

(O-87-202)

ORDINANCE NUMBER O- 16969 (NEW SERIES)

ADOPTED ON NOV 2 1987

AN ORDINANCE AMENDING CHAPTER II, ARTICLE 2, DIVISION 5, OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING SECTIONS 22.0504, 22.0505, 22.0507 AND 22.0508, BY REPEALING SECTION 22.0520, BY RENUMBERING SECTIONS 22.0524 AND 22.0525, AND BY ADDING SECTIONS 22.0511, 22.0512, 22.0513, 22.0514, 22.0515 AND 22.0516, RELATING TO PURCHASING AGENT.

BE IT ORDAINED, by the Council of The City of San Diego, as follows:

Section 1. That Chapter II, Article 2, Division 5, of the San Diego Municipal Code be and the same is hereby amended by amending Sections 22.0504, 22.0505, 22.0507 and 22.0508 to read as follows:

SEC. 22.0504 PURCHASE LIMITATIONS

The Purchasing Agent shall have the power to purchase materials, supplies, equipment and insurance and, subject to the provisions of the City Charter and section 23.1801 of this Code, to provide for contracts for personal services, as defined in this section, upon direct request by the various departments or offices of the City, without first seeking sealed proposals or Council approval, if said purchase or contract for personal services does not exceed the sum of ten thousand dollars (\$10,000). The Purchasing Agent shall seek competitive prices for all purchases and for all contracts for personal services over five hundred dollars (\$500), except that annual blanket purchase

orders may be issued for commercially available materials and supplies which are not normally kept in City stores and which are required by City forces for immediate completion of work in progress. For purposes of this section the term "contracts for personal services" excludes contracts for professional or expert services.

The Purchasing Agent is prohibited from subdividing any purchase or contract for personal services which should logically be made as a single transaction requiring the expenditure of more than ten thousand dollars (\$10,000) into two or more purchases, or contracts, each involving an expenditure of less than ten thousand dollars (\$10,000), for the purpose of avoiding compliance with the procedure elsewhere in this Code and in the City Charter provided for the making of purchases or contracts for personal services where the expenditure involved exceeds the sum of ten thousand dollars (\$10,000).

The Purchasing Agent shall not purchase materials, supplies, equipment and insurance, nor enter into contracts for personal services requested by various departments or offices of the City, where said purchase or contract exceeds the sum of ten thousand dollars (\$10,000) without having first advertised for sealed proposals, except in the case of bonafide emergency affecting public health or safety in which case he shall thereafter immediately report the fact to the City Council. The Purchasing Agent shall not be required to advertise for sole source procurement provided certification to this effect is approved by the City Manager.

If the cost of any purchase or any contract for personal services required by the City is in excess of twenty-five thousand dollars (\$25,000), said purchase or contract for personal services may be made by the Purchasing Agent only after said Purchasing Agent has advertised for sealed proposals and has obtained Council approval to award the contract, except in the case of bonafide emergency affecting public health or safety in which case he shall thereafter immediately report the fact to the City Council who shall then by Resolution so note and ratify the procurement. The authority to so purchase shall be limited to \$200,000. The Purchasing Agent shall not be required to advertise for sole source procurement provided certification to this effect is approved by the City Manager.

Within the same dollar amounts as are set forth herein, the Purchasing Agent is authorized to participate in joint and cooperative purchasing and to participate in joint and cooperative contracts for personal services with the State of California, County of San Diego, school districts, water districts, and such other agencies as the Council may by resolution direct, so long as purchases above ten thousand dollars (\$10,000) are made through a competitive bidding process.

SEC. 22.0505 REQUISITIONS

a. Requisitions for articles, commodities, supplies, materials or equipment by any department or office shall be addressed to the Purchasing Agent, approved by the head of such department or office. Purchase orders issued pursuant to such requisitions shall bear the certificate or stamp or like approval

of the Auditor and Comptroller pursuant to Section 80 of the Charter and shall be reviewed by him for compliance with Section 81 of the Charter.

b. If the department or office making the requisition has available a sufficient appropriation balance, the Purchasing Agent shall either furnish the items requisitioned from the storerooms or warehouses under his control or shall procure them by purchase. Whenever any department or office requires supplies or equipment which another department or office is able to furnish, suitable work order or requisition may be made or transfer without monetary consideration may be effected, and such supplies or equipment may be furnished to the requiring department or office. In such cases, appropriate charges and credits, if any, shall be made to the accounts affected by such transaction.

c. Whenever any department requires supplies, materials, equipment or services which are not available from City sources, the requesting department shall provide the Purchasing Agent with specifications completely describing the procurement by purpose, function, description or combination thereof. The specifications so provided shall be subject to the approval of the Purchasing Agent prior to procurement action.

