(1) Contributions made by a member of an individual's Immediate Family shall be considered to be contributions made by the individual, but only if such contribution exceeds the maximum amount specified in § [17-1404](#)(1)(a). Only the amount of such contribution in excess of such maximum amount shall be attributed to the individual.

(2) The following shall be considered a contribution by a Business:

(a) A contribution made by any parent, subsidiary, or otherwise affiliated entity of a Business ("affiliate");

(b) A contribution made by any Person for which they are reimbursed by such Business or affiliate;

(c) A contribution from an officer, director, controlling shareholder or partner of such Business or affiliate, except that this provision shall not apply to not-for-profit Businesses or affiliates;

(d) A contribution by a political action committee controlled by the Business or affiliate;

(e) A contribution by a political action committee controlled by an officer, director, controlling shareholder or partner of such Business or affiliate (other than a not-for-profit Business or affiliate).

(3) A contribution to any political committee which, during the calendar year in which the contribution is made, itself makes contributions or gives financial support in excess of fifty percent of the committee's total receipts for that calendar year to a particular candidate for nomination or election to any elective City office or to a particular Incumbent, shall be considered a contribution to such candidate or Incumbent. A contribution to a political committee that has listed the names of any candidates on a registration statement filed pursuant to the Election Code (25 P.S. § 3244) shall be considered a contribution to each such candidate.

(4) Any other contribution made not directly to a candidate for nomination or election to any elective City office or Incumbent, but with the purpose and intent that the entity to whom the contribution is made will, directly or indirectly, make such contribution available to such candidate or Incumbent, shall be considered a contribution to such candidate or Incumbent.

(5) Any contribution solicited by a Person shall be considered a contribution by such Person, and if a Person sponsors or hosts a fundraising event, then any contributions raised at such event shall be considered to be contributions by such Person. Any contribution solicited by an officer, director, controlling shareholder or partner of a Business or affiliate (other than a not-for-profit Business or affiliate) shall be considered a contribution by such Business, and if any officer, director, controlling shareholder or partner of a Business or affiliate (other than a not-for-profit Business or affiliate) sponsors or hosts a fund-raising event, then any contributions raised at such event shall be considered to be contributions by such Business.

(6) Any contribution for which a Person is an intermediary shall be considered as a contribution by such Person, and any contribution for which an officer, director, controlling shareholder or partner of a Business or affiliate (other than a not-for-profit Business or affiliate) is an intermediary shall be considered a contribution by such Business. For purposes of this subsection, an "intermediary" means a Person who, other than in the regular course of business as a postal, delivery or messenger service, delivers a contribution from another Person to the recipient of such contribution.

§ 17-1406. Sole Source Contracts, Emergencies, and Other Exceptions.

(1) Any provision of this Chapter may be waived if the Finance Director certifies in writing that compliance with such provision may lead to the loss of federal, state or similar grant funds, or if the City Solicitor certifies in writing that application of such provision would violate federal or state law.

(2) The provisions of § [17-1402\(1\)\(a\)](#), (1)(c) and (1)(e)(i), and the provisions of § [17-1404](#), shall not apply with respect to contracts the Finance Director certifies in writing are for the purchase of unique articles or articles which for any other reason cannot be obtained in the open market, provided that this exception shall not apply to Professional Services Contracts. All other provisions of this Chapter shall apply to such contracts, except that the disclosures required by § [17-1402\(1\)\(b\)](#) need not be filed until fourteen days after a contract is executed.

(3) The provisions of § [17-1402\(1\)\(a\)](#) and (1)(c) shall not apply to a Non-Competitively Bid Contract if the Finance Director certifies in writing that delay in the award of such contract would cause a material threat to public health or safety. All other provisions of this Chapter shall apply to such contracts, except that the disclosures required by § [17-1402\(1\)\(b\)](#) need not be filed until fourteen days after a contract is executed.

(4) The provisions of § [17-1402\(1\)\(a\)](#), (1)(c) and (1)(g) shall not apply to a Non-Competitively Bid Contract if the City Solicitor certifies in writing that such contract must be awarded immediately to avoid material damage to the legal interests of the City. All other provisions of this Chapter shall apply to such contracts, except that the disclosures required by § [17-1402\(1\)\(b\)](#) need not be filed until fourteen days after a contract is executed.

(5) The provisions of § [17-1402\(1\)\(a\)](#) and (1)(c) shall not apply to Non-Competitively Bid Contracts in an amount less than that set forth in Section [8-200\(2\)](#) of the Home Rule Charter, as such amount is adjusted from time to time, provided that such contracts are awarded only after the contracting agency conducts a competitive process designed to maximize competition without imposing an administrative burden more costly than appropriate given the size of the contract. All other provisions of this Chapter shall apply to such contracts, except that the disclosures required by § [17-1402\(1\)\(b\)](#) need not be filed until fourteen days after a contract is executed.

(6) The provisions of this Chapter shall not apply to a Non-Competitively Bid Contract with a governmental agency or with a not-for-profit corporation established by the City, or to Financial Assistance provided to such agencies or corporations, except that all such contracts and provisions of Financial Assistance shall be included in the reports required by § [17-1403](#).²²

(7) All written certifications required under this Section shall set forth the basis for such certification, and shall be filed with the Department of Records.

