

City of Shelbyville
Mayor & City Council Special Called Workshop

Special Called Workshop: May 31, 2022

Time: 4:30 AM

Place: Shelbyville Recreation Center, 220 Tulip Tree Road, Shelbyville, TN 37160

I. Call to Order

II. Investigation – Policies and Procedures during Fiber Installation

III. Announcements

IV. Adjourn

Mayor Wallace Cartwright



CITY OF SHELBYVILLE PURCHASING POLICIES & PROCEDURES

Adopted November 8, 2012

Effective January 25, 2013

*Updates - April 11, 2019
November 12, 2020*



CITY OF SHELBYVILLE PURCHASING POLICIES & PROCEDURES

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FOREWORD

The policies stated herein are intended to promote the public interest by purchasing that which is necessary for the proper conduct, function, and operation of the City of Shelbyville (City), from either the lowest responsible and responsive bidder, the most responsible and responsive proposer, or from which is most advantageous to the City, and by providing vendors with a fair forum for competing for City contracts.

The policies stated herein shall apply to, and not be limited to, purchases of products, materials, supplies, equipment, vehicles, and services, projects, contracts, leases and lease-purchases (herein after purchases), including those pertaining to the design and/or construction of new infrastructure and facilities, and the disposal and/or transfer of surplus property for the proper conduct, function, and operation of the City.


This policy has been developed