

STATE OF INDIANA
CITY OF CHARLESTOWN
CHARLESTOWN CITY COUNCIL

ORDINANCE NO. 2004 - OR - 22

ORDINANCE OF THE CHARLESTOWN CITY COUNCIL
CITY OF CHARLESTOWN BOARD OF PUBLIC WORKS
ESTABLISHMENT OF REVERSE AUCTION PROCEDURES

WHEREAS, IC 5-22-7.5-1 et seq. ("Act") authorizes municipalities to purchase supplies through a reverse auction process;

WHEREAS, the City of Charlestown ("City") is a municipality;

WHEREAS, the City Council of Charlestown ("Council") has previously designated the Charlestown Board of Public Works ("Board") as a purchasing agency;

WHEREAS, the Act requires a purchasing agency to adopt policies governing the use of a reverse auction before the City may purchase supplies through a reverse auction;

WHEREAS, IC 5-22-7.5-1 et seq. ("Purchasing Statute") permits a purchasing agency to adopt policies to supplement IC 5-22-1-1 et seq. or a rule adopted by the Council, so long as the policies are not inconsistent with the Purchasing Statute or a rule adopted by the Council;

WHEREAS, the Board has previously been designated as the City's purchasing agent;

WHEREAS, the Act requires that certain policies be adopted before the City may participate in a reverse auction; and

WHEREAS, the Board now desires to adopt policies consistent with the Act and the Purchasing Statute to enable the Board to purchase supplies through a reverse auction;

NOW THEREFORE, BE IT ORDAINED BY THE CHARLESTOWN CITY COUNCIL THAT THE CHARLESTOWN BOARD OF PUBLIC WORKS IS AUTHORIZED TO UTILIZE THE FOLLOWING PURCHASING PROCEDURES:

SECTION 1. REVERSE AUCTION PROCEDURES.

A. Use of Third Party to Conduct Reverse Auctions.

1. (a) The purchasing agency is authorized to use a third party to conduct reverse auctions on behalf of the City for the purchase of supplies. The purchasing agent is authorized to select the third party that will conduct the reverse auction, who must have prior experience in conducting reverse auctions on behalf of local governments.

(b) The purchasing agent shall obtain a copy of the procedures established by the third party to conduct the reverse auction on behalf of

the City and present those procedures to the Board for adoption and inclusion in its applicable procedures prior to participating in a reverse auction conducted by the third party.

B. Transmission of Notices, Solicitations and Specifications.

1. Notices. The Board shall give notice of a reverse auction by:

- a. Publishing notice of the invitation to bid two times, at least one week apart, with the second publication at least seven days before the commencement of the reverse auction in accordance with IC 5-22-7-5, and IC 5-22-18 and IC 5-3-1;
- b. Posting the invitation to bid on the City's website; and
- c. If a third party is conducting the reverse auction on behalf of the purchasing agency, by posting, or permitting to have posted, the invitation to bid on the third party's website.

Note: Posting the invitation to bid on a website requires compliance with IC 5-22-3-4.

Note: The Board may also give notice of a reverse auction by electronic mail or faxes.

2. Solicitations and Specifications. The Board shall transmit solicitations and specifications:

- a. In accordance with the invitation to bid, identifying a designated location where, during regular business hours, the invitation to bid may be inspected and copied or copies may be obtained; and
- b. By making them available on the City's website or providing information on the website identifying a designated location where, during regular business hours, the invitation to bid may be inspected and copied or copies may be obtained; and
- c. If a third party is conducting the reverse auction on behalf of the purchasing agency, making them available on the third party's website.

Note: Posting the invitation to bid on a website requires compliance with IC 5-22-3-4.

C. Pre-Qualification of Bidders.

1. All bidders desiring to participate in a reverse auction must be pre-qualified by submitting documentation to ensure that they meet the specifications identified by the buyer as to the types of supplies to be offered for purchase no later than twenty-four (24) hours prior to the time

for the commencement of the reverse auction, as provided in the invitation to bid.

2. The pre-qualification process shall be used to determine whether the bidder is responsible and responsive, as provided in the Act, whether there is any bidding or purchasing preference or preferences applicable to a particular bidder, and whether the bidder has submitted evidence of financial responsibility, as required by the purchasing agency. In order to assist the Board in pre-qualifying bidders, the bidder must submit, in accordance with the invitation to bid, all documentation and other information relating to the supplies being offered for purchase, except for price, and any other information that may assist the Board in making its determination. Such documentation will include evidence of financial responsibility or a certified check, as specified in the invitation to bid.

3. In determining whether a bidder is responsible, the purchasing agent may consider the following factors:

- (a) The ability and capacity of the bidder to provide the supplies.
- (b) The integrity, character, and reputation of the bidder.
- (c) The competency and experience of the bidder.

