

2
3 CITY OF CUYAHOGA FALLS, OHIO

4
5 ORDINANCE NO. 99 - 2022

6
7 AN ORDINANCE AMENDING CHAPTER 181, CONTRACTS
8 AND COMPETITIVE BIDDING, OF THE CODIFIED
9 ORDINANCES OF CUYAHOGA FALLS, OHIO TO UPDATE
10 THE DEFINITION OF LOWEST AND BEST BID, AND
11 DECLARING AN EMERGENCY.
12

13 WHEREAS, the City of Cuyahoga Falls is required by law to award certain
14 contracts to the lowest and best bidders; and
15

16 WHEREAS, the City Council of Cuyahoga Falls, based upon its experience,
17 discretion, and consideration of other objective evidence, has determined that quality of
18 workmanship, efficient operation, safety, and timely completion of projects are not
19 necessarily insured by awarding a construction project to the lowest bidder; and
20

21 WHEREAS, the City Council of Cuyahoga Falls has determined that the "lowest
22 and best" bidder for purchase of goods or a construction project must be identified by
23 use of the several factors in addition the dollar amount of the bid.
24

25 NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Cuyahoga
26 Falls, County of Summit, and State of Ohio, that:
27

28 Section 1. Chapter 181, Contracts and Competitive Bidding, of the Codified
29 Ordinances of the City of Cuyahoga Falls is hereby is hereby supplemented as follow
30 (new text double underlined; deleted text in ~~strikethrough~~):
31

32 181.08 LOCAL PREFERENCE.

33 (a) In determining the lowest and best bid for supplies, commodities,
34 materials, equipment, furnishings or general services, the Board of Control shall
35 exercise a preference for local bidders as provided herein. The local preference shall
36 also apply to contracts for the building, repair or renovation of public buildings or
37 improvements.
38

39 (b) Bidders having established their principal place of business, defined as a
40 business with a significant economic and physical presence in Cuyahoga Falls for two
41 successive calendar years prior to the bid opening date, shall be preferred as lowest and
42 best if their bids does not exceed by more than three percent (3%), with an upper limit
43 of ten thousand dollars (\$10,000), the apparent lowest and best bid.
44

45 (c) To qualify for local preference, bidders shall state on the bid documents
46 their principal place of business, the business address where work will be administered
47 (post office boxes will not be accepted in lieu of a street address) and the date of
48 establishment. Each bidder shall have only one principal place of business.
49

50 (d) Local preferences shall not be applied as provided herein for any bids
51 where prohibited by federal or state laws or regulations.

52
53 (e) Local preferences shall only be applied in considering the lowest and best
54 bid, and ~~shall not waive or nullify evaluation of which bidders are responsive and~~
55 ~~responsible~~. In no event shall any preference granted herein exceed a maximum of three
56 percent (3%) or ten thousand dollars (\$10,000), whichever is less.

57
58 (f) The City shall indicate in all its invitations to bid and specification for all
59 public contractors for supplies, equipment and materials, excluding construction
60 contracts and contracts financed in whole or in part by contributions or loans from any
61 agency of the State of Ohio or United States Government, that it shall apply a local bid
62 preference as outlined in this section in the evaluation and award of bids received.

63 64 181.09 Lowest and Best Bid Defined

65
66 (a) The City will award contracts to the lowest and best bidder. The following factors are
67 significant in determining whether a bid is the lowest and best bid and may be
68 considered and applied by city officials, in their discretion, when determining the lowest
69 and best bid for supplies, commodities, materials, equipment, furnishings or
70 construction, renovation, maintenance, repair, businesses or general services.

- 71
- 72 1. The bidder's familiarity with the project.
- 73 2. Adequacy of the equipment for the project.
- 74 3. The bidder's record on similar projects.
- 75 4. The bidder's experience in the relevant field in the preceding twelve
76 months, including the original contract price for each job undertaken
77 and the cost of any change order and overruns.
- 78 5. The bidder's compliance with deadlines.
- 79 6. The bidder's prior performance on any project taken for the City of
80 Cuyahoga Falls.
- 81 7. The bidder's financial solvency.
- 82 8. Whether the bidder has ever sued or been sued by a public entity over
83 a public project.
- 84 9. The bidder's bonding record.
- 85 10. The bidder's compliance record with, and maintenance of,
86 unemployment and workers' compensation laws for all employees.
- 87 11. The bidder's compliance record with, and maintenance of, federal and
88 state wage laws for all employees.
- 89 12. The bidder's compliance record with, and maintenance of, the Fair Labor
90 Standards Act for all employees.
- 91 13. The bidder's compliance record with, and maintenance of, Occupational
92 Safety and Health Administration regulations for all employees.
- 93 14. The experience, training, and skill of the bidder's workforce in writing.
- 94 15. The number of years the bidder has been in the relevant businesses.
- 95 16. The continuity of the bidder's workforce.
- 96 17. The bidder's past compliance with employee drug testing.

- 97 18. Past compliance with local and state income tax laws.
98 19. The bidder's participation in a state accredited apprenticeship program
99 when it is required by Ohio prevailing wage law.
100 20. Any other factor determined to be relevant.
101

102 (b) Bid specifications shall contain provisions conforming to Section (a) of this chapter.
103 Evidence of the factors they wish to be considered is the responsibility of the bidder.
104

105 (c) City Officials may reject any or all bids, or parts of bids, for any reason if acceptance
106 is not in the best interest of the City.
107

108 Section 2. Any other ordinances or resolutions or portions of ordinances and
109 resolutions inconsistent herewith are hereby repealed, but any ordinances and
110 resolutions not inconsistent herewith and which have not previously been repealed are
111 hereby ratified and confirmed.
112


113 Section 3. That it is found and determined that all formal actions of this Council
114 concerning and relating to the adoption of this ordinance were adopted in an open
115 meeting of this Council, and that all deliberations of this Council and any of its
116 committees that resulted in such formal action, were in meetings open to the public, in
117 compliance with all legal requirements to the extent applicable, including Chapter 107
118 of the Codified Ordinances.
119

120 Section 4. This ordinance is hereby declared to be an emergency measure necessary
121 for the preservation of the public peace, health, safety, convenience and welfare of the
122 City of Cuyahoga Falls and the inhabitants thereof, and provided it receives the
123 affirmative vote of two-thirds of the members elected or appointed to Council, it shall
124 take effect and be in force immediately upon its passage and approval by the Mayor;
125 otherwise it shall take effect and be in force at the earliest period allowed by law.
126

127
128 Passed: 10-24-2022
129



President of Council



Clerk of Council

130
131
132
133
134
135
136 Approved: 10-24-2022
137



Mayor

138 10/10/22
139 \\CF-FILE01\ldpublic\Council\2022ords\10-10-22\Amend Cod Ord 181.08 Local
140 Preference and 181.09 Lowest and Best Bid Defined.docx