

## Legislation Details (With Text)

**File #:** 19-0680      **Version:** 1      **Name:** Competitive Sealed Proposal Process

**Type:** Ordinance      **Status:** Passed

**File created:** 6/18/2019      **In control:** Board of Mayor & Aldermen

**On agenda:** 8/13/2019      **Final action:** 8/13/2019

**Title:** Consideration of Ordinance 2019-24, An Ordinance Creating a Competitive Sealed Proposal Process to Purchase Goods and Services. (07/09/19 WS; 07/09/19 1st BOMA Reading 8-0) SECOND AND FINAL READING

**Sponsors:** Shauna Billingsley

**Indexes:**

**Code sections:**

**Attachments:** 1. 19-0680 2019-24 ORD Competitive Sealed Proposal Process.Law Approved.pdf, 2. 19-0680 Sec. 2\_554.\_\_\_\_Competitive\_sealed\_proposals..pdf

Date	Ver.	Action By	Action	Result
8/13/2019	1	Board of Mayor & Aldermen	approved on second and final reading	Pass
7/9/2019	1	Work Session	acknowledged	
7/9/2019	1	Board of Mayor & Aldermen	referred as a Consent Item	Pass
6/25/2019	1	Work Session	referred	

**DATE:** June 28, 2019

**TO:** Board of Mayor and Aldermen

**FROM:** Eric Stuckey, City Administrator  
Shauna Billingsley, City Attorney

**SUBJECT:**  
Consideration of Ordinance 2019-24, An Ordinance Creating a Competitive Sealed Proposal Process to Purchase Goods and Services. (07/09/19 WS; 07/09/19 1st BOMA Reading 8-0) SECOND AND FINAL READING

### Purpose

The purpose of this memo is to provide information to the Franklin Board of Mayor and Aldermen (BOMA) concerning the possibility of adopting an ordinance that would all the City to use a Competitive Sealed Proposal Process to purchase goods and services.

### Background

Tennessee Code Annotated 12-3-1207 allows municipalities to create by ordinance a Competitive Sealed Proposal Process which, upon motion of this Board, can be used in place of competitive sealed bids. In order to take the benefit of this law, the City must adopt an ordinance with criteria set forth in T.C.A. The City staff and the Board must consider and approve, under the restrictions and requirements of the state law and a

procurement code adopted by the Board by ordinance, that the use of competitive sealed bidding is either not practicable or not advantageous to the municipality.

In the decision to use competitive sealed proposals, the Board and City staff shall follow a procurement code, which shall be adopted by the municipality by ordinance before purchases may be made using the Competitive Sealed Proposal Process. The ordinance shall contain criteria for purchasing through competitive sealed proposals and procedures consistent with this section.

(c) The procurement code shall provide that competitive sealed proposals may be used only when qualifications, experience, or competence are more important than price in making the purchase and:

(1) When there is more than one (1) solution to a purchasing issue and the competitive sealed proposals will assist in choosing the best solution; or

(2) When there is no readily identifiable solution to a purchasing issue and the competitive sealed proposals will assist in identifying one (1) or more solutions.

The model procurement code shall contain provisions allowing an aggrieved respondent to protest the intended award to another respondent if the protest is filed within seven (7) calendar days after the intended award is announced. The protest shall be filed with and decided by the municipal governing body.

(e) Adequate public notice of the request for competitive sealed proposals shall be given in the same manner provided for competitive sealed bids.

(f) Competitive sealed proposals shall be opened in a manner that avoids disclosure of contents to competing respondents during the negotiation. The proposals shall be open for public inspection after the intent to award the contract to a particular respondent is announced.

(g) The request for competitive sealed proposals shall state the relative importance of price and other evaluation factors.

The award shall be made to the responsible respondent whose proposal the governing body determines is the most advantageous to the municipality, taking into consideration price and the evaluation factors set out in the request for competitive sealed proposals. No other factor may be used in the evaluation. The purchasing agent shall place in the contract file a statement containing the basis on which the award was made.

### **Financial Impact**

The City will be allowed, for certain pre-determined purchases of goods and services, to use the Competitive Sealed Proposal Process, taking into account factors other than costs. Therefore, the City might pay more for goods or services, but will be allowed to engage a vendor that is better suited and qualified for the work needed.

### **Recommendation**

Staff recommends the Board consider an Ordinance allowing the City to utilize a Competitive Sealed Proposal Process.