

City of Spring Hill

Purchasing Manual

Purchasing Policies

Rules, Regulations and Procedures



Updated
September 2022

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City of Spring Hill
Purchasing Policies
Rules, Regulations and Procedures

Foreword

Good purchasing policies and procedures are necessary so that the City can make the best use of public funds. These purchasing policies, rules, regulations and procedures are designed to obtain city goods and services on a competitive basis as well as to promote fairness to vendors. These policies are in conformance with the city charter and state purchasing laws.

The purchasing agent will aid all departments and divisions of the city by seeking the best materials, supplies, equipment, and services at the lowest public cost while maintaining high standards of quality in a reasonable period of time. City departments will participate in developing specifications and purchasing department supplies and equipment within established limits.

This manual explains City purchasing policies and procedures and serves as a guide for purchasing decisions. Employees who purchase for the city are encouraged to become familiar with these policies and procedures.

All city employees are encouraged to work together as a team to promote the city's best interest in getting maximum value for each dollar spent.

Jim Hagaman
Mayor

September 2022

General Policies

A. All elected and appointed officials of the City who participate in the solicitation and approval of purchases and contracts are personally responsible for becoming familiar with and abiding by all applicable State of Tennessee Statutes, City of Spring Hill Ordinances, and Purchasing policies and procedures in this manual, governing such activities.

B. City officials should endeavor to receive maximum value for the public dollar and to purchase in the best interest of the City.

C. The City Administrator is designated purchasing agent for the City per City Charter. To assist in the performance of these duties, the City Administrator may designate an authorized purchasing agent for the City. It is his/her responsibility to provide leadership in all purchasing and contracting activities for the City.

D. It is the Purchasing Agent's responsibility with concurrence of the City Administrator to develop and maintain a purchasing manual consistent with the City Purchasing Policy which shall provide for rules, regulations, and procedures for the internal management and purchasing function within the City.

E. The Purchasing Agent shall supervise the procurement of all supplies, services, or other items as needed by the City; and sell, trade, donate, destroy, transfer, or otherwise dispose of surplus property as approved by the Board of Mayor & Aldermen.

F. All qualified bidders shall be afforded equal opportunities to quote and will compete on equal terms.

H. Awards shall be made for bids and quotes that provide the best value to the City, taking into consideration the vendor's skill, business judgment, experience, facilities to carry out the contract and previous work and financial ability. The City reserves the right to waive minor irregularities, reject and/or accept any and all bids, in whole or in part, or take such other action as serves the best interests of the City.

I. The Board of Mayor & Aldermen reserves unto itself the final approval of all purchases that equals or exceeds \$25,000.00. The Mayor shall sign all contract and agreements.

J. It is the intent of the City to buy from suppliers who have adequate financial strength, high ethical standards and a record of adhering to specifications, maintaining shipping promises and giving maximum service. New sources of supply shall be given due consideration, as multiple sources of supply are necessary to ensure availability of materials.

K. The City shall strive to maintain strong and enduring relationships with vendors of proven ability and with those who have a desire to meet the needs of the City. To accomplish this, purchasing activities shall be conducted so the vendors will value the City's business and will make every effort to furnish its requirements on the basis of quality, service and price.

L. Individuals engaged in purchasing shall promote constructive competition by constantly seeking new bidders, obtaining bids consistent with the provisions of this manual and developing more than one active source of supply for various products and services.

M. Acceptance of money, gifts, gratuity, other consideration or favors of any kind by any employee or official from anyone other than the City is prohibited. Officials and employees shall not become obligated to any vendor and must not conclude any City transaction from which they may personally benefit.

I. Purchasing Agent and Authority

As designated in the City charter, the City administrator shall serve as purchasing agent for the City, with power as set out in these policies and procedures, to purchase materials, supplies, equipment, and services; secure leases and lease-purchases; and dispose of and transfer surplus property for the proper conduct of the City's business. The purchasing agent may approve and sign all purchase orders, leases, and lease purchases for less than \$25,000.00 that end during the fiscal year. Board approval is required for all contracts, leases, and lease purchases that extend beyond the current fiscal year. Monetary limitations shall be observed.

II. Purchase Limits

The purchasing agent shall have the authority to make purchases, leases, and lease-purchases of less than \$25,000.00 singly or in the aggregate during any fiscal year and, except as otherwise provided herein, shall require three competitive bids or quotations, either verbal or written whenever possible prior to each purchase. Three competitive quotes are required for the purchase of items which cost \$2,500 or more and less than \$25,000.00. Awards shall be made to the lowest responsible bidder. The purchasing agent may delegate purchasing responsibilities to a City purchasing officer. The following purchase limits shall be observed:

<u>Dollar Amount of Purchase</u>	<u>Requirement</u>
\$0.00 to \$999.99	No quotes/bids – pay as direct charge with Department Head approval
\$1,000 to \$2,499	3 verbal quotes, when possible
\$2,500 to \$24,999	3 written or email quotes, when possible
\$25,000.00 and over	Competitive sealed bids

The award of purchases, leases, or lease-purchases of \$25,000.00 or more shall be made by the governing body to the lowest responsible bidder.

III. Exceptions to Purchasing Limit

Purchases amounting to \$25,000.00 or more, which do not require public advertising and sealed bids or proposals, may be allowed only under the following circumstances and, except as otherwise provided herein, when such purchases are approved by the governing body:

1. Sole source of supply or proprietary products as determined after complete search by the purchasing agent, with governing body approval.

2. Emergency expenditures with subsequent approval of the governing body.
3. Purchases from instrumentalities created by two or more cooperating governments.
4. Purchases from non-profit corporations whose purpose or one of whose purposes is to provide goods or services specifically to municipalities.
5. Purchases, leases, or lease-purchases of real property.
6. Purchases, leases, or lease-purchases, from any federal, state, or local governmental unit or agency, of second-hand articles or equipment or other materials, supplies, commodities, and equipment.
7. Purchases through other units of governments as authorized by the Municipal Purchasing Law of 1983.
8. Purchases directed through or in conjunction with the state Department of General Services.
9. Purchases from Tennessee state industries.
10. Purchases of insurance as provided in Tennessee Code Annotated 29-20-407.
11. Acquisition of professional services will follow a Request for Qualification process instead of a competitive bid (Per TCA 12-4-107, legal services, fiscal agent, financial advisor or advisory services, educational consultant services, and similar services by professional persons or groups of high ethical standards, shall not be based upon competitive bids, but shall be awarded on the basis of recognized competence and integrity).

