

Sec. 2-376. Authorization of contracts to be executed one year from date, and non-bid contracts more than two hundred thousand dollars.

- (a) Unless expressly authorized by law or by vote of the board of alders, the city shall not be bound by any contract executed after one (1) year from the date thereof.
- (b) The board of alder's prior approval is necessary for any city contract that does not go to public solicitation and that costs more than two hundred thousand dollars (\$200,000.00).
- (c) **The determination of whether a city contract is to be submitted to the board of alders for prior approval pursuant to section 2-376 is if one of the following conditions exist:**
 - a. **If its initial term is longer than one year, exclusive of options/renewals that are less than two years.**
 - b. **If options/renewals on the initial term exceed two years collectively and/or consecutively, or**
 - c. **If any options/renewals materially alter the terms or conditions of a contract in the judgment of the city purchasing agent.**

(Ord. No. 1391, 9-19-05)

Editor's note(s)—§ 2-376 amends and supersedes former § 2-40 which derived from the Code of 1928, § 462; Ord. of 9-4-90, §§ 1, 2; Ord. of 3-12-01; Ord. of 4-2-01.

Sec. 2-451. Purchasing and Procurement procedures.

- (a) *Declaration of policy.* The City of New Haven hereby declares that it narrowly construes the types of personal services that can be provided through the procurement procedures set forth in city charter Article VI, Section 6€as amended from time to time. This policy is premised upon the following grounds:
 - (1) City charter Article VII, Section 3(K), as amended from time to time, provides for a civil service board consisting of the personnel director or designee, as established by Article VI, Section 18 of the City Charter and other employees as shall be provided in the budget.
 - (2) City charter Article VII, Section (K) (4) as amended from time to time, sets forth a broad mandate and duty of the civil service board to ascertain the competency of applicants for all positions or promotions in the city government by competitive examination except for specified exceptions.
 - (3) Unless city charter Article VII, Section (K) is narrowly construed, the purchasing agency could usurp the position and authority of the civil service board and the personnel director and their clear charter mandate to provide for employment based upon merit selection.
- (b) *Definitions.* The following are defined terms for the purposes of this article:
 - Municipal employee* means any person who holds employment with the municipal government of New Haven for which such person receives financial compensation from the city:
 - (1) Whether such employment is in the classified or unclassified service.

- (2) Whether such employment is part-time or full-time; and
- (3) Whether such employment is permanent or temporary.

Independent contractor means any individual(s), firm, partnership, or limited liability company, corporation, or other business or corporate entity recognized or defined by the general statutes of the State of Connecticut or any other jurisdiction that contracts to perform certain specified work according to such entity's own methods and means, and without being subject to the control or supervision of any municipal employee except as to the result of the work; consistent with independent contractor standards set forth in the Internal Revenue Code or State of Connecticut Department of Revenue Service as amended from time to time.

The municipal government of the City of New Haven means:

- (1) The City of New Haven, and all departments, agencies, authorities, boards, commissions, bureaus, and offices created by and existing under the city charter.
- (2) The City of New Haven and all departments, agencies, authorities, boards, commissions, bureaus, and offices created by or existing under an ordinance or resolution of the board of aldermen of the City of New Haven (whether such ordinance or resolution was adopted pursuant to a state statute authorizing such ordinance or resolution).

Expert professional consultant means any independent contractor as defined herein providing highly technical, specialized, and advanced advice and/or work product, and whose responsibilities shall not include any job duties:

- (1) For which a civil service test (or classification) currently exists; or
 - (2) Which are assigned to any current member of a city bargaining unit.
- (c) Scope of purchasing agent's authority to procure contracts pursuant to city charter Article VI, Section 6:
- (1) The purchasing agent shall process requests for qualifications or proposals only for work to be performed by independent contractors, as defined herein. However, the following types of independent contractors are specifically excluded from the procurement procedures set forth in Article VI, Section 6 of the City charter as amended from time to time:
 - a. Architects.
 - b. Engineers.
 - c. Land surveyors.
 - d. Physicians/Medical Personnel (including APRN (Advanced Practice Registered Nurse) , DO (Doctor of Osteopathic Medicine), Specialized Nurse titles (e.g. Infectious Disease Control), and other specialized clinicians, such as, various licensed Mental Health providers (e.g. LMSW, LCSW, psychologists etc.)
 - e. Dentists.
 - f. Lawyers/Attorneys.
 - g. Professional Financial Advisors/Accountants.
 - h. Artists.