d. Brand Names. Specifications may include reference to a brand name for illustrative purposes only, provided at least two brand names are used followed by the words "or equal." Whenever reference to a specific brand name is made, it is illustrative and to be construed as a term of specification which describes a

component that has been tested or evaluated by the City as best meeting the specific operational, design, performance, maintenance, quality and/or reliability standards and requirements of the City, thereby incorporating these requirements by reference within the specification. An equivalent ("or equal") may be offered by the bidder, subject to testing and evaluation at the option of the City prior to award of bid. The City reserves the sole right to reject a substituted component that will not fulfill requirements. It shall be the sole responsibility of the bidder to provide at bidder's expense any product information, test data and other information the City may require to fully evaluate the acceptability of the offered substitute. Where appropriate, independent testing including destructive testing or evaluation at qualified test facilities at bidder's expense may be required as a condition of acceptance. Exceptions to the foregoing are permissible for procurement for replacement parts, or for testing and evaluation purposes or where compatibility with existing City equipment is mandated.

e. "Sole Source." As used in this Division, "sole source" means that the procurement is available from only one source and there is no permissible substitute.

SEC. 22.0507 PROCUREMENT AND PUBLIC CONTRACTS

a. General. The Purchasing Agent shall issue Invitations to Bid or Requests for Proposals for materials, supplies, equipment, services and insurance and other public contracts required for the City.

b. Invitations to Bid. An Invitation to Bid shall describe the material, supplies, equipment, services or insurance with sufficient particularity to allow for competitive bidding and evaluation. The specifications shall describe the requested procurement by description, function and/or performance required together with any operational limitations or parameters applicable.

c. Requests for Proposals. When a requesting department seeks a systems acquisition comprising the design and installation of state of the art technological components, the Purchasing Agent may issue a Request for Proposals which shall sufficiently detail the requested procurement by function, together with any applicable description, operational requirements and all structural and operating environment considerations. The Purchasing Agent may additionally reserve the right to thereafter issue an Invitation to Bid based on a refinement of concept from any Proposals submitted.

SEC. 22.0508 BID AND PROPOSAL SUBMISSIONS

Bidders must submit responsive Bids and Proposals on or before the bid closing to the Purchasing Agent to be eligible for consideration. It shall be competent for the Purchasing Agent to consider a Bid or Proposal which was timely submitted via a delivery medium which arrives after the bid closing, provided acceptance of the Bid or Proposal is in the best interests of the City and there is no possibility of collusion or fraud upon the procurement process. Formal Bids and Proposals shall otherwise be opened at a public bid opening.

Section 2. That Chapter II, Article 2, Division 5, of the San Diego Municipal Code be and the same is hereby amended by repealing Section 22.0520.

Section 3. That Chapter II, Article 2, Division 5, of the San Diego Municipal Code be and the same is hereby amended by renumbering the following Sections:

<u>FORMER SECTION NUMBER</u>	<u>NEW SECTION NUMBER</u>
22.0525	22.0509 no change in text
22.0524	22.0510 no change in text

Section 4. That Chapter II, Article 2, Division 5, of the San Diego Municipal Code be and the same is hereby amended by adding Sections 22.0511, 22.0512, 22.0513, 22.0514, 22.0515 and 22.0516, to read as follows:

SEC. 22.0511 RELIEF

Any bidder who seeks to withdraw or modify a Bid because of inadvertent computational error shall notify the Purchasing Agent no later than three (3) working days following the bid closing. The bidder shall provide worksheets and such other information as may be appropriate or required by the Purchasing Agent to substantiate the claim of inadvertent error. Failure to do so may bar such relief and allow recourse from the bid surety. The burden is upon the bidder to prove such error.

SEC. 22.0512 AWARD

Contracts for procurement under an Invitation to Bid will be awarded on the basis of the low acceptable bid meeting specifications. Contracts for procurement under a Request for Proposal will be awarded on the basis of the proposal best

meeting City requirements. Determinations shall be based on one or more or any combination of factors which will serve to provide City requirements at the best economic advantage to the City including but not limited to: unit cost, life cycle cost, economic cost analysis, operating efficiency, warranty and quality, compatibility with existing equipment, maintenance costs (to include consideration for the costs associated with proprietary invention), experience and responsibility of bidder. The Purchasing Agent and the City Manager may waive defects and technicalities when such is in the best interests of the City. The Purchasing Agent shall notify all bidders of the proposed selection for award upon determination thereof.

SEC. 22.0513 PROTESTS

Protests by unsuccessful bidders to the selection for award shall be submitted in writing setting forth the grounds for such protest to the Purchasing Agent no later than ten (10) calendar days after the date of announcement of selection. The unsuccessful bidder shall have the right to appear at the City Council to protest any award required to be confirmed by Council. Failure to submit a timely protest to the Purchasing Agent shall bar consideration of such protest, however.