The purchasing agent shall be responsible for following these procedures including keeping and filing required records and reports, as if they were set out herein and made a part hereof and within definitions of words and phrases from the law as herein defined.

IV. Relations of Other Departments with the Purchasing Division

The purchasing division is a service agency for all other departments and divisions of the City. The purchasing function is a service, and for the mutual benefits gained to go toward the good of the City, all departments and divisions must work in harmony. This manual is a guide to help the governing board, purchasing agent, departments and divisions know their buying responsibilities.

V. Purchasing Agent's Responsibility

To aid and cooperate with all departments and divisions in meeting their needs for operating supplies, equipment, and services;

1. To process all requisitions with the least possible delay.
2. To procure a product that will meet the department's requirements at the least cost to the City.
3. To know the source and availability of needed products and services and maintain current vendor files.
4. To obtain prices on comparable materials after receipt of departmental requisition.
5. To select vendors, prepare purchase orders, and process and maintain order and requisition files.
6. To search for new, improved sources of supplies and services
7. To assist in preparation of specifications and to maintain specification and historical performance files.
8. To prepare and advertise requests for bids and maintain bid files.
9. To keep items in store in sufficient quantities to meet normal requirements of the City for a reasonable length of time within space availability.
10. To investigate and document complaints about merchandise and services for future reference.
11. To transfer or dispose of surplus property.

VI. Using Department's Responsibility

1. To allow ample lead time for the purchasing agent to process requisitions and issue purchase orders, while permitting the supplier time to deliver the needed items.
2. To prepare a complete and accurate description of materials to be purchased.
3. To help the purchasing agent by suggesting sources of supply.
4. To plan purchases in order to avoid emergencies.
5. To initiate preparation of specifications on items to be bid.

6. To inspect merchandise upon receipt and complete a receiving report noting any discrepancies in types, numbers, condition, or quality of goods.
7. To advise the purchasing agent of defective merchandise or dissatisfaction with vendor performance.
8. To advise the purchasing agent of surplus property.

Purchasing Methods

VII. Direct Charge

An invoice which has been stamped, coded, approved by the department director and submitted to the Finance Department may be paid as a direct charge provided that the purchase is under the threshold requiring a purchase order. Invoices between \$0 and \$999.99 may be processed for payment as direct charge.

VIII. Purchase Requisitions

A purchase requisition lets the purchasing agent know in detail what the using department needs. A requisition is required for making purchases, requesting price information, initiating a bid request, and requesting governing body approval on major expenditures.

(a) When Prepared

Requisitions shall be prepared far enough in advance so the purchasing agent can obtain competitive prices and the vendor has enough time to make the delivery.

1. It is the responsibility of the department head, considering price and quality, to determine the best source of supply. All local sources should be considered before a purchase is made. The purchasing agent will assist in vendor selection upon request.
2. If the purchase is over the dollar limit, under no circumstances may multiple forms be used in an effort to avoid filling out a purchase requisition, nor may multiple forms be used in an effort to avoid competitive bidding. Any variations in the purchase order and invoiced amount for purchases exceeding \$25,000.00 shall be approved by the Board of Mayor and Aldermen. Note: Purchases of \$25,000.00 or more must be competitively bid and awarded with the exception of items in Section III.

(b) Who Prepares

Requisitions shall originate in the using department and must be approved by the department head.

(c) How to Prepare

A properly processed purchase requisition must contain the following information;

- 1) Date issued; the date the requisition is prepared.
- 2) Date wanted; state a definite delivery date.
- 3) Requisition number; assigned by the system.
- 4) Department; the complete name of the using department.
- 5) Requisitioner; signature of the person initiating the purchase request.
- 6) Department head; approval of the department head.
- 7) Suggested vendors; list on a separate sheet if necessary.
- 8) To be delivered to; be specific.
- 9) Item number; numerical order of items listed.
- 10) Quantity; the number required.
- 11) Unit; dozen, linear feet, gallons, etc.
- 12) Description; give a clear description of the items, including size, color, type, etc. If the purchase is of a technical nature, specifications should be attached to the requisition. Incomplete information in this area will result in the requisition being returned to the using department for clarification.
- 13) Account to be charged; complete budgetary code.
- 14) Unit price; price for each individual item.
- 15) Amount; a total of quantity times unit price.

(d) General Information

1. A requisition must be completed before a purchase is made except when stated otherwise.

2. The requisitioner shall not split orders to avoid any provision of the City code or charter, this manual, or any policy established by the City, nor shall requisitions be submitted for the sole purpose of using up budgetary balances.

(e) Insufficient Funds

If the finance officer says there is not enough money in the budget account, the requisition will be referred to the purchasing agent who will notify the department head.

VIX. Purchase Order

(a) Purpose

A purchase order authorizes the seller to ship and invoice materials and services as specified. Purchase orders shall be written in a clear, concise, and complete manner. This will prevent confusion and unnecessary correspondence with suppliers.

(b) When Prepared

Purchase orders are issued only after a requisition has been submitted and approved by the purchasing agent and the finance officer. No purchase order will be issued until the finance officer has certified adequate funds and cash balances to make the purchase except as otherwise mentioned.

(c) Who Issues the Purchase Order

The purchasing agent issues purchase orders except as otherwise provided herein. The using departments will not enter into negotiations with suppliers for the purchase of equipment, supplies, materials, services, or other items except when operating under emergency purchase procedures and as otherwise provided herein.

(d) How Purchase Orders are Handled

1. Purchase order copies are routed to the department for further distribution to be used as authority to furnish the City the materials or services indicated.
2. A copy of the purchase order is retained by Finance.

(e) Cancellation

The purchasing agent must initiate all cancellations and will issue a purchase order to the next best vendor or renew the purchasing process.

