

1 Sec 2-335 Exceptions To Competitive Bidding Requirement

2 (a) Notwithstanding any provision of this division to the  
3 contrary, the competitive bidding procedures and requirements  
4 for labor, goods, equipment, and services generally subject  
5 to such requirements may be dispensed with in any of the  
6 following instances:

7 (1) Below Bidding Threshold. When the estimated amount  
8 involved is less than twenty-five thousand dollars  
9 (\$25,000.00).

10 (2) Standardized Equipment. When a commodity being  
11 purchased is standardized in a manner to be compatible  
12 with equipment or articles in existing city use and in  
13 order to obtain more functional or economic use of  
14 function from such existing equipment or articles  
15 together with such commodity, ~~provided that such~~  
16 ~~purchase does not exceed the cost of twenty-five~~  
17 ~~thousand dollars (\$25,000.00).~~

18 (3) Limited, Restricted, or Sole Source. ~~The city~~  
19 ~~council may, by resolution, authorize a purchase or~~  
20 ~~award a contract, without complying with the provisions~~  
21 ~~of this division provided that, while in public session,~~  
22 ~~it has received competent information, data and sworn~~  
23 ~~testimony or a written affidavit filed with the director~~  
24 ~~of purchasing by the applicable city authority, and~~

1       ~~substantiated as required by the city council,~~  
2       ~~supporting the fact that~~ When the product or service  
3       required desired is provided by only one (1) person; or  
4       that acquisition from an alternate source provides  
5       materially less maintenance or warranty service such  
6       that the purchase price alone does not accurately  
7       reflect the value of the commodity; or that failure to  
8       act promptly hereunder may likely result in a  
9       substantial increase in cost thereof to be borne by the  
10      city. Prior to the issuance of a purchase order under  
11      this paragraph, the purchasing director shall require  
12      the head of the department requesting the purchase to  
13      document to the purchasing director's satisfaction that  
14      an exemption from the competitive bidding requirement is  
15      justified. Such documentation shall include an affidavit  
16      from the requesting department head that the conditions  
17      justifying an exemption from the competitive bidding  
18      requirement are satisfied. The purchasing director may  
19      consult with the corporation counsel in assessing the  
20      validity or competence of the information, data, or  
21      representations presented.

- 22      (4)     Bona Fide Emergency. When ~~The city council may, by~~  
23      ~~resolution, authorize the purchase of materials,~~  
24      ~~supplies, equipment and services or order work performed~~

1 ~~by city or non-city forces upon a finding supported by~~  
2 ~~competent information or data, including a written~~  
3 affidavit filed with the director of purchasing by the  
4 applicable city authority and substantiated by the  
5 purchasing director ~~as required by the city council,~~  
6 that such purchase or work is urgently and imminently  
7 necessary for the preservation of life, health and  
8 property, or the conservation of city resources. An  
9 affidavit shall not be required under this paragraph  
10 during a state of emergency or disaster declared by the  
11 governor or the mayor and the purchase is directly  
12 related to such emergency.

13 (5) Intergovernmental Purchases. ~~Any~~ When an agreement  
14 involving acquisition of service, equipment or article  
15 entered into with another governmental entity.

16 ~~(6)~~ Job Order Contracting. When the city council has  
17 previously awarded a contract to one or more persons to  
18 serve as a job order contract manager and the department  
19 head requesting the purchase order has determined that  
20 the provision of services through such contract is in  
21 the best interests of the city and that job order  
22 contracting is the most efficient delivery system for  
23 the work. ~~Any municipal work or public improvement,~~  
24 ~~when the expense thereof will exceed twenty-five~~

~~thousand dollars (\$25,000.00), may be undertaken or constructed by contract or agreement without advertising for bids if authorized by a vote of three-fifths (3/5) of the members of the city council then holding office.~~

(b) In this section "urgently" and "imminently" mean threatening to happen at once such as an impending danger or calamity.

(c) Nothing in this section shall be construed as limiting or purporting to limit the home rule powers of the city vested in its city council to exercise any power and perform any function pertaining to its government and affairs including, but not limited to its power to select sources and let contracts in any manner not prohibited by law, except as such power may be lawfully preempted in accordance with the constitution of this state.

(Code 1969, § 2-127.1; Ord. No. 096-94, § 1, 8-27-96; Ord. No. 013-037, § 1, 7-9-13)

**Sec 2-336 Contracts Exempt or Excluded from Formal Bidding**  
**Professional Contracts Excluded**

(a) The city may award ~~Nothing in this division precludes the city from awarding~~ a written contract for professional type services, which shall include architectural, engineering, surveying, construction management, accounting, auditing, safety and security risk assessment, computer and data assessment and

1 services, legal and other financial services, without complying  
2 with the other provisions of this division.

3 (b) Unless otherwise directed by the city council, source  
4 selection for contracts for professional services excluded from  
5 competitive bidding by the Local Government Professional Services  
6 Act shall be made in accordance with the provisions of that Act.  
7 The method of source selection for the award of contracts for all  
8 other professional services exceeding twenty-five thousand dollars  
9 (\$25,000), except as may otherwise be provided in this code, shall  
10 be determined by the finance director.