(8) The provisions of § [17-1402\(1\)\(a\)](#) and (1)(c) shall not apply to contracts with not-for-profit entities awarded by the Office of Housing and Community Development, the Department of Human Services, the Health Department, the Recreation Department, the Office of Emergency Shelter and Services, the Office of Behavioral Health and Mental Retardation, the Office of Adult

Services, the Mayor's Office of Community Services, the Philadelphia Prisons, the Commission on Disabilities, the Commission on Aging, or the Office of the District Attorney. All other provisions of this Chapter shall apply to such contracts, except that the disclosures required by § [17-1402\(1\)\(b\)](#) need not be filed until fourteen days after a contract is executed.

§ 17-1407. Prohibited Conduct; Penalties; Remedies.

(1) A contract made in violation of § [17-1404](#) shall be voidable at the City's option.

(2) No Applicant shall make a material misstatement or omission in the disclosures required by § [17-1402\(1\)\(b\)](#); and no Contractor shall make a material misstatement or omission in the disclosures required by § [17-1402\(1\)\(e\)](#); and no Person seeking Financial Assistance shall make a material misstatement or omission in the disclosures required by § [17-1404\(3\)\(a\)](#). If an Applicant makes material misstatements or omissions in the disclosures required by § [17-1402\(1\)\(b\)](#), or if a Contractor makes material misstatements or omissions in the disclosures required by § [17-1402\(1\)\(e\)](#), such Applicant or Contractor shall be prohibited from entering into any Non-Competitively Bid Contract for a period of from one to three years, and such act shall be subject to a fine of the Maximum Fine Amount, as defined herein. If a Person seeking Financial Assistance makes material misstatements or omissions in the disclosures required by § [17-1404\(3\)\(a\)](#), such act shall be subject to a fine of the Maximum Fine Amount, as defined herein. For purposes of this subsection (2), the "Maximum Fine Amount" shall be seven hundred dollars (\$700) for violations committed during calendar year 2005; eleven hundred dollars (\$1,100) for violations committed during calendar year 2006; fifteen hundred dollars (\$1,500) for violations committed during calendar year 2007; nineteen hundred dollars (\$1,900) for violations committed during calendar year 2008; and two thousand dollars (\$2,000) for violations committed thereafter.²³

(3) The Finance Director shall provide a process by which a final written determination may be made as to whether an Applicant or Contractor has made a material misstatement or omission and is therefore debarred and subject to an action seeking the imposition of fines under subsection (2), which process shall include written notice to the Applicant or Contractor and an opportunity for the Applicant or Contractor to be heard prior to any final determination. In making such determination, the Finance Director shall not find that an Applicant or Contractor has made a material misstatement or omission in a disclosure required by this Chapter if such disclosure is attested to by a duly authorized agent who has made reasonable inquiry to determine all facts that must be disclosed, who has fully and accurately disclosed all facts revealed by such reasonable inquiry, and who has no actual knowledge of the misstatement or omission. A copy of every such written notice and final written determination shall be filed with the Department of Records. Upon receiving a final written determination, the Department of Records shall publish, in the same manner that notices are published under § [17-1402\(1\)\(a\)](#), a summary of such written determination, including the name of the applicant, the contract for which the applicant had applied, the findings as to material misstatement or omission set forth in the final determination, and the penalties to which the Applicant or Contractor is subject.

§ 17-1408. City-Related Agencies.

(1) Any contract, lease, grant or other agreement ("City agreement") entered into by the City with any City-related Agency shall contain a provision requiring that the City-related Agency abide by the provisions of this Chapter in awarding any contracts pursuant to its City agreement, as though such contracts were directly subject to the provisions of this Chapter, except that the exception set forth in § 17-1406(8) shall apply to such City-related Agency as if such City-related agency were listed in that subsection. Each City agreement shall also include a provision detailing how the City-related Agency is to carry out its duties under this Section, including, but not limited to, specifying who at the City-related Agency is responsible for carrying out duties that this Chapter assigns to City officers and employees.

Added, Bill No. 040772-AA (approved June 9, 2005). Enrolled bill added Chapter 17-1200, which Chapter already existed; Section headings and internal cross-references renumbered by Code editor. Section 2 of Bill No. 040772-AA provides: "Effective Date; Applicability. (a) This Ordinance shall take effect February 1, 2006, but only if the amendment to Section 8-200 of the Philadelphia Home Rule Charter proposed by Resolution No. 050428 is approved by the voters, and only with respect to contracts executed on and after February 1, 2006 for which the City had not issued a request for proposals prior to February 1, 2006. [Editor's note: The Charter was so amended, effective November 28, 2005.] "(b) The provisions of [§ 17-1404] of The Philadelphia Code added by Section 1 of this Ordinance prohibiting the award of non-competitively bid contracts to persons who made certain contributions to candidates and incumbents, shall apply only with respect to contributions made on and after January 1, 2006. However, contributions made prior to January 1, 2006 shall be subject to the disclosure requirements of [§§ 17-1402(1)(b), 17-1402(1)(e)(ii) and 17-1404(3)(a)] of The Philadelphia Code added by Section 1 of this Ordinance. "(c) The provisions of [§ 17-1403(3)] of The Philadelphia Code added by Section 1 of this Ordinance, requiring the filing of a quarterly report concerning certain contracts, shall apply to contracts in existence at the time this Ordinance takes effect." Caption amended, Bill No. 050613 (approved December 15, 2005). Enrolled bill amended Chapter 17-1200; renumbered as amendments to Chapter 17-1400 by Code editor. Section 2 of Bill No. 050613 provides: "Effective Date; Applicability. (a) This Ordinance shall take effect July 1, 2006. "(b) The amendment to [§ 17-1404(1)] of The Philadelphia Code in Section 1 of this Ordinance prohibiting the provision of financial assistance to persons who made certain contributions to candidates and incumbents, shall apply only with respect to contributions made on and after January 1, 2006. However, contributions made prior to January 1, 2006 shall be subject to the disclosure requirements of [§ 17-1404(3)] of The Philadelphia Code added by Section 1 of this Ordinance."

