

**CITY COUNCIL RESEARCH DIVISION  
LEGISLATIVE SUMMARY**



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**Bill Type and Number:** Ordinance 2023-20

**Introducer/Sponsor(s):** Council Member Cumber

**Date of Introduction:** January 10, 2023

**Committee(s) of Reference:** NCSPHS, R, F, TEU

**Date of Analysis:** January 12, 2023

**Type of Action:** Procurement Code amendment; designation of oversight agency

**Bill Summary:** The bill repeals and substantially rewrites large portions of Ordinance Code Chapter 126 – Procurement Code – to provide for greater efficiency, transparency and accountability and to increase contract management and oversight. Parts 1 (General Regulations), 2 (Supplies, Contractual Services and Capital Improvements), 3 (Professional Services Contracts), 5 (Extraordinary Critical Purchasing Procedures), 7 (Design-Build Contracts) of the chapter are repealed and replaced. Parts 4 (Nondiscrimination Policy) and 6 (Jacksonville Small and Emerging Business Program) are retained and amended. Part 9 (Art in Public Places) is repealed and recreated in Chapter 118 – City Grants. Ordinance Code Chapter 21 – Executive Branch Generally – is amended to require contract administration and oversight in City contracts. The Procurement Division of the Finance and Administration Department is designated as the oversight agency.

**Background Information:** The major provisions of the Procurement Code rewrite are as follows:

**I. New Procurement Awards Committee Structure**

- a) Creates a new procurement awards committee known as “Jacksonville Procurement Awards Committee” (JPAC).
- b) JPAC will approve formal awards previously approved by GGAC, PSEC, CSPEC awards committees
- c) JPAC composition will consist of three members: Finance Director, Risk Manager, and Public Works Director, or their designees. Office of General Counsel (OGC) and Chief of Procurement will no longer serve as members of the awards committee, which alleviates sunshine law prohibitions relative to OGC and Chief of Procurement.
- d) JPAC will not review solicitation documents (i.e., RFP) previously reviewed by PSEC and CSPEC
- e) JPAC shall have the following duties:
  - i. To approve award recommendations for formal purchases in accordance with this Chapter;
  - ii. To cancel any formal purchase competitive solicitation made in accordance with this Chapter or rejecting any and all bids, proposals, responses or replies, in whole or in part, when the public or City's interest will best be served thereby, at the recommendation of the Chief, in consultation with the using agencies;
  - iii. To approve any procedures promulgated by the Chief regarding bonds and bidder responsibility determinations;
  - iv. To approve the Chief's recommended amendments to the Procurement Operating Manual;
  - v. To formulate and adopt standards for supplies and contractual services required by using agencies, at the recommendation of the Chief in consultation with the using agency; and
  - vi. To hear and make final decisions upon any protests, suspensions, and debarments made pursuant to this Chapter.

- f) Chief of Procurement will designate evaluation committee members as needed (to assist with scoring evaluating solicitations) based on using agency recommendations
- g) JPAC will approve all changes to the Procurement Operating Manual, subject to the final approval by the Mayor
- h) Informal awards will be governed by the Procurement Operating Manual
- i) JPAC will meet at least once a week, but may meet more frequently as needed to accommodate using agency procurement needs
- j) Chief of Procurement and Procurement Division staff will provide administrative support to JPAC. OGC will staff JPAC committee and be present at each JPAC meeting.

## **II. Deleted Provisions from Existing Procurement Code**

- a) Deletes the existing Section 126.105 (Planning and Development Department review of capital improvement projects), which requires the Planning and Development Department to review capital improvement projects. This topic is covered in Section 122.604 (Preparation and submission of the Capital Improvement Plan Budget and Capital Improvement Plan). Section 122.604 requires the Finance and Administration, Public Works, and the Planning Departments to meet with all agencies in preparing the capital improvement project budget.
- b) Deletes Section 126.310 (Bond Counsel), which requires bond counsel to be approved by City Council as to the City and by the independent agency as to an independent agency required to use Chapter 126. Article 7 of the City Charter and Chapter 108, Part 5 of the Code governs the selection of outside counsel.
- c) Deletes existing Part 5 of Chapter 126 (Extraordinary Critical Purchasing Procedures) because these purchases and procedures fall within (and may be added to) the emergency procurement procedures contained in the Procurement Operating Manual

