RESOLUTION NO. 2752

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE TOWN OF PAYSON, ARIZONA, AMENDING FINANCIAL POLICY 201 PROCUREMENT AND REPEALING ADMIN POLICY A202.
(PART 7 OF THE SYSTEMATIC CODE REVIEW AND UPDATE)

WHEREAS, on June 6, 2013, the Town Council directed the Town Attorney, working with the Town's Departments to systematically review the Town Code and to bring to the Council any recommended amendments to ensure consistency with State Law, internal consistency with other Town Ordinances/Code sections, and efficiency of Town operations; and

WHEREAS, Title III: General Provisions of the Town Code, Chapter 35 (Purchasing) has been reviewed by the Town Attorney, Town Manager, and the Assistant Town Manager; and

WHEREAS, the Town desires to amend Financial Policy 102 and repeal Admin Policy A202 by this Resolution and a companion Ordinance amending Chapter 35 has been prepared to ensure consistency, and to improve the ability of the Town to procure goods and services in a impartial cost effective manner,

NOW, THEREFORE, THE MAYOR AND COMMON COUNCIL OF THE TOWN OF PAYSON, ARIZONA, DO HEREBY ORDAIN AS FOLLOWS:

Section 1. Section 1.2.9 of Financial Policy 102 Procurement is amended and shall read as follows:

1.2.9 LATE BID
A bid is late if it is received at the location designated in the Request for Bids after the time and date set for the bid opening.

A late bid shall be rejected and not considered, regardless of the reason for lateness, including circumstances beyond the control of the bidder.

A late bid shall not be opened, except (if necessary), for identification purposes.

Delivery and return of late bids shall be handled in the following manner:
1) If delivered in person, a late bid shall be immediately rejected and returned to the bidder.
2) If not delivered in person, such bid shall be filed unopened by the Town Clerk. ~~within the Financial Services Department.~~

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Section 2. Section 1.2.15 of Financial Policy 102 Procurement is amended and shall read as follows:

1.2.15 CONTRACT AWARD

The department shall review the bids regarding meeting the required specifications and mathematical calculations and determine the apparent most responsive, responsible ~~low~~ bidder. If mathematical errors are found that materially change the bid amounts, the department head may reassess who the apparent most responsive, responsible ~~low~~ bidder is.

After determining the apparent most responsive, responsible ~~low~~ bidder, the department will return the bid bond for all but the two lowest bidders with a letter notifying them of who the apparent low bidder is and a copy of the bid tabulation. After all contracts or agreements are signed, the department will return the two remaining bid bonds. The department shall retain a copy of all returned bonds.

~~In the event that two or more bidders submit a low bid with an identical dollar amount, the department shall determine which bidder to recommend to the Town Council for award of the project. The decision of the Town Council on who to award the contract to shall be final, with no appeal. The Town of Payson may also reject all bids if there is a tie in the low bid amount submitted.~~

The department will prepare a Council Decision Request and present the results of the bid, including a complete bid tabulation, and the bidder determined to be the most ~~lowest~~ responsive, responsible bidder whose bid conforms in all material aspects to requirements and criteria set forth in the Request for Bids.

If two bids appear to be equally responsive and responsible, the Council may award the bid by lot.

The Town Council makes the final decision on bidder selection and contract award. The decision of the Town Council on who to award the contract to shall be final, with no appeal.

The Town Council, however, reserves the right to accept or reject any or all bids if deemed to be best for the public good and to waive any informality in the bids received.

The Town, at its option, may refuse to award a contract or purchase to any vendor who is in violation of any Business License requirements or in default on the payment of Town taxes, licenses or other monies due the Town at the time of bid opening.

The Town, at its option, may refuse to award a contract or purchase to any vendor who has defaulted on a similar contract with the Town, or has defaulted on a similar contract with another jurisdiction or public entity within the last three (3) years.

After Council approval and award, the department will notify the selected bidder in writing, and shall deliver all original bid documentation, excluding the most responsive, responsible bid, to the Town Clerk for filing. The original bid documentation of the most responsive, responsible bidder shall be used to create the final contract documents for signature. The department shall coordinate the signing of any contracts or agreements. The Town may not execute the contract until any required Payment Bonds, Performance Bonds and Certificates of Insurance have been received. After signing, the original documents shall be delivered to the Town Clerk. Additional copies shall be provided for at least the following: the department issuing the call for bids, Financial Services, and the successful bidder.

~~After Council approval and award, the department will notify the selected bidder in writing and coordinate the signing of any contracts or agreements. The Town may not execute the contract until the required Payment Bond, Performance Bond, and Certificate of Insurance have been received.~~

Section 3. Section 1.3 of Financial Policy 102 Procurement is amended and shall read as follows:

1.3 ALTERNATE PURCHASE PROCEDURES

In addition to the purchase procedures defined above, the following may also be used when permitted by State law:

1) Purchases through a joint purchase agreement or in conjunction with another public entity or agency provided one of the parties undertakes competitive bidding for the purchase;

2) Purchases from another public entity or agency;

3) Purchases through the United States General Services Administration; or

4) Purchases utilizing a duly called for and received competitive bid received by another political subdivision of the state, including, but not limited to a county, a city, town or school district, for an identical item.

5) Any other method approved by the Council if all of the following occur:

(a) the method complies with all applicable state and federal laws;

(b) the Town receives greater value than could otherwise be obtained; and

(c) at least 5 Council Members vote for such alternative method.

Section 4. Section 1.4.1 of Financial Policy 102 Procurement is amended and shall read as follows:

1.4.1 GENERAL INFORMATION

The Town may also pre-qualify bidders ~~for a particular project~~. The purpose is to identify a pool of technically qualified teams. This process uses a Request for Qualifications (RFQ) process. A RFQ is issued to any interested parties. Based on the responses submitted to the RFQ, a pool of highly qualified bidders is created. This pool will then be asked to bid ~~on the particular project~~.

Section 5. Section 1.11.6 of Financial Policy 102 Procurement is amended and shall read as follows:

1.11.6 BID AND CONTRACT SECURITY, MATERIAL OR SERVICE CONTRACTS

The soliciting department may require the submission of security to guarantee faithful bid and contract performance.

Security shall be in the form specified within the Town's bid specification, and may include, but not be limited to a bid bond, performance bond, and payment bond. A performance bond and payment bond shall be required for all construction projects of $25,000 or more.

Bid bonds shall be at least 10% of the bid. Performance and payment bonds shall be for at least 100% of the bid ~~cost~~ amount.

The requirement for security must be included in the Request for Bids, Request for Proposals, or Bid Package.

Failure to submit security in the amount and type of security required may result in the rejection of the bid or proposal.

Section 5. The word 'approves' in Section 1.16.4(1) is amended to 'approved.'

Section 6. If any section, subsection, or portion of this Resolution is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Resolution.

PASSED AND ADOPTED BY THE MAYOR AND COMMON COUNCIL OF THE TOWN OF PAYSON this _____ day of _____, 2014, by the following vote:

AYES _____ NOES _____ ABSTENTIONS _____ ABSENT _____

Kenny J. Evans, Mayor

ATTEST:

Silvia Smith, Town Clerk

APPROVED AS TO FORM:

Timothy M. Wright, Town Attorney