4. In determining whether a bidder is responsive, a purchasing agent may consider the following factors:

- (a) Whether the bidder has submitted information demonstrating that its offer for supplies conforms in all material respects to the specifications;
- (b) Whether the bidder has submitted documentation that complies specifically with the solicitation and the instructions to bidders; and
- (c) Whether the bidder has complied with all applicable statutes, ordinances, resolutions, or rules pertaining to the award of a public contract.

5. The determination that a bidder is not responsive or not responsible must be made in writing by the Board.

6. Pre-qualification of bidders must be done by the purchasing agent or an authorized representative of the purchasing agency in the presence of one or more witnesses and must be completed no later than twenty-four hours prior to the commencement of the reverse auction bidding period.

7. The Board shall notify any bidder determined not to be pre-qualified in writing, by facsimile, or electronic mail (as requested by the bidder) and shall exclude the bidder so notified from participation in the reverse auction.

electronic offer with the same degree of protection as the content of an offer that is not transmitted by electronic means.

4. In accordance with the invitation to bid, offers submitted by pre-qualified bidders will only be received:

a. Through the City's secure website; or

b. If a third party is conducting the reverse auction on behalf of the City, through the third party's secure website.

F. Reverse Auction Bidding Period.

1. For each reverse auction, the purchasing agent must establish an initial bidding period during which bidders may submit prices for which the supplies being offered may be purchased. The initial bidding period shall not be less than one hour. The purchasing agent may automatically extend the reverse auction bidding period for additional pre-determined periods based upon competitive activity.

2. During the bidding period for the reverse auction, information available for public display is limited to the ranking, price and name of bidders of each price bid relative to all other prices bid.

3. The dollar amounts of the prices bid by bidders shall not be disclosed to the bidders until the close of the bidding period.

4. All information received, obtained or retained during a reverse auction remains confidential and may not be disclosed until after the close of the reverse auction bidding period.

G. Opening Offers.

1. In accordance with the Act, offers will be deemed to be opened when a computer generated record of the information contained in all bids received from pre-qualified responsive and responsible bidders is reviewed publicly at the close of the bidding period for the reverse auction in the presence of one or more witnesses at the time and place designated in the invitation for bids by the purchasing agency (or an authorized representative of the purchasing agency, including the purchasing agent).

2. The purchasing agency, and any of its agents or employees are prohibited from displaying for public viewing the amount of each initial bid price until the close of the initial bidding period for the reverse auction. The purchasing agency is required to protect the identity of a bidder and the prices which have been submitted by each bidder until the initial bid has been placed and until the reverse auction begins, at which time bids will be deemed opened.

H. Contract Award.

1. In accordance with IC 5-22-7-8, the purchasing agency must award a contract for the purchase of supplies with reasonable promptness by written notice to the lowest responsible and responsive bidder.
2. If the contract is not awarded to the lowest bidder, the purchasing agent must indicate the reasons for the award in writing.
3. As provided in the invitation to bid, the third party conducting the reverse auction may impose a fee as a term of the contract for a purchase made by means of a reverse auction.

I. Purchase Orders and Payments.

1. A fully executed purchase order must be filed with the Charlestown Clerk-Treasurer within thirty (30) days after the award of a contract of a purchase of supplies through a reverse auction in accordance with IC 5-22-18-5.
2. Payments for supplies purchased in a reverse auction shall be made only after receiving properly submitted claims in accordance with IC 36-4-8-1 et seq.

J. Documentation.

The purchasing agency shall be required to maintain adequate documentation regarding its reverse auctions so that the transactions may be audited as provided by law. The purchasing agency shall maintain an indexed file of specifications prepared by or under the authority of its purchasing agents for each reverse auction in which the purchasing agency participates.

K. Savings Clause.

If any section of this Ordinance shall be deemed unenforceable and/or not in compliance with any applicable statute or law by a Court of competent jurisdiction, then to the extent permissible all other sections of this Ordinance shall remain in full force and effect.

L. Repealing Clause.

All sections of any previous Ordinances and/or Resolutions that are inconsistent and/or contradictory to the above provisions of this Ordinance are hereby repealed.

M. Effective Date

This Ordinance shall be in full force and effect upon and after its passage by the Charlestown City Council or as otherwise mandated by statute and/or rule.

ADOPTED by the City Council of Charlestown, Indiana, this 21st day of Oct., 2004.

	<u>AYE</u>	<u>NAY</u>	<u>ABSTAIN</u>	<u>ABSENT</u>
<u>Jeff Aaron</u> Jeff Aaron	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<u>Bruce Bottorff</u> Bruce Bottorff	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<u>Terry Pierce</u> Terry Pierce	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<u>Brian Walker</u> Brian Walker	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<u>Matthew Woods</u> Matthew Woods	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

APPROVED: Michael D. Hall
Michael D. Hall, Mayor

DATE: 10/21/04

ATTEST: Deborah Gray
~~Donna Coomer, Clerk-Treasurer~~ Deputy
Deborah Gray

DATE: 10/21/04