- i. Actuaries.
 - j. Expert professional consultants; and
 - k. Such other professional or technical services as the board of alders may provide by ordinance.
 - l. Such other professional or technical services as the Purchasing Agent deems qualified as an exempt professional.
- (2) Contracts with the excluded classes of independent contractors shall only be entered into by the mayor on behalf of any municipal department, authority, board, commission, bureau, or office, or by the president of the board of alders on behalf of the board of alders.
- (3) The city's purchasing agent shall immediately cease and desist from utilizing the procurement procedures of city charter Article VI, Section 6 as amended from time to time to procure personal services, except and unless the provider of the services is an independent contractor, as defined herein. Contracts with expert professional consultants shall be initiated through a written proposal describing the program and the personnel involved.
- (a) Upon receipt of the written proposal, expert professional consultant agreements can be entered up to an amount not to exceed two hundred thousand dollars and zero cents (\$200,000)
- (4) For the purposes of requests for qualifications or proposals for work performed by independent contractors for professional services, whether the business is a "city-based business," as defined in Code section 2-483(a), shall be a factor considered in the selection of such contractor.
- (5) The City of New Haven's policy on city-based businesses shall be stated in the solicitation document as follow.
- No contract shall be awarded to any contractor, if the entity, or any owner, officer or director thereof is delinquent in any tax or other financial obligation to the city, including, without limitation, a current or ongoing contract dispute concerning performance under an agreement with the municipal government if, in the opinion of the Corporation Counsel, the current or ongoing contract dispute is related to the requirements of the solicitation.
- The fact that any other entity of which the owner or principal of any contractor is an officer or director is delinquent in the payment of any tax or other financial obligation to the city, shall be a negative factor in the selection or award of such contractor until such obligation is settled.
- (d) Authority of the purchasing agent to determine status as an independent contractor and/or exempt professional, subject to review:

- (1) The purchasing agent shall determine in the first instance whether a "request for proposal" is properly seeking work to be done by an independent contractor as defined herein.
- (2) Upon the determination that a "request for qualification or proposal" is properly seeking work to be done by such an independent contractor, the department initiating said request selects the proposing party to perform such work.

(e) Electronic Commerce

(1) Electronic Transmission of Information: Electronic commerce shall include, but not be limited to, on-line vendor registration, acceptance of bids and proposals by electronic mail, electronic or virtual purchasing malls and catalogs, interact auctions and reverse auctions, notifications of solicitations and download capability and acceptance of electronic (digital) signatures.

Notwithstanding any other provisions, this chapter applies to records generated, stored, processed, communicated, or used for any purpose by the City of New Haven for purchasing, acquisition, services, or disposition of personal property. This shall apply to all City of New Haven contracts and agreements.

The Mayor, Budget Director, or Controller or his/her designee is authorized to promulgate procedures to coordinate, create, implement, and facilitate the use of common approaches and technical infrastructure, as appropriate, to enhance the utilization of electronic commerce, electronic records, electronic signatures, and electronic security procedures by and for City of New Haven for these purposes.

The Purchasing Agent shall be authorized to develop, implement, and facilitate procedures for the use of electronic records, electronic signatures, and security procedures for all other purposes. The Purchasing Agent is authorized to promulgate methods, means, and standards for secure electronic procurement transactions.

(2) Electronic Signature and Records: An electronic record satisfies any rule requiring a document to be in writing. An electronic signature satisfies any rule of law requiring a signature. Any electronic record is signed as a matter of law if it contains a secure electronic signature.

An electronic signature is deemed to be secure if it is created by application of a security procedure that is commercially reasonable and provided the electronic signature can be verified. Further, it is considered secure if it can be linked to the electronic record to which it relates in a manner such that, if the record is changed, the electronic signature is invalidated.

An electronic record is deemed to be secure if it is created by application of a security procedure that is commercially reasonable and agreed to by City of New Haven. The electronic record will be deemed secure when it can be verified not to have been altered since a specified point in time.

