

ARTICLE 6

PROCUREMENT SOURCE SELECTION METHODS AND CONTRACT AWARDS

Sec. 1-10-48. Generally.

The following sections provide detailed information concerning the use of the seven (7) source selection methods available for use for the procurement of commodities, services and construction products for Augusta, Georgia. The seven methods are: (1) sealed bids, (2) sealed proposals, (3) special services, (4) quotations or informal bids, (5) sole source, (6) emergency procurement and (7) annual contracts.

Sec. 1-10-49. Purchase order.

No officer or employee of Augusta, Georgia shall request a vendor to deliver goods, merchandise, materials or supplies to Augusta, Georgia except upon a regular purchase order issued by the procurement agent; however, the provisions of this subsection shall not apply to emergency purchases provided for in this section.

Sec. 1-10-50. Sealed bids selection method.

- (a) *Conditions for use.* All contracts of Augusta, Georgia shall be awarded by competitive sealed bidding except as otherwise provided elsewhere in this article (see section 1-10-52-Sealed Proposals; 1-10-53-Professional Services; 1-10-54-Quotations; 1-10-56-Sole Source Procurement; and 1-10-57-Emergency Procurements, of this chapter).
- (b) *Invitation for bids and specifications.* An invitation for bids shall be issued by the Procurement Office and shall include specifications prepared in accordance with Article 4 (Product Specifications), and all contractual terms and conditions, applicable to the procurement. **All specific requirements contained in the invitation to bid including, but not limited to, the number of copies needed, the timing of the submission, the required financial data, and any other requirements designated by the Procurement Department are considered material conditions of the bid which are not waiveable or modifiable by the Procurement Director.** All

requests to waive or modify any such material condition shall be submitted through the Procurement Director to the appropriate committee of the Augusta, Georgia Commission for approval by the Augusta, Georgia Commission.

- (c) *Public notice and bidder's list.* Adequate public notice of the invitation for bids shall be given in reasonable time, not less than ten (10) working days prior to the date set forth therein for the receipt of bids.
 - (1) Public works type contracts with values that equal or exceed one-hundred thousand dollars (\$100,000), shall be advertised at least once weekly for at least four (4) weeks prior to opening of bids.
 - (2) Public notice shall include publication for three (3) days within a ten (10) day period in the legal gazette or newspaper. The public notice minimally shall state the place, date, and time of pre-bid conference and/or bid opening, where specification documents may be obtained, and a brief description of the purchase or sale.
 - (3) The Procurement Director shall also directly solicit sealed bids from all responsible prospective suppliers whose names appear on the Augusta, Georgia Bidders' List which the Procurement Director shall maintain.
- (d) *Pre-bid conference and addendum.* A conference to be conducted by the Procurement Director and using agency head, if appropriate, hearing will be scheduled at least five (5) working days before receipt of bids. While the pre-bid conference is not a requirement, it is strongly recommended and widely used to further acquaint interested bidders with the bid requirements and items to be purchased and vendor input. Any substantive changes to specifications resulting from the pre-bid conference or other vendor/contractor sessions shall be documented in an addendum and communicated to all bidders registered for the procurement action.
- (e) *Bid opening.* Sealed Bids shall be opened publicly in the presence of one or more witnesses at the time and place designated in the public notice and invitation for bids. The amount of each bid, and such other relevant information as the Procurement Director deems appropriate, together with the name of each bidder shall be recorded; the record, and each bid, shall be open to public inspection in accordance with Section 1-10-5 (Public Access

to Procurement Information).

