

ORDINANCE NO. 13-775

AN ORDINANCE OF THE MAYOR AND COMMON COUNCIL OF THE TOWN OF CHINO VALLEY, ARIZONA, AMENDING THE TOWN OF CHINO VALLEY, ARIZONA CODE OF ORDINANCES, TITLE III ADMINISTRATION, PROCUREMENT POLICY BY AMENDING THE FOLLOWING SECTIONS: 32.01 SCOPE, 32.02 DEFINITIONS, 32.03 COUNCIL APPROVAL; WHEN REQUIRED, 32.04 EMERGENCY PURCHASES; PROCEDURE, 32.05 PURCHASES IN GENERAL; BIDS, 32.06 LOWEST RESPONSIBLE BIDDER, 32.08 EXCEPTIONS, 32.09 PROFESSIONAL AND TECHNICAL SERVICES, AND 32.10 FORMS AND RULES, AND ADDING NEW SECTION 32.11 WAIVER BY TOWN COUNCIL ALL RELATED TO RAISING THE MINIMUM AMOUNT REQUIRED FOR OBTAINING BIDS FOR TOWN PURCHASES AND SERVICES AND REVISING AND CLARIFYING THE TOWN'S PROCUREMENT CODE; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; AND PROVIDING PENALTIES

BE IT ORDAINED by the Common Council of the Town of Chino Valley, Arizona, as follows:

Section 1. In General.

The Town of Chino Valley, Arizona, Code of Ordinances, Title III Administration, Chapter 32 Finance and Revenue, Procurement Policy is hereby amended by amending §§ 32.01 Scope, 32.02 Definitions, 32.03 Council Approval; When Required, 32.04 Emergency Purchases; Procedure, 32.05 Purchases in General; Bids, 32.06 Lowest Responsible Bidder, 32.08 Exceptions, 32.09 Professional and Technical Services, and 32.10 Forms and Rules to read as follows (additions shown in ALL CAPS; deletions shown in ~~strikeout~~):

PROCUREMENT POLICY AND PROCEDURES

§ 32.01 Scope.

This subchapter shall govern the purchase of ~~all~~ANY goods ~~or~~AND services for or on behalf of the town. NO PURCHASE OR CONTRACT FOR SUPPLIES OR SERVICES OF ANY KIND OR DESCRIPTION, PAYMENT FOR WHICH IS TO BE MADE FROM FUNDS OF THE TOWN, SHALL BE MADE BY THE PURCHASING AGENT, OR ANY OFFICER, EMPLOYEE OR AGENT OF THE TOWN, EXCEPT IN THE MANNER SET FORTH IN THIS SUBCHAPTER, AND UNLESS THE PURCHASE IS IN ACCORDANCE WITH THE ADOPTED TOWN BUDGET.

§ 32.02 Definitions.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

BID. TO OFFER GOODS OR SERVICES TO THE TOWN IN RESPONSE TO AN ORAL OR WRITTEN REQUEST FOR BIDS OR A FORMAL INVITATION FOR BIDS.

* * *

COOPERATIVE PURCHASE CONTRACT. A CONTRACT PREVIOUSLY BID THROUGH A COMPETITIVE PROCESS BY ANOTHER GOVERNMENTAL ENTITY, INCLUDING PURCHASES FROM THE STATE BID LIST OR FROM A PURCHASING COOPERATIVE.

EMERGENCY PURCHASE. PROCUREMENT WHEN GOODS OR SERVICES ARE NEEDED FOR A SITUATION WHERE TIME IS OF THE ESSENCE TO PROVIDE FOR THE HEALTH, SAFETY OR WELFARE OF THE PUBLIC.

* * *

IN HOUSE CONSTRUCTION PROJECT. A CAPITAL PROJECT, AS DEFINED IN THE CURRENT BUDGET, THAT IS CONSTRUCTED USING PRIMARILY REGULARLY EMPLOYED TOWN PERSONNEL OR VOLUNTEER LABOR, PURSUANT TO A.R.S. § 34-201, AS AMENDED.

INVITATION FOR BID (IFB). ALL DOCUMENTS, INCLUDING THOSE ATTACHED OR INCORPORATED BY REFERENCE, USED FOR SOLICITING BIDS WHERE PRICE IS THE SOLE DETERMINING FACTOR.