SEC. 22.0514 DEBARMENT PROCEDURES FOR PROCUREMENT AND PUBLIC WORKS CONTRACTS

a. In addition to all other remedies permitted by law, the City Council may upon advice of the City Manager and the City Attorney, by resolution, declare a bidder or contractor ineligible to bid on City procurement and public works contracts

for a period not to exceed three years for any of the following grounds: two or more claims of computational error in bid submission within a two year period; unjustified refusal to provide or execute contract documents; unsatisfactory performance of contract; unjustified refusal to perform or complete contract work or warranty performance; unjustified failure to honor or observe contractual obligations or legal requirements pertaining to the contract; conviction under state or federal statutes for fraud, bribery, theft, falsification or destruction of records, receiving stolen property or of any other similar crime or offense indicating a lack of business integrity and which would directly affect the reliability and credibility of performance of such a vendor or contractor with future contracts with the City; or, based on the limited debarment by another governmental agency.

b. The City Council shall permanently debar any bidder or contractor for a violation of City Charter section 97, and may permanently debar such bidder or contractor for a conviction under federal or state antitrust statutes involving public contracts or the submission of bid proposals, for any corrupt practices involving the administration or award of a contract with the City, or permanent debarment of the bidder or contractor by another governmental agency.

c. The bidder or contractor shall be provided notice and an opportunity to present evidence and show cause before the City Council why such ineligibility shall not be declared after the Purchasing Agent has established a factual basis for debarment.

SEC. 22.0515 BONDS AND INSURANCE

The Purchasing Agent is authorized to require vendors and contractors to provide such insurance and surety bonds as may be required for City procurement.

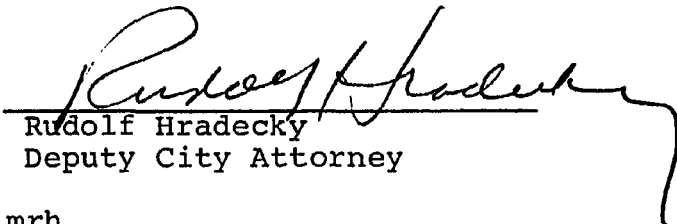
SEC. 22.0516 ADMINISTRATION AND PROCEDURES

The administration of City procurement contracts is under the authority of the Purchasing Agent. All requesting departments shall notify the Purchasing Agent of any discrepancies in or unsatisfactory performance of services or materials, and shall coordinate all contract claims, demands and related adverse action through that office. The City Manager and the Purchasing Agent shall each respectively have the authority to promulgate such rules, regulations and procedures as may be appropriate and necessary in furtherance of the requirements of this Division.

Section 5. This ordinance shall take effect and be in force on the thirtieth day from and after its passage.

APPROVED: John W. Witt, City Attorney

By


Rudolf Hradecky
Deputy City Attorney

RH:mrh
08/20/87
Or.Dept:Pur.
O-87-202
Form=o.none

Passed and adopted by the Council of The City of San Diego on NOV 2 1987,
by the following vote:

Council Members	Yeas	Nays	Not Present	Ineligible
Abbe Wolfsheimer	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Bill Cleator	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Gloria McColl	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
District 4	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> VACANT
Ed Struiksmā	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mike Gotch	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Judy McCarty	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Celia Ballesteros	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mayor Maureen O'Connor	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

AUTHENTICATED BY:

MAUREEN O'CONNOR
Mayor of The City of San Diego, California.

CHARLES G. ABDELNOUR
City Clerk of The City of San Diego, California.

By: *Charles G. Abdellour*, Deputy.

(Seal)

I HEREBY CERTIFY that the foregoing ordinance was not finally passed until twelve calendar days had elapsed between the day of its introduction and the day of its final passage, to wit, on

OCT 19 1987

NOV 2 1987

, and on _____

~~I FURTHER CERTIFY that said ordinance was read in full prior to its final passage.~~

I FURTHER CERTIFY that the reading of said ordinance in full was dispensed with by a vote of not less than a majority of the members elected to the Council, and that there was available for the consideration of each member of the Council and the public prior to the day of its passage a written or printed copy of said ordinance.

CHARLES G. ABDELNOUR
City Clerk of The City of San Diego, California.

By: *Charles G. Abdellour*, Deputy.

(Seal)

Office of the City Clerk, San Diego, California

Ordinance Number 0-16969 Adopted NOV 2 1987

CERTIFICATE OF PUBLICATION

RECEIVED
CITY CLERK'S OFFICE

1987 DEC 22 AM 3:14

SAN DIEGO, CALIF.

CITY OF SAN DIEGO
202 C STREET, 2ND FLOOR
SAN DIEGO, CA 92101
ATTN: JUNE A. BLACKNELL

IN THE MATTER OF

NO.