- (f) *Bid acceptance and bid evaluation.* Provided that the bids are delivered to the Procurement Director at the time, place, and under the conditions contained in the Invitation for Bids, the bids shall be conditionally accepted without alteration or correction pending evaluation.
- (g) Bids shall be evaluated based on the requirements set forth in the invitation for bids, which may include bidder responsibility and responsiveness, capability and past performance, and criteria to determine acceptability such as inspection, testing, quality workmanship, delivery, and suitability for a particular purpose. Those criteria that will affect the bid price and be considered in evaluation for award shall be objective and clearly measurable, including but not limited to discounts, transportation costs, and total or life cycle costs.
- (h) *Correction or withdrawal of bids.* Correction or withdrawal of inadvertently erroneous bids before or after bid opening may be permitted under the circumstances described below:
 - (1) Mistakes discovered before bid opening may be modified or withdrawn by written or telegraphic notice received in the Procurement Office prior to the time set for bid opening.
 - (2) The bidder may withdraw the bid, prior to bid opening, without revealing the amount of the bid, by submitting a new sealed bid and providing written notice of such withdrawal.
 - (3) After the bid opening, corrections to bids shall be permitted only as to bid price and only to the extent that the bidder can show by clear and convincing evidence that a mistake of a non-judgmental character was made, the nature of the mistake, and the bid price actually intended. Otherwise, no changes in bid prices or other provisions of bids shall be permitted.
 - (4) In lieu of bid correction, a low bidder alleging a material mistake of fact may be permitted to withdraw its bid if:
 - (i) Such error in the calculation of the bid can be documented by clear and convincing written evidence;

- (ii) Such error can be clearly shown by objective evidence drawn from inspection of the original work papers, documents, or materials used in the preparation of the bid sought to be withdrawn;
 - (iii) The bidder serves written notice upon the Procurement Director either prior to the award of the contract or not later than forty-eight (48) hours after the opening of bids, excluding Saturdays, Sundays and legal holidays;
 - (iv) The bid was submitted in good faith and the mistake was due to a calculation or clerical error, an inadvertent omission or typographical error as opposed to an error in judgment; and
 - (v) The withdrawal of the bid will not result in undue prejudice to Augusta, Georgia or other bidders by placing them in a materially worse position than they would have occupied if the bid had never been submitted.
- (5) In the event that an apparent successful bidder has withdrawn his or her bid as provided in subsection (3) of this Code section, action on the remaining bids should be considered as though the withdrawn bid had not been received. In the event the project is re-let for bids, under no circumstances shall a bidder who has filed a request to withdraw a bid be permitted to resubmit a bid for the work.
- (6) No bidder who is permitted to withdraw a bid pursuant to subsection (3) of this Code section shall for compensation supply any material or labor to, or perform any subcontract or other work agreement for, the person or firm to whom the contract is awarded or otherwise benefit, directly or indirectly, from the performance of the project for which the withdrawn bid was submitted. (O.C.G.A. § 13-10-22).
- (7) All decisions to permit the correction or withdrawal of bids, or to cancel awards or contracts based on bid mistakes, shall be supported in a written report made by the Procurement Director.
- (8) Withdrawal after receipt of bids is cause to forfeit bid security unless substantial evidence was presented clearly evidencing the mistake and

hardship that would occur to either Augusta, Georgia or the bidder in the event of award.

- (i) *Tie bids.* In the event two or more bidders are tied in price while otherwise meeting all of the required conditions, the bid shall be awarded to the business which is located within Augusta, Georgia, or if not within the above, within the State of Georgia. Where this method does not result in the awarding of a bid, the Procurement Director shall call a public forum, cause each bidder or stand-in to write the name of the bidder on paper and placed in a container, the winner to be determined by drawing lots.
- (j) *Letting the contract.* The contract shall be awarded or let in accordance with procedures set forth herein. Award shall occur with reasonable promptness by appropriate written notice to the lowest responsible and responsive bidder whose bid meets the requirements and criteria set forth in the invitation for bids.
- (k) In addition to price and other material factors, the Procurement Director, in consultation with the using agency, shall consider the following in the context of award recommendations:
 - (1) The ability, capacity, and skill of the bidder to perform the contract or provide the services required,
 - (2) The capability of the bidder to perform the contract or provide the service promptly or within the time specified, without delay or interference,
 - (3) The character, integrity, reputation, judgment, experience, and efficiency of the bidder,
 - (4) The quality of performance on previous contracts,
 - (5) The previous and existing compliance by the bidder with laws and ordinances relating to the contract or services,
 - (6) The sufficiency of the financial resources of the bidder relating to his ability to perform the contract,
 - (7) The quality, availability, and adaptability of the supplies or services to

the particular use required, and

- (8) The number and scope of conditions attached to the bid by the bidder.
- (l) *Award to other than low bidder.* When the award is not given to the lowest most responsive and responsible bidder, a full and complete statement of the reasons for awarding the purchase order or other contract shall be prepared and signed by the Procurement Director and/or Administrator and made part of the record file.

Sec. 1-10-51. Request for proposals.