(f) Processing Invoices for payment

An invoice is the vendor's statement of their charges against the City for materials or services rendered. The invoice is based upon the purchase order and should contain the same basic information. The prompt and proper processing of invoices is recommended. Upon receipt of vendor Invoice and completion of delivery and acceptance of materials or services, the department will promptly process the invoice and forward to the Finance Department for payment. Required data shall be completed as follows:

1. Invoice for PO payment: Enter accounting code(s), entire PO number, indicate whether the invoice is partial or completed the purchase order, authorized approval signature and approval date. If an invoice is charged to multiple accounts/codes, write the appropriate amount next to each account/object code.
2. Invoice for non-PO payment: Stamp invoice with invoice processing stamp, fill out account code (fund, function, object) and obtain Department Director signature. A check request may be used when invoices are not available (i.e. refund of facility deposits, etc.). A check request form is available from the Finance Department.
3. Partial Payment: Partial payment will not be made except when partial deliveries are made for the convenience of the City or when a discount is available.
4. Credit Memo: An Invoice credit memo shall be processed and submitted with red stamped block, the same as Invoice for PO payment in 1 above. Credit memos should be routed to Finance timely.

X. Emergency Purchases

An "Emergency" is defined as a situation brought about by a sudden unexpected turn of events or any circumstance or cause beyond the control of the City in the normal conduct of its business. An emergency purchase is made to alleviate a situation where there is a threat to health, welfare, safety or significant disruption of the operations of a department that can only be rectified by immediate purchase of equipment, supplies, materials, or services. An "emergency purchase" must fit the circumstances noted above and requires such competition as is practicable under the circumstance. Poor planning and inadequate management are not "emergencies" and cannot be treated as such. Purchases of this nature may be expedited, but still do not justify "emergency" status. The City Administrator shall be notified and approve all emergency purchases.

(a) Emergency Purchase Order

An emergency purchase may be made without competitive bidding when time is of the essence, and only for the following reasons:

1. To preserve or protect life, health, or property; or

2. Upon natural disaster; or
3. To forestall a shutdown of essential public services.

Since emergency purchases do not normally provide the City an opportunity to obtain competitive quotes or properly encumber committed funds, sound judgment shall be used in keeping such orders to an absolute minimum.

(b) How to Prepare an Emergency Purchase Order

An “emergency purchase” must fit the circumstances noted above and requires such competition as is practicable under the circumstance. The following requirements shall apply:

1. The Purchasing Division shall be contacted as soon as possible for an advanced Purchase Order number, which may be given verbally, to cover the emergency transaction.
2. A completed Purchase Requisition shall be submitted to Purchasing within two (2) working days, or as soon as the information is available. All Purchase Requisitions for emergency purchases shall be signed by the appropriate Department Director.
3. A Department Director often makes true emergency purchases on weekends, holidays, or after hours. The director or his designee may make emergency purchases when he/she has determined circumstances require immediate requisition of goods or services and after consultation with and approval by the City Administrator.

Documentation explaining the circumstances and nature of the emergency purchase shall be submitted by the appropriate Department Director as follows:

- i. Emergency purchases between \$2,500.00 and \$9,999 (Category 3) - Process as Purchase Requisition, referencing “Emergency” in the body of the PR and providing complete backup documents, and any obtained quotations. The City Administrator shall approve.
 - ii. Emergency purchases that exceed \$25,000.00 (Category 4) - Process as Purchase Requisition, referencing “Emergency” in the body of the PR and providing complete backup documents. The City Administrator must request Board of Mayor & Aldermen approval.
4. If the emergency purchase causes any budget line to exceed the approved budget, it shall be the responsibility of the requesting department to obtain approval for transfer to cover the purchase.

(c) Routing of an Emergency Purchase Order

Emergency Purchase Orders shall be printed and routed in the same manner as a standard purchase order.

XI. Second Hand Purchases

The purchasing agent may make second hand goods purchases without public advertisement or competitive bidding in accordance with TCA 12-3-1202. The City must document the general value of the item through a listing in a nationally recognized publication or through an appraisal by a licensed appraiser and the price must fall within 10% of the documented range. Purchasing limits shall be observed.

XII. Purchase of Professional Services

Per Tennessee Code Annotated 12-3-1209, Professional services include legal services, fiscal agent, financial adviser or advisory services, educational consultant services, and similar services by professional people or groups with high ethical standards. Only contracts for services performed within the professional's field of expertise are to be considered professional service contracts. Leasing office space from an attorney or purchasing computer services from an accountant, for example, are not professional services and will require competitive bids.

The City of Spring Hill will review, at a minimum, Professional Service Contracts every three (3) years and will issue Requests for Qualifications to determine the capabilities and standards of other potential service providers. (*Resolution 12-83, August 20, 2012*)

Contracts for professional services will be awarded on the basis of recognized competence and integrity, rather than on competitive bids. This does not stop a City from requesting proposals from eligible service providers, then deciding about the capabilities of each. Although cost may be considered in choosing the service provider, it must not be the sole factor.

The following procedures shall be followed in selecting firms to provide professional services, and in negotiating contracts for professional services.

A. Definitions

- i. Professional Services - Services within the scope of the practice of architecture, professional engineering, law, financial consulting and similar services by persons or groups of high ethical standards as defined by the laws of the State of Tennessee (TCA 12-3-1209)
- ii. City - City of Spring Hill
- iii. Firm - Any individual, firm, partnership, corporation, association, or other legal entity permitted by law to practice architecture, law or engineering in the State
- iv. Compensation - Total amount paid by the agency for professional services

B. Competitive Selection – Guidelines

- i. All RFQ's for Professional Services shall be processed through the Purchasing Agent.
- ii. Formal RFQ's must be issued to secure professional services, when the fee for a planning or

study activity is estimated to equal or exceed \$25,000.00.

iii. All contracts for professional services which equals or exceed \$25,000.00 must be approved by Board of Mayor & Aldermen.

iv. Contracts for services must be accompanied by a Purchase Order. Payments shall be issued against said order with proper authorization.

