



Legislation Details (With Text)

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Title: Amending Sections 4.26, 39.02(9)(a)2.a. and 39.07(3)(c)2. of the Madison General Ordinances regarding emergency service contracts and to authorize purchasing consortium agreements.
Sponsors: David Ahrens, Paul E. Skidmore
Indexes:
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Date	Ver.	Action By	Action	Result
9/3/2013	1	COMMON COUNCIL	Adopt	Pass
8/26/2013	1	BOARD OF ESTIMATES (ended 4/2017)	RECOMMEND TO COUNCIL TO ADOPT - REPORT OF OFFICER	Pass
8/6/2013	1	COMMON COUNCIL	Referred	Pass
7/30/2013	1	Attorney's Office/Approval Group	Referred for Introduction	

Fiscal Note

The resolution does not make an appropriation. The authority to enter into cooperative purchasing consortia may help reduce overall costs.

Title

Amending Sections 4.26, 39.02(9)(a)2.a. and 39.07(3)(c)2. of the Madison General Ordinances regarding emergency service contracts and to authorize purchasing consortium agreements.

Body

DRAFTER'S ANALYSIS: This ordinance amends Sec. 4.26 to allow the Finance Director (or designee) to sign emergency service contracts over \$25,000 and cooperative purchasing agreements. Sec. 4.26 requires Common Council approval before the City can enter into service contracts for more than \$25,000, if the contractor was not selected with a competitive selection process (RFP). Emergency service contracts are exempt from competitive selection, but under current ordinance Council approval is required because the contractor was not competitively selected, and only the Mayor and City Clerk can sign it.

Obtaining Council approval before signature is impractical or impossible in an emergency requiring immediate services. Negotiating and signing a written instrument can be impractical, especially after-hours. This amendment would authorize the Finance Director/designee and department heads/designees to make an immediate purchase in an emergency. The resulting contract would be signed by the designee of the Finance Director (in a form approved by the City Attorney.) All such emergency contracts would be reported to the Council as soon as possible. This new procedure is only needed for emergency services over \$25,000, as the current ordinance allows service contracts under \$25,000 without pre-authorization. This amendment also would add a reference to the new emergency procedure to the section of 39.02(9) that already exempts emergency contracts from the Affirmative Action contract requirements, and the section of 39.07(3) that exempts emergency contracts from the Equal Benefits requirements.

This amendment also authorizes the Finance Director/designee to sign an agreement to join a purchasing consortium or other cooperative purchasing organization, if the members of the organization are all units of government (in or out of state), or if the organization is not-for-profit.

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

1. Section 4.26 entitled "City Purchasing" of the Madison General Ordinances is amended to read as follows:

"4.26 CITY PURCHASING.

- (1) Council Authorization. This ordinance authorizes the Finance Director, or the Mayor and City Clerk, to enter into contracts on behalf of the City of Madison if the contracts meet the criteria of the ordinance. Contracts that do not meet the criteria set forth in this ordinance, and are not otherwise authorized by law, rule or regulation, shall be authorized separately by the Common Council, by resolution or otherwise. This ordinance does not apply to public works contracts required to be bid pursuant to Wis. Stat. § 62.15.
- (2) Goods and Supplies. The City may purchase supplies, equipment, goods and materials (collectively, "goods") when the costs of the same have been included in the approved City budget. Except as otherwise authorized by the Common Council, purchases of goods shall be made by the Finance Director, under this section and Sec. 4.27, MGO, pursuant to policies adopted by the Mayor or the Finance Director that include a competitive process, and on forms approved by the City Attorney. A contract ~~that is~~ for the purchase or rental of ~~equipment and goods that~~ includes maintenance or repair services for the goods is considered a contract for the purchase of ~~equipment~~ goods for purposes of this subsection.
- (3) Services. The City may contract for the purchase of services. Except as otherwise directed by the Common Council, contracts for the purchase of services may be entered into without Council resolution when all the following conditions are met:
 - (a) The funds for the services are included in the approved City budget.
 - (b) The City has engaged in a Request for Proposals (RFP) or the contractor has been selected through another other competitive bidding process that has been approved by the Finance Director, including but not limited to a competitive selection conducted by the State of Wisconsin or a purchasing consortium, or the contract is exempt from such a requirement pursuant to sub. (4) of this ordinance.
 - (c) The City Attorney has approved the form of the contract.
 - (d) The contract complies with other laws, resolutions, and ordinances.
 - (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 (3) years and the cost of the services does not average more than fifty thousand dollars (\$50,000) per year of the contract, provided that this subparagraph is subject to sub. (4)(b) of this ordinance for non-competitive contracts.
- (4) Exceptions to RFP Process. The City may enter into negotiated contracts without a competitive bidding process for the purchase of services if the following are met:
 - (a) One or more of the following criteria are present as found by the Finance Director:
 1. Public exigency will not permit the delay incident to advertising or other competitive processes;
 2. The service required is available from only one person or firm;
 3. The services are for professional services to be provided by attorneys;
 4. The services are to be rendered by a university, college, or other educational institution;
 5. No acceptable bids have been received after formal advertising;
 6. Service fees are established by law or professional code;
 7. A particular consultant has provided services to the City on a similar or continuing project in the recent past, and it would be economical to the City on the basis of time and money to retain the same consultant;
 8. The contract is for twenty-five thousand dollars (\$25,000) or less; or
 9. Otherwise authorized by law, rule, resolution, or regulation.
 - (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 other requirements of exceptions in sub. (4)(a) and be approved by the Common Council by resolution, except for emergencies under sub. (4)(c).

(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 thousand dollars (\$25,000) to the Common Council.

- (5) Execution of Contracts. Except as otherwise authorized by resolution or ordinance, contracts shall be signed by the Mayor and the City Clerk. Contracts allowed under subs. (2), (3), or (4)(a) may be signed by the Finance Director or designee. All contracts shall be on forms approved by the City Attorney.

- (6) Cooperative Purchasing. The Finance Director, or designee, is authorized to sign agreements in a form approved by the City Attorney for the purpose of joining a purchasing consortium or other cooperative purchasing organization, if the members of the organization are all units of government, or if the organization is not-for-profit. Such agreements include but are not limited to intergovernmental agreements for cooperative purchasing as authorized by Wis. Stats. §§ 66.0301(2) or 66.0303(2)."

2. Subparagraph a. 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:

"a. Contracts for goods, supplies or services necessitated by or resulting from an emergency situation as duly determined by the Mayor with the advice of the Council where possible, including those executed as an emergency services contract under Sec. 4.26(4)(c)."

3. Paragraph 2. of Subdivision (c) entitled "Exemptions" of Subsection (3) entitled "Equal Benefits Requirement" of Section 39.07 entitled "Equal Benefits" of the Madison General Ordinances is amended to read as follows:

"2. Contracts necessitated by or resulting from an emergency and thus will not permit the delay required to assure compliance with this ordinance; including contracts executed as an emergency services contract under Sec. 4.26(4)(c)."