(Ord. No. 1391, 9-19-05)

Editor's note(s)—§ 2-451 amends and supersedes former § 2-146 which derived from Ord. of 6-6-83; Ord. of 12-21-92; Ord. of 8-2-93.

Secs. 2-452—2-480. Reserved.

Sec. 2-481. Workers Compensation insurance required of respondents to city solicitations.

- (a) Whenever the city purchasing agent advertises a solicitation the city Purchasing Agent shall require that the contractors maintain a workers' compensation insurance policy, a binder for such a policy, or evidence of adequate self-insurance protecting company workers against injury. This requirement shall be a condition precedent to the award of any contract. The general contractor shall certify the existence of adequate insurance for all subcontractors.
- (b) Any such workers' compensation insurance policy shall be issued by a company authorized to write such policies in Connecticut and shall be in such form that is satisfactory to the city purchasing agent.
- (c) The city purchasing agent shall require and affirm that no respondent, including any general contractors and subcontractors, is in arrears to the state's second injury fund.

(Ord. No. 1391, 9-19-05)

Editor's note(s)—§ 2-481 amends and supersedes former § 2-22.2 which derived from Ord. of 11-18-85; Ord. of 8-2-93.

Sec. 2-482. Minimum procurement requirements.

- (a) Except as otherwise required by federal state, or local law or regulation, sealed solicitations shall not be required for contracts or purchases of supplies, materials or equipment and non-construction related services having a value less than or equal to two hundred thousand dollars (\$200,000.00). Contracts and purchases for said items and services having a value greater than five thousand dollars (\$5,000.00) but less than fifty thousand dollars (\$50,000.00) shall be awarded in accordance with procedures established by the purchasing agent, which shall include preference for city-based businesses as defined in Code section 2-483 and consistent with the procedures set forth therein.
- (b) Except as otherwise required by federal state, or local law or regulation, sealed bidding shall not be required for construction and construction related contracts and services having a value less than or equal to fifty thousand dollars (\$50,000.00). Contracts and purchases for construction and such related services having a value greater than five hundred dollars (\$500.00) but less than fifty thousand dollars (\$50,000.00) shall be awarded in accordance with informal quotation and informal bidding procedures established by the purchasing agent, which shall include preference for city-based businesses as defined in Code section 2-483 and consistent with the procedures set forth therein.
 - (1) As applicable or as required, Chapter 12 ¼ of the New Haven Code of Ordinances a sheltered market program for Small Construction Business Enterprises (or Small Contractor Development) shall be utilized. Sealed bidding shall not be required for construction and construction related contracts and services in the sheltered market having a value less than or equal to twenty-five thousand dollars (\$25,000). Shelter market contracts and purchases for construction and such related services having a value greater than five hundred dollars (\$500.00) but less than twenty-five thousand dollars (\$25,000.00) shall be awarded in accordance with informal quotation and informal bidding procedures established by the purchasing agent, which shall include the preference for city-based businesses as defined in Code section 2-483 and consistent with the procedures set forth therein.

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- (c) Except as otherwise required by federal state, or local law or regulation, in the case of an emergency as determined by the City Purchasing agent, where there is a threat to life, public health or safety, improved property, or some other dangerous situation that requires immediate action to alleviate the threat, an emergency procurement committee of the following City agencies will be convened to approve an emergency contracts (non-bid) not to exceed one hundred fifty hundred thousand dollars (\$150,000):

City Engineering Department

City Corporation Counsel's Office

City Finance or Purchasing Department

Department of Public Health Department

Office of Management and Budget

Small Contractor Development Office

Commission on Equal Opportunity

One Alder representing Aldermanic Leadership

One Alder representing Finance Committee

If regarding the Board of Education, representatives from the Board of Education including:

Superintendent or designee

Chief Operating Officer Office

Board of Education Finance Office

Quorum of the emergency procurement committee shall consist of five of the members referenced above. At the request of the City purchasing agent, the Mayor or designee will call a meeting of the emergency procurement committee within twenty-four hours at a time and place specified by the Mayor or the Mayor's designee. All emergency contract approvals shall be reported in the Monthly Financial Report.

- (d) Sole Source Agreements: as deemed approved by the purchasing agent, sole source agreements may be entered into as agreements not to exceed two hundred and fifty thousand dollars (\$200,000) A sole source procurement may be used when only one vendor or supplier is able to fill requirements for the intended use. Sole source may be used for compatibility with equipment for repair purposes, or for compatibility with existing systems. Standardization may require a sole source procurement, depending upon the intended use.

