

CHAPTER 7
SELECTION OF PROFESSIONAL SERVICES
PROCUREMENT, CONFLICT OF INTEREST
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**CHAPTER 7
SELECTION OF PROFESSIONAL SERVICES
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Article I. General

7.005. Definitions

As used in this chapter, unless the context specifically requires otherwise:

- (1) "Agency" means each agency of the state and each agency of a political subdivision thereof authorized to contract for architectural, engineering and land surveying services;
- (2) "Architectural services" means any service as defined in section 327.091, RSMo;
- (3) "Engineering services" means any service as defined in section 327.181, RSMo;
- (4) "Firm" means any individual, firm, partnership, corporation, association or other legal entity permitted by law to practice the profession of architecture, engineering or land surveying and provide said services;
- (5) "Land surveying services" means any service as defined in section 327.272 RSMo.
- (6) "Project" means any capital improvement project or any study, plan, survey or program activity of a state agency or political subdivision thereof, including development of new or existing programs. (State law reference 8.287)

7.010. Preference to be given to Ashland and Missouri Products

1. In making purchases the City, or any department or employee thereof shall give preference to all commodities manufactured, mined, produced or grown within the State of Missouri and to all firms, corporations or individuals doing business as Missouri firms, corporations or individuals, when quality is equal or better and delivered price is the same or less.
2. In making purchases the City, or any department or employee thereof shall give preference to all commodities manufactured, mined, produced or grown within the City of Ashland and to all firms, corporations or individuals whose place of business is located within the city limits of Ashland when quality is equal or better and delivered price is not more than ten percent (10%) higher. To be considered as having a place of business within the city limits, the firm, corporation or individual must be able to demonstrate a substantial and continuing business presence within the city.

7.015. Bid Proposals, Form

All requests for bids and proposals for supplies to be purchased shall be made in general terms and by general specifications and not by brand, trade name or other individual mark, provided such article to be purchased can be definitely described

without the designation of such brand, trade name or other individual mark. All such requests and bids shall contain therein a paragraph in easily legible print, reading as follows: "By virtue of statutory authority, a preference will be given to materials, products, supplies, provisions and all other articles produced, manufactured, made or grown within the State of Missouri and additional preference shall be given to commodities manufactured, mined, produced or grown within the City of Ashland and to all firms, corporations or individuals whose place of business is located within the city limits of Ashland."

7.020. Roster of consultants

1. The City Clerk will maintain a roster, classified by category of professional service, of qualified firms interested in performing professional services for the City. Names of firms will be placed on the roster upon their request, at the request of the Mayor or members of the Board of Aldermen, or when recommended by City departments.
2. Each firm meeting the following minimum qualifications shall be deemed to be a qualified firm and meeting the qualifications of the City.
 - a. Duly authorized to conduct business in the State of Missouri in their particular profession.
 - b. Professional registration by the State of Missouri, if required.
 - c. At least one staff professional assigned to each project. Adequacy of personnel will be determined on a contract-by-contract basis against the City's estimate of manpower required to perform the work in the desired time frame.
3. Each firm listed on the roster shall be responsible for maintaining a current resume describing its qualifications and experience with the City Clerk.

Data which should be included is as follows:

- a. Firm name, address, and telephone numbers.
- b. Year established and former firm names (if applicable)
- c. Types of services for which it is qualified.
- d. Names of principals of the firm and states in which they are registered, if registration is required in that profession.
- e. Names of key personnel, with experience of each and length of time in the organization.
- f. Number of staff available for assignment.
- g. Outside consultants and associates usually retained.
- h. Current projects underway and estimated cost of each.

7.025. Bidding Procedure for construction projects

1. Competitive bids shall be required on all construction contracts for which more than Two Thousand and no/100 Dollars (\$2,000.00) has been extended and prior to the hour designated for the opening of bids.
2. Bids may be submitted at any time after the project has been officially advertised or invitations extended and prior to the hour designated for the opening of bids.
 - A. Bids submitted may be withdrawn or changed at any time before the official opening.
 - B. No changes shall be permitted after bids have been opened.
 - C. Bids shall be submitted on the proposal/bid form with all accompanying papers placed in a sealed envelope addressed to the City Administrator or other person authorized to receive same and endorsed with the bidders name and title of the project.
 - D. All bids will be opened by the City Administrator or other person authorized to receive same and read aloud publicly at the proper time so that all bidders and others interested may be present as witnesses and/or to tabulate amounts.
3. After the bids have been read, the City Administrator or other person authorized to receive same shall prepare a compilation of the bids to provide to the Board of Aldermen, who shall determine to whom the bids is to be awarded. If the City has retained an engineer or other consultant in connection with the contract, that individual shall be consulted in preparing the compilation.

Article II. Professional Services

7.100. Policy on contracts for architectural, engineering, land surveying services

It shall be the policy of the City of Ashland to negotiate contracts for architectural, engineering and land surveying services on the basis of demonstrated competence and qualifications for the type of services required and at fair and reasonable prices.

7.105. City to be furnished statement of firms qualifications and performance data

Present provisions of law notwithstanding, in the procurement of architectural, engineering or land surveying services, the City shall encourage firms engaged in the lawful practice of their professions to annually submit a statement of qualifications and performance data to the City. Whenever a project requiring architectural, engineering or land surveying services is proposed, the City shall evaluate current statements of

qualifications and performance data of firms on file together with those that may be submitted by other firms regarding the proposed project. In evaluating the qualifications of each firm the City shall use the following criteria:

- (1) The specialized experience and technical competence of the firm with respect to the type of services required;
- (2) The capacity and capability of the firm to perform the work in question, including specialized services, within the time limitations fixed for the completion of the project;
- (3) The past record of performance of the firm with respect to such factors as control of costs, quality of work, and ability to meet schedules;
- (4) The firm's proximity to and familiarity with the area in which the project is located.