* * *

PROPOSAL. AN OFFER TO SELL GOODS OR SERVICES OR A COMBINATION OF GOODS AND SERVICES TO THE TOWN IN RESPONSE TO A REQUEST FOR PROPOSALS.

REQUEST FOR PROPOSALS (RFP). ALL DOCUMENTS, INCLUDING THOSE ATTACHED OR INCORPORATED BY REFERENCE, USED FOR SOLICITING PROPOSALS.

RESPONSIBLE BIDDER OR PROPOSER. A BIDDER OR PROPOSER WHO HAS THE CAPABILITY TO FULLY PERFORM THE CONTRACT REQUIREMENTS AND THE RELIABILITY WHICH WILL ASSURE PERFORMANCE OF THE CONTRACT.

* * *

TOWN MANAGER. THE MANAGER OF THE TOWN OF CHINO VALLEY OR HIS DESIGNEE.

§ 32.03 Council Approval; When Required.

~~No purchase shall be made by or on behalf of the town without first obtaining Council approval~~ SHALL BE OBTAINED PRIOR TO MAKING A PURCHASE in the following instances:

(A) Where the funds for the purchase are not provided in the budget as adopted; ~~and~~

(B) For the expenditure of funds in the amount of ~~\$20,000~~25,000 or more, unless the project has been determined to be constructed as an in house project;

(C) FOR AN EXPENDITURE OF FUNDS IN THE AMOUNT OF \$50,000 OR MORE, WHERE THE COUNCIL HAS DETERMINED THAT A CAPITAL PROJECT SHALL BE CONSTRUCTED AS AN IN HOUSE CONSTRUCTION PROJECT.

§ 32.04 Emergency Purchases: Procedure.

In case of an emergency which requires immediate purchases of supplies or services and when time is of the essence, a special ~~emergency~~ meeting of the council shall be called ~~for~~ IF possible FOR APPROVAL OF AN EMERGENCY purchase ~~approval~~. In the event time prevents such a meeting, the mayor shall be empowered to authorize the Town Manager to purchase goods or services without complying with the requirements and procedures in this chapter. A full report of the circumstances of the emergency PURCHASE and the goods or services obtained shall be made to the Council at its next regular meeting for ratification of the emergency action.

§ 32.05 Purchases In General; Bids.

~~(A) *Petty cash.* The Town Manager is authorized to set up petty cash accounts in appropriate departments. The department head or designee shall be responsible for the safe keeping of funds and for the full accountability of funds spent. Cash shall be replenished with the presentation of receipts for disbursements to the Accounting Department.~~

~~(AB) *Purchase orders.* Division managers are authorized to issue minor purchase orders up to \$20,00025,000. Each division will be issued a block of pre-numbered purchase order forms. One copy of the purchase order shall be presented to the Accounting Department with the invoice for payment. Any purchase of goods or services over \$20,000 shall require Council approval. Following Council approval, a requisition shall be presented to accounting, signed by the division manager, listing the name and address of the vendor, type and quantity of goods or services required, and an approximate dollar amount (as close as can be determined). The requisition is entered into the computer accounting system and a purchase order is generated.~~

(1) BUDGETED ITEMS OVER \$5,000: PURCHASE ORDERS SHALL BE SUBMITTED TO AND PROCESSED BY THE FINANCE DIRECTOR PRIOR TO THE GOODS AND SERVICES BEING ORDERED.

(2) NON-BUDGETED ITEMS OVER \$5,000 BUT LESS THAN \$25,000 SHALL BE APPROVED BY THE TOWN MANAGER BEFORE THE GOODS OR SERVICES ARE ORDERED.

(3) EACH DIVISION WILL BE ISSUED A BLOCK OF PRE-NUMBERED PURCHASE ORDER FORMS. ALL COMPLETED PURCHASE ORDERS SHALL BE PRESENTED TO THE FINANCE DEPARTMENT FOR PAYMENT.

(4) ANY PURCHASE OF GOODS OR SERVICES OVER \$25,000 FOR PURCHASE THAT ARE NOT IN HOUSE CONSTRUCTION PROJECTS AND PURCHASE OF GOODS OR SERVICES OVER \$50,000 FOR IN HOUSE CONSTRUCTION PROJECTS SHALL REQUIRE COUNCIL APPROVAL, AS REQUIRED IN SECTION 32.03, ABOVE.