Standardization, which is either established because of past procurement(s) or by approval of the Purchasing Policy is a satisfactory condition for a sole source determination by the city purchasing agent. City agencies must seek written approval from the Purchasing Agent for any cooperative purchase.

- (e) Cooperative Purchasing Agreement: the City Purchasing Agent shall be required to take advantage of incentives, cooperative agreements and consortiums generally available. Through cooperative purchasing arrangements, the dollars spent (purchases) increases, and

this increased spend helps to leverage the organization's ability to obtain deeper discounts and achieve greater savings. as deemed approved by the purchasing agent, sole source agreements may be entered into as agreements not to exceed two hundred and fifty thousand dollars (\$200,000)

- (f) Except Procurement Purchases: The following services shall be exempt from the procurement guidelines and policies:
- a. New or Used vehicle purchases: New and Used vehicle purchases are exempt from the procurement requirements due to the nature of the purchase. The City will exhaust all options when purchasing a vehicle including utilizing cooperative purchasing contracts or utilizing local New Haven county dealerships. At the end of each calendar year, the City will report to the Board of Alders the list of vendors from which the City has purchased vehicles.
 - b. Auto Body Repairs: Due to the nature of vehicle auto/body repairs, at the beginning of each fiscal year, the Purchasing agent shall publish a list to City agencies and the Board of Education of acceptable body/auto repair facilities. The Purchasing Agent may add or modify the list throughout the fiscal year based on request from City agencies and Board of Education
 - c. Software: Software as deemed by the Purchasing Agent as unique and qualifying as a sole source vendor. The designation of exempt from procurement policies would have to be demonstrated as the software being proprietary. Proprietary software is owned by an organization or an individual, as opposed to "public-domain software," which is freely distributed.

(Ord. No. 1391, 9-19-05)

Editor's note(s)—§ 2-482 amends and supersedes former § 2-151 which derived from Ord. of 10-15-90; Ord. of 12-21-92; Ord. No. 1292, § 5, 11-19-01.

Sec. 2-483. Preference for city-based businesses.

- (a) For the purpose of this section "city-based business" shall mean a business with a principal place of business located within the City of New Haven. A business shall not be considered a "city-based business" unless evidence satisfactory to the purchasing agent has been submitted with each bid to establish that said business has its bona fide place of business in New Haven. Such evidence may include evidence of ownership of or a long-term lease of the real estate from which its place of business is operated, or payment of property taxes on the personal property of the business. A "city-based business" shall maintain such status throughout the term of any contract with the City of New Haven. Failure to maintain such status shall be grounds for the city to terminate said contract.
- (b) On any contracts or purchases the lowest responsible bidder shall be determined in the following order:

- (1) On contracts or purchases involving a total contract price of one million dollars (\$1,000,000.00) or less: any city-based bidder that submitted a low bid not more than fifteen (15) percent higher than the lowest bid, provided such city-based bidder agrees to accept the award of the bid at the lowest bid amount. If more than one (1) city-based bidder has submitted bids not more than fifteen (15) percent higher than the lowest bid and has agreed to accept the award of the bid at the lowest bid amount, the lowest responsible bidder shall be the city-based bidder that submitted the lowest bid.
- (2) On contracts or purchases involving a total contract price of more than million dollars (\$1,000,000.00) but less than five million dollars (\$5,000,000.00): any city-based bidder that submitted a bid not more than ten (10) percent higher than the lowest bid, provided such city-based bidder agrees to accept the award of the bid at the lowest bid amount. If more than one (1) city-based bidder has submitted bids not more than ten (10) percent higher than the lowest bid and has agreed to accept the award of the bid at the lowest bid amount, the lowest responsible bidder shall be the city-based bidder that submitted the lowest bid.
- (3) On contracts or purchases involving a total contract price of more than five million dollars (\$5,000,000.00): any city-based bidder that submitted a bid not more than six (6) percent higher than the lowest bid, provided such city-based bidder agrees to accept the award of the bid at the lowest bid amount. If more than one (1) city-based bidder has submitted bids not more than three (3) percent higher than the lowest bid and has agreed to accept the award of the bid at the lowest bid amount, the lowest responsible bidder shall be the city-based bidder that submitted the lowest bid.
- (4) The responsible low bidder.
- (c) The City of New Haven's policy on city-based businesses shall be stated in the invitation to bid.
- (d) Paragraph (b)(1), (2) and (3) shall apply to any contracts or purchases that are put out to competitive bid, and the city and the contractor are to share in the revenue generated by the contractor's services.