Request for proposals shall be handled in the same manner as the bid process as described above for solicitation and awarding of contracts for goods or services with the following exceptions:

- (a) Only the names of the vendors making offers shall be disclosed at the proposal opening.
- (b) Content of the proposals submitted by competing persons shall not be disclosed during the process of the negotiations.
- (c) Proposals shall be open for public inspection only after the award is made.
- (d) Proprietary or confidential information, marked as such in each proposal, shall not be disclosed without the written consent of the offeror.
- (e) Discussions may be conducted with responsible persons submitting a proposal determined to have a reasonable chance of being selected for the award. These discussions may be held for the purpose of clarification to assure a full understanding of the solicitation requirement and responsiveness thereto.
- (f) Revisions may be permitted after submissions and prior to award for the purpose of obtaining the best and final offers.
- (g) In conducting discussions with the persons submitting the proposals, there shall be no disclosure of any information derived from the other persons submitting proposals.

Sec. 1-10-52. Sealed proposals.

- (a) *Conditions for use.* In accordance with O.C.G.A. § 36-91-21(c)(1)(C), the competitive sealed proposals method may be utilized when it is determined in writing to be the most advantageous to Augusta, Georgia, taking into consideration the evaluation factors set forth in the request for proposals. The evaluation factors in the request for proposals shall be the basis on which the award decision is made when the sealed proposal method is used. Augusta, Georgia is not restricted from using alternative procurement methods for obtaining the best value on any procurement, such as Construction Management at Risk, Design/Build, etc.
- (b) *Request for proposals.* Competitive sealed proposals shall be solicited through a request for proposals (RFP).
- (c) *Public notice.* Adequate public notice of the request for proposals shall be given in the same manner as provided in section 1-10- 50(c)(Public Notice and Bidder's List); provided the normal period of time between notice and receipt of proposals minimally shall be fifteen (15) calendar days.
- (d) *Pre-proposal conference.* A pre-proposal conference may be scheduled at least five (5) days prior to the date set for receipt of proposals, and notice shall be handled in a manner similar to section 1-10-50(c)-Public Notice and Bidder's List. No information provided at such pre-proposal conference shall be binding upon Augusta, Georgia unless provided in writing to all offerors.
- (e) *Receipt of proposals.* Proposals will be received at the time and place designated in the request for proposals, complete with bidder qualification and technical information. No late proposals shall be accepted. Price information shall be separated from the proposal in a sealed envelope and opened only after the proposals have been reviewed and ranked.

The names of the offerors will be identified at the proposal acceptance; however, no proposal will be handled so as to permit disclosure of the detailed contents of the response until after award of contract. A record of all responses shall be prepared and maintained for the files and audit purposes.

- (f) *Public inspection.* The responses will be open for public inspection only after contract award. Proprietary or confidential information marked as such

in each proposal will not be disclosed without written consent of the offeror.

- (g) *Evaluation and selection.* The request for proposals shall state the relative importance of price and other evaluation factors that will be used in the context of proposal evaluation and contract award. (Pricing proposals will not be opened until the proposals have been reviewed and ranked). Such evaluation factors may include, but not be limited to:
 - (1) The ability, capacity, and skill of the offeror to perform the contract or provide the services required;
 - (2) The capability of the offeror to perform the contract or provide the service promptly or within the time specified, without delay or interference;
 - (3) The character, integrity, reputation, judgment, experience, and efficiency of the offeror;
 - (4) The quality of performance on previous contracts;
 - (5) The previous and existing compliance by the offeror with laws and ordinances relating to the contract or services;
 - (6) The sufficiency of the financial resources of the offeror relating to his ability to perform the contract;
 - (7) The quality, availability, and adaptability of the supplies or services to the particular use required; and
 - (8) Price.
- (h) *Selection committee.* A selection committee, minimally consisting of representatives of the procurement office, the using agency, and the Administrator's office or his designee shall convene for the purpose of evaluating the proposals.
- (i) *Preliminary negotiations.* Discussions with the offerors and technical revisions to the proposals may occur. Discussions may be conducted with the responsible offerors who submit proposals for the purpose of clarification and to assure full understanding of, and conformance to, the

solicitation requirements. Offerors shall be accorded fair and equal treatment with respect to any opportunity for discussions and revision of proposals and such revisions may be permitted after submission and prior to award for the purpose of obtaining best and final offers. In conducting discussions, there shall be no disclosure of information derived from proposals submitted by competing offerors.