7.110. Negotiation for contract

1. The City shall list three highly qualified firms. The City shall then select the firm considered best qualified and capable of performing the desired work and negotiate a contract for the project with the firm selected.
2. For a basis for negotiations the City shall prepare a written description of the scope of the proposed services.
3. If the City is unable to negotiate a satisfactory contract with the firm selected, negotiations with that firm shall be terminated. The City shall then undertake negotiations with another of the qualified firms selected. If there is a failing of accord with the second firm, negotiations with such firm shall be terminated. The City shall then undertake negotiations with the third qualified firm.
4. If the City is unable to negotiate a contract with any of the selected firms, the City shall reevaluate the necessary architectural, engineering or land surveying services, including the scope and reasonable fee requirements, again compile a list of qualified firms and proceed in accordance with the provisions of this chapter.

7.120. State law not applicable

The City hereby adopts the procedure set forth in this chapter in lieu of the procedures set forth in sections 8.285 to 8.291 RSMo.

7.125. Prohibition against contingent fees

1. Each contract entered into by the Board of Aldermen for professional services shall contain a prohibition against contingent fees as follows:

“No firm shall retain a person to solicit or secure a city contract for professional services upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, except for retention of bona fide employees or bona fide established commercial selling agencies for the purpose of securing business.”

2. For the breach or violation of the foregoing provision, the Mayor and Board of Aldermen shall have the right to terminate the agreement without liability and, at its discretion, to deduct from the contract price, or otherwise recover the full amount of such fee, commission, percentage, gift, or consideration.

7.130. Waiver

The Mayor and Board of Aldermen may waive any and all afore-mentioned procedural requirements in the best interests of the City.

7.135. Accounting and Legal Services

Nothing in this Chapter shall be construed as to require competitive bidding for accounting or legal services.

7.140. Purchasing of insurance policies, competitive bidding, when, renewal between bidding periods deemed extension

Any other law to the contrary notwithstanding, no contract shall be entered into by the City to purchase any insurance policy or policies unless the contract is submitted to competitive bidding at least every six years and the contract is awarded to the lowest or best bidder. The renewal of any insurance policy during any period between submissions of the contract to competitive bidding shall not constitute a separate and distinct contract for the time covered by the renewal but shall be treated only as an extension of an existing contract. (State law reference 376.696 RSMo.)

7.145. Depository for city funds, how selected

Boards of Aldermen in cities of the fourth class, at their first regular meetings in the months of January, April, July and October of each year, may select a depository for the funds of their respective cities, for the length of time and under the rules and regulations that are provided as prescribed by ordinance therefore. The rights and duties of the parties to the depository contract are as provided in section 110.010, RSMo. The deposits shall be secured by deposit of securities as required by sections 110.010 and 110.020, RSMo. The depository shall be a banking institution doing business within the city. If such depository cannot be selected, or such satisfactory arrangements made, the boards of aldermen may invest the moneys upon the terms and under the conditions provided by law for the loaning of county and school moneys. (amended Council Bill No. 2008-037, 9-02-08)

Article III. Procurement of Property, Equipment, or Materials

7.200. Advertisement for bids required when

All purchases of personal property by the City shall be by competitive bid, except that purchases of less than Two Thousand Five Hundred Dollars (\$2,500.00) may be

made on the open market. If the cost of any such personal property is expected to be over Two Thousand Five Hundred Dollars (\$2,500.00) then price quotes shall be informally solicited from at least three prospective suppliers, and such quotes shall be recorded and retained in the City's records for a period of five years. If the cost of any such personal property is expected to exceed Three Thousand Dollars (\$3,000.00), then advertisements for bids shall be inserted at least one (1) time in a newspaper of general circulation in the City of Ashland, Missouri, to appear at least one (1) week before such bids are to be opened, and bids shall also be solicited by mail from prospective suppliers. In all cases, the purchase shall be made from the lowest and or best bidder, except that the City shall have the right to reject any or all bids and then either solicit new bids or, in the case where a better price may be obtained on the open market, make the purchase on the open market, except that purchases from other government entities under the State Surplus Property Law and purchases found by the Board to be needed on an emergency basis, need not be competitively bid. (amended Council Bill No. 2008-008, 2-18-08)

7.205. Authorization for purchases

1. Any City official, officer or employee will be reimbursed for any purchase made on behalf of the City which is less than fifty dollars (\$50.00) if the City Treasurer is furnished with a receipt for the purchase promptly after the purchase and if reimbursement is approved by the Board of Aldermen.
2. No employee of the City shall make any purchase on behalf of the City, without written authorization from the Administrative Supervisor of their Department. Administrative supervisory personnel are responsible for the proper spending of the budgets allotted to them. Department Heads must receive written approval from the City Administrator for purchases over Five Hundred and no/100 Dollars (\$500.00).
3. The provisions of this subsection notwithstanding, the City Administrator may exceed the purchase limit of Twenty Five Hundred and no/100 Dollars (\$2,500.00) if the purchase is determined by supervisory personnel to be an emergency purchase. When an emergency purchase is made, the City Administrator will immediately submit a written report to the Mayor, Board of Aldermen. A copy of the invoice will be attached to the report and the report will explain the emergency situation in detail.
4. The Board, by Resolution, may designate those persons authorized to use charge accounts set up in the City's name. Any such Resolution shall designate the limits of the authorization. Use of charge accounts shall be subject to the provisions of subsections one and two of this section. (amended Council Bill No. 2008-008, 2-18-08)