

Legislation Text

File #: 15-9836, Version: 1

Efficiencies in Government - Resolution Increasing Delegated Authority to Award City Contracts

Action:

Adopt a resolution authorizing the City Manager and designees to approve contracts and amendments of less than \$500,000, and clarifying and consolidating in a single resolution certain other contract authority.

Committee Chair:

Greg Phipps, Budget and Effectiveness

Staff Resource(s):

Greg McDowell, Internal Audit
Tina Adams, Internal Audit
Bob Hagemann, City Attorney's Office
Cindy White, City Attorney's Office

Explanation

- In 1995, Council delegated authority to the City Manager to award contracts and amendments that do not exceed \$100,000.
- The City's internal controls and processes support the increased operational efficiencies which can be gained by raising the dollar threshold of contracts submitted to Council for approval.
- The Internal Auditor recommends increasing the delegated authority to the City Manager to award contracts and amendments of less than \$500,000.
- In 2017, City Internal Audit conducted a review to determine whether the thresholds for Council contract approval should be increased. City Internal Audit determined:
 - **Opportunity exists to increase efficiencies:** In fiscal year (FY) 2017, consent items under \$500,000 requested for Council approval were almost half of the total number of consent agenda items submitted. However, these items under \$500,000 made up only seven percent of the City's consent item spending.
 - In FY 2017, 226 items under \$500,000 were submitted for Council approval. All but one were unanimously approved.
 - Contract approval by Council lengthens the implementation process by four to six weeks per item.
 - In addition to standard internal processes, there is an additional layer of purely administrative review required by staff for the documents that go before Council. The estimated administrative staff time is three to six hours per item.
 - **State level controls in place:** State procurement laws govern contracts for construction and repair and contracts with architects, engineers and surveyors. State law also governs the purchase of goods, materials, equipment, and vehicles.
 - **Internal controls in place:** The City has appropriate internal controls and procedures to address legal requirements, policies, Charlotte Business INclusion Program compliance, risk mitigation, and best procurement practice.
 - **Charlotte's thresholds not consistent with other cities:** Charlotte's contract approval thresholds are currently among the most restrictive in the state for urban areas. A comparison of the thresholds in effect for Mecklenburg County, Raleigh, Greensboro,

Durham, Cary, Fayetteville, Asheville and Chapel Hill shows:

- Five of the eight have an award threshold of \$500,000 for construction and repair contracts.
- Four of the eight have no cap on the award threshold for service contracts.
- Five of the eight have no cap on the award threshold for apparatus, supplies, materials, and equipment.
- Based on its review, Internal Audit recommends the award threshold for Council approval of contracts and amendments be increased from \$100,000 to \$500,000.
 - In October 2017, the City Auditor presented the report findings to the Governance and Accountability Committee.
 - In the summer of 2018, optional informational sessions were conducted with Council to discuss the report's recommendations and options for consideration.
 - On August 23, 2018, Internal Audit presented the findings to the Budget and Effectiveness Committee.
 - On September 18, 2018, the Budget and Effectiveness Committee voted unanimously (Phipps, Driggs, and Bokhari; Ajmera and Mayfield absent) to recommend that City Council review and authorize the City Manager to increase the threshold up to \$500,000 with situational guidance for items to be reviewed by Council.
- This action also clarifies certain other contract authority, including the authority to make non-substantive changes to contracts approved by City Council, and the authority to execute grant applications and grants, as recommended by the City Attorney's Office.

Background

- North Carolina General Statute (N.C.G.S.) §160A-12 authorizes Council to delegate its authority to enter into contracts, except when restricted by law. One such law is N.C.G.S. §143-129 (the "Bid Statute"), which applies to construction and repair contracts, and to contracts for apparatus, supplies, materials and equipment.
- The General Assembly has amended the Bid Statute over the years to increase Council's delegation authority. Currently, the Bid Statute allows City Council to delegate award authority for:
 - Construction and repair contracts of less than \$500,000, and
 - Contracts in any amount for apparatus, supplies, materials, and equipment, excluding sole source and piggyback awards as set forth in N.C.G.S. §143-129 (e)(6) and (g).
- State law generally does not restrict Council's power to delegate authority to enter into service contracts or contracts that do not involve the payment of money by the City or the sale or lease of City assets.

Attachment(s)

Resolution