- (j) From the date proposals are received by the Procurement Director through the date of contract award, no offeror shall make any substitutions, deletions, additions or other changes in the configuration or structure of the offeror's teams or members of the offeror's team.
- (k) *Final negotiations and letting the contract.* The Committee shall rank the technical proposals, open and consider the pricing proposals submitted by each offeror. Award shall be made or recommended for award through the Augusta, Georgia Administrator, to the most responsible and responsive offeror whose proposal is determined to be the most advantageous to Augusta, Georgia, taking into consideration price and the evaluation factors set forth in the request for proposals. No other factors or criteria shall be used in the evaluation. The contract file shall contain a written report of the basis on which the award is made/recommended. The contract shall be awarded or let in accordance with the procedures set forth in this Section and the other applicable sections of this chapter.

1-10-53. Competitive selection procedures for professional and consultant services.

As used in this section professional and consultant services, such as those provided by architects, engineers, investment banking, professional engineering, planning, landscape architects, land surveying, the medical arts, management and analysis, accounting or auditing, psychology or any other similar kind or type of professional practice which are normally obtained on a fee basis. This section shall not be applicable to services provided by attorneys or other professionals retained in connection with legal services. General Counsel shall be responsible for selecting attorneys and litigation related professionals.

- (a) *Conditions for use.* The Procurement Director, upon the request or recommendation of the using agency, shall procure professional and consultant services, in accordance with this section.
- (b) *Statement of qualifications.* The Procurement Director shall request and maintain statements of interest from persons interested in providing

professional and consultant services that shall include a statement of qualifications and performance data for such persons. Each using agency shall encourage professional and consultant firms, which desire to provide services to the agency, to submit statements of qualifications to Procurement Director. Procurement Director may specify a uniform format for statements of qualifications. Persons may amend these statements at any time by filing a new statement. Any person placed on the qualifications list shall be removed if found in violation of any provision of this article or if such person is found in default under any contract with Augusta, Georgia.

- (c) *Public notice.* When requested by the using agency, Procurement Director shall issue public notice for requests for proposals from professional and consultant offerors as provided in section 1-10-50(c).
- (d) *Selection.* Procurement Director, in consultation and upon the recommendation of the head of the using agency, shall select from among the offerors no less than three (3) offerors (the "short-listed offerors") deemed to be the most responsible and responsive; provided, however, that if three (3) or less offerors respond to the solicitation, this requirement will not apply. The selection of the short-listed offerors shall be made in order of preference. From the date proposals are received by Procurement Director through the date the contract is awarded, no offeror may make substitutions, deletions, additions or other changes in the configuration or structure of the offeror's teams or members of offeror's teams prior to award. The selection criteria shall include, but not be limited to, those contained in section 1-10-52(g) and the following:
 - (1) Previous experience demonstrating competence to perform work or services involved in the solicitation;
 - (2) Past performance of previous contracts with respect to time of completion and quality of work;
 - (3) The fee or compensation demanded for the services;
 - (4) The ability to comply with applicable laws;
 - (5) The ability to comply with the schedule of the commencement and completion of the services, as required by Augusta, Georgia;
 - (6) The financial ability to furnish the necessary bonds to the extent necessary;
 - (7) The financial condition of the offeror; and
 - (8) The ability to provide staffing of management personnel, satisfactory to Augusta, Georgia.

- (e) *Negotiations and award.* Procurement Director shall negotiate a contract with the most responsible and responsive short-listed offeror at compensation that Procurement Director determines in writing to be fair and reasonable to Augusta, Georgia. In making this decision, Procurement Director shall take into account the estimated value, the scope, the complexity and the professional nature of the services to be rendered. Should Procurement Director be unable to negotiate a satisfactory contract with the offeror considered to be the most responsible and responsive at a price for Procurement Director determines to be fair and reasonable to Augusta, Georgia; negotiations with that offeror shall be terminated. Procurement Director shall then undertake negotiations with the second most responsible and responsive short-listed offeror. If negotiations with the second most responsible and responsive short-listed offeror are unsuccessful, negotiations shall be terminated and Procurement Director shall then undertake negotiations with the third most responsible and responsive short-listed offeror. Should Procurement Director be unable to negotiate a contract with any of the short-listed offerors, Procurement Director and the using agency may select from the additional offerors that were not short-listed in order of their responsibility and responsiveness and Procurement Director may continue negotiations in accordance with this section until an agreement is reached.