C. Competitive Selection – Procedures

i. A Selection Committee shall be formed to evaluate all proposals. The Purchasing Agent and the City's Project Manager should propose the names of three to five City employees to serve on the Selection Committee based on their expertise in relation to the scope and execution of the project to be awarded. At least one of the employees should be from the using department. The remaining members should consist of employees chosen from departments which would enhance the committee's makeup. The Purchasing Agent or his representative shall be an actual or ex-officio member of all Selection Committees, and shall monitor all Committee activities and act as the committee Chair.

ii. Minutes of each Committee meeting and scoring sheets are to be retained by the Purchasing Agent. The Purchasing Agent will facilitate the meeting and make sure all legal requirements are met. The Purchasing Agent is responsible for preparing recommendations of the top ranked firm and of the preparation of the final contract documents.

iii. The Selection Committee should develop general guidelines for interview procedures for the short-listed firms. Interviews and/or presentations shall be optional, as determined by the Selection Committee.

iv. Each member of the Selection Committee will assign preliminary scores to each firm after review of proposals and interviews, as per the established criteria in the bid specifications.

v. The Selection Committee shall discuss their general impressions of the firms and finalize their scores.

vi. Recommended criteria for evaluation of proposals include:

- a. Prior experience with projects of similar size and complexity
 1. Number of similar projects
 2. Complexity of similar projects
 3. Three references (Contact name & telephone number)
- b. Past record of performance for the City
 1. Project name, dates, cost
 2. City personnel assigned to the project
- c. Qualifications of personnel including sub consultants
 1. Number of technical staff
 2. Qualifications of technical staff

3. Number of licensed staff
4. Education of staff
5. Experience of staff
- d. Availability of personnel
 1. Current work load/staff participation
 2. Organization of the team
- e. Financial Statements
- f. Technical approach to perform the tasks described in the Scope of Services
 1. Level of effort
 2. Effectiveness of the technical approach to complete each phase of the project, maintain time schedules and cost control

D. Competitive Negotiation

1. After finalists' ranking, the Purchasing Agent, Project Manager, and other designated City staff (if required), shall negotiate a contract for professional services with the firm which has been determined to be most qualified by the Competitive Selection Committee, at compensation within a range which has been determined to be fair, competitive, reasonable and within budget.

2. Should the Purchasing Agent be unable to negotiate a satisfactory contract with the firm considered to be the most qualified, at a price the City determines to be fair, competitive, and within budget, negotiations with that firm shall be formally terminated. After negotiations have been terminated with a firm, negotiations cannot be reopened at a later date. The Purchasing Agent shall then undertake negotiations with the second most qualified firm. Failing accord with the second most qualified firm, the Purchasing Division shall cancel negotiations. The Purchasing Agent shall then undertake negotiations with higher ranked firms should they express flexibility in the negotiated price.

3. Should the Purchasing Agent be unable to negotiate a satisfactory contract with any of the selected firms, additional firms shall be selected in accordance with procedures noted above. Negotiations shall continue in accordance with these procedures until agreement is reached.

4. Unless otherwise required, a lump sum contract shall be designated as the preferred form of contract for professional services contracts.

E. Less Than Three (3) Firms

In the event less than three (3) firms express an interest in a project or less than three (3) firms are deemed qualified by the Competitive Selection Committee, then the City Administrator shall make a determination as to whether to proceed with the lesser number of firms. If the decision is to re-advertise, and after subsequent advertisement, three (3) firms still cannot be qualified, then the City shall proceed hereunder with the firms qualified.

F. Prohibition against Contingent Fees

Each contract for professional services shall contain the prohibition against contingent fees.

XIII. Purchase of Insurance

Certain Insurance (TCA 29-20-407)

Cities may purchase tort liability insurance, without competitive bidding, from the Tennessee Municipal League's Insurance Pool, or any other plan authorized by any organization of governmental entities representing cities and counties; other insurance purchases shall be made by competitive bidding.

XIV. Lease Purchases

The purchasing agent is authorized to enter into lease agreements that terminate during the current fiscal year as long as the amount does not exceed \$25,000.00. Multi-year leases must be approved by the governing body.

XV. Petty Cash Purchases

(a) Purpose

To buy items that cost less than \$50 from businesses that don't issue invoices or have charge accounts, a petty cash fund must be set up by the finance officer. The department head is solely responsible for this account. Any receipts or requests for monies from this fund must contain the departmental code and be signed by the department head. This fund should be used only if other purchasing methods are not applicable.

The finance officer may establish one basic petty cash fund for the entire City or establish other procedures.

XVI. Sealed Bids or Proposals

(a) When Required

Sealed bids are required on purchases of \$25,000.00 or more.

(b) Advertisement

Bids must be advertised in a local newspaper of general circulation not less than fourteen calendar days before bid opening date.

(c) Purchasing Agent's Responsibility

- 1) Prepare bid requests.
- 2) Establish date and time for bid opening.
- 3) Select possible sources of supply.
- 4) Prepare specifications (unless of a technical nature, such as architectural, engineering, etc.
- 5) Mail bid requests and advertise as appropriate. If delivered by hand, a receipt of the bid request should be signed by the vendor.
- 6) Receive and open bids.
- 7) Evaluate bids using staff or professional assistance.
- 8) Make recommendations on award to governing body for approval.
- 9) Process purchase order after governing body approval.
- 10) Maintain all specification and bid data files.

(d) Using Department's Responsibility

- 1) Prepare requisition to begin the bid process.
- 2) Submit the requisition to begin bid request to the purchasing agent at least three (3) weeks prior to the date bids are to be opened.
- 3) Assist in preparing specifications as needed.
- 4) Assist in evaluating bid results.

(e) Bid or Proposal Opening

Bids will be opened at the time and date specified on the bid request. All bids are opened publicly and read aloud, with a tabulation provided to all vendors participating. Proposals for extensive systems, complicated equipment, or construction projects, may be evaluated privately with a public recommendation to the governing board after evaluation and study.

(f) Electronic Bids

The Invitation for Bids may be electronically distributed, and bids shall be considered whenever they are received in hand at the designated office by the time and date set for receipt of bids. Such electronic bids or proposals shall contain specific reference to the Invitation for Bids; the items, quantities, and prices for which the bid is submitted; the time and place of delivery; and a statement that the bidder agrees to all the terms, conditions, and provisions of the Invitation for Bids.

