

LEGISTAR # 53219 – Version 1

DRAFTER'S ANALYSIS: This amendment makes changes to the City's purchasing and affirmative action dollar thresholds. Currently, service contracts of more than \$25,000, if not selected through a competitive selection process, must be authorized by resolution of the City Council and signed by the Mayor and City Clerk. Contracts up to \$25,000 are exempt from competitive selection and can be signed by the designee of the Finance Director without a resolution. This ordinance would raise that threshold to \$50,000 in total, and \$50,000 per year for annually-recurring contracts for technology services. This ordinance also raises the maximum annual price for competitively-selected service contract that can be signed by the Finance Director's designee from \$50,000/year to \$100,000/year, changes the maximum duration for such a contract from 3 to 5 years, and clarifies that renewals are counted toward the 5 years. This amendment also raises the dollar threshold that requires City contractors to file an affirmative action plan from \$25,000 in annual aggregate business with the City, to \$50,000. (This rule does not apply to public works contractors and others who are required to file an AA Plan regardless of dollar amount.) Finally, this ordinance raises the maximum amount of liquidated damages a contractor could pay for violating its AA plan, Section 39.02 or 39.03, from \$5,000 to \$10,000. If adopted, the amendments to Sec. 4.26 (items 1-4 of this ordinance) and the increase in liquidated damages (item 6) would take effect on January 1, 2019 and be implemented for contracts signed January 1, 2019 or later. The new affirmative action threshold of \$50,000 would apply beginning with the 2019 calendar year, meaning that contractors with a contract in place in 2019 will be required to file an AA plan only if they reach \$50,000 in 2019, regardless of when the contract was signed. Put another way, the AA plan filing requirements will be enforced for the 2019 calendar year and beyond at the \$50,000 level.

The Common Council of the City of Madison do hereby ordain as follows:

1. Subdivision (e) of Subsection (3) entitled "Services" of Section 4.26 entitled "City Purchasing" of the Madison General Ordinances is amended to read as follows:

"(e) The contract is for a period of one (1) year or less, or the contract is for a period of more than one (1) year but not more than ~~three five~~ (35) years (including any renewal or extension terms) and the cost of the services does not average more than ~~fifty one hundred~~ thousand dollars (\$50,000/100,000) per year of the contract, provided that this subparagraph is subject to sub. (4)(b) of this ordinance for non-competitive contracts."

EDITOR'S NOTE: This amendment shall be effective January 1, 2019.

2. Paragraph 8. of Subdivision (a) of Subsection (4) entitled "Exceptions to RFP Process" of Section 4.26 entitled "City Purchasing" of the Madison General Ordinances is amended to read as follows:

"8. The contract price is for twenty-five less than fifty thousand dollars (\$25,000/50,000) in total or less than fifty thousand dollars (\$50,000) annually for software support, maintenance, subscription or similar annually-recurring technology services; or"

EDITOR'S NOTE: This amendment shall be effective January 1, 2019.

3. Subdivision (b) of Subsection (4) entitled "Exceptions to RFP Process" of Section 4.26 entitled "City Purchasing" of the Madison General Ordinances is amended to read as follows:

"(b) If the aggregate amount of the fee for services will exceed twenty-five thousand dollars (\$25,000) and the contract was not subject to a competitive bidding process, the contract shall meet one of the exceptions in sub. (4)(a) and be approved by the Common Council by resolution, except for emergencies under sub. (4)(c)."

EDITOR'S NOTE: This amendment shall be effective January 1, 2019.

4. Subdivision (c) entitled "Emergency Services" of Subsection (4) entitled "Exceptions to RFP Process" of Section 4.26 entitled "City Purchasing" of the Madison General Ordinances is amended to read as follows:

“(c) Emergency Services. The Finance Director/designee, and department/division heads or their designees, may purchase services in any dollar amount if necessitated by or resulting from an emergency, without a competitive selection process and without Common Council approval. The Finance Director/designee may sign a contract for such services in a form approved by the City Attorney and Risk Manager. The Finance Director shall promptly report any such emergency services contracts ~~over twenty-five~~ totaling fifty thousand dollars (\$25,000~~00~~50,000) or more to the Common Council.”

EDITOR’S NOTE: This amendment shall be effective January 1, 2019.

5. Subparagraph c. of Paragraph 2. entitled “Contract” of Subdivision (a) entitled “Definitions” of Subsection (9) entitled “Contract Compliance Provisions” of Section 39.02 entitled “Affirmative Action Ordinance” of the Madison General Ordinances is amended to read as follows:

“c. Contracts with contractors whose aggregate annual business with the City for the calendar year in which the contract ~~takes is in~~ is in effect is less than twenty-five thousand dollars (\$25,000), except that, effective January 1, 2019, this threshold shall be changed to less than fifty thousand dollars (\$50,000).”

EDITOR’S NOTE: This amendment shall be effective the day after publication of this ordinance.

6. Subparagraph 3. of Article VII of Paragraph 2. entitled “Contract Conditions” of Subdivision (e) entitled “Compliance Requirements” of Subsection (9) entitled “Contract Compliance Provisions” of Section 39.02 entitled “Affirmative Action Ordinance” of the Madison General Ordinances is amended to read as follows:

“3. Recover on behalf of the City from the prime contractor 0.5 percent of the contract award price for each week that such party fails or refuses to comply, in the nature of liquidated damages, but not to exceed a total of five percent (5%) of the contract price, or ~~five ten~~ ten thousand dollars (~~\$5,000~~10,000), whichever is less. Under public works contracts, if a subcontractor is in noncompliance, the City may recover liquidated damages from the prime contractor in the manner described above. The preceding sentence shall not be construed to prohibit a prime contractor from recovering the amount of such damage from the noncomplying subcontractor.”

EDITOR’S NOTE: This amendment shall be effective January 1, 2019.

7. Effective Dates. Sections 1-4 and 6 of this amendment are effective January 1, 2019. Section 5 of this amendment is effective the day after publication.