(Ord. No. 1391, 9-19-05)

Editor's note(s)—§ 2-483 amends and supersedes former § 2-153 which derived from Ord. of 12-21-92.

Sec. 2-484. Definitions.

[For the purposes of Code sections 2-485 and 2-486, the following definitions apply:]

- (a) *Contract* means any public contract as defined hereafter.
- (b) *Person* means one (1) or more individuals, partnerships, corporations, associations, or joint ventures.
- (c) *Public contract* means any agreement or formal commitment that the city enters into to expend funds in return for work, labor, services, supplies, equipment, materials or any combination of the foregoing, or any lease, lease by way of concession, concession agreement, permit, or permit agreement whereby the city leases, grants or demises property that the city owns, or otherwise grants a right or privilege to occupy or use said property.

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- (d) *City* means any official, agency, board, authority, department, office, or other subdivision of the City of New Haven.

(Ord. No. 1391, 9-19-05)

Editor's note(s)—§ 2-484 amends and supersedes former § 2-154 which derived from Ord. of 12-21-98)

Sec. 2-485. Obligations of persons seeking to contract with city, affidavits, disclosures, and certifications.

- (a) The city shall not award a contract to any person or entity until the bureau of purchases receives the following documents:
- (1) Such person's affidavit attesting that the person, or any entity of which the person is a principal, officer, or director does not owe delinquent taxes or other financial obligation to the city, provided, if such person or entity has entered into an agreement to pay delinquent taxes in installment payments satisfactory to the tax collector, and the payments under said agreement are not in default, the affidavit shall recite that agreement.
 - (2) Such person's affidavit attesting that the person and any entity of which the person is a principal, officer, or director has either filed a list of taxable personal property with the assessor for the most recent grand list as required by state statute, or that the person is not required to file such list; and
 - (3) Disclosures as required by Code section 2-486 as amended from time to time.
- (b) If said affidavits and disclosures are not submitted as part of competitive bid provisions, the city agency, board, authority, office, department or official seeking the contract shall obtain them.
- (c) The city shall not award a contract to any person until the following certifications have been obtained:
- (1) A certification from the city assessor that such person has filed a current list of taxable personal property pursuant to Conn. General Statute section 12-40 as amended from time to time, or a certification that such person is not required to file such list; and
 - (2) A certification from the city's tax collector that such person or any affiliated entity, either directly or through a lease agreement, owes no back taxes; provided, that if the taxpayer owes back taxes, but he/she/it or another responsible party has executed an installment payment agreement with the city which is satisfactory to the tax collector, and such payments are not in default, then the fact that such person owes the city back taxes shall not be a bar to the contract. Any default in the installment payment agreement will result in cancellation of the contract.

(Ord. No. 1391, 9-19-05)

Editor's note(s)—§ 2-485 amends and supersedes former § 2-155 which derived from Ord. of 12-21-98.

Sec. 2-486. Disclosures required by persons seeking to contract with city.

- (a) Any person seeking to enter a contract with the city shall disclose all names under which the person has provided services or materials to the city within one (1) year of the disclosure submitted for each such contract as required by this section.
- (b) Any person seeking to enter a contract with the city shall disclose:
 - (1) The names of all owners, officers, directors, and affiliated persons holding a managerial decision making position related to the agreement with such person's business.
 - (2) The names of all business organizations or entities in which such person has an ownership interest. Or in relation to which such persons is an officer or director
 - (3) The names of all owners in such entity, provided, if such entity is a corporation, the names of its officers, and common stockholders who hold more than twenty-five (25) percent of its outstanding stock; and
 - (4) The identity of all affiliates, individuals or business entities that own or have owned taxable property situated in the city within one (1) year prior to the date of the disclosure required by this section and the identities of each principal, officer or director thereof.
- (c) Any person doing business under a trade name that is seeking to enter a contract with the city to provide it with goods, materials, or services, shall disclose where such entity is incorporated or registered to conduct such business, and the address of its principal place of business.