Notes
[64](#)

[65](#)

Added, Bill No. 050613 (approved December 15, 2005). For effective date provisions of Bill No. 050613, see note 64.

[66](#)

Amended, Bill No. 050613 (approved December 15, 2005). For effective date provisions of Bill No. 050613, see note 64.

[67](#)

Amended, Bill No. 050613 (approved December 15, 2005). For effective date provisions of Bill No. 050613, see note 64.

[68](#)

Amended, Bill No. 060854 (approved December 26, 2006). Pursuant to § 17-1404(1)(c)(i), the Director of Finance on December 12, 2007, certified a new contribution limit of \$2,600.

[69](#)

Amended, Bill No. 060854 (approved December 26, 2006). Pursuant to § 17-1404(1)(c)(ii), the Director of Finance on December 12, 2007, certified a new contribution limit of \$10,600.

[70](#)

Added, Bill No. 060854 (approved December 26, 2006). Section 2 of Bill No. 060854 provides: "Section 2. Effective Date Provision. This Ordinance shall take effect immediately. Contributions from an individual's personal resources to the individual's candidate political committee made before the effective date of this Ordinance shall count toward the \$250,000 threshold that triggers the doubling provision of subsection 17-1404(d) of The Philadelphia Code."

[71](#)

Amended, Bill No. 050613 (approved December 15, 2005). For effective date provisions of Bill No. 050613, see note 64.

[72](#) *Amended, Bill No. 050613 (approved December 15, 2005). For effective date provisions of Bill No. 050613, see note 64.*

[73](#) *Amended, Bill No. 050613 (approved December 15, 2005). For effective date provisions of Bill No. 050613, see note 64.*

ST. LOUIS CITY CHARTER

<http://previous.slph.org/cco/charter/index.htm> (St. Louis Public Library)

ARTICLE XV DEPARTMENT OF FINANCE

Section 1 Composition.

The department of finance shall include the office of the comptroller and the assessment, collection, treasury and supply divisions.

Section 2 The comptroller.

The comptroller shall have the qualifications and forfeit his office for the cause provided with regard to the mayor; receive a salary of eight thousand dollars per annum; give bond to the city for not less than three hundred thousand dollars, and appoint one deputy comptroller and such other deputies and employees as may be provided by ordinance. The comptroller shall be the head of the department of finance and exercise a general supervision over its divisions, over all the fiscal affairs of the city and over all its property, assets and claims, and the disposition thereof... He shall see that no contract liability is incurred except for the preservation of the city's credit, or in case of emergency, as hereinbefore provided, without previous authority of law or ordinance....

Section 26 Composition of supply division.

The supply division shall consist of the supply commissioner and such deputies and employees as may be provided by ordinance.

Section 27 Supply commissioner.

The supply commissioner shall be the head of the supply division, receive a salary of five thousand dollars per annum, give bond as required by ordinance, and appoint the deputies and employees in his division.

Section 28 Board of standardization.

The comptroller, supply commissioner and president of the board of public service shall personally or by deputy constitute the board of standardization, whose duty it shall be to classify and standardize all supplies and materials purchased by the city or used for municipal purposes and prepare precise specifications for all supplies to be purchased through the supply division. The board may maintain such laboratories or other methods of testing as may be necessary.

Section 29 How supplies, equipment and materials are leased and purchased.

Supplies, equipment, and materials for all departments, boards or officers, exclusive of material for public work or improvements, shall be purchased or leased only through the Supply Division, according to such standards and specifications, if any, adopted or

prepared by the Board of Standardization, and by advertising for proposals therefore. Bids may be for one or more or all the articles advertised for, but there shall be a specific bid on each article. The award may be made to the lowest bidder for any article or to the lowest bidder for the entire requisition or any part thereof; but the Board of Standardization may reject any or all bids or any part of any bid. The Supply Commissioner may contract for supplies, equipment and material in any amounts or for any periods as may be approved by the Board of Standardization, and subject to the provisions of this Charter. In cases of emergency, to be determined by said board, purchases or leases may be made without advertising. Purchases or leases in amounts not exceeding five thousand dollars (\$5,000.00) under any one contract may be also made, with the written approval of the Comptroller, without advertising, after securing competitive bids, but there shall be no division of requisitions or contracts for the purpose of securing this privilege. The Supply Commissioner shall inspect and receipt for all supplies, equipment and material.

Supplies, equipment or material shall not be ordered or contracted for by the Supply Division unless the Comptroller shall certify that a fund is applicable for payment thereof.

Submission Ordinance 65711

Amendment substance: to increase amount of articles which may be purchased from five hundred dollars to five thousand dollars with written approval of comptroller without advertising after securing competitive bids.

Voter Adoption Date: April 8, 2003.

Section 30 Public printing and publishing.

The supply commissioner shall have general supervision of the public printing and publishing and shall see that it is executed as may be provided by ordinance, letting the contract or contracts to the lowest bidder in conformity with the provisions of this article so far as they may be applicable. Until otherwise provided by ordinance, and except in condemnation proceedings, all newspaper publishing shall be in at least two daily newspapers, one in English and one in the German language. Provisions may be made by ordinance for the city doing its own printing and publishing.