The purchasing agent may receive bids, proposals, and other offers electronically, but may not require electronic bidding.

(g) Late Bids

No bids received after closing time will be accepted. All late bids will be returned unopened to the vendor. Bids postmarked on the bid opening date but received after the specified time will be considered late and will be returned unopened. It is important that the integrity of the bidding process be maintained.

(h) Bid Opening Schedule

The purchasing agent is responsible for setting bid opening dates and times.

(i) Telephone Bids

The purchasing agent will not accept any bid by telephone. He may accept fax or email quotes for amounts less than \$25,000.00.

(j) Bid Form

The purchasing agent will send duplicate copies of bid request forms to each bidder, thereby enabling the bidder to return one and maintain a file copy. Bids will not be accepted on any vendor letterhead, vendor bid form or other substitutions unless special permission is given by the purchasing agent. The bidder must use the City's bid form or the bid will not be considered.

(k) Unsigned Bids

Failure of a vendor representative to sign a bid proposal removes that bid from consideration. A typed official's name will not be acceptable without that person's written signature.

(l) Acceptance of Bids

The City reserves the right to reject any or all bids, to waive any irregularities in a bid, to make awards to more than one bidder, to accept any part or all of a bid, or to accept that bid (or bids), which in the judgment of the governing body is in the best interest of the City.

(m) Shipping Charges

Bids are to include all shipping charges to the point of delivery. Bids will only be considered on the basis of delivered price, except as otherwise authorized by the governing body. In some instances, the amount of shipping charges will be the deciding factor in making a purchase.

(n) Sample Product Policy

The purchasing agent may request a sample product as part of a bid. If this is stated on the bid proposal form, the vendor is required to comply with this request or have the bid removed from consideration.

(o) Approved Equal Policy

Specifications in the request for bids are intended to establish a desired quality or performance level or other minimum requirements which will provide the City with the best product available at the lowest possible price.

When a brand name and/or model is designated, it signifies the minimum quality acceptable. If an alternate is offered, the bidder must include the brand name or model to be furnished, along with complete specifications and descriptive literature and, if requested, a sample for testing.

Brands and/or models other than those designated as equal to the products shall receive equal consideration.

(p) Alternate Bids

Should it be found, after bids have been opened, that a product has been offered with an alternative specification and that this product would be better for the City to use, all bids for that item may be rejected and specifications redrawn to allow all bidders an equal opportunity to submit bids on the alternate item.

(q) Vendor Information

Potential suppliers are selected from existing vendor files, using department suggestions and any and all sources available to locate vendors related to a specific product or service. New suppliers are added to the bid list as they are found.

(r) Tie Bids

A tie bid is one in which two or more vendors bid identical items at the same unit cost. Tie bids may be determined by one of the following factors:

1. Discount allowed,
2. Delivery schedule,
3. Previous vendor performance,

4. Vendor location, or
5. Trade-in value offered.

If the tie cannot be resolved in this manner to the satisfaction of the governing body, the decision shall be based upon a coin toss as directed by the governing body.

(s) Cancellation of Invitation for Bid or Request for Proposal

An invitation to bid, a request for proposal, or other solicitations may be canceled, or any or all bids or proposals may be rejected in part as may be specified in the solicitation when it is in the best interest of the City. The reasons shall be made a part of the bid or proposal file.

(t) Public Advertisement

In addition to publication in a newspaper of general circulation as required by law, the purchasing agent may make any other efforts to let all prospective bidders know about the invitation to bid. This may be accomplished by delivery, verbally, mail, or by posting the invitation to bid in a public place. It is not required that specifications be included in the invitation to bid. However, the notice should state clearly the purchase to be made.

(u) Mistakes in Bids

Mistakes in bids detected prior to bid opening may be corrected by the bidder withdrawing the original bid and submitting a revised bid prior to the bid opening date and time. Bidder mistakes detected by the bidder after the bids have been opened based on miscalculation may be withdrawn only with the approval of the purchasing agent. The purchasing agent shall determine if all or a portion of any bid bond shall be surrendered to the City as liquidated damages for any costs associated with the bid withdrawal.

(v) Bonds

1. Bid Bond; The purchasing agent may require that bidders submit a bid bond or other acceptable guarantee equal to five percent of the bid to ensure that the lowest responsible bidder enters into a contract with the City. All or a portion of the bid bond shall be surrendered to the City as liquidated damages should the successful bidder fail to enter into a contract awarded by the City.
2. Performance Bond; The purchasing agent may include in the bid documents a requirement for the successful bidder to post a performance bond or other guarantee satisfactory to the City attorney that shall ensure the faithful performance of all of the terms and conditions of the purchase contract.

3. **Payment Bond;** The purchasing agent shall require a payment bond on all contracts of over \$100,000. The purpose of the payment bond is to ensure that subcontractors and material suppliers are paid. The payment bond is required by state law.

(w) Sealed Bids

Competitive sealed bidding is the preferred method of procurement and is required by state law. Purchases over \$25,000.00, except as herein provided, must be purchased by sealed bids.

(x) Competitive Sealed Proposals

The purchasing agent may make purchases using competitive sealed proposals rather than competitive sealed bids when the governing body determines that competitive sealed bidding is either not practicable or not advantageous to the City.

XVII. Other Aspects to be Considered in Bid Award

In addition to price, the following points should be considered when awarding a bid:

1. The ability of the bidder to perform the contract or provide the material or service required.
2. Whether the bidder can perform the contract or provide the material or service promptly or within the time specified, without delay or interference.
3. The character, integrity, reputation, experience, and efficiency of the bidder.
4. The previous and existing compliance, by the bidder, with laws and ordinances relating to the contract or service.
5. The ability of the bidder to provide future maintenance and service for the use of the subject contract.
6. Terms and conditions stated in the bid.

