

ARTICLE XII. - BIDS AND PURCHASING

§ 2-220. - Lobbying.

Lobbying of evaluation or selection committee members, city employees, or elected officials regarding requests for proposals, requests for qualifications, bids, or contracts, or, during the pendency of bid protest, by the bidder, proposer or protestor or any member of the bidder's, proposer's, or protestor's staff, an agent of the bidder, proposer, or protestor, or any person employed by any legal entity affiliated with or representing an organization that is responding to the requests for proposal, requests for qualification, bid or contract, or has a pending bid protest is strictly prohibited either upon advertisement or on a date established by the board of commissioners and shall be prohibited until either an award is final or the protest is finally resolved by the city manager or purchasing administrator; provided, however, nothing herein shall prohibit a prospective bidder or proposer from contacting the purchasing department to address situations such as clarification or questions related to the procurement process. For purposes of this provision lobbying activities shall include but not be limited to, influencing or attempting to influence action or non-action in connection with any requests for proposal, requests for qualification, bid or contract through direct or indirect oral or written communication or an attempt to obtain goodwill of persons and/or entities specified in this provision. Such actions may cause any requests for proposal, requests for qualification, bid or contract to be rejected.

(Ord. 2008-15, passed 6-3-08)

§ 2-221. - Bid protests and procedures.

- (a) Unless expressly prohibited by law or ordinance applicable to municipality in the State of Florida, the following procedures shall govern all protests of requests for bids, requests for proposals (RFP), and requests for qualifications (RFQ).
- (b) Any person, firm or corporation submitting a bid or response to an RFP or RFQ to the city who wishes to protest a decision by the city concerning the bid, RFP, or RFQ or a contract awarded pursuant to the bid, RFP, or RFQ shall file a written notice of protest with the city's purchasing administrator within three (3) working days after posting of the city's decision or intended decision and shall file a formal written protest within seven (7) calendar days after the date of the notice of protest. The formal written protest shall state with particularity the facts and law upon which the protest is based. Failure to file a notice of protest or a formal written protest within the time periods set forth above shall constitute a waiver of the right to protest the decision or intended decision of the city. The city has no obligation or responsibility to notify a bidder of the posting of the city's decision or intended decision.
- (c) Upon receipt of a formal written protest which has been timely filed, the city's purchasing administrator shall stop the bid, RFP or RFQ solicitation process or the contract award

process until the subject of the protest is resolved by negotiation or final administrative action of the city as set forth below or, alternatively, the city's purchasing administrator may, in his discretion, reject all bids or responses to an RFP or RFQ and recommence the bid, RFP or RFQ process. If the city's purchasing administrator does not reject all bids or responses to an RFP or RFQ and recommence the bid, RFP or RFQ process and if the subject of the protest is not resolved by negotiation, the City Manager shall appoint a person not directly involved in the bid process to conduct an administrative hearing and make a written decision on the procedural and substantive validity of the subject of the protest and whether the bid, RFP or RFQ should be awarded to the recommended bidder or responding party or to the protesting party or to another bidder or responding party, whether all bids should be rejected, or such other decision as equity may require. Such decision shall be final administrative action.

- (d) The City Manager shall have the authority to order that the bid, RFP or RFQ process or contract award process continue to conclusion without delay if necessary to avoid an immediate and serious danger to the public health, safety or welfare.
- (e) The administrative hearing described in the preceding section shall be conducted on an informal basis. Formal rules of evidence shall not apply, but the hearing shall be conducted to ensure that fundamental due process is afforded to all parties. Affected persons shall have the right to present evidence and testimony and to be heard regarding the issues raised by the protest. At the city's option, evidence and testimony may be required to be provided under oath. Notice of the administrative hearing shall be given to all affected parties not less than forty-eight (48) hours in advance of the hearing. Notice may be given by telephone, facsimile, e-mail, written notice or other appropriate communication. The hearing officer shall have the authority to continue the hearing as dictated by the circumstances.
- (f) The city's purchasing administrator, on his own initiative or upon the request of the protesting party, may provide the protesting party an opportunity to resolve the protest by mutual agreement between the parties within seven (7) days, excluding Saturdays, Sundays, and legal holidays, of receipt of a formal protest.

(Ord. 2008-15, passed 6-3-08)

§ 2-222. - City right to reject and award bids and responses to requests for proposals or requests for qualifications.

Unless expressly prohibited by law or statute directly applicable to municipalities or by the terms of city's request for bids, proposals or qualifications, the city reserves the right to reject any and all bids and responses to requests for proposals and requests for qualifications for any reason whatsoever, including reasons that are entirely subjective, and to award a contract to a responding person or entity other than the lowest bidder or responding party.

(Ord. 2008-15, passed 6-3-08)