(GB) *Oral bids.* FOR purchases of goods or services totaling more than \$2,500, but less than \$10,000, ~~funds for which are included in the budget, shall require three (3) oral bids SHALL BE OBTAINED whenEVER possible. It is the town's desire to purchase goods and services locally whenever available. In some cases, it may be impossible to obtain 3 oral bids, in which case 1 or 2 bids shall be obtained.~~

(DC) *INFORMAL Written Bids.* FOR purchases of \$10,000 up to ~~\$20,000~~\$25,000 for goods or services, ~~shall require three (3) written bids SHALL BE OBTAINED. It is the town's desire to purchase goods and services locally whenever available. In some cases, it may be impossible to obtain three written bids, in which case 1 or 2 bids shall be obtained. THE BIDS RECEIVED SHALL BE SUBMITTED WITH THE PURCHASE ORDER. The Town Manager or his or her designee shall execute all contracts in the amounts between \$10,000 and \$20,000.~~

(ED) *Competitive Sealed Bids and Proposals.* Whenever any contemplated purchase or contract for GOODS OR services is for the sum of ~~\$20,000~~\$25,000 or more, the Town Manager shall cause A NOTICE OF INVITATION FOR BIDS to be published PURSUANT TO THE PROCEDURES SET FORTH IN A.R.S. § 39-204 ~~on 4 consecutive days on a newspaper of general circulation in the town, notice inviting bids, which notice shall be published at least 10 days prior to the date set for the receipt of the bids. The notice herein required shall include a general description of the articles to be purchased or services to be performed and the time and place for opening bids AND, FOR PROJECTS GOVERNED BY A.R.S. TITLE 34, CHAPTER 2, ALL INFORMATION SET FORTH IN A.R.S. § 34-201. In addition, The town manager shall post THE notice inviting bids in the town hall TOWN'S REGULAR POSTING PLACES AND ON THE TOWN WEBSITE and may also mail A COPY OF THE NOTICE to all responsible prospective suppliers a copy of the notice inserted in the newspaper.~~

(1) *Competitive sealed bids.* The Town Manager shall follow the procedure set forth below for all purchases and contracts subject to the bidding process:

- (a) A notice of ~~solicitation~~ INVITATION for bids shall state the date, time and place of opening and the place and time period within which bids shall be submitted.
- (b) The notice shall state, with particularity, the goods or services required.
- (c) THE INVITATION FOR BIDS SHALL BE ISSUED AND SHALL INCLUDE A DESCRIPTION OF THE GOODS OR SERVICES TO BE PURCHASED AND ALL CONTRACTUAL SPECIFICATIONS, TERMS AND CONDITIONS APPLICABLE TO THE PROCUREMENT.
- (ed) Bids shall be submitted in a sealed envelope clearly identified as a bid on the front of the envelope. Any bids not received within the time period allowed shall be rejected.
- (de) All bids shall be opened in public at the time and place specified, and a tabulation of all bids received shall be posted in town hall for public inspection.
- (ef) The Town Manager and the Council shall have the right to reject any and all bids and parts of bids and to re-advertise or re-solicit for bids.
- (g) UPON A FINDING BY THE TOWN COUNCIL THAT A REASONABLE BASIS FOR CONSTRUCTING A CAPITAL PROJECT IN HOUSE AND THAT THE PROJECT IS NOT BEING CONSTRUCTED IN HOUSE FOR THE PURPOSE OF AVOIDING THE BIDDING REQUIREMENTS, THE TOWN COUNCIL MAY DETERMINE THAT A CAPITAL PROJECT SHALL BE CONSTRUCTED AS AN IN-HOUSE CONSTRUCTION PROJECT. IF THE PROJECT IS FOR CONSTRUCTION OF A BUILDING, STRUCTURE, ADDITION OR ALTERATION, THE MATERIALS AND EQUIPMENT USED IN THE PROJECT SHALL BE BID IN COMPLIANCE WITH THIS SUBCHAPTER.