11 (c) A department head may authorize the purchasing director  
12 to award a contract for professional services described in  
13 paragraph (a) in an amount not to exceed fifty thousand dollars  
14 (\$50,000). Except as otherwise provided in this code, by ordinance,  
15 or by resolution, no contract in an amount in excess of fifty  
16 thousand dollars (\$50,000) shall be awarded under this section  
17 without the approval of the city council.

18  
19 **Sec 2-341 Formal Contract And Bid Procedure**

20 Except as otherwise provided, all purchase orders or contracts of  
21 whatever nature, for labor, services or work, the purchase, lease  
22 ~~or sale~~ of personal property, materials, equipment or supplies  
23 involving amounts in excess of twenty-five thousand dollars  
24 (\$25,000.00), made by or on behalf of the city, shall be let to

1 the lowest ~~(or in the case of the sale of personal property, the~~  
2 ~~highest)~~ responsible bidder following notice as required below:

3 (a) *Notice requirement.* Notice shall be published in a  
4 newspaper of general circulation throughout the city by at  
5 least one (1) insertion which shall be at least fifteen (15)  
6 days prior to the time designated for opening bids. The notice  
7 shall be sent to at least one (1) trade periodical pertaining  
8 to construction projects involved in sufficient time to  
9 permit such periodicals to publish the notice at least fifteen  
10 (15) days prior to the bid opening time. The notice shall  
11 include a general description of the article or service  
12 desired; shall state the time, date and place of bid opening  
13 and shall designate where bidding documents may be obtained.

14 (b) *Bidder's list.* Such notice shall also be sent on or  
15 before the deadline for newspaper publication to those  
16 persons and firms listed in the city's latest bidders' list  
17 providing the service, commodity or article desired by the  
18 city.

19 (c) *Web site notice.* All pending purchases or sales shall be  
20 noticed by posting on the city web site.

21 (d) *Bidders' security.* All bids must be sealed and  
22 accompanied by security, either cash, cashier's check,  
23 certified check or surety bond, in a sum equal to ten (10)  
24 percent of the total aggregate of the bid. The successful

1 bidder shall forfeit his bid security upon such bidder's  
2 failure or refusal to execute the contract within the time  
3 designated in the bid documents. The city ~~council~~ in such  
4 event may award the contract to the next lowest responsible  
5 bidder.

6 (e) *Other bond requirements.* A faithful performance bond,  
7 labor and material bond and other bonds may be required by  
8 the city council in an amount reasonably necessary to protect  
9 the city's interest in obtaining the services or work involved.  
10 If bonds are required, the form and amount thereof shall be  
11 designated in the notice inviting bids.

12 (f) *Bid opening procedure.* All bids shall be submitted to  
13 the city clerk who shall safeguard them in a sealed condition  
14 until the time noticed for public bid opening. At the time  
15 and place stated in the public notices, the city clerk ~~or his~~  
16 ~~designee,~~ together with the director of purchasing, ~~or his~~  
17 ~~designee,~~ shall publicly open all bids. A tabulation of all  
18 bids received shall be available for public inspection in the  
19 purchasing office for a period of not less than thirteen (13)  
20 days after the bid opening. The city clerk and the director  
21 of purchasing may conduct the opening of bids via real-time  
22 internet or video broadcast when such broadcast satisfies all  
23 the conditions set forth in this paragraph. The purchasing

1 director shall make a recording thereof and maintain it with  
2 the bid tabulation.

3 (g) *Compilation of bids and recommendations.* Following the  
4 opening of bids, the director of purchasing shall compile all  
5 of the bids and submit them to the finance director together  
6 with a recommendation as to which bid he considers best,  
7 taking into consideration the recommendation of the  
8 department ~~head~~ involved, the amount of money bid, compliance  
9 with specifications and responsibility of the bidder. The  
10 finance director shall forward the compilation of bids and  
11 the recommendation of the director of purchasing with respect  
12 to an award, the head of the department requesting the bids  
13 or to the city council, as set forth in paragraph (j).

14 (h) *Award of bid.* The city ~~council~~ may ~~make an~~ award a ~~of~~  
15 contract to the lowest responsible bidder or in the  
16 alternative reject all bids and either re-advertise, or  
17 ~~authorize the city itself to~~ perform the work or directly  
18 acquire the items desired in accordance with the following:  
19 *Direct method.* If ~~After~~ bids are rejected or if no bids are  
20 received, the city council by resolution ~~enacted with four~~  
21 ~~(4) affirmative votes~~ may order the work done by city  
22 personnel and equipment or authorize the purchase of the  
23 material, equipment or services involved on the open market  
24 without complying with the requirements of this division;



provided that the city council receive competent information or data that the city itself is capable of completing the project involved in a more satisfactory or economical manner or that the materials, equipment or service may be purchased more economically on the open market.