## **III. Increased Flexibility in Procurement Methods and Chief of Procurement Authority**

- a) Authorizes use of additional procurement methods, including any future procurement methods permitted or used by the state
- b) Increases the formal threshold amount for supplies, professional services, and contractual services from \$65,000 to \$150,000
- c) Increases Chief of Procurements authority to promulgate rules and procedures regarding procurement methods except that such authority may not conflict with applicable federal or state laws
- d) Requires Chief of Procurement to report quarterly to Mayor, Council Auditor, Inspector General and Council Secretary regarding single-source and emergency procurements

## **IV. Relocated Provisions in Existing Procurement Code (new parts/subparts)**

- a) Relocates Ex-Offender Re-entry Requirements (previously Section 126.112 now Part 5 of Chapter 126)
- b) Relocates Buy American preferences in contracts for goods (previously Section 126.114 now Part 7 of Chapter 126)
- c) Relocates Contractor debarment procedures (previously Section 126.201 now Part 9 of Chapter 126)
- d) Relocates section pertaining to conflicts between grant requirements and the Procurement Code (previously Section 126.113 now Part 4, Subpart B of Chapter 126); federal grant requirements under 2 Code of Federal Regulations were also incorporated in the Procurement Code
- e) Relocates Chapter 126, Part 9 (Art in Public Places) to Chapter 118 (City Grants), Part 6 (Cultural Service Grant Program) (Cultural Council through Art in Public Places Committee oversees Art in Public Places Program)

## **V. New Exemptions from Competitive Solicitation**

- a) Adds the following new exemption categories to be further defined in the Procurement Operating Manual:
  - i. Program or agency reviews if fee does not exceed formal threshold
  - ii. Government Collaborative Agreements
  - iii. Government Joint Projects
  - iv. Government Procured Contracts
  - v. Short-Term No Costs Pilot Projects

## **VI. New Ethics in Public Contracting/Transparency Provisions**

- a) Relocates and reorganizes existing ethics provisions pertaining to contractors and City officers/employees in Chapter 126 to new Subpart B
- b) Adds a statutory cross-reference to bid tampering
- c) Requires triennial contractor/supplier survey
- d) Requires all procurement governing documents to be posted on Procurement Division website
- e) Enables Procurement Division, subject to available funds, to use programs to make procurement documents more available and accessible to the public
- f) Adds new contractor prohibition regarding doing business with persons convicted of sex offender crimes/human trafficking

## **VII. New Contract Administration and Oversight Provisions**

- a) Creates new Part 4 to Chapter 21 (Executive Branch, generally)
- b) Adds contract administration requirement for certain high-risk contracts (via contract administrator)
- c) Requires Chief Administrative Officer or designee to work with Inspector General in developing a contract risk assessment program
- d) Requires annual contract administrator training by Chief, in consultation with the Inspector General and the City Ethics Officer, to include ethics in public contracting, contract administration and oversight, procurement methods and procedures, contract risk assessment program
- e) Adds additional Chief of Procurement responsibilities in Section 24.603 of the Code related to contract administrator training and certification, subject to available funds and staff

## **VIII. New Provisions regarding Electronic Procurement System**

- a) Adds provisions pertaining to E-procurement system, electronic public notices, and use of digital technology and digital signatures, subject to available funds

## **IX. Prospective Effective Date of Code Changes/Amended Procurement Operating Manual**

- a) Directs that the new Code changes not become effective until February 1, 2024
- b) Requires Chief of Procurement to amend the Procurement Operating Manual consistent with the Code changes prior to January 1, 2024; requires Mayor to approve the amended Procurement Operating Manual.
- c) Requires Chief of Procurement to promptly file copies of the amended Procurement Operating Manual with the Inspector General, Council Secretary, and Council Auditor to provide a 30-day period for these offices to review and provide comments to Chief of Procurement. Chief of Procurement may make additional amendments to the Procurement Operating Manual as appropriate based on comments received.

**Policy Impact Area:** Procurement and contract management

**Fiscal Impact:** Undetermined

**Analyst:** Clements