



City of Philadelphia

City Council
Chief Clerk's Office
402 City Hall
Philadelphia, PA 19107

RESOLUTION NO. 050431

Introduced May 12, 2005

**Councilmembers Clarke, Reynolds Brown,
Ramos, Mariano, Blackwell and Miller**

**Referred to the
Committee of the Whole**

RESOLUTION

Proposing an amendment to the Philadelphia Home Rule Charter providing for regulation of the process by which contracts not subject to competitive bidding are awarded, and providing for the submission of the amendment of the electors of Philadelphia.

WHEREAS, Under Section 6 of the First Class City Home Rule Act (53 P.S. §13106), an amendment to the Philadelphia Home Rule Charter may be proposed by a resolution of the Council of the City of Philadelphia adopted with the concurrence of two-thirds of its elected members; now therefore

RESOLVED, BY THE COUNCIL OF THE CITY OF PHILADELPHIA, That the following amendment to the Philadelphia Home Rule Charter is hereby proposed and shall be submitted to the electors of the City on an election date designated by ordinance:

ARTICLE VIII PROVISIONS OF GENERAL APPLICATION

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CHAPTER 2 CONTRACTS, PROCUREMENT, PROPERTY AND RECORDS

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§ 8-200.1 Contracts Not Subject to Competitive Bidding

(1) Statement of Purpose. It is the intent of this Section to promote competition in all City contracting, to maximize the opportunity for potential contractors to learn of contract opportunities and to compete successfully for such opportunities, to provide information to the public on City contracts and contracting decisions, and to ensure that all contracting decisions are made in the best interests of the City, without unnecessarily

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impeding the efficient and orderly operation of City government and the provision of critical City services.

(2) Not later than the first date of each fiscal year, the Procurement Commissioner, with the approval of the Administrative Board, shall issue, or revise and re-issue, as applicable, procurement regulations governing all City contracts for the procurement of goods or services not subject to the competitive bidding requirements of Section 8-200(1). Such regulations shall be designed to ensure that all contracts are awarded in the best interests of the City, taking into account all relevant factors, including price and quality of service; and to protect against awards based on factors other than the best interests of the City. Such initial regulations, and any revisions to such regulations, shall not become effective unless and until approved by resolution of City Council.

(3) The regulations promulgated pursuant to subsection (2) shall, at a minimum, provide for:

(a) The subjecting of all contracts not subject to the competitive bidding requirements of Section 8-200(1) to the widest practicable opportunities for open competition, including, as appropriate in the judgment of the Procurement Commissioner:

(i) The issuance of formal requests for proposals, requests for qualifications, or requests for expressions of interest.

(ii) The posting of contract opportunities on the City's web site, or other appropriate electronic medium.

(iii) The direct solicitation of proposals from a stated minimum number of potential providers.

(b) Adequate disclosure to the public of the reasons for the selection of all contractors, including, as appropriate in the judgment of the Procurement Commissioner, the filing of statements of reasons with the Procurement Commissioner.

(c) Mandatory disclosure by all applicants for City contracts of such information as the Procurement Commissioner, in consultation with the Law Department, determines may be relevant to ensure against conflicts of interest or otherwise to protect the interests of the City.

(d) Mandatory consideration and monitoring of all decisions to renew contracts.

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(e) With respect to the issuance of City debt or debt-related instruments:

(i) The selection of any financial advisors to the City only after the issuance of a request for proposals.

(ii) The selection of any underwriters, underwriter's counsel or bond counsel only from lists generated by requests for qualifications or requests for proposals, which requests shall periodically be re-issued and which lists shall be regularly maintained and updated.

(iii) The filing of a statement of reasons explaining each selection under subsection (i) or (ii). Each such statement shall be signed by the Director of Finance, who may not delegate this function to a deputy, absent a conflict of interest or an extended absence or disability.

(iv) The periodic certification by the Director of Finance that the fees paid to all persons or firms selected hereunder are reasonable and appropriate in the relevant market, with supporting data to be made publicly available.

(f) Such waiver or exemption provisions, consistent with the purposes of this Section, as the Procurement Commissioner deems necessary to avoid unnecessary disruption to the operations of City government or the provision of critical City services.

(3) No contract shall be enforceable against the City unless the contracting agency shall have certified to the Procurement Commissioner compliance with all requirements set forth in the regulations promulgated under this Section, or an explanation why compliance with any particular requirement or requirements was impracticable and a statement of what alternative processes were used to fulfill the intent of this Section.

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Explanation:

Italics indicate new matter added.

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