AN ORDINANCE AMENDING CHAPTER II, ARTICLE 2, DIVISION
5, OF THE SAN DIEGO MUNICIPAL CODE

ORDINANCE NUMBER O-16969 (NEW SERIES)

AN ORDINANCE AMENDING CHAPTER II, ARTICLE 2, DIVISION 5, OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING SECTIONS 22.0504, 22.0505, 22.0507 AND 22.0508; BY REPEALING SECTION 22.0520; BY RENUMBERING SECTIONS 22.0524 AND 22.0525; AND BY ADDING SECTIONS 22.0511, 22.0512, 22.0513, 22.0514, 22.0515 AND 22.0516, RELATING TO PURCHASING AGENT.

This ordinance amends the San Diego Municipal Code relating to the Purchasing Agent's authority, powers and purchasing practices. The Purchasing Agent is authorized to waive the requirements for advertising for competitive bids in the cases of bona fide emergencies affecting the public health and safety and to make such purchases to a maximum of \$200,000 without Council approval, provided the Council shall ratify such procurement. The Purchasing Agent is further authorized to waive advertising for sole source procurement when the item is available through only one source. The Purchasing Agent is authorized to issue blanket purchase orders for materials not found in City stores and required to complete work in progress. Administrative changes are made governing the responsibilities of City Departments for obtaining procurement services from the Purchasing Agent. Requirements are established for the specifications to be provided to the Purchasing Agent. Brand name procurement is authorized, provided the brand name is used for illustration and is followed by the word "or equal." Brand name procurement is permissible, without substitution, when required for replacement of parts, for testing and evaluation purposes, and for compatibility with existing equipment. The revisions further distinguish between the issuance of Invitations to Bid and Requests for Proposals, and define the types of information that shall be included in the respective specifications.

I, THOMAS D. KELLEHER, am a citizen of the United States and a resident of the County aforesaid; I am over the age of eighteen years, and not a party to or interested in the above-entitled matter. I am the principal clerk of the San Diego Daily Transcript, a newspaper of general circulation, printed and published daily, except Saturdays and Sundays, in the City of San Diego, County of San Diego, and which newspaper has been adjudged a newspaper of general circulation by the Superior Court of the County of San Diego, State of California, under the date of January 23, 1909, Decree No. 14894; and the

ORDINANCE NUMBER O-16969 (NEW SERIES)

is a true and correct copy of which the annexed is a printed copy and was published in said newspaper on the following date(s), to wit:

NOV. 16 DEC. 16

I certify under penalty of perjury that the foregoing is true and correct.

Dated at San Diego, California this 16 day of DEC., 19 87

Thomas D. Kelleher

(Signature)

Page 1 of 2

75 Lines x .98 x 2 = 147.00

6.88" x 10.78 x 2 = 148.02

The Purchasing Agent is authorized to accept late bids that were timely submitted by other than personal delivery, provided there was no fault on the part of the bidder and acceptance of the bid is in the City's best interest. All bids are to be opened at a public bid opening. Bidders may withdraw their bids within three (3) working days following the bid closing if they have made bonafide computational errors and substantiate such errors to the Purchasing Agent. Failure to comply may bar such relief and authorize recourse to any bid surety. Bids will be awarded on the basis of the low acceptable bid meeting specifications, except that contracts for procurement under a Request for Proposal shall be based on the proposal best meeting City requirements. In such considerations, the City will evaluate all costs associated with the procurement and accept that proposal which is in the best economic interest of the City.

Protests by unsuccessful bidders must be submitted in writing no later than ten (10) days after the announcement of selection of the winning bid. Bidders may appear at the City Council to protest any award to be considered by Council. Failure to file a timely protest will preclude consideration of the protest.

The City Council may authorize the debarment from further procurement from bidders for good cause for a maximum period of three years based upon violations of City procurement practices. Permanent debarment is authorized for fraud, collusion or anti-competitive violations, or because of the bidder's permanent debarment by another governmental agency. Procedures are established to allow for appeal of the proposed debarment action to the City Council.

The Purchasing Agent is authorized to establish insurance and bonding requirements, to otherwise administer City procurement, and to issue rules and regulations which will aid in procurement administration.

A complete copy of the ordinance is available for inspection in the Office of the City Clerk of the City of San Diego, 2nd floor, City Administration Building, 202 "C" Street, San Diego, CA 92101.

Introduced on OCT 19 1987
Passed and adopted by the Council of The City of San Diego on NOV 2 1987

AUTHENTICATED BY: MAUREEN O'CONNOR
Mayor of The City of San Diego, California.
CHARLES G. ABDELNOUR,
City Clerk of The City of San Diego, California.
By JUNE A. BLACKNELL, Deputy.
Pub. November 18, December 18

95398

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 $75 \times 95 \times 2 = \147.00
 $6.88 \times 10.78 \times 2 = 148.22$