



MEMORANDUM

TO: Mayor and Council

FROM: James Scarboro, Purchasing Officer 
Financial Services Department

DATE: February 23, 2015

SUBJECT: Procedure for Awarding a Contract when the City of Austin Receives Identical Bids

The purpose of this memorandum is to provide information on item 65 on the February 26, 2015 Agenda Addendum related to purchasing and the receipt of identical bids.

The Purchasing Office received three identical bids on a solicitation for the purchase of two portable three-phase meter testers / analyzers for Austin Energy. None of the Bidders are residents of the City; therefore, per Texas Local Government Code Section 271.901, award will be made by the casting of lots in the presence of Council (see attachment 1).

The Purchasing Officer will provide a sealed envelope with the names of each Bidder to the City Clerk for the casting of lots, which will be done prior to receiving the motion on the Consent Agenda. Attached is a summary of the bids received and the current process for casting lots (See attachment 2).

If you have questions or need additional information about casting of lots, please contact me at (512) 974-2050 or Urcha Dunbar-Crespo at (512) 974-2095.

Attachments

1. Excerpt from Texas Local Government Code Section 271.901
2. Agenda Item 65, Summary

cf: Marc Ott, City Manager
Elaine Hart, Chief Financial Officer
Yolanda Miller, Deputy Purchasing Officer

LOCAL GOVERNMENT CODE

TITLE 8. ACQUISITION, SALE, OR LEASE OF PROPERTY

SUBTITLE C. ACQUISITION, SALE, OR LEASE PROVISIONS APPLYING TO MORE THAN ONE TYPE OF LOCAL GOVERNMENT

CHAPTER 271. PURCHASING AND CONTRACTING AUTHORITY OF MUNICIPALITIES, COUNTIES, AND CERTAIN OTHER LOCAL GOVERNMENTS

SUBCHAPTER Z. MISCELLANEOUS PROVISIONS

Sec. 271.901. PROCEDURE FOR AWARDING CONTRACT IF MUNICIPALITY OR DISTRICT RECEIVES IDENTICAL BIDS. (a) If a municipality or district is required to accept bids on a contract and receives two or more bids from responsible bidders that are identical, in nature and amount, as the lowest and best bids, the governing body of the municipality or district shall enter into a contract with only one of those bidders and must reject all other bids.

(b) If only one of the bidders submitting identical bids is a resident of the municipality or district, the municipality or district must select that bidder. If two or more of the bidders submitting identical bids are residents of the municipality or district, the municipality or district must select one of those bidders by the casting of lots. In all other cases, the municipality or district must select from the identical bids by the casting of lots.

(c) The casting of lots must be in a manner prescribed by the mayor of the municipality or the governing body of the district and must be conducted in the presence of the governing body of the municipality or district. All qualified bidders or their legal representatives may be present at the casting of lots.

(d) This section does not prohibit a municipality or district from rejecting all bids.

(e) This section applies to all municipalities and districts required by general or special law or by municipal ordinance or charter to accept bids and award contracts on the basis of the lowest and best bid, but does not apply to bidding for contracts to act as a depository for public funds or as a depository for school funds under Subchapter G, Chapter 45, Education Code.

Summary
Council Agenda Addendum Date: February 26, 2015

Item Number: 65 Portable three-phase meter testers/analyzers

- The Purchasing Office has item 65 on the Consent Agenda that requires a casting of lots.
- Item Number 65 is for the one time purchase of two portable three-phase meter testers/analyzers for Austin Energy
- There were identical bids among three Bidders, none of which are residents of the City:
 - Texas Meter & Device \$62,036
Waco, Texas
 - Radian Research, Inc. \$62,036
Lafayette, IN
 - Watthour Engineering Company, Inc. \$62,036
Jackson, MS
- When bids are identical, Section 271.901 of the Texas Local Government Code requires that lots are cast to determine the awardee:
 - In a manner prescribed by the mayor and
 - In the presence of the governing body
- There will be a casting of lots to make the determination of which Bidder gets the award for this item. The Mayor may change this process.
- Without objection, the item will be left on the Consent Agenda and the casting of lots will be done prior to making the motion to approve the Consent Agenda.
- The Purchasing Officer will have a sealed envelope with the names of each Bidder ready for the casting of lots. This envelope will be provided to the City Clerk prior to the time for casting of lots along with a script for the Mayor to read.
- At the appointed time, the City Clerk will open the envelope, draw one name, and provide the card with the name of the Bidder to the Mayor who will announce the name of the Bidder for the record. That Bidder's name will be included on the Consent item.
- After the casting of lots, the Mayor will ask if there are any comments on the casting of lots and will ask for a motion and vote on the Consent Agenda including the casting of lots and will follow the normal Council process.