XVII. Non-Conformance Policy

Failure of a bidder to complete a contract, bid, or purchase order in the specified time agreed on, or failure to provide the service, materials, or supplies required by such contract, bid, or purchase order, or failure to honor a quoted price on services, materials, or supplies on a contract, bid, or purchase order may result in one or more of the following actions:

1. Removal of a vendor from a bid list for a period to be determined by the governing body.
2. Allowing the vendor to find the needed item for the City from another supplier at no additional cost to the City.
3. Allowing the City to purchase the needed services, materials, or supplies from another source and charge the vendor for any difference in cost resulting from this purchase.
4. Allowing monetary settlement.

XX. General

(a) Delinquent Delivery

Once the Purchasing Agent has issued a purchase order, no follow-up work should be done unless the item has not been received. If this happens, the purchasing agent may initiate action, either written or verbal as time allows, to investigate the delay. The using department will be advised of any further problems or a revised delivery date.

(b) Contractual Purchases

Such materials, supplies, or services which are constantly needed for City operations will be taken on a formal bid and will be awarded by the governing body for a contract period determined to be in the best interest of the City. This procedure shall be used in cases where the amount of the purchase of said materials, supplies, or services will be \$25,000.00 or more within the fiscal year. For amounts below \$25,000.00, the award will be made by the purchasing agent.

(c) Contract Pricing Arrangement

Subject to the limitations of these policies, any type of contract which is appropriate to the procurement and which will promote the best interest of the City may be used; provided that the use of a cost-plus-a-percentage of cost contract or a cost-plus a percentage of construction cost contract, however, is prohibited.

(d) Employment Discrimination by Contractor Prohibited

Every City contract of over \$25,000.00 shall include the following provisions:

During the performance of this contract, the contractor agrees as follows:

The contractor will not discriminate against any employee or applicant for employment because of race, religion, color, sex or national origin, except where religion, sex or national origin is a bona fide occupational qualification reasonably necessary to the normal operation of the contractor. The

contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.

The contractor, in all solicitations or advertisements for employees placed by or on behalf of the contractor, will state that such contractor is an equal opportunity employer.

Notices, advertisements and solicitations placed in accordance with federal law, rule or regulation shall be deemed sufficient for the purpose of meeting the requirements of this section.

The contractor shall include all provisions of the forgoing paragraphs 1, 2 and 3 in every subcontract or purchase order of over \$25,000.00, so that the provisions will be binding upon each subcontractor or vendor.

(e) Contract Provisions Barring Damages for Unreasonable Delays

Any provision contained in any public construction contract entered into on or after July 1, 2008, that purports to waive, release, or extinguish the rights of a contractor to recover cost or damages for unreasonable delay in performing such contract, either on his behalf or on behalf of his subcontractor if and to the extent such delay is caused by acts or omissions of the City, its agents or employees and due to causes within their control is against public policy and is void and unenforceable.

Subsection e. shall not be construed to render void any provision of a public construction contract that:

- i. Allow the City to recover that portion of delay cost caused by the acts or omissions of the contractor, or its subcontractors, agents or employees;
- ii. Required notice of any delay the party claiming the delay;
- iii. Provides for liquidated damages for delay
- iv. Provides for arbitration or any other procedure designed to settle contract disputes
- v. A contractor making a claim against the City for costs or damages due to the alleged delaying of the contractor in the performance of its work under any public construction contract shall be liable to the City and shall pay it for a percentage of all cost incurred by the City in investigating, analyzing, negotiating, litigating and arbitrating the claim, which percentage shall be equal to the percentage of the contractor's total delay claim which is determined through litigation or arbitration to be false or to have no basis in law or in fact.
- vi. Contract Modification -A public contract may include provisions for modification of the contract during performance, but no fixed-price contract may be increased by more than twenty-five (25) percent of the amount of the contract or ten thousand Dollars (\$25,000.00), whichever is greater, without the advance written approval of the City Administrator and the, Mayor and the Board of Alderman. In no event may the amount of any contract, without adequate consideration, be increased for any purpose, including, but not limited to, relief of an offer or from the consequence of an error in its bid or offer.

(f) Items Covered By Warranty or Guarantee

The City buys many items which have a warranty or guarantee for a certain length of time, such as tires, batteries, water heaters, roofs, and equipment. Before these items are repaired or replaced, the purchasing agent should be consulted to see if the item is covered by such warranty or guarantee. The purchasing agent shall maintain an active current file with complete information on such warranties or guarantees. All warranties must be remitted to the purchasing agent with the invoice indicating date of receipt.

(g) Signatures

Contracts, applications for title, tax exemption certificates, agreements, and contracts for utilities shall not be signed by any City employee unless authorized in writing by the purchasing agent or by action of the governing body.

(h) Trade-Ins

List of equipment to be used as trade-in shall accompany the request and specifications. The list includes the model, year, serial and City tag numbers, and other pertinent data.

(i) Sale of Surplus Property

When the Purchasing Agent decides there is surplus equipment or material in the City, he shall figure out the best way to dispose of those items with an estimated value of less than \$1,000 and dispose of them with a report to the governing board. Items with an estimated value of more than \$1,000 shall be advertised for bidding or be sold at public auction, which will begin after the purchasing agent has received approval from the governing body. Such equipment or materials will be sold to the highest bidder.

(j) Inspection and Testing

When necessary, the purchasing agent may have all deliveries of supplies, materials, equipment, or contractual services inspected to be sure their performance is meeting specifications made in an order or contract. The purchasing agent may also require chemical and physical tests of materials submitted with bids and delivery samples, or after products have been delivered. These tests may be necessary to be sure the quality of materials is up to the desired standards. When performing such tests, the purchasing agent may use lab facilities of any outside lab.

(k) Purchase of Property at Public Auction (TCA 12-3-1006)

(a) The purchasing agent may purchase at any publicly advertised auction new or secondhand articles or equipment or other materials, supplies, commodities and equipment without public advertisement and competitive bidding.

(b) The purchasing agent shall report the following information to the governing board;

1. A description of the materials, supplies, commodities or equipment that was purchased.
2. The auction where such items were purchased.
3. The purchase price of such items.
4. The vendor of such materials, supplies, commodities or equipment.