Sec. 1-10-54. Informal bids selection methods (standard and small purchases) and authority of Administrator and General Counsel.

- (a) *Conditions for use.* Any standard or small purchase contract or purchase order for supplies, services, and construction not exceeding ten thousand dollars (\$10,000) in total value may be made in accordance with the purchase procedures authorized in this Section and other applicable provisions of this Article. Contract requirements shall not be artificially divided so as to constitute a small purchase under this Section.
- (b) *Request for quotations and specifications.* Requests for quotations may be issued in writing or by telephone for purchases less than ten thousand dollars (\$10,000). In either case, specifications shall be prepared describing the item or service in a form suitable for an appropriate vendor response.
- (1) Informal oral bid quotations. Quotes from a minimum of three (3) sources shall be obtained. Maximum purchase under this system is to

be five thousand dollars (\$5,000), including sales tax. Vendor quotes are to be noted on the requisition for retention. The procurement requirement shall not be artificially divided so as to constitute a purchase to be made by this method.

- (2) Informal written bid quotations. Solicitation for written bid quotes shall be obtained from three (3) sources, if available, from the vendor list. The maximum purchase under this system is to be ten thousand dollars (\$10,000), including sales tax.
- (3) Selection is to be made from the list in the following manner:
 - (i) Low bidder on last quote;
 - (ii) Next vendor on list;
 - (iii) Repeat procedure until all vendors have been asked to quote;
 - (iv) Begin new rotation of vendors by using the last low bidder on quote.
- (c) *Public notice.* Notice in the form of advertisements is not required. However, no less than three (3) vendors/contractors shall be directly solicited, if available, to submit quotations.
- (d) *Receipt of quotations.* Quotations shall be scheduled for receipt at a date, time and place certain. The amount of each quote and such other relevant information as the Procurement Director deems appropriate, together with the name of each offeror shall be recorded. The record of each quote shall be open to public inspection in accordance with section 1-10-5 (Public Access to Procurement Information).
- (e) *Evaluation.* Quotations shall be evaluated based on the requirements set forth in the request for quotations, which may include bidder responsiveness, capability and past performance, and criteria to determine acceptability such as inspection, testing, quality, workmanship, delivery, and suitability for a particular purpose. Those criteria that will affect the quoted price and be considered in evaluation forward shall be objective and clearly measurable, including but not limited to discounts, transportation costs, and total or life cycle costs. No criteria may be used in the evaluation processes that are not

set forth in the request for quotations or other notice.

- (f) *Correction or withdrawal of quotes.* Correction or withdrawal of inadvertently erroneous quotes before or after the evaluation of the quotes may be permitted under the circumstances described in section 1-10-50(g) (Correction or Withdrawal of Bids).
- (g) *Tie quotes.* Shall be handled in the manner described in section 1-10-50 (h) (Tie Bids).
- (h) *Award.* Award shall be made to the most responsible and responsive bidder offering the lowest acceptable quotation. The names of the person submitting quotations and the date and amount of each quotation shall be recorded and maintained as a public record. Written quotations are advisable but not expressly required.
- (i) *Agency purchases under one-thousand dollars (\$1,000)/authority of using agency.* Procurement of an item or article which does not exceed one-thousand dollars (\$1,000.00), including any sales tax, shall be exempt from the bid process except that, where applicable, contract vendors shall be used unless substitution is approved in writing and in advance by the Procurement Director. Further, the procurement requirements shall not be artificially divided so as to constitute a small purchase. A reasonable effort shall be made to negotiate price agreements that will cover much of the small purchase volume. For purchases of one-thousand dollars (\$1,000) or less in value the using agency head may issue a Purchase Order to acquire commodity and service products. The using agency shall obtain adequate and reasonable competition for the supply, service, or construction being purchased. Further, the using agency head shall require the preparation and maintenance of written records adequate to document the competition obtained, properly account for the funds expended, and facilitate an audit of the small purchase made. Small purchases under one-thousand dollars (\$1,000) may be made by the elected official or using agency head of all using agencies as follows:
 - (1) Where the purchase does not exceed one-thousand dollars (\$1,000) and a Using Agency Purchase Order is prepared and presented to the vendor.
 - (2) A copy of the purchase order shall be forwarded to Finance and

Procurement notifying the Director of Finance and Procurement of the purchase and requesting payment to be made from funds previously allocated to such using agency.

