City of Philadelphia

Council of the City of Philadelphia
Office of the Chief Clerk
Room 402, City Hall
Philadelphia

(Resolution No. 160981)

RESOLUTION

Proposing an amendment to The Philadelphia Home Rule Charter to provide for the award of certain contracts based on best value to the City, under certain terms and conditions; and providing for the submission of the amendment to 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

* * *

CHAPTER 2
CONTRACTS, PROCUREMENT, PROPERTY AND RECORDS

§ 8-200. Contracts.

(1)   Except in the purchase of unique articles or articles which for any other reason cannot be obtained in the open market, competitive bids shall be secured before any purchase, by contract or other-wise, is made or before any contract is awarded for construction, alterations, repairs or maintenance or for rendering any services to the City other than professional services and, *except as provided in subsection (5) below,* the

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purchase shall be made from or the contract shall be awarded to the lowest responsible bidder; provided, however, that City Council may, by ordinance, prescribe bid preferences for businesses located in or doing business in Philadelphia, and provided further that Council may, by ordinance, regulate the process by which purchases and contracts not subject to the lowest responsible bidder requirement of this paragraph are awarded, and may require that contracts with agencies (as that term is defined in subsection 6-400(c) of this Charter) or with other entities include provisions obligating such agencies or entities to comply with any process established by Council under the authority of this subsection, except that such regulations may not require Council authorization of a contract unless Council authorization is required by some other provision of this Charter.

(2)   Except as authorized by Section 8-200(4), if any purchase or contract ~~for which competitive bidding is~~ required *to be awarded to the lowest responsible bidder* involves an expenditure of more than twenty-five thousand ~~($25,000)~~ dollars *($25,000)*, which amount shall be adjusted every five (5) fiscal years as rounded to the nearest one thousand ~~($1,000)~~ dollars *($1,000)* to reflect the percentage change in the most recently published Consumer Price Index for All Urban Consumers (CPI-U) All Items Index, Philadelphia, Pennsylvania, United States Department of Labor, Bureau of Labor Statistics, the following procedure shall be applicable:

*   *   *

(5)   In lieu of awarding a contract to the lowest responsible bidder, the Procurement Department may award a contract to the responsible bidder whose proposal provides the City with the best value, but only when the Procurement Commissioner has determined in writing that award to the lowest responsible bidder may not yield the best value to the City because the goods, construction, alterations, repairs, maintenance or other services that are the subject of the award have qualitative characteristics that make them better suited to an open, competitive solicitation of proposals. Such characteristics may include the integration of technical or professional service elements, quality differences among proprietary products and services, incorporation of City contracting objectives, including but not limited to, participation in City contracts by disadvantaged business enterprises pursuant to Article 6-109 of this Charter (related to participation goals), or other attributes that make price alone a poor indicator of best value. In such instances, the award of the contract shall be subject to any applicable process established by City Council pursuant to subsection (1), above, applicable generally to contracts not subject to the lowest responsible bidder requirement; and the awarding decision shall be made according to criteria established by the Procurement Department by regulation. For contracts involving an expenditure in excess of the amount set forth in subsection (2), above, as adjusted, the applicable criteria shall be set forth in any solicitation for proposals.

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§ 8-201. Concessions.

All concessions granted by any officer, department, board or commission of the City for the sale of products or the rendition of services for a consideration on City property (whether such concession is granted by the execution of a concession contract, a lease, a license, or otherwise) shall be awarded by the Procurement Department only pursuant to the specifications of such officer, department, board or commission after competitive bidding and to the highest responsible bidder *or to the bidder whose proposal provides the City with the best value,* in a manner similar to that required by*, and subject to the criteria set forth in,* the preceding section relating to contracts for procurement involving an expenditure of more than twenty-five thousand dollars ($25,000)*, as adjusted*. No concession with a term of more than one year, as defined in Section 2-309(1), including, but not limited to, any concession granted by the Department of Commerce under Section 4-500(b) or (c), shall be granted without Council authorization by ordinance.

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CERTIFICATION: This is a true and correct copy of the original Resolution, Adopted by the Council of the City of Philadelphia on the eighth of December, 2016.

Darrell L. Clarke
PRESIDENT OF THE COUNCIL

Michael A. Decker
CHIEF CLERK OF THE COUNCIL

Introduced by: Councilmember Henon

Sponsored by: Councilmembers Henon, Green, Squilla, Parker, Jones and Johnson