(l) Purchases Through State-General Services (TCA 12-3-1001) and Other Government Agency Contracts

State, Government Agency, and Organizations may have entered into contracts that have already been competitively bid and awarded with the understanding that other governmental entities may purchase the items bid under the same terms and conditions as prescribed in the solicitation of the originating government. This method of purchase is commonly known as interlocal purchasing agreement or “piggybacking”, and is particularly desirable if time is a constraint or if the chances for obtaining better prices from other sources is poor. Utilization of these sources waives the requirement for a formal competitive bid. State Contract purchases of \$25,000.00 or more still require approval of the Board of Mayor an Aldermen.

The following documentation must be provided to the Purchasing Agent in order to use another political entity’s awarded contract.

1. State of Tennessee Contract Number. If the contract has fixed unit prices, no additional information is needed. If the contract is a percent discount from list, a copy of the original manufacturer’s list price is also required. This will usually be in the form of a published price list. If requesting only to utilize some of the items on the contract, only the pages with those prices are required.

2. Contracts from other Political Entities Provide the following:

- a. Complete copy of the original solicitation.
- b. Tabulation of all solicitation responses.
- c. Copy of the award letter/memo/agenda item by the political entity to the awarded vendor
- d. Complete copy of the vendor’s proposal
- e. Contract if applicable

With the exception of State of Tennessee contract items, all other cooperative purchasing, piggyback

or interlocal agreements must be approved by Board of Mayor & Aldermen by resolution prior to making any purchase. See TCA 12-3-1205.

(m) Buy America Act (TCA 54-5-135)

Cities must not buy any materials used for highway or roadway construction, resurfacing, or maintenance from any foreign government, any company wholly owned or controlled by a foreign government, or any agency of such foreign government or company. Materials include, but are not limited to asphalt cement, asphalt emulsion, rock, aggregate, liquid and solid additives, sealers, and oils. This legislation will not apply if materials made by American companies are of unsatisfactory condition, are not of sufficient quantity, or increase the overall project cost by 5 percent more than the overall project costs using materials produced by foreign companies.

(n) Purchases of Confiscated Property from the State (TCA 12-2- 201)

The purchasing agent may buy a motor vehicle that has been confiscated by the state by any City officer, employee, or their agent when the purchase is for municipal use. Purchases over \$25,000.00 shall require board approval.

(o) Interest of Officer in Municipal Contracts (TCA 6-54-107)

No one holding a City office, elected or appointed, shall contract with the City for any work. Nor shall such person hold or have any direct interest in such a contract. Direct interest is defined as any business in which the official is the sole proprietor, a partner, or the person who has the controlling interest. Controlling interest means the person with the ownership or control of the largest number of outstanding shares owned by any individual or corporation.

No City officer shall be indirectly interested in any contract with the municipality unless the officer publicly acknowledges his interest. Indirectly interested is defined as any contract in which the officer is interested, but not directly, but includes contracts where the officer is directly interested, but is the sole supplier in the municipality.

(p) Personal Interest of Officers Prohibited (TCA 12-4-101)

It is unlawful for any person whose duty is to vote for or to supervise any contract with a City to be directly interested in such a contract. No City officer or other person whose duty is to superintend any contract with a City shall be indirectly interested in any such contract, unless the officer or person publicly acknowledges his interest.

(q) Preference to Local Dealers

When buying supplies, materials, equipment, and services for the City's requirements, preference shall be given dealers who have stores or warehouses within the City-price, quality, delivery, and service being equal.

(r) Federal Excise Tax and Sales Tax

The City is exempt from the payment of excise taxes imposed by the federal government, and suppliers should be required to deduct the amount of such taxes from their bids, quotations, and invoices. The City is not required to pay sales tax on purchases. Note: purchases made in other states, where possession is taken in the other state, may require the payment of state sales tax.

(s) Standardization Requirements

Standardizing supplies and materials that can be bought in large quantities can save a great deal of money. Thus, department heads should adopt as standards a minimum number of quantities, sizes, and varieties of commodities consistent with successful operation. Where practical, materials and supplies should be bought on the basis of requirements for a six-month period.

(t) Inspection of Deliveries

No invoices for supplies, materials, or equipment shall be accepted for payment until such supplies, materials, etc., have been received and inspected by the department head.

(u) Correspondence with Suppliers

Copies of any correspondence with suppliers concerning prices, adjustments, and defective merchandise shall be forwarded to the purchasing agent. All invoices, bills of lading, delivery tickets, and other papers relating to purchases shall be sent to the purchasing agent.

(v) Claims

The purchasing agent shall prosecute all claims for shortages, breakages, or other complaints against either shipper or carrier in connection with shipments.

(w) Public Inspection of Records

The purchasing agent shall keep a complete record of all quotations, bids, and purchase orders. Such records shall be open to public inspection.

(x) Within the Limits of the Approved Budget

Purchases must stay within appropriation limits in funds requiring budgets either by law, regulation, or policy. Appropriation limits do not apply to nonexpendable funds not requiring

XXII. Forms

The purchasing agent in cooperation with the finance director will designate appropriate purchasing forms in conformance with the provisions herein. Sample forms are attached to these policies.

Appendix A: Glossary of Selected Purchasing Terms

Bid - An offer submitted in response to an invitation for bid; can become a contract upon acceptance by the City.

Blanket Purchase Order - A contract under which a vendor agrees to provide goods or services to a purchaser on a demand basis.

Brand Name or Equal Specification- A specification limited to one or more items by manufactures' name or catalog numbers to describe the standard of equality, performance, and other salient characteristics needed to meet City requirements and which provided for the submission of equivalent products

Business- Any corporation, partnership, individual, sole proprietorship, joint stock company, joint venture or any other private legal entity.

Confidential Information- Any information which is available to an employee only because of employee's status as an employee of the City and is not a matter of public knowledge or available to the public on request.

Confirming Purchase Order- A purchase order restating the same terms originally placed verbally.

Construction- Building, altering, repairing, improving or demolishing any structure including the building of highways and any draining, dredging, excavation, grading, or similar work upon real property.

Contract- All types of City agreements, regardless of what they may be called, for the procurement of goods, services, insurance or construction.