- (j) *Limitations on small purchases made by using agencies.* When small purchases are made by the using agency head pursuant to Subsection (i), the following requirements shall be met:
 - (1) Such purchases are limited to goods and minor services where no contract exists or goods are not stocked by Augusta, Georgia. No equipment and furniture purchases are authorized under subsection (i);
 - (2) The Using Agency Purchase Orders and original invoices shall be prepared and signed by an authorized party at the using agency level and forwarded to Finance for further processing;
 - (3) Purchases shall not be divided artificially to constitute a small purchase; and
 - (4) Using agencies are responsible for checking the availability of funds prior to making any small purchase.
- (k) *Authority of Administrator to make small purchases.* The Administrator shall have authority to make purchases, approve annual bids and enter into professional services agreements without Commission approval for products, services and annual bids not exceeding \$25,000.
- (l) *Authority of General Counsel to settle small cases.* The General Counsel shall have authority to settle pending and potential litigation not exceeding \$25,000 without Commission approval.

Sec. 1-10-55. Banking services.

- (a) *Vendor and payroll accounts.* Requests for Proposals shall be solicited as provided in section 1-10-52 of this chapter for each of these accounts.
- (b) *Accounts other than vendor and payroll accounts.*
 - (1) Requests for Proposals shall be solicited as provided in section 1-10-52 of this chapter for each such account.

- (2) As provided in section 1-10-6, local banks shall be contacted first. For purposes of this section, local banks shall be defined as those banking institutions with a full service banking location in Augusta, Georgia.

Sec. 1-10-56. Sole source procurement.

- (a) Notwithstanding other provisions in this Article, whenever it shall be made to appear that by reason of design, capacity, compatibility with other equipment or with machinery, purpose, function or other characteristics an item of procurement required by Augusta, Georgia or one of its departments is obtainable only from one source, the item may be procured by the Procurement Department through negotiation from the source from which it is available without the necessity of bids or proposals.
- (b) Before any item may be obtained under the provisions of this section, however, the requisitioning agency must accompany its requisition for the order with a statement specifying in reasonable detail the reasons why the item should be procured by sole source. This specification of reasons shall be in writing and shall be attached to the requisition at the time it is transmitted to the procurement officer and shall demonstrate due diligence in determining if other sources exist. The due diligence review shall include the research of available sources, contact with professional and trade associations related to the supply, service or construction item or professional or consultant service. There shall also be a written determination which states the sources reviewed, the name of the contractor and the terms of the agreement reached including terms and prices.
- (c) If the Augusta, Georgia Administrator, upon considering the requisition and the substantiation therefore, determines that the item should be purchased by sole source procurement and the cost thereof does not exceed twenty-five thousand dollars (\$25,000), the Administrator may approve such procurement. If the item exceeds twenty-five thousand dollars (\$25,000) in cost, and the Administrator determines that sole source procurement is appropriate, the requisition shall be referred to the Commission for action.
- (d) The Procurement Director shall conduct the negotiations as to the terms of the sole source.
- (e) The Procurement Director shall draft a letter of justification for the sole

source procurement and place in the contract file.

Sec. 1-10-57. Emergency procurement selection method.

Notwithstanding any other provisions of this chapter, the Procurement Director, Augusta, Georgia Administrator or constitutional officer may make or authorize others to make emergency procurement of equipment, supplies, services, general construction, or public works type construction services when there exists a threat to public health, welfare, or safety, or where daily operations are affected; provided that such emergency procurement shall be made with such competition as is practicable under the circumstances. As soon as practicable, a record of each emergency procurement shall be made and shall set forth the contractor's name, the amount and type of the contract, a listing of the item(s) procured under the contract, and the identification number of the contract file. A written report explaining the determination of the basis for the emergency and for the selection of the particular contractor shall be included in the contract file, and a copy of same provided the Augusta, Georgia Commission at their next regular meeting in the case of public works contracts as defined by Georgia Law or other Augusta, Georgia purchases when the value of the purchase exceeds twenty-five thousand dollars (\$25,000).

