

AR Code § 14-58-303 (2024)

Purchases and contracts generally - Definitions

(a) In a city of the first class, city of the second class, or incorporated town, the mayor or the mayor's duly authorized representative shall have exclusive power and responsibility to make purchases of all supplies, apparatus, equipment, materials, and other things requisite for public purposes in and for the city and to make all necessary contracts for work or labor to be done or material or other necessary things to be furnished for the benefit of the city, or in carrying out any work or undertaking of a public nature in the city.

(b)(1)

(A) Except as provided under § 14-58-104, the governing body of any city of the first class shall provide by ordinance the procedure for making all purchases that do not exceed the sum of thirty-five thousand dollars (\$35,000).

(B) Except as provided under § 14-58-104, the governing body of any city of the second class or incorporated town may provide by ordinance the procedure for making all purchases.

(2)(A)

(i) Except as provided under § 14-58-104, in a city of the first class in which the amount of expenditure for any purpose or contract exceeds the sum of thirty-five thousand dollars (\$35,000), the mayor or the mayor's authorized representative shall invite competitive bidding on the purpose or contract by legal advertisement in any local newspaper.

(ii) Bids received pursuant to the advertisement shall be opened and read on the date set for receiving the bids in the presence of the mayor or the mayor's authorized representative.

(iii) The mayor or the mayor's authorized representative has exclusive power to award the bid to the lowest responsible bidder, subject to the provisions in subdivision (b)(2)(A)(iv) of this section, and may reject any and all bids received.

(iv) For the purchase of supplies, apparatus, equipment, materials, and other items under this subdivision (b)(2), the city may base its award on the following method of evaluation if notice of the method of evaluation is stated in the bid notice:

(a) The lowest immediate cost;

(b) The lowest demonstrated life cycle cost;

(c) The lowest demonstrated term costs; or

(d) A combination of two (2) or more of the lowest immediate cost, the lowest demonstrated life cycle cost, and the lowest demonstrated term costs.

(v) A bid, quote, and the documentation related to a bid or quote shall be maintained as required under § 14-59-114(a)(1).

(B) The governing body by resolution may waive the requirements of competitive bidding in exceptional situations where this procedure is deemed not feasible or practical or as provided under § 14-58-104.

(C) Cities of the first class, cities of the second class, and incorporated towns may accept competitive bids in the following forms:

(i) Written; or

(ii) Electronic media.

(3)

(A) Beginning January 1, 2025, and on each January 1 at subsequent five-year intervals, the amounts under subdivisions (b)(1) and (2) of this section shall be adjusted to reflect the percentage increase in the Consumer Price Index for All Urban Consumers or its successor, as published by the United States Department of Labor for the five (5) years immediately preceding the percentage increase, and rounded to the nearest whole number.

(B) Following a percentage increase under subdivision (b)(3)(A) of this section, the Department of Finance and Administration shall provide each city of the first class

and Arkansas Legislative Audit with the percentage increase and the corresponding updated amounts under this section.

(c)

(1) In a city of the first class, a city of the second class, or an incorporated town, the governing body by ordinance shall have the option to make purchases by participation in a reverse internet auction, except that purchases and contracts for construction projects and materials shall be undertaken pursuant to subsections (a) and (b) of this section and § 22-9-203.

(2) The ordinance shall include, but is not limited to, the following procedures:

(A) Bidders shall be provided instructions and individually secured passwords for access to the reverse internet auction by either the city or the town, or the reverse internet auction vendor;

(B) The bidding process shall be timed, and the time shall be part of the reverse internet auction specifications;

(C) The reverse internet auction shall be held at a specific date and time;

(D) The reverse internet auction and bidding process shall be interactive, with each bidder able to make multiple bids during the allotted time;

(E) Each bidder shall be continually signaled his or her relative position in the bidding process;

(F) Bidders shall remain anonymous and shall not have access to other bidders or bids; and

(G) The governing body shall have access to real-time data, including all bids and bid amounts.

(3) The governing body may create by an additional ordinance reverse internet auction specifications for the anticipated purchase of a specific item or purchase.

(4)

(A) The governing body is authorized to pay a reasonable fee to the reverse internet auction vendor.

(B) The fee may be included as part of the bids received during the reverse internet auction and paid by the winning bidder or paid separately by the governing body.

(5) The governing body retains the right to:

(A) Refuse all bids made during the reverse internet auction; and

(B) Begin the reverse internet auction process anew if the governing body determines it is in the best interest of the city or town.

(d) As used in this section:

(1) "Lowest demonstrated life cycle cost" means the cost of an asset as determined by the mayor or the mayor's authorized representative to be credibly established by a bidder over the life cycle of the asset, taking into consideration the asset's initial capital costs, maintenance costs, operating costs, and residual value at the end of the life of the asset;

(2) "Lowest demonstrated term cost" means the cost of an asset as determined by the mayor or the mayor's authorized representative to be credibly established by a bidder over a portion of the life cycle of the asset, taking into consideration the asset's initial capital costs, maintenance costs, and operating costs during the portion of the life cycle of the asset;

(3) "Lowest responsible bidder" means the bidder who offers trustworthiness and responsibility concerning the subject purchase and whose bid offers the lowest cost to the city under subdivision (b)(2)(A) of this section;

(4) "Reverse internet auction" means an internet-based process in which bidders:

(A) Are given specifications for items and services being sought for purchase by a municipality; and

(B) Bid against one another in order to lower the price of the item or service to the lowest possible level; and

(5) "Reverse internet auction vendor" means an internet-based entity that hosts a reverse internet auction.

Amended by Act 2023, No. 208, § 2, eff. 8/1/2023.

Amended by Act 2023, No. 208, § 1, eff. 8/1/2023.

Amended by Act 2021, No. 435, § 5, eff. 7/28/2021.

Amended by Act 2017, No. 170, § 2, eff. 8/1/2017.

Acts 1959, No. 28, § 5; 1979, No. 154, § 1; 1985, No. 745, § 3; A.S.A. 1947, § 19-4425; Acts 1995, No. 812, § 1; 2001, No. 508, § 1; 2005, No. 1435, § 2; 2005, No. 1957, § 1; 2009, No. 756, § 24.