ST. LOUIS CITY REVISED CODE

TITLE 3 ADMINISTRATION

Chapter 3.97

PROFESSIONAL SERVICE CONTRACTS

Sections:

- 3.97.010 Authority to enter into contracts.
- 3.97.020 Committee--Recommendation and approval.
- 3.97.030 Committee--Members--Disclosure.
- 3.97.040 Names and addresses of entities awarded contracts.
- 3.97.050 Selection process for contracts.
- 3.97.060 Violation.
- 3.97.070 Applicability.

3.97.010 Authority to enter into contracts.

Notwithstanding any ordinance to the contrary, the office of the Mayor, the office of the Comptroller, the Board of Aldermen, the director of the St. Louis Development Agency, or of any subdivision thereof, or the director of any department, division, authority or agency of the City of St. Louis or any person acting in the capacity of the director of any department, division, authority or agency of the City of St. Louis is authorized to contract with or otherwise engage individuals, partnerships or corporations for the purpose of providing professional services, including but not limited to services provided by consultants, attorneys and legal advisors, medical personnel, veterinarians, collection agencies, accountants, financial advisors, bond counsel, underwriters and underwriters counsel, which are related to the operation of said office, department, division, authority or agency and which are entered into according to the procedure authorized and set forth in this chapter.

3.97.020 Committee--Recommendation and approval.

Every professional service contract authorized by Section 3.97.010 in excess of five thousand dollars (\$5,000.00) and every professional service contract in which the fee to be paid to the contractor is based upon a contingency agreed to by the parties shall be approved and recommended by a committee consisting of (1) the director of the department, division or agency seeking the contract or the designee of said director, who shall act as chairman of the committee; (2) one member of the staff of said department, division or agency selected by the director; (3) one current employee of the City selected by the Mayor; (4) one current employee of the City selected by the Comptroller; and (5) one current employee of the City selected by the President of the Board of Aldermen. Each member of the committee shall be a voting member.

3.97.030 Committee--Members--Disclosure.

Before voting as a member of the committee each member shall submit to the committee chairman a statement of personal or private interest which shall disclose any ownership by the individual or the individual's spouse, children, children's spouse, parents, siblings or siblings' spouse whether singularly or collectively, directly or indirectly of any business entity under consideration by the committee; or the receipt of a salary, gratuity or other compensation or remuneration during the three years prior to the date of the committee selection meeting by the individual or the individual's spouse, children, children's spouse, parents, siblings or siblings' spouse whether singularly or collectively, directly or indirectly from any business entity under consideration by the committee. All disclosure statements shall be made a part of the record of the committee's selection process which shall be maintained by the department seeking the contract.

3.97.040 Names and addresses of entities awarded contracts.

The committee chairman shall provide to the office of the Collector of Revenue, the office of the License Collector, the Assessor and the office of the Comptroller the name and address of every individual, partnership or corporation awarded a contract under the provisions of this chapter.

3.97.050 Selection process for contracts.

The selection process for any professional service contract under the provisions of this chapter shall be governed by the rules and regulations adopted and promulgated by the Board of Public Service for the selection of professional service providers.

3.97.060 Violation.

Any contract for professional services entered into in violation of this chapter shall be null and void.

3.97.070 Applicability.

The provisions of this chapter shall not apply to the selection of professional services contracts by the Board of Public Service for public works and improvements.

TITLE V. REVENUE AND FINANCE

Chapter 5.56 SUPPLY DIVISION

Sections:

- 5.56.010 Office of supply commissioner created.
- 5.56.020 Commissioner--Qualifications.
- 5.56.030 Commissioner--Bond.
- 5.56.040 Deputy commissioner--Employees.
- 5.56.050 Perpetual supply inventory.
- 5.56.060 Department supply reports.
- 5.56.070 Return lists of property--Contents.
- 5.56.080 Return lists of property--Recording.
- 5.56.090 Monthly requisitions.
- 5.56.100 Disposition of unfit property.

For purchasing supplies, see Chapter 5.58

5.56.010 Office of supply commissioner created.

There is created and established the office of supply commissioner, which shall be conducted by the officer known as the supply commissioner, to be appointed as provided in section 1 of article VIII of the Charter.

5.56.020 Commissioner--Qualifications.

In addition to the qualifications prescribed in Sections 2 and 3 of article VIII of the Charter, the supply commissioner shall have been a resident of this city for at least three years next preceding his appointment.

5.56.030 Commissioner--Bond.

The supply commissioner shall give a bond of twenty thousand dollars with not less than three good sureties, who shall be holders of unencumbered real estate within the city, or a responsible bonding company as surety, the bond to be approved by the comptroller. The condition of the bond shall be:

- A. That the commissioner shall honestly and faithfully execute and perform the duties of his office as prescribed by law and ordinances;
- B. That he will not, directly or indirectly, be in any manner interested in the sale of any article to the city; and
- C. That he will not, directly or indirectly, receive any bribe, gift or consideration of any kind from any person who has been, is now, or is likely to be engaged through the department in furnishing any supplies or selling any article to the city or from any such persons.

5.56.040 Deputy commissioner--Employees.

The supply commissioner shall appoint a deputy. In the absence of the supply commissioner, the deputy shall perform his duties. The supply commissioner may also appoint clerks, bookkeepers and other assistants as necessary to perform the duties of his office. All appointments authorized by this section shall be made in accordance with the Charter and the ordinances of the city.