Any person seeking to enter into a contract with the city shall disclose whether said person or entity owes any tax or other financial obligation to the city, and whether such person, or any entity of which said person is a principal, officer or director is a plaintiff in any lawsuit or claim against the city. The city may seek additional information from the applicant following such disclosure. The fact that such person or entity is a plaintiff in any lawsuit or claim against the city may be considered as a negative factor in consideration of its solicitation response.

(Ord. No. 1391, 9-19-05)

Editor's note(s)—§ 2-486 amends and supersedes former § 2-156 which derived from Ord. of 12-21-98.

Sec. 2-487. Observation of Martin Luther King Day.

The city shall not award any contract to any person, as defined in Code section 2-484(b), until and unless said person provides a written statement to the city affirming that the contractor, all associated subcontractors, and all employees thereof performing work on a city contract shall observe Martin Luther King Day as a national holiday. The statement shall be in such form as may be prescribed by the corporation counsel, and shall be filed with affidavits, disclosures and certifications required by Code section 2-485 as amended from time to time. The purchasing agent shall promulgate this section's provisions, and include it with bid documents, contract applications, and other materials given to city bidders and contractors.

(Ord. No. 1391, 9-19-05)

Editor's note(s)—§ 2-487 amends and supersedes former § 2-157 which derived from Ord. of 1269, 8-7-00.

Sec. 2-488. Performance and payment bond.

- (a) Pursuant to Conn. General Statutes section 49-41 as amended from time to time, and unless otherwise authorized, the city purchasing agent shall require that contractors obtain a payment bond and performance bond when their contracts involve the construction, alteration or repair of any public building or public work in excess of fifty thousand dollars (\$50,000.00). The bonds must be in amounts that are satisfactory to the city purchasing agent.
- (b) The city purchasing agent has discretion to require a performance bond for any contract exceeding twenty-five thousand dollars (\$25,000.00) for the provision of supplies, materials, or equipment.

(Ord. No. 1391, 9-19-05)

Editor's note(s)—§ 2-488 amends and supersedes former § 2-158 which derived from Ord. No. 1292, § 6, 11-19-01.

Secs. 2-489—2-510. Reserved.

Sec. 2-385. Same—Transfers; transfer committee established.

- (B) Pursuant Article VII, Section 3 of the city charter as amended from time to time, the controller shall not transfer any appropriation if the transfer is in the amount of ten thousand (\$10,000) or more in a line item or between city agency line items and is not subject to the provisions of section 2-386 of this Code as amended from time to time, unless the controller or designee receives prior approval from the mayor and the transfer committee. No city agency, official or employee can expend or obligate transferred moneys without the mayor's and the transfer committee's approval. If the transfer is subject to the provisions of section 2-386 of this Code as amended from time to time, then the board of alders prior approval is necessary to effectuate such transfer.
- (A) There shall be a transfer committee, which shall consist of four (4) members. The transfer committee shall consist of two (2) alders of different political parties and who are chosen by the board of alders. Additionally, the mayor shall designate two (2) staff persons to serve on the transfer committee, who serve at the pleasure of the mayor. All members of the transfer committee shall serve for two (2) year terms, concurrent with the aldermanic and mayoral terms of office.

(Ord. No. 1391, 9-19-05)

Editor's note(s)—§ 2-385 amends and supersedes former § 2-189 which derived from Ord. of 7-6-93; Ord. of 11-15-93.

Sec. 2-386. Same—Alders approval of certain actions.

The board of alders prior approval shall be required for a transfer of appropriation or other action if the effect of such action would result in one (1) or more of the following:

- (1) The creation of a new position not included in the budget as adopted or reclassified as outlined;
- (2) The reclassification of an existing position included in the adopted budget that would cause the department to exceed the total salary appropriation for year-end;
- (3) An increase to the total annual salary estimate included in an appropriation when the increase will cause the overall departmental salary appropriation to exceed budget or
- (3) To change the board's previously approved appropriation by at least twenty-five thousand dollars (\$25,000.00).

(Ord. No. 1391, 9-19-05)

Editor's note(s)—§ 2-386 amends and supersedes former § 2-190 which derived from Ord. of 7-6-93.