

Synopsis: This Ordinance, if adopted, would establish a procurement policy concerning the use of Federal Funds in accordance with the Federal, State, and local laws, rules, and regulations.

ORDINANCE 3-C-23

AN ORDINANCE ESTABLISHING A PURCHASING POLICY

WHEREAS, the City of Huntington, Indiana ("City") from time to time accepts funding from various sources, including the Federal Government; and

WHEREAS, certain entities, including the City, that accept funding from the Federal Government must adopt a purchasing policy regarding the procurement of goods, materials, and services in accordance with Title 2, Part 200 of the Code of Federal Regulations; and

WHEREAS, the City desires to adopt a purchasing and procurement policy in accordance with the Code of Federal Regulations to govern the City's procurement of goods, materials, and services; and

WHEREAS, the Common Council of the City of Huntington, Indiana ("Council") finds that it is in City's best interest to establish a purchasing policy to comply with Federal regulations and to promote economic efficiency and continuity in purchasing; and

NOW, THEREFORE, BE IT ORDAINED by the Common Council of the City of Huntington, Indiana as follows:

1. For purchasing with no Federal involvement, the City will follow State law outlined in Indiana Code 5-22 *et seq.*, as well as any other applicable State and local provisions.
2. For purchasing involving Federal funds or Federal oversight, the following procedure shall be followed:
 - a. The City will maintain records sufficient to detail the history of procurement. These records will include, but are not necessarily limited to, the following:
 - i. Rationale for the method of procurement
 - ii. Selection of contract type
 - iii. Contractor selection or rejection, and
 - iv. The basis for the contract price
 - b. **Informal procurement methods.** When the value of the procurement for property or services under a federal award does not exceed the simplified acquisition threshold (SAT), as defined by Federal law, formal procurement methods are not required. The City may use informal procurement methods to expedite the completion of its transactions and minimize the associated

administrative burden and cost. The informal methods used for procurement of property or services at or below the SAT include:

i. Micro-purchases

1. **Distribution.** The acquisition of supplies or services, the aggregate dollar amount of which does not exceed the micro-purchase threshold established by Federal law. To the maximum extent practicable, the City should distribute micro-purchases equitably among qualified suppliers.
2. **Micro-purchase awards.** Micro-purchases may be awarded without soliciting competitive price or rate quotations if the City considers the price to be reasonable based on research, experience, purchase history or other information and documents it files accordingly.
3. **Micro-purchase thresholds.** The City adopts the Federally determined threshold for micro purchases, reserving the right to increase the threshold based on an evaluation of risk.
4. If the City decides on a threshold above the Federal standard, the City must include any of the following:
 - a. a qualification as a low-risk auditee, in accordance with the Federally set criteria for the most recent audit;
 - b. an annual internal institutional risk assessment to identify, mitigate, and manage financial risks; or,
 - c. for public institutions, a higher threshold consistent with state law.
5. If the City increases the micro-purchase threshold over \$50,000, it must be approved by the cognizant agency for indirect costs. The City must submit a request with all Federal requirements. The increased threshold is valid until there is a change in status in which the justification was approved.

ii. Small purchases

1. **Small purchase procedures.** The acquisition of property or services, the aggregate dollar amount of which is higher than the micro-purchase threshold but does not exceed the simplified acquisition threshold. Price or rate quotations must be obtained from

an adequate number of qualified sources as determined appropriate by the City Council.

2. **Simplified acquisition thresholds.** The City adopts the Federal simplified acquisition threshold.

iii. **Formal procurement methods.** When the value of the procurement for property or services under a federal financial assistance award exceeds the SAT, formal procurement methods are required. Formal procurement methods require following documented procedures. Formal procurement methods also require public advertising unless a non-competitive procurement can be used in accordance with Federal law. The following formal methods of procurement are used for procurement of property or services above the simplified acquisition threshold or a value below the simplified acquisition threshold:

1. **Sealed bids.** Bids shall be publicly solicited and a firm fixed-price contract (lump sum or unit price) is awarded to the responsible bidder whose bid, conforming with all the material terms and conditions of the invitation for bids, is the lowest in price.

2. **Sealed bids applicability.** Sealed bids will be used when the following conditions are present:

- a. A complete, adequate, and realistic specification or purchase description;
- b. Two or more responsible bidders are willing and able to compete effectively for the business; and
- c. A firm fixed price contract and the selection of the successful bidder can be made principally on the basis of price.