5.56.050 Perpetual supply inventory.

It shall be the duty of the supply commissioner to maintain a perpetual inventory of supplies on hand in the various departments, boards and offices of the city.

5.56.060 Department supply reports.

It shall be the duty of the head of every department, board and office under the city government to cause to be made to the supply commissioner on forms to be provided by him, a weekly report of all supplies received and of all supplies issued or disposed of in each division, section, office, institution or other station under the jurisdiction of the officer whose duty it is to cause such report to be made.

5.56.070 Return lists of property--Contents.

On the first Mondays of April and October of each year the several elected and appointive officers, clerks, employees and all persons holding office in the corporation of the city, shall make a full and accurate return list of all property of whatever kind or nature in their office, or that may come into their possession, during their term of office, or that comes to them in any way after they have become qualified, and taken charge of their office. The return list shall embrace, in tabular form, the name, number, kind of article, for what purpose used, condition and full description and general remarks attached to each entry in order to render full satisfaction as regards the same. The return list shall embrace, in tabular form, the name, number, kind of article, for what purpose used, condition and full description and general remarks attached to each entry in order to render full satisfaction as regards the same. The return list shall embrace a statement of all condemned, surplus or refuse property that may have been had or reported during the preceding year in the department or office, and the disposition made thereof.

5.56.080 Return lists of property--Recording.

The return list when fully completed shall be returned to the office of the comptroller, whose duty it shall be to provide a book of proper size, regularly printed, ruled, indexed, paged, numbered, indorsed as "public property, record number--and year," in which shall be entered and written in a legible hand the contents of each and every list so returned, giving the name of the officer and his official position, the date and year the return was made, and such other facts connected with the same as necessary and of importance.

5.56.090 Monthly requisitions.

All officers requiring supplies shall, on or before the first of each month, make an estimate of what articles are required for use in their department for the coming month, and shall make but one requisition per month for any one article needed.

5.56.100 Disposition of unfit property.

Every officer before making requisition for any article needed, shall carefully examine all the articles he may have under his charge, and if the articles such as tools, furniture, etc., are unfit for service, they shall be turned over to the Comptroller on receipt of the new articles.

Chapter 5.58
SUPPLY PURCHASE PROCEDURES

Sections:

- 5.58.010 Supply division to purchase all supplies--Exceptions.
- 5.58.015 Cooperative or joint purchasing programs--Supply Commissioner authorization.
- 5.58.020 Advertisement--Deposits by bidders.
- 5.58.030 Proposal blanks.
- 5.58.040 Opening bids.
- 5.58.050 Contract approval--Purchases without advertising--Unsuccessful bidder's check return.
- 5.58.060 Successful bidder certified check.
- 5.58.070 Warrant.
- 5.58.080 Failure to fulfill contract.
- 5.58.090 Advertisements for food, drugs and fuel.
- 5.58.100 Perishable articles.
- 5.58.110 Requisition for supplies not contracted.
- 5.58.120 Purchase of fire engines and other apparatus.
- 5.58.130 Purchase of vehicles.
- 5.58.140 Examination of articles--Memorandum.
- 5.58.150 Approval of purchases.
- 5.58.160 Bonds for performance of contracts--Delivery--Packaging.
- 5.58.170 Declining bids.

5.58.010 Supply division to purchase all supplies--Exceptions.

A. The supply division shall purchase all supplies for all departments, boards or offices, exclusive of material for public work or improvements, according to standards and specifications, if any, adopted or prepared by the Board of Standardization and by advertising for proposals therefor.

B. Each solicitation to bid and the method of describing the items to be bid upon of any goods or commodities sought to be purchased by the Office of Supply Commissioner, and any contract entered into by and on behalf of the City and executed by the Mayor and/or the Comptroller of the City wherein the construction, alteration, repair or maintenance of any public works is the subject of the contract so executed, shall contain a provision that the goods or commodities furnished or used in the furtherance of said project by any contractor or subcontractor, manufacturer or supplier as the case may be, shall be manufactured, assembled or produced in the United States, and said requirement as defined above shall be stated in said bid.

C. The provision of Section 5.58.010 shall not apply in the following instances:

1. Where the item purchased as the contract entered into for repairs or renovation is less than one thousand dollars (\$1,000.00);
2. Where a particular good or product is not manufactured, assembled or produced in the United States;
3. Where the acquisition of United States manufactured or produced goods would increase the cost by more than ten percent (10%).

D. The certificate required by this section shall specify the nature of the contract, the product being purchased or leased, the names and addresses of the United States manufacturers and producers contacted by the Commissioner or the project architect or engineer, and an indication that such manufacturers or producers could not supply sufficient quantities or that the price of the products would increase the cost of the contract by more than ten percent (10%).

E. No public agency may authorize, provide for, or make any payment to any vendor or contractor upon any contract in violation of subsection B of this section. Prior to the awarding of the bid and before any public agency authorizes, provides, or makes payment to any vendor or contractor upon any contract to which subsection B or G of this section applies, the vendor or contractor shall provide proof of compliance with subsection B of this section, and, if applicable, subsection G of this section. Any vendor or contractor who knowingly misrepresents any material fact to the public agency concerning the origin of any manufactured goods or commodities shall be guilty of a Class A misdemeanor.

F. Subsections B through G of this section shall apply only to contracts and subcontracts entered into after the effective date of this act [July 20, 1990] and shall not limit the use or supply of manufactured goods or commodities purchased or leased prior to the effective date of this act [July 20, 1990].

G. Nothing in subsections B through this subsection of this section is intended to contravene any existing treaty, law, agreement, or regulation of the United States.