(2) *Competitive sealed proposals.* If the Town Manager determines, in writing, that the use of competitive sealed bidding is either not practical or not advantageous to the town, a contract may be entered into by competitive sealed proposals, except that the competitive sealed proposal method may not be used for construction contracts. A REQUEST FOR PROPOSALS MAY BE USED WHEN THE TOWN WISHES TO EXERCISE COMPETITIVE NEGOTIATION, THE AWARD WILL BE BASED ON CRITERIA OTHER THAN PRICE, OR IF THE TOWN IS UNABLE TO PROVIDE BID SPECIFICATIONS FOR A PROJECT AND REQUESTS PROSPECTIVE BIDDERS TO SPECIFY WHAT GOODS AND SERVICES WILL BE NEEDED TO PERFORM THE PROJECT.

- (a) Competitive sealed proposals shall be solicited according to the same procedure for bid solicitation.
- (b) Proposals shall be opened publicly at the time and place designated in the request for proposals. The name of each ~~offeror~~PROPOSER, and such other relevant information as is specified by regulations, shall be publicly read and recorded. All other information contained in the proposals shall be confidential so as to avoid disclosure of contents prejudicial to competing ~~offerors~~PROPOSERS during the process of negotiation. The proposals shall be open for public inspection after the contract is awarded.
- (c) The request for proposals shall state the relative importance of price and other evaluation factors.
- (d) Discussions may be conducted with responsible ~~offerors~~PROPOSERS for the purpose of clarification to assure full understanding of, and responsiveness to, the solicitation requirements. ~~Offerors~~PROPOSERS shall be accorded fair treatment with respect to any opportunity for discussion and revision of proposals and such revisions may be permitted after submissions and before award for the purpose of obtaining best and final ~~offers~~ PROPOSALS. In conducting discussions, there shall be no disclosure of any information derived from proposals submitted by competing ~~offerors~~PROPOSERS.
- (e) The award shall be made to the responsible ~~offeror~~PROPOSER whose proposal is determined to be the most advantageous to the town, taking into consideration the evaluation factors set forth in the request for proposals. No other factors or criteria may be used in the evaluation. The contract file shall contain the basis on which the award is made. THE AWARD SHALL BE APPROVED BY THE COUNCIL.

(F) *CONTRACTING AUTHORITY.* THE TOWN MANAGER OR HIS OR HER DESIGNEE SHALL EXECUTE ALL CONTRACTS IN THE AMOUNTS BETWEEN \$10,000 AND \$25,000. ALL CONTRACTS FOR PURCHASES TOTALING \$25,000 OR MORE SHALL BE APPROVED BY THE TOWN COUNCIL AND EXECUTED BY THE MAYOR.

§ 32.06 Lowest Responsible Bidder.

(A) Unless the Council or the Town Manager, as appropriate, ~~shall~~ exerciseS the right of rejection, BIDS FOR all SUPPLIES, goods and services in an amount in excess of \$~~10,000~~25,000 shall be awarded to the lowest responsible bidder, except as provided in §§ 32.05 and 32.08.

(B) In determining the lowest responsible bidder, the Council or the Town Manager ~~shall~~MAY consider:

* * *

§ 32.08 Exceptions.

THE FOLLOWING PROCUREMENTS ARE EXEMPT FROM THE REQUIREMENTS OF THIS SUBCHAPTER TO THE EXTENT SET FORTH BELOW:

(A) *Sole SOURCE provider.* ~~In the event that~~IF there is only ONE (1) KNOWN person or entity capable of providing a particular commodity or service, the requirement of this SUBchapter concerning bidding procedures shall not be applicable. DOCUMENTATION AND JUSTIFICATION OF THE SOLE SOURCE PROVIDER SHALL BE INCLUDED IN WRITING WITH SUBMISSION OF THE PURCHASE ORDER.

(B) *Used equipment.* Upon recommendation of the Town Manager, the Council may elect to waive the bid procedures with respect to the purchase of used equipment.

(C) *Cooperative purchasing.* ~~In the event of a purchase made by, through or with the State of Arizona or its political subdivisions,~~ The Council may approve A COOPERATIVE ~~the~~ purchases or award ~~the~~ A contracts for services without a formal bidding process whenever ANother governmental units OR PUBLIC PROCUREMENT UNIT haSve done so for the same item or service if, in the opinion of the Town Manager, a separate bidding process is not likely to result in a lower price for the items or services.

(D) *Public works.* All public works contracts shall be bid in accordance with the provisions of ~~A.R.S. § 34-101 et seq.~~TITLE 34, ARIZONA REVISED STATUTES.