(i) *Tie bids.* If two (2) or more bids are received which are in all respects equal, the contract shall be awarded to a bidder maintaining a place of business in the city; however, if all or none of such bidders maintain a place of business in the city then the contract shall be awarded by drawing lots.

(j) Authority.

1. To reject bids. The head of the department for the purchasing director has solicited bids under this section may direct the director of purchasing to reject all bids upon written notice setting forth the basis for such rejection;

2. To award bids.

A. The head of the department for which the purchasing director has solicited bids under this section may authorize the purchasing director to award a contract in an amount not to exceed fifty thousand dollars (\$50,000) consistent with the provisions of this section.

1            B. The city council shall authorize the director of  
2            purchasing to award a contract for which the  
3            purchasing director has solicited bids under this  
4            section when the lowest responsible bid received is  
5            in excess of fifty thousand dollars (\$50,000).

6        (k)    Bid Protests. Except in cases of bona fide emergency, no  
7            contract subject to the provisions of this section shall be  
8            executed during the pendency of a bid protest under Sec. 2-  
9            343 or fewer than seven (7) days after the posting of the bid  
10          tabulation required by paragraph (f) of this section.

11        (Code 1969, § 2-125; Ord. No. 096-94, § 1, 8-27-96; Ord. No. 013-  
12        037, § 1, 7-9-13)

13        **Sec 2-342 Informal Solicitation Procedure**

14        (a) Except as otherwise provided, all purchase orders or  
15        contracts of whatever nature, for labor, services or work, the  
16        purchase ~~or~~, lease ~~or~~ sale of personal property, materials,  
17        equipment or supplies involving an expenditure of twenty-five  
18        thousand dollars (\$25,000.00) or less, but more than an amount not  
19        less than five thousand dollars (\$5,000.00), as the finance  
20        director may from time-to-time determine in writing may be awarded  
21        upon informal solicitation of at least three (3) competitive  
22        quotations where reasonably possible and without complying with  
23        the provisions of section 2-341; provided, however, that the  
24        following provisions, or section 2-335, shall govern:

1 ~~(a) — Informal solicitation.~~ The director of purchasing shall  
2 informally solicit bids by giving notice to the persons and  
3 firms listed in the latest bidders' list providing the service,  
4 commodity or article desired by the city, as well as to such  
5 other persons or firms as are known by the director of  
6 purchasing to provide a competitive price or cost for the  
7 service, commodity or article.

8 (b) In establishing the minimum purchasing thresholds to require  
9 the informal solicitation of bids or quotations under this section,  
10 the finance director may, but need not, determine that different  
11 thresholds shall apply to different classes of property, materials,  
12 equipment, or supplies.

13 (Code 1969, § 2-126; Ord. No. 096-94, § 1, 8-27-96; Ord. No. 013-  
14 037, § 1, 7-9-13)

15 **Editor's note**— Ord. No. 013-037, § 1, adopted July 9, 2013, changed  
16 the title of § 2-342 from "Informal bidding procedures" to  
17 "Informal solicitation procedures."

18 **Sec 2-343 Bid Protests Award Hearing Procedure**

19 (a) A bidder submitting a bid in accordance with Sec. 2-242  
20 may protest the purchasing director's recommendation as to the  
21 award of a contract by filing with the city clerk a notice of  
22 contest within seven (7) days of the posting of the bid tabulation.  
23 The notice of protest shall identify the proposed contract to be  
24 awarded and state with specificity the basis for the protest,

1 including citations to any provisions of law or ordinance the  
2 protestor believes were not complied with and the that the failure  
3 of the city or the presumptive awardee to strictly adhere to the  
4 same materially affected determination of the award.

5 (b) The city clerk shall forward any protest to the purchasing  
6 director who shall promptly review the protest. If the purchasing  
7 director sustains the protest, the purchasing director shall set  
8 forth the basis for such finding in writing and proceed to  
9 retabulate the results of the bids and recommend the award to the  
10 lowest responsible bidder or initiate a new bidding process. If  
11 the purchasing director denies the protest, the purchasing  
12 director shall set forth the basis for such finding in writing.  
13 The findings of purchasing director shall be provided to the  
14 protestor and to all persons that submitted a bid for the award  
15 under protest.

16 (c) A decision of the purchasing director with respect to a  
17 bid protest is subject to review by an administrative hearing  
18 officer in accordance with chapter 3 of this code by any person  
19 submitting a bid for the award under protest. Petitions for review  
20 must be filed with the city clerk within seven (7) days of the  
21 service of purchase director's written determination.

22 (d) Nothing in this section or this code shall be construed  
23 as entitling any person submitting a bid in response to an  
24 invitation to bid by the city to a contact award.

1 ~~Prior to making an award of contract exceeding twenty-five thousand~~  
2 ~~dollars (\$25,000.00), the city council shall afford any bidder who~~  
3 ~~is present at the particular council meeting an opportunity to~~  
4 ~~testify or present evidence pertaining to the bidding procedures~~  
5 ~~or documents employed if there is a complaint with respect thereto.~~  
6 (Code 1969, § 2-127; Ord. No. 096-94, § 1, 8-27-96)