In the event an emergency should arise after office hours or on holidays or weekends which requires immediate action on the part of the using agency involved and where it is not possible or convenient to reach the Procurement Director, constitutional officer, or Administrator, the using agency head is authorized to make purchases. Such purchases shall be well documented, packaged for payment, and forwarded to the Procurement Director within twenty-four (24) hours, if possible, after occurrence.

In the event the Board of Commissioners of Augusta, Georgia determines at an open meeting of which minutes are recorded, that an emergency exists, and there is an immediate need for goods, materials or supplies to relieve said emergency, the Board of Commissioners shall be allowed to approve purchases without bids in the event the Board has determined an emergency exists, but all such declarations of emergency shall be in strict accordance with applicable State law defining "emergency." (1975 Ga. Laws p. 4334 as amended).

Sec. 1-10-58. Annual contracts.

Upon approval of an annual contract by the Board of Commissioners (or the Administrator for annual bids of up to \$25,000), any using agency may order supplies or services under such annual contract as needed up to the maximum amount approved in the annual bid.

Sec. 1-10-59. Specific requirements/options for source selection method.

Encumbrance of funds. The Procurement Director shall not execute any contracts or purchase orders, except in the case of certain emergency purchases, until the Finance Department staff certifies, after pre-audit, that there is to the credit of the using agency concerned a sufficient unencumbered appropriation balance, in excess of all unpaid obligations, to defray the amount of the purchase.

Sec. 1-10-60. Rejection or cancellation of solicitations; negotiating; re-advertisement.

- (a) *Conditions for use.* An invitation for bids/quotes, a request for proposals, or other solicitation may be canceled, or any or all bids may be rejected in whole or in part as may be specified in the solicitation, when it is for good cause and in the best interest of Augusta, Georgia. The reasons thereof shall be made part of the contract file. Each solicitation issued by Augusta, Georgia shall state that the solicitation may be canceled and that any bid or proposal may be rejected in whole or in part for good cause when in the best interest of Augusta, Georgia. Notice of cancellation shall be sent to all businesses solicited. The notice shall identify the solicitation, explain the reason for cancellation and, where appropriate, explain that an opportunity will be given to compete on any re-solicitation or any future procurement of similar items.
- (b) *Authority to reject/cancel.* The Augusta, Georgia Commission has the authority to reject/cancel any and all bids, quotes and proposals. The Administrator shall also have the authority to reject/cancel any and all bids, quotes and proposals but may only do so with the authorization of the director of the effected user department.
- (c) *Negotiating.* If the low responsive and responsible bid for the project exceeds available funds as certified by the Finance Department staff, and such bid does not exceed such funds by more than twenty percent (20%), the Augusta, Georgia Administrator and the Procurement Director are

authorized, when time permits, or economic considerations preclude further re-solicitation of work of a reduced scope, to negotiate an adjustment of the bid price with the low responsive bidder, in order to bring the bid within the amount of available funds. Any such negotiated adjustment shall be based only upon eliminating independent deductive items specified in the invitation for bids.

- (d) *Re-advertisement.* In the event that the negotiating process set forth in subparagraph (c), above, is unsuccessful, the Procurement Director may, in the alternative, re-advertise for the purpose of receiving a new set of bids. Therefore, if the lowest and best bid exceeds the budgeted amount and the Augusta, Georgia Commission does not appropriate additional funds, the Procurement Director may readvertise for bids after making sufficient changes in the specifications to bring the project within budget.

Sec. 1-10-61. Multi-term contract.

- (a) *Maximum period.* A contract for services or supplies may be entered into for a period up to five (5) years, provided that the term of the contract and the conditions for renewal or extension, if any, is included in the solicitation and funds are available for the balance of the then current fiscal year. Payment and performance obligations for succeeding fiscal periods shall be subject to the availability and appropriation of funds. All multi-year contracts shall contain a clause which terminates the contract at the beginning of a fiscal year when funds are not appropriated by the Commission for continuation of the contract for that fiscal year.
- (b) *Determination prior to use.* Prior to the utilization of a multi-term contract, it shall be determined in writing:
 - (1) that estimated requirements cover the period of the contract and are reasonably firm and continuing; and
 - (2) that such a contract will serve the best interest of Augusta, Georgia by encouraging effective competition or otherwise promoting economies in procurement.
- (c) *Cancellation due to unavailability of funds in succeeding fiscal periods.* All multi-term contracts shall include provisions providing that when funds are not appropriated or otherwise made available to support continuation of

performance in a subsequent fiscal period, the contract shall be canceled with appropriate notice.