All contracts under subsections B through this subsection shall be entered into in accordance with existing treaty, law, agreement, or regulation of the United States including all treaties entered into between foreign countries and the United States regarding export-import restrictions and international trade and shall not be in violation of subsections B through this subsection of this section.

5.58.015 Cooperative or joint purchasing programs--Supply Commissioner authorization.

A. Subject to the applicable provisions of the Charter of the City of St. Louis, the Supply Commissioner, on behalf of the City of St. Louis, is hereby authorized to participate in cooperative or joint purchasing programs of other governmental entities, including, but not limited to, the state of Missouri Cooperative Procurement Program and the federal General Services Administration supply schedules authorized by the Electronic Government Act of 2002, for the purchase of supplies under and in accordance with purchase agreements established by other governmental entities, and to enter into cooperative purchase memberships and cooperative purchase agreements with other governmental entities as may be required for such purchasing.

B. Notwithstanding the provisions of any other ordinance, the Supply Commissioner, with the approval of the Board of Standardization and subject to the provisions of subsection C of this section, is authorized to participate in the joint or cooperative purchasing programs of other governmental entities, including, but not limited to, the state of Missouri Cooperative Procurement Program and the federal General Services Administration supply schedules authorized by the Electronic Government Act of 2002, as follows:

1. To utilize purchase agreements established by other governmental entities under their joint or cooperative purchase programs as separate bids for the purchases of specific items in bidding processes conducted by the Supply Commissioner; and
2. To purchase City supplies directly from purchase agreements established by other governmental entities under their joint or cooperative purchasing programs for which advertising and bidding has been conducted through such governmental entities.

Bid deposits and separate purchase contracts shall not be required for supply purchases by the Supply Commissioner under joint or cooperative programs of other governmental entities as authorized herein.

C. The Supply Commissioner is authorized to utilize purchase agreements established by other governmental entities under cooperative or joint purchasing programs as authorized by this section only if the following requirements are met:

1. The purchase agreement was established in accordance with the bidding and advertising requirements of the Charter of the City of St. Louis;
2. The purchase agreement was established in accordance with the laws and regulations applicable to the establishing governmental entity; and
3. The purchase agreement provides for the lowest and best price.

D. Nothing contained herein shall require the Supply Commissioner or the Board of Standardization to participate in any joint or cooperative purchasing program of another governmental entity or to utilize any cooperative agreement to purchase supplies. The Supply Commissioner is authorized to reject any and all bids received through the participation in any cooperative or joint purchase program.

5.58.020 Advertisement--Deposits by bidders.

Advertisements for proposals shall state fully the quantity and quality of all articles needed, the time and place fixed for opening proposals and the Supply Commissioner may, by the advertisement, require every bidder to deposit with the Supply Commissioner a check certified to by some bank or trust company in the City, payable to the order of the Treasurer of the City, for an amount of money the Supply Commissioner deems sufficient to secure the proper execution of the contract or contract and bond for furnishing supplies for which proposals are solicited, or to secure the furnishing of supplies not under formal contract and in a manner satisfactory to the Supply Commissioner.

5.58.030 Proposal blanks.

The Supply Commissioner shall furnish to each bidder a printed blank for his proposal, whereon the bidder shall state the quantity, quality and price of the article to be furnished. In specifying the quantity and quality thereof he shall recite the requirements of the advertisement, and any bidder may make his proposal for any one article named in the advertisement. Bids shall be sealed.

5.58.040 Opening of bids.

Proposals shall be opened at the time and place fixed by the advertisement, in the presence of such bidders as desire to be present, and shall be open to the inspection of bidders. The bids shall not be materially modified or amended as to price, specification or otherwise, nor substitutions placed thereon, after opening. Modification, supplementation or amendment shall cause rejection of the bid. Bids may be for one or more or all the articles advertised for, but there shall be a specific bid on each article. The award may be made to the lowest bidder for any article, or

to the lowest bidder for the entire requisition or any part thereof, but the Board of Standardization may reject any or all bids or any part of any bid.

5.58.050 Contract approval--Purchases without advertising--Unsuccessful bidder's check return.

Whenever a formally executed contract for the furnishing of supplies shall be required by law, the contract shall be approved by the Board of Standardization before it shall become binding upon the City. The Supply Commissioner may, subject to the provisions of the Charter, contract for supplies in any amounts or for any periods as may be approved by the Board of Standardization. In cases of emergency, to be determined by the Board of Standardization, purchases may be made without advertising. When the contract or the contract and bond for furnishing the supplies for which the proposals were solicited shall have been fully executed according to law, or when the furnishing of supplies shall have been awarded, the Supply Commissioner shall return to every unsuccessful bidder the check by him deposited as hereinbefore provided.

5.58.060 Successful bidder certified check.

The Supply Commissioner shall, upon awarding the contract for furnishing supplies, or the furnishing of supplies not under formal contract, deliver the certified check deposited by the successful bidder to whom the contract for furnishing shall have been awarded, to the City Treasurer, who shall receive and credit the amount so deposited to the account of "contracts and other deposits fund," and shall issue duplicate receipts therefor, specifying the date, amount of money received and from whom, upon account of what proposal; and the authority of this chapter. One receipt shall be delivered to the Comptroller, and one to the Supply Commissioner, each conditioned that if the bidder shall fully execute according to law the contract or the contract and bond requisite for the furnishing of the supplies awarded to him, or when supplies are to be furnished not under formal contract shall furnish the supplies and in a manner satisfactory to the Supply Commissioner, then the Treasurer shall repay to the successful bidder or his order the amount deposited on the surrender to the Treasurer of the warrant required in this chapter to be issued to every successful bidder.