(E) *CONSTRUCTION PROJECTS.* CONSTRUCTION PROJECTS SHALL COMPLY WITH TITLE 34, ARIZONA REVISED STATUTES, EXCEPT THAT WHERE THE TOWN COUNCIL HAS DETERMINED THAT A PROJECT SHALL BE CONSTRUCTED AS AN IN-HOUSE CONSTRUCTION PROJECT, PUBLIC BIDDING SHALL NOT BE REQUIRED.

(F) *INTERGOVERNMENTAL AGREEMENTS.*

(G) *EMERGENCY PURCHASES.* EMERGENCY PURCHASES, AS SET FORTH IN SECTION 32-04.

§ 32.09 Professional and Technical Services.

(A) The provisions of this SUBchapter shall not apply to professional or technical services when the services are provided by licensed professionals such as engineers, architects, or attorneys, PROVIDED HOWEVER, THAT THE TOWN MANAGER MAY ISSUE A REQUEST FOR PROPOSALS OR INVITATION FOR BIDS FOR SUCH SERVICES IN HIS DISCRETION.

(B) No person or firm practicing in a professional or technical field for which a license is required by state law shall be engaged by the town unless possessing a current license in good standing.

§ 32.10 Forms and Rules.

The Town Manager shall prescribe and maintain the forms and rules as he or she shall find necessary for the operation of the provisions of this SUBchapter.

The Town of Chino Valley, Arizona, Code of Ordinances, Title III Administration, Chapter 32 Finance and Revenue, Procurement Policy is hereby amended by adding new section 32.11 Waiver by Town Council to read as follows (deletions shown in ~~strike through~~; additions shown in ALL CAPS):

§ 32.11 Waiver by Town Council.

EXCEPT AS OTHERWISE REQUIRED BY ARIZONA LAW, THE TOWN COUNCIL MAY WAIVE THE REQUIREMENTS SET FORTH IN THIS SUBCHAPTER UPON FINDING THAT DOING SO IS IN THE BEST INTEREST OF THE TOWN. CRITERIA JUSTIFYING SUCH A FINDING INCLUDE BUT ARE NOT LIMITED TO: SITUATIONS WHERE TIMING OR EXPEDIENCY IS CRITICAL; SPECIAL OR UNIQUE QUALIFICATIONS OF AN INDIVIDUAL, FIRM, VENDOR OR ITEM(S); THE PROCUREMENT OF ADDITIONAL GOODS OR SERVICES UNDER AN EXISTING CONTRACT; OR TO COMPLY WITH SPECIFIC REQUIREMENTS OF A GIFT OR GRANT.

Section 2. Providing for Repeal of Conflicting Ordinances.

All ordinances and parts of ordinances in conflict with the provisions of this Ordinance or any part of the Code adopted herein by reference, are hereby repealed.

Section 3. Providing for Severability.

If any section, subsection, sentence, clause, phrase or portion of this Ordinance or any part of the Code adopted herein by reference is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions thereof.

Section 4. Providing for Penalties

Any person found responsible for violating any provision of this Ordinance section shall be subject to the civil sanctions and habitual offender provisions set forth in Section 10.99(A), (B) and (D) of the Town Code of the Town of Chino Valley, Arizona.

PASSED AND ADOPTED by the Mayor and Common Council of the Town of Chino Valley, Arizona this 22nd day of October, 2013 by the following vote:

AYES: 4

NAYES: 3

EXCUSED: 0

ABSENT: 0

ABSTAINED: 0

Chris Marley, Mayor

ATTEST:

APPROVED AS TO FORM:

Jami C. Lewis, Town Clerk

Curtis, Goodwin, Sullivan, Udall &
Schwab, PLC, Town Attorneys
By: _____

I, JAMI C. LEWIS, TOWN CLERK, DO HEREBY CERTIFY THAT A TRUE AND CORRECT COPY OF THE ORDINANCE NO. 13-755 ADOPTED BY THE COMMON COUNCIL OF THE TOWN OF CHINO VALLEY ON THE 22nd DAY OF OCTOBER, 2013, WAS POSTED IN THREE PLACES ON THE 24th DAY OF OCTOBER, 2013.

Jami C. Lewis, Town Clerk