

ORDINANCE

No. 06 014 160

1st Reading JAN 19 2006
Public Hearing FEB 02 2006
2nd Rdg. and Final Passage FEB 02 2006
Withdrawn _____ Lost _____

Date to Mayor FEB 02 2006
Date Returned FEB 08 2006
Date Resubmitted to Council _____

Approved as to Form and Legality

Factual contents certified by

B. Denise Lyles
City Attorney

Joseph A. Alcorn
Special Counsel

Councilman Melford Baker

[Signature] presents the following Ordinance:

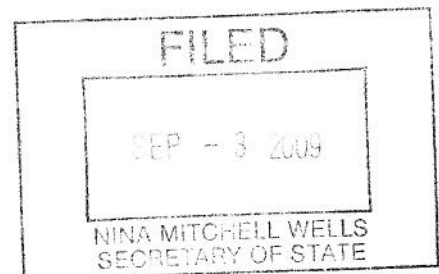
ORDINANCE ESTABLISHING A FAIR AND OPEN PROCESS CONSISTENT WITH THE PROVISIONS OF N.J.S.A. 19:44A-20.5 FOR THE AWARD OF CONTRACTS IN EXCESS OF \$17,500.00

WHEREAS, the City of Trenton recognizes the need to establish a fair and open process for the awarding of certain contracts in order to address the concerns of taxpayers regarding political contributions, engender trust in the process of local government and to insure that quality public services are received; and

WHEREAS, the State of New Jersey has enacted N.J.S.A. 19:44A-20.5 which bars any municipality, agency or instrumentality thereof from entering into a contract in excess of \$17,500.00 with a business entity that has made a political contribution reportable pursuant to N.J.S.A. 19:44A-1 et seq. to any municipal committee of a political party in that municipality if a member of that political party is serving in an elective public office of that municipality when the contract is awarded or to any candidate committee of any person serving in an elective public office of that municipality when the contract is awarded unless said contract is awarded pursuant to a fair and open process.

NOW THEREFORE, BE IT ORDAINED, by the City Council of the City of Trenton as follows:

1. Subject to the exception set forth below, all contracts to be awarded by the City which would otherwise be exempt from the public bidding laws and which have a value in excess of \$17,500.00, as determined in advance and certified in writing by the Purchasing Agent or the Department Head seeking the procurement, shall only be awarded pursuant to a "fair and open" process.



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2. "Fair and open" shall mean either:

- A. the contract shall be publicly advertised on the City internet website in sufficient time to give notice in advance of the contract solicitation and awarded pursuant to a process that provides for public solicitation of proposals or qualifications and awarded based upon criteria established in writing by the City prior to the solicitation of proposals or qualifications and that the proposals be publicly opened at the designated time and place and that evaluation of the proposals be conducted consistent with this ordinance; or
- B. the contract is awarded pursuant to the competitive contracting provisions of the Local Public Contracts Law, N.J.S.A. 40A:11-4.1 et seq.; or
- C. the contract is awarded pursuant to public solicitation of bids.

Further consistent with the provisions of N.J.S.A. 19:44A-20.7, the City's determination of what constitutes a "fair and open" process shall be final.

"Fair and open" may necessarily be implemented differently for different categories of procurement depending on the subject matter of the procurement and the nature and nuances of the industry providing the services or the product, but in every instance, the principles of "fair and open" shall be maintained.

3. The process may include the prequalification of potential proposers and shall include the solicitation of proposals on forms to be developed by the Purchasing Agent and the Department Head to whose department the services will be provided or for whose department the product shall be procured, or their designees. The award of a contract shall be based on evaluation of the proposals, based on criteria which may include, but are not necessarily limited to the following: accessibility; understanding of the assignment; price; methodology/plan for accomplishing the assignment; general experience; experience specific to the assignment; sufficiency of resources to perform the task; performance of the services within the United States of America.

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The proposals shall be evaluated by a committee consisting of the Business Administrator or his or her designee; the Purchasing Agent or his or her designee; and the Department Head to whose department the services will be provided or for whose department the product shall be procured or his or her designee.

The proposals shall be publicly opened and a list created of all proposals submitted.

The award to the successful proposer shall be made by resolution adopted by the City Council.

4. In the alternative to proceeding with a fair and open process described herein, the City may award a contract to business entity for an amount in excess of \$17,500.00, pursuant to procedures prescribed by the New Jersey Local Public Contracts Law and without competitive bidding or competitive contracting; however, such award may be made only if the recipient of the contract provides a written certification that it has not made, or will not make, a political contribution which would bar the award of the contract.

A disqualifying contribution in the context of this provision shall be one that is reportable by the recipient pursuant to N.J.S.A. 19:44A-1 et seq., and made within the time frame provided in that statute. If so awarded, the vendor receiving the contract shall not thereafter make such a reportable contribution during the term of that contract.

If a business entity makes a contribution that would cause it to be ineligible to receive such a public contract or, in the case of a contribution made during the term of the public contract, that would constitute a violation of N.J.S.A. 19:44A-20.4 et seq., the business entity may request, in writing, within 60 days of the date on which the contribution was made, that the recipient thereof repay the contribution. If repayment is received within 60 days, the business entity will again be eligible to receive a contract or would no longer be in violation, as the case may be.

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5. If any of the provisions of this ordinance, or the application of this ordinance shall be found invalid, the remainder of this ordinance, to the extent that it can be given effect or application, shall remain in full force and effect.

This ordinance shall take effect thirty (30) days after final passage by Council or twenty (20) days after approval by the Mayor, whichever comes first.

RECORD OF COUNCIL VOTE ON FINAL PASSAGE															
COUNCILMAN	AYE	NAY	N.V.	A.B.	COUNCILMAN	AYE	NAY	N.V.	A.B.	COUNCILMAN	AYE	NAY	N.V.	A.B.	
BETHEA	XX				SEGURA	XX				PINTELLA	XX				
LARTIGUE	XX				STATON	XX				PRESIDENT					
MELONE	XX				UNGRADY	XX									

X—INDICATES VOTE A.B.—ABSENT N.V.—NOT VOTING X.O.R.—INDICATES OVERRIDE VETO

Adopted on first reading at a meeting of the City Council of the City of Trenton, NJ
 Adopted on second and final reading after hearing on JAN 19 2006
FEB 02 2006

Rejected
 Approved by [Signature] Mayor
 Reconsidered By Council
 Override Vote
 Aye
 Nay
[Signature] President of Council
[Signature] City Clerk