5.58.070 Warrant.

When the contract or the contract and bond requisite for furnishing supplies shall have been fully executed according to law, or when supplies to be furnished not under formal contract shall have been furnished and to the satisfaction of the Supply Commissioner, the Supply Commissioner shall issue to every successful bidder who shall have made the required deposit, an order directing the Comptroller to deliver to the party named in the Supply Commissioner's receipt a warrant directing the Treasurer to pay to such party the amount stated in the receipt.

The Comptroller, upon surrender to him of the Supply Commissioner's order, shall draw a warrant directing the City Treasurer to pay to the order of the party named in the Supply Commissioner's order the amount therein stated. The City Treasurer shall, upon the surrender of the warrant, pay to the order of the successful bidder the amount therein stated.

5.58.080 Failure to fulfill contract.

If a bidder shall have been awarded a contract for furnishing supplies, but shall fail to execute the contract or the contract and bond according to law, the Treasurer shall, upon notification from the supply commissioner to that effect, retain the amount deposited by the bidder. Or, if a bidder shall have been awarded the furnishing of supplies not under formal contract, but shall fail to fully furnish the same according to the terms of the proposal and bid and to the satisfaction of the Supply Commissioner, the Treasurer shall, upon notification from the Supply Commissioner to that effect, retain the amount deposited by such bidder, and the amount so retained shall be recovered into the general fund of the Treasurer.

5.58.090 Advertisements for food, drugs and fuel.

When the Board of Standardization deems it necessary and proper and to the best interest of the City, the Supply Commissioner shall advertise for proposals and enter into contracts on the part of the City for furnishing, for a period not to exceed one year, all fuel, milk, ice, meat, butter, lard, fish, eggs, poultry, bread, gasoline, flour, corn meal, hay, corn, oats, ground feed, and all groceries and drugs not otherwise contracted for as may be needed for the use of all City offices and all other departments of the City, the articles to be delivered as required, from time to time, at the different institutions and departments of the City, and he shall require a good and sufficient bond for the faithful performance of such contracts, which shall be approved by the Comptroller.

5.58.100 Perishable articles.

All perishable articles, such as fruit and vegetables, that may be required for the use of the hospitals, infirmary and workhouse shall be purchased by the Supply Commissioner, at the best possible rates, on the requisition signed by the proper officer in charge of the named City departments. All such purchases shall be approved by the Comptroller before they shall be binding on the City.

5.58.110 Requisition for supplies not contracted.

Whenever any institution or department of the City, through the officer in charge thereof, shall make a requisition on the Supply Commissioner for any articles for which there shall be no contract as provided for in Section 5.58.090 and when the amount to be purchased shall exceed the sum of seven thousand dollars for any one article, and when the delivery of same is not to be continuous, the Supply

Commissioner shall advertise for proposals for the furnishing of such articles, and the award on such proposals shall be approved by the Comptroller, the same as is provided for in Section 5.58.150; provided that when any article shall be purchased by the Commissioner as provided for above, and the delivery of the same is to be completed after thirty days, he shall enter into contract for same as is provided for in Section 5.58.160.

5.58.120 Purchase of fire engines and other apparatus.

The Supply Commissioner shall purchase the engines and other apparatus for the suppression or extinguishment of fire and the protection of life and property that may be needed by the Fire Department, when the purchase of such articles is recommended by the Chief of Fire Department and approved by the Mayor; provided, however, the Board of Aldermen shall have by ordinance provided for and appropriated the funds to meet such purchase.

5.58.130 Purchase of vehicles.

The Supply Commissioner shall purchase all motor and other vehicles, horses, mules, wagons, carts and ambulances that may be needed for the several institutions or departments of the City; provided, that before making the purchases, the requisitions for same shall be signed by the officer in charge of the Department where the articles are needed and approved by the Mayor.

5.58.140 Examination of articles--Memorandum.

It shall be the duty of the Supply Commissioner to examine personally the articles that have been purchased by him, and delivered to the several institutions or departments of the City, and to ascertain if the articles are of the standard kind and quality as required by the terms of sale. If he shall find inferior articles have been delivered, he shall at once reject all such articles and shall not certify the bill for the same for payment, and report all the facts to the Mayor.

It shall be the duty of the Supply Commissioner whenever supplies of any sort are furnished to any institution or department of the City government, to send with the supplies a memorandum, stating the quantity, quality, weight or measure and price of each article sent, which memorandum shall be returned to the Supply Commissioner with the indorsement thereon of the Superintendent or other person in charge of the department or institution as to its correctness, except in respect to the price thereof. The Supply Commissioner shall keep all such memorandums or receipts as vouchers for any payment he may make either for goods purchased in the open market or under advertisement.

5.58.150 Approval of purchases.

It shall be the duty of the Supply Commissioner to approve, if correct, all purchases for supplies furnished the City, whether purchased under any contract with the City or otherwise. If a purchase is made under any contract, the Supply Commissioner shall state on the bill of purchase the date of the contract and the date of the approval by the mayor. If the purchase is not made under any contract, it shall be approved by the Comptroller, and a certified copy of the requisition for the articles mentioned in such bill shall be attached to the same. The Comptroller shall not audit and allow any bills for supplies unless the foregoing provisions are complied with.