Contract Modification- Any written alteration in specifications, delivery point, date of delivery, period of performance, price, quantity or other provision of any contract accomplished by mutual action of the parties of the contract

Contractor- Any entity that has a direct contract with the City or any agency of the City.

Cost Analysis- The evaluation of cost data for the purpose of arriving at cost actually incurred estimates of cost to be incurred, prices to be paid, and costs to be reimbursed.

Cost Data- Factual information concerning the cost of labor, material, overhead and other cost elements which are expected to be incurred or which have been actually incurred by the contractor in performing the contract

Cost-Reimbursement Contract - A cost reimbursement contract is not allowed under Tennessee Purchasing laws.

Delivery- The formal handing over of property; the transfer of possession, as by carrier to purchase

Emergency- Defined as situations which would adversely affect the life, health, or well-being of citizens or employees. Work stoppages, unforeseen conditions, rapid response actions, etc., qualify as emergencies if the conditions arise from unforeseen circumstance. Conditions which arise from a lack of planning on the part of users do not qualify as emergencies under most circumstances.

Employee- An individual drawing a salary or wages from the City whether elected or not; any department, agency, commission, council, board, or any other entity established by the executive or legislative branch of this City; and any non-compensated individual serving as an elected official of the City.

Female-Owned or Female-Controlled Business- A business enterprise at least 50 percent of which is owned by females or in the case of a publicly owned business at least 51 percent of the stock of which is owned by females.

Goods- All material, equipment, supplies, printing, and automated data processing hardware and software.

Informality- A minor defect or variation of a bid or proposal from the exact requirements of the invitation to bid, or the request for proposal, which does not affect the price, quality or delivery schedules of the goods, services or construction being procured.

Includes- Means inclusive but not limited.

Informality- A minor defect or variation of a bid or proposal from the exact requirements of the invitation to bid, or the request for proposal, which does not affect the price, quality, or delivery schedules of the goods, service or construction being procured.

Insurance- A contract whereby, for a stipulated consideration, one party undertakes to compensate the other for loss on a specified subject by specified perils.

Intergovernmental Purchasing- Means an agreement under which the City, along with other governmental entities, buy under the same contract or agreement.

Invitation for Bid- All documents, whether attached or incorporated by reference, utilized for soliciting sealed bids. No confidential or proprietary data shall be solicited in any invitation for bid

Items- Means any commodity, materials, supplies, or equipment

Manual- Purchasing Manual

May- Means permissive

Minority-Owned Business- A business enterprise that is owned or controlled by one or more socially or economically disadvantaged persons. Such disadvantage may arise from cultural, racial, chronic economic circumstance or background or other similar cause. Such person includes, but is not limited to: Blacks, Puerto Ricans, Spanish-speaking Americans, Native American Eskimos, and Aleuts.

Nominal Value- So small, slight or the like, in comparison to what might properly be expected, scarcely to be entitled to the name but in no case to be more than town hundred dollars.

Non-Professional Services- Any services not specifically identified as professional services in definition of professional service.

Person- Any business, individual, union, committee, club, other organization, or group of individuals.

Price Analysis- The evaluation of price data, without analysis of the separate cost components and profit as in cost analysis, which may assist in arriving at price to be paid and cost to be reimbursed.

Price Data Factual- Information concerning prices for items substantially similar to those being procured. Prices in this definition refer to offered or proposed selling prices, historical selling prices and current selling prices. The definition refers to data relevant to both prime and subcontract prices.

Procurement- The buying, purchasing, renting, leasing, or otherwise acquiring of any supplies, services, or construction. It also includes all functions that pertain to the obtaining of any supply, service, or construction, including description of requirements, selection, and solicitation of sources, preparation and award of contracts, and all phases of contract administration.

Professional Services- Services such as legal services, fiscal agent, financial advisor or advisory services, educational consultant services, and similar services by professional persons or groups of high ethical standards. (Attorneys, physicians, auditors, financial advisor, engineers, etc.)

Proposal- Means a formal written offer or bid.

Public Agency- A public entity subject to or created by the City.

Public Improvement- Means any beneficial change, addition, betterment or enhancement upon real property, or interest therein, belonging to a public agency intended to enhance its beauty, value or utility or to adapt it to new or further purposes

Public Notice- Means the placement of a notice in a local newspaper of general circulation within the City and other publications as desired in order to notify the public that the City is requesting bids on specific purchases or items to sell.

Purchasing Agent- the City administrator.

Purchasing Officer- the City staff member designated by the purchasing agent to assist with purchasing.

Purchase Order- A purchaser's written document to a supplier formally setting all terms and conditions of a proposed transaction.

Qualified Products List- An approved list of goods, services or construction items described by model or catalog number, which prior to competitive solicitation, the City has determined will meet the applicable specification requirements.

Recorder- Means the City recorder

Request for Proposal (RFP) - All documents, whether attached or incorporated by reference, utilized for soliciting proposals with appropriate pricing listed.

Request for Qualification (RFQ)- A formal solicitation for professional services where the person(s) or firm(s) present their qualifications to perform specified duties. This is typical for engineers, accountants, attorneys, etc. During the evaluation period by staff, a determination will be made to select which persons/firms to interview. Once a person/firm has been selected, staff will prepare appropriate documents to present to the Board of Mayor and Alderman for approval. At that point, staff will work with the selected person/firm to determine pricing for the selected service(s) to be provided. If it is determined that pricing has become an obstacle, staff will select the next best person/firm and the process begins anew.

Request for Quotation- A form of informal solicitation, including obtaining oral or written quotes from vendors, without formal advertising and receipt of sealed bids.

Responsive Bidder - A person who has submitted a bid or proposal which conforms in all material respects to the invitation to bid or request for proposal.

Service- The rendering of time and effort rather than the furnishing of a specific commodity, i.e., maintenance, rents and leases, professional training, professional labor, etc.

Shall- Means imperative.

Solicitation for Bid – Means invitations for bid.

Supplies - All property, including but not limited to equipment, materials, printing, insurance, and leases of real property, excluding land or a permanent interest in land.

User Department- Means a City department or division that requisitions items through purchasing.

Vendor - Means a supplier of commodities, services and/or equipment.