- (d) *Renewal of contract.* At least ninety (90) days prior to the expiration of any term of a multi-term contract, the using agency shall submit to the Augusta, Georgia Administrator, a report of the performance of the contract and the agency's recommendation as to the renewal of the contract. The Administrator, after consultation with the using agency and review of the report, and upon appropriate approval, shall renew the contract if renewal is in the best interest of Augusta, Georgia. All other requirements of this Section must be met in order to consummate a renewal.
- (e) *Expiration and extension.* Contracts being considered for renewal or re-bid may be extended by the Administrator for a period of time not exceeding ninety (90) days. Any extensions are subject to the availability of funds and mutual agreement of the vendor/contractor and Augusta, Georgia.

Sec. 1-10-62. Right to inspect facilities.

Official representatives of Augusta, Georgia shall have the right to inspect facilities of a vendor at any reasonable time which is related to the performance of any contract award, bid on or to be awarded by Augusta, Georgia.

Sec. 1-10-63. Right to audit records and contracts and collection of statistical data.

- (a) Official representatives of Augusta, Georgia may, at reasonable times and upon reasonable written notice to vendor, inspect the official records of the person or firm pertaining to a contract, change order, or purchase order with Augusta, Georgia when such inspection is required by law, or is authorized by the Administrator in writing as being in the public interest.
- (b) Contract audit. Augusta, Georgia shall be entitled to audit the books and records of a contractor or subcontractor under any negotiated contract or subcontract, other than a firm fixed-price contract to the extent that such books, documents, papers and records relate to the performance of such contract or subcontract. Such books and records shall be maintained by the contractor for a period of three (3) years from the date of final payment under the prime contract and by the subcontractor for a period of three (3)

years from the date of final payment under the subcontract, unless a shorter period is authorized in writing.

- (c) Collection of statistical data. Augusta, Georgia shall be entitled to collect statistical information relating to such factors to determine whether disparities exist as permitted by law. All contractors and subcontractors under any negotiated contract or subcontract shall collect such information for every Augusta, Georgia contract and shall make such information available upon request.

Sec. 1-10-64. Rebidding or cancellation of existing contract.

In the event a vendor is unwilling or unable to perform a contract or the vendor gives written notice of cancellation of an existing contract, the Procurement Director may immediately pursue a replacement of said contract either by formal or informal bid procedure as is appropriate, with the approval of the Augusta, Georgia Administrator. The Procurement Director may accept a next lowest bidder. The options selected shall be the most advantageous to Augusta, Georgia.

Sec. 1-10-65. Multiple awards; limitations on multiple awards.

- (a) Multiple awards. Unless otherwise provided in this section, or unless otherwise provided by law, two or more offerors may be awarded separate contracts, at the discretion of the Administrator, on the basis of one solicitation for the same or similar work, supplies or services if Augusta, Georgia reserves the right to do so in the solicitation. Multiple contracts may be awarded, in the discretion of the Administrator for the procurement of annual contracts for supplies, annual contracts for construction and annual contracts for services. The solicitation shall also include a statement that Augusta, Georgia may, in its discretion, elect to award only one contract if the Procurement Director, after consultation with the head of the using agency, determines in writing that one contract is sufficient for the needs anticipated by Augusta, Georgia at the level of quality desired. Awards shall be made in accordance with the provisions of this article. Notwithstanding anything contained in this section, however, if multiple awards are not anticipated in a solicitation prior to the deadline established for receipt of bids, proposals or quotations, multiple awards shall not be made under that solicitation.
- (b) Prohibition against multiple awards for the procurement of construction or

services that are not annual contracts. Except as provided in subsection (a) of this section, or unless otherwise provided by law, multiple contracts shall not be awarded under one solicitation for the procurement of construction or services which are not annual contracts.

- (c) *Inapplicability.* This section shall not apply to the grant agreements, inter-governmental agreements or emergency procurements.