5.58.160 Bonds for performance of contracts--Delivery--Packaging.

The Supply Commissioner shall require all parties contracting through his department to give good and sufficient bond for the faithful performance of the contracts, to be approved by the Mayor. All contracts shall contain a clause that the articles to be furnished are to be delivered to the various City institutions or departments free of charge for transportation, and that the City shall allow no charge for packages.

5.58.170 Declining bids.

When the Supply Commissioner finds any party engaged in selling or delivering any article to the City who has failed or refuses to comply with the terms of his contract or agreement, or when a party fails to make restitution to the City for any loss the City has met by failure or neglect on his part to comply with the terms of his agreement, then the Supply Commissioner, with the consent and approval of the Mayor, shall decline to receive any further bids from such party for any articles to be furnished to the City.

APPENDIX C. SAMPLE QUESTIONNAIRE

Baltimore Procurement Study *Questionnaire for Cities/ Counties*

Dear sir/ ma'am,

We are currently conducting research for the Baltimore Economic Efficiency Foundation (BEEF) to understand how local procurement processes operate and can be changed. This study will cover selected counties in Maryland and selected cities across the country. We would greatly appreciate it if you could provide the information requested in the following questionnaire and fax it to the attention of Shreya Pillai at 410.516.8233 or email it to shreyapillai@gmail.com

Regards
Shreya Pillai
Research assistant to Marsha Schachtel, Senior Fellow
Institute for Policy Studies
Johns Hopkins University

Procurement Process

1. What types of procurement processes do you utilize for acquisition of non-construction goods and services? (please circle response)
- | | | |
|--|-------|-------------------|
| a. Informal bids/RFQ | Y / N | |
| Number of quotes required? _____ | | |
| <u>Mechanisms:</u> | | <u>\$ Limits:</u> |
| i. Telephone quotes? | Y / N | \$ _____ |
| ii. Written quotes? | Y / N | \$ _____ |
| iii. Fax quotes? | Y / N | \$ _____ |
| iv. Electronic communication quotes? | Y / N | \$ _____ |
| v. Electronic responses to online bid-boards and RFQs? | Y / N | \$ _____ |
| b. Direct Purchase Orders | Y / N | |
| c. Procurement cards (p-cards) | Y / N | |
| d. Requirements/term/blanket purchase contracts | Y / N | |
| e. Sole source | Y / N | |
| Under what circumstances? | | |
| f. Selected source | Y / N | |
| Under what circumstances? | | |
| g. Emergency procurements | Y / N | |
| Under what circumstances? | | |
| h. Request for proposals | Y / N | |
| Under what circumstances? | | |
| i. Formal bids | Y / N | |
| j. Other (please indicate) _____ | | |

2. What are the procurement \$ thresholds/authority levels for various types of procurements?

a. Formal competitive bids required for purchases valued at \$ _____ or more

b. Informal procurements:

i. Upper limit on p-card purchases by:

1. Agency employees \$ _____ (per vendor per year? Y / N)
2. Purchasing agency buyers \$ _____
3. Purchasing director \$ _____

ii. Upper limit on direct purchase order purchases by:

1. Agency employees \$ _____ (per vendor per year? Y / N)
2. Purchasing agency buyers \$ _____
3. Purchasing director \$ _____

iii. Upper limit on purchases under requirements contracts by:

1. Agency employees \$ _____
2. Purchasing agency buyers \$ _____
3. Purchasing director \$ _____

iv. Upper limit on other (*specify type*) _____ informal purchases by:

1. Agency employees \$ _____ (per vendor per year? Y / N)
2. Purchasing agency buyers \$ _____
3. Purchasing director \$ _____

c. Any different rules/limits applied to acquisition of professional services? Y / N

Please describe: _____

d. Other (*please indicate*) _____

Procurement Authority Levels

What body(ies) must approve purchases:

a. <\$1000 __Agency __Purch/FIN¹ __Exec² __Bd of Est __Council __Other:

b. \$1000-\$4999 __Agency __Purch/FIN __Exec __Bd of Est __Council __Other:

c. \$5000-\$15,000 __Agency __Purch/FIN __Exec __Bd of Est __Council __Other:

¹ Purchasing Bureau/Finance or Budget Department

² Mayor, County Executive, County Commissioners, City or County Manager (WHICH? _____)

d. \$15,000-\$25,000³ __Agency __Purch/FIN __Exec __Bd of Est __Council __Other:

e. >\$25,000 __Agency __Purch/FIN __Exec __Bd of Est __Council __Other:

Procurement Procedure Changes

1. How are procurement thresholds changed in your city/ county? *PLEASE NOTE WHICH THRESHOLD.*

- a. Amendments to the city/county charter? Y / N
If yes, City/county council ordinance required? Y / N
If yes, Referendum required? Y / N
- b. City/ county ordinance Y / N
- c. Executive order by mayor, county executive, or county manager? Y / N
- d. Other – please explain Y / N

2. Have you made any changes to your procurement process in the last decade? If so, please explain what change was made and how it was made.

Other explanatory information that would help us understand the procurement process in your jurisdiction

Information provided by

Name: _____

Title: _____

Agency: _____

Email address: _____

Telephone #: _____

Fax #: _____

PLEASE FAX THE COMPLETED FORM TO: OR EMAIL THE COMPLETED FORM TO:

³ Or other upper limit (note amount, please) \$_____

ATTN: Shreya Pillai
Johns Hopkins Institute for Policy Studies
(410) 516-8233

shreyapillai@gmail.com

If you have questions about the form, please email Shreya Pillai at shreyapillai@gmail.com.