3. If sealed bids are used, the following requirements apply:

- a. Bids must be solicited from an adequate number of qualified sources, providing them sufficient response time prior to the date set for opening the bids, for local, and tribal governments, the invitation for bids must be publicly advertised;
- b. The invitation for bids, which will include any specifications and pertinent attachments, must define the items or services in order for the bidder to properly respond;

- c. All bids will be opened at the time and place prescribed in the invitation for bids, and for local and tribal governments, the bids must be opened publicly;
- d. A firm fixed price contract award will be made in writing to the lowest responsive and responsible bidder. Where specified in bidding documents, factors such as discounts, transportation cost, and life cycle costs must be considered in determining which bid is lowest. Payment discounts will only be used to determine the low bid when prior experience indicates that such discounts are usually taken advantage of; and
- e. Any or all bids may be rejected if there is a sound documented reason.

4. **Proposals.** A procurement method in which either a fixed price or cost reimbursement type contract is awarded. Proposals are generally used when conditions are not appropriate for the use of sealed bids. They are awarded in accordance with the following requirements:

- a. Requests for proposals must be publicized and identify all evaluation factors and their relative importance. Proposals must be solicited from an adequate number of qualified offerors. Any response to publicized requests for proposals must be considered to the maximum extent practical;
- b. The City will hire experts to provide technical evaluations of the proposals received and advice making selections;
- c. Contracts must be awarded to the responsible offeror whose proposal is most advantageous to the City, with price and other factors considered; and
- d. The City may use competitive proposal procedures for qualifications-based procurement of architectural/engineering.

(A/E) professional services whereby offeror's qualifications are evaluated and the most qualified offeror is selected, subject to negotiation of fair and reasonable compensation. The method, where price is not used as a selection factor, can only be used in procurement of A/E professional services. It cannot

be used to purchase other types of services through A/E firms that are a potential source to perform the proposed effort.

iv. **Noncompetitive procurement.** There are specific circumstances in which noncompetitive procurement can be used. Noncompetitive procurement can only be awarded if one or more of the following circumstances apply:

1. The acquisition of property or services, the aggregate dollar amount of which does not exceed the micro-purchase threshold;
 2. The item is available only from a single source;
 3. The public exigency or emergency for the requirement will not permit a delay resulting from publicizing a competitive solicitation;
 4. The federal awarding agency or pass-through entity expressly authorizes a noncompetitive procurement in response to a written request from the City; or
 5. After solicitation of a number of sources, competition is determined inadequate.
- c. The City shall conduct procurements in a manner that prohibits the use of statutorily or administratively imposed state, local, or tribal geographical preferences in the evaluation of bids or proposals, except in those cases where applicable Federal statutes expressly mandate or encourage geographic preference.
- d. When contracting for architectural and engineering (A/E) services, geographic location may be a selection criterion provided its application leaves an appropriate number of qualified firms, given the nature and size of the project, to compete for the contract.
- e. The City will follow procedures outlined in CFR 180.300, particularly that it will verify that the person with whom the City intends to do business is not excluded or disqualified, by checking (a) SAM Exclusions; or (b) Collecting a certification from that person; or (c) Adding a clause or condition to the covered transaction with that person.

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A motion to consider for final adoption on the same day of introduction was [NOT OFFERED or NOT SUSTAINED or SUSTAINED] by a vote of 7 in favor and 0 in opposition.

Duly adopted on first reading this 31 day of January, 2023, by a vote of 7 in favor and 0 in opposition.

Duly adopted on final reading this 31 day of January, 2023, by a vote of 7 in favor and 0 in opposition.

CITY OF HUNTINGTON, INDIANA by its COMMON COUNCIL

Voting in Favor:

Charles Chapman

Charles Chapman
(President)

Joe Blomeke

Joe Blomeke

P J Felton

P J Felton

Dave Funk

Dave Funk

Todd Johnson

Todd Johnson

Seth Marshall

Seth Marshall

Paul Pike

Paul Pike

Voting in Opposition:

Attest:

Christi A. McElhaney

Christi A. McElhaney, Clerk-Treasurer

Presented by me to the Mayor for approval or veto, this 31 day of January, 2023.

Christi A. McElhaney

Christi A. McElhaney, Clerk-Treasurer

This ordinance having been adopted by the Common Council and presented to me is [APPROVED or VETOED], this 31 day of January, 2023.

Richard Strick

Richard Strick, Mayor