

**AN ORDINANCE TO AMEND CHAPTER 2 OF THE CITY CODE REGARDING
BIDDING THRESHOLD REQUIREMENTS**

#4396

Sponsor:

**Council
Member Freel**

WHEREAS, Section 8-200 of the City Charter provides if any purchase or contract for which competitive bidding is required involves an expenditure of twenty-five thousand dollars (\$25,000.00) (the “Threshold Amount”) or more but less than one hundred thousand dollars (\$100,000.00), the competitive bidding for such purchase or contract shall be conducted in accordance with such procedures as the City Council by ordinance prescribes; and

WHEREAS, the City Council has prescribed the relevant procedures in Section 2-511 of the City Code; and

WHEREAS, on July 1, 2017, the Delaware General Assembly passed House Bill No. 216, which amended the City Charter to increase the Threshold Amount from twenty-five thousand dollars (\$25,000.00) to sixty thousand dollars (\$60,000.00); and

WHEREAS, it is necessary to amend the Threshold Amount listed in Section 2-511 of the City Code in order to conform with the amendment to the City Charter.

**NOW, THEREFORE, THE COUNCIL OF THE CITY OF WILMINGTON
HEREBY ORDAINS:**

SECTION 1. Chapter 2 of the City Code is hereby amended by amending Section 2-511 thereof by deleting the stricken language and adding the underlined language to read as follows:

§ 2-511. Purchases from ~~\$25,000.00~~ \$60,000.00 to \$100,000.00.

(a) Except in the purchase of unique articles or articles which for any other reason cannot be obtained in the open market, competitive bids shall be secured in accordance with the procedures set forth in this division, before any purchase, by contract or otherwise, is made or before any contract is awarded for construction, alteration, repairs or maintenance, or for rendering any service to the city other than professional services,

where the estimated value of the goods or services to be purchased exceeds ~~\$25,000.00~~ \$60,000.00 but is less than \$100,000.00.

(b) When the procurement and records division of the department of finance determines that the estimated cost of a purchase will exceed ~~\$25,000.00~~ \$60,000.00 but not exceed \$100,000.00 the following procedures shall apply:

(1) The procurement and records division shall cause to be published, at least once, in a newspaper of general circulation, a brief notice inviting interested parties to submit sealed bids which shall be opened at the time and place set forth in such advertisement. Such notice shall also identify briefly the items or services sought and shall state where detailed specifications may be obtained. The published notice of the invitation for bids shall be given a reasonable time prior to the date set forth therein for the opening of bids and, in no event, less than five days prior to such date.

(2) Bidders shall not be required to post bid bonds unless such bonds are required by federal or state law or regulation, or as a condition to federal or state assistance.

(3) Performance bonds and/or material and labor bonds shall not be required unless the procurement and records division, or the department making the purchase, determines prior to the solicitation of bids that such a bond is in the best interest of the city, in which case a surety bond in an amount and in such form as the procurement and records division prescribes, will be required.

(4) The city expressly reserves the following rights:

a. To waive technical errors or omissions in bids; and

b. To correct mathematical errors where the intended bid can be determined with reasonable certainty.

(5) Bids shall be publicly opened and tabulated in the presence of the city auditor at the time specified for their opening and the contract shall be awarded to the lowest responsible bidder submitting a responsive bid, unless the procurement and records division shall deem it to be in the best interest of the city to reject all bids.

(6) Each contract awarded under the provisions of this division shall contain a provision that in the performance of the contract, the contractor will not discriminate nor permit discrimination against any person because of race, color, age, handicap, sex, sexual orientation, religion or national origin. For the purposes of this subsection, the term "age" refers to, and shall include, any person who has attained the age of 40 years; the term "sex" shall mean the character of being male or female; the term "sexual orientation" shall mean the direction of one's sexual interest toward members of the same, opposite, or both sexes; and the term "handicap" shall mean a physical impairment which does not make the person incapable of adequately performing his duties with a reasonable accommodation to his handicap, and does not make the person incapable of performing such duties in a manner which would not endanger his health and safety or the health and safety of others.

(c) Notwithstanding the provisions of this section, the procurement and records division may solicit bids for the purchase of goods or services, the estimated cost of which exceeds ~~\$25,000.00~~ \$60,000.00 but is less than \$100,000.00, by following the formal bidding procedures set forth in section 8-200(4) of the city charter.

SECTION 2. This Ordinance shall become effective upon its passage by City Council and approval by the Mayor.

First Reading..... August 31, 2017
Second Reading..... August 31, 2017
Third Reading.....

Passed by City Council,

President of City Council

ATTEST: _____
City Clerk

Approved as to form this ____ day of _____, 2017.

Senior Assistant City Solicitor

Approved this ____ day of _____, 2017.

Mayor

SYNOPSIS: This Ordinance increases the threshold amount for the application of the competitive bidding procedures contained in Section 2-511 of the City Code from twenty-five thousand dollars (\$25,000.00) to sixty thousand dollars (\$60,000.00) to conform with the Delaware General Assembly's amendment to the City Charter.

FISCAL IMPACT STATEMENT: There is no anticipated negative fiscal impact for this Ordinance. It is expected that there will be some minor administrative cost savings due to the raising the threshold amount on matters requiring the competitive bidding process contained in Section 2-511 of the City Code, which will reduce the number of purchases and contracts going through that process.