

ARTICLE IV. BIDDING PROCEDURES*

***Charter references:** Purchasing procedure, § 5.16.

State law references: Bids for public works, R.R.S. 1943, ch. 73.

DIVISION 1. GENERALLY

Sec. 10-101. Bid advertisements.

Advertisements and instructions to bidders for bids or for proposed contracts as to any purchase or any contract involving \$20,000.00 or more shall include notification that any bid or proposed contract shall be opened by the city clerk or deputy city clerk before the bid opening committee and shall specify the date, time and place of the meeting at which such opening shall be done.

(Code 1980, § 10-101; Ord. No. 33564, § 1, 6-6-95)

Sec. 10-102. Exemption from bid bond requirements.

All contractors who are certified participants in and pursuant to the special impact area rehabilitation program are exempt from the provisions of section 10-103 insofar as providing bid bond requirements are concerned; however, such exemption shall be for those bids submitted for rehabilitation of dwelling units under the block grant program administered by the housing and community development division of the city. Authority is hereby granted to the housing and community development department to make available from time to time dwelling units which shall be available only for bid pursuant to the special impact area rehabilitation program.

(Code 1980, § 10-102)

Sec. 10-103. Security of bids generally.

All proposals or bids for all materials, parts, supplies, equipment, and contractual services in an amount of \$20,000.00 or over, as a guarantee that the contracts will be entered into, must be accompanied by either a certified check, an official bank check, or cashier's check drawn on a national bank or a bank chartered under the laws of the state, payable to the city, or lawful money of the United States, or a United States government bond (negotiable), in an amount not less than five percent of the total of each bid or in the amount specified in the bid specifications, which shall be considered as liquidated damages and shall be forfeited to the city if said proposal or bid is accepted and the bidder fails to enter into the contract for which the proposal or bid was made. Nothing in this section shall prevent the bidder from filing a duly executed bid bond with a duly licensed corporate surety of the state with the city as obligee in the amount of five percent of the total of each bid or in the amount specified in the bid specifications conditioned for the faithful execution of the contract for which the proposal or bid was made. In addition, it shall be permissible for a bidder to place on file with the city clerk a duly executed bid bond for any or all purchases or contracts which may be bid during the applicable period. Said bond shall be in an amount of not less than five percent of the largest single total bid received during the period of applicability and shall be valid for not more than one year from date of issue. The city clerk shall keep a record of said bonds, which record shall be open to public inspection.

(Code 1980, § 10-103; Ord. No. 33564, § 2, 6-6-95; Ord. No. 34925, § 1, 6-22-99)

Sec. 10-104. Applicability of other provisions relating to filing of bonds.

The provisions of this division shall be in addition to, and not in lieu of, any provisions of any ordinances now existing relating to the filing of bonds required for the faithful execution of contracts with the city.

(Code 1980, § 10-104)

Sec. 10-105. Opening of bids--Generally; bid opening committee.

All bids and proposed contracts in the amount of \$20,000.00 or more, except those requiring an immediate purchase as provided in section 5.16 of the Home Rule Charter of the City of Omaha, 1956, as amended, shall be forwarded unopened to the city clerk and shall be publicly opened on Wednesday, at 11:00 a.m., in the legislative chamber of the Omaha-Douglas Civic Center, before a three-member committee composed of the purchasing agent from the finance department or his or her authorized representative, the city attorney or an assistant city attorney, and the city clerk or his or her authorized representative. If such chambers are otherwise occupied at 11:00 a.m. the day of the bid opening, the opening may be in another room of the civic center designated by the bid opening committee. The exact day, date, and time of the public opening of such bids shall be specified in the advertisements and instructions to bidders. After bids have been opened, as above provided, they shall be tabulated forthwith by the purchasing agent or buyer, and such tabulation shall be forwarded to the city council. All bids received by the bid opening committee before 11:00 a.m. on the date of bid opening shall be read at the public opening regardless of whether or not the specifications or bonding requirements appear to be met; except that if no bid security is submitted, the bid shall not be read. If the bid or bid bond appears defective on its face, the bid opening committee may note that the bid is subject to rejection and the apparent reason(s). Any bids received by the city clerk after 11:00 a.m. on the day the bid is to be read will be returned to the bidder unopened.

(Code 1980, § 10-105; Ord. No. 33564, § 3, 6-6-95; Ord. No. 34925, § 2, 6-22-99)

Sec. 10-106. Same--Exception.

The provisions of section 10-105 as to time and place of opening bids shall not be strictly applied to contractors participating in the special impact area rehabilitation program. Such time and place for opening bids by the bid committee shall be set by the purchasing agent. All other conditions of said section shall remain in effect. "Place" shall mean that such bids will be opened in the Omaha-Douglas Civic Center.

(Code 1980, § 10-106)

Sec. 10-107. Award to lowest, best bidder.

Awards and contracts in the amount of \$20,000.00 or more shall be awarded to the lowest and best bid by resolution of the city council, in accordance with the provisions of the Home Rule Charter of the City of Omaha, 1956, as amended. The purchasing division may upon its own authority award orders for amounts of less than \$20,000.00 each, except any award to be made to one other than the lowest bidder shall be approved by council resolution. If the department recommends awarding a contract to a bidder other than the apparent low bidder, the department shall notify in writing the low bidder that such bid is not being recommended, the reason(s) why the bid is not being recommended, and that a resolution is being forwarded to the city council for approval of another bidder.

(Code 1980, § 10-107; Ord. No. 33564, § 4, 6-6-95; Ord. No. 34925, § 3, 6-22-99)

Sec. 10-108. Reserved.

Editor's note: Ord. No. 34743, § 11, adopted Nov. 17, 1998, repealed § 10-108, which pertained to contract restriction for Central Park Mall areas, and derived from Code 1980, § 10-108.

Sec. 10-109. Reserved.

Sec. 10-110. Rejection of bids.

The city reserves the right to reject any or all bids received for any city purchase or contract. When bids in an amount of \$20,000.00 or over are received, the director of the department requesting the purchase or contract

shall review the bids and determine if any or all bids should be rejected. If the department director decides to reject all bids because the bids received are over budget or because circumstances have changed, the department director shall send written notice to all bidders that the city is not proceeding with an award. A copy of this notice shall also be sent to the city council and city clerk.

When all bids are rejected by the department director, the request for bids may be readvertised.

If the bid opening committee determines that a bid or bid bond is substantially non-compliant on its face, the city clerk, on behalf of the committee, shall send a letter to the bidder as notice that such bid has been rejected and that the bidder has ten days to appeal the rejection to the city council. If the bid opening committee determines that a bid or bid bond has a minor defect, the city clerk, on behalf of the committee, shall send a letter notifying the bidder that the bid is subject to rejection if the error is not cured within seven working days from the date of the notification. "Minor defects" include, but are not limited to the following: missing signature of the principal on the bid bond; missing signature of the attorney-in-fact of the surety company from the bid bond; power of attorney is not attached to the bid bond.

Within ten days after a bid is rejected, any rejected bidder may appeal to the city council by filing with the city clerk a written objection stating all reasons for the objection. All advertisements and instructions to bidders shall include a notification that the right to reject any or all bids in their entirety is reserved by the city and shall notify bidders of the right to appeal any decision to the city council.

(Code 1980, § 10-110; Ord. No. 33564, § 5, 6-6-95; Ord. No. 34925, § 4, 6-22-99)

Sec. 10-111. Joint governmental purchases.

Notwithstanding any provision of this article, the city council may by resolution join with other public corporations or units of government within the state in cooperative procurement of materials, equipment, work or services. Such cooperative procurement may be based upon competitive bids secured by a cooperating public corporation or unit of government.

(Code 1980, § 10-111)

Sec. 10-112. Bid specifications for building construction to conform to building codes.

(a) Bid specifications for the construction of buildings and/or other improvements to be constructed for or on behalf of the city, and located more than three miles from the city limits, shall require adherence to the city building code, section 43-121 et seq.

(b) Local building code requirements shall be adhered to in lieu of the city building code when and if the local building code in question is deemed to be more stringent than the city building code

(c) Should federal and/or state funds be utilized in whole or in part for construction of said buildings and/or improvements, the state building code shall be adhered to in lieu of the city building code should the former be deemed more stringent in its requirements than the city building code.

(Code 1980, § 10-112)

Sec. 10-113. Insurance contracts.

With respect to bids for any contract in an amount of \$20,000.00 or more that is to be entered into by the city for the purposes of providing its employees with either health insurance, life insurance, or dental insurance, the mayor shall submit to the city council his or her recommendation as to the bid to be approved, at least two months prior to the expiration date of such contract currently in effect. The submittal requirements of this section shall not be construed to apply to any proposed collective bargaining agreement.

(Code 1980, § 10-113; Ord. No. 33564, § 6, 6-6-95)

Cross references: Insurance and surety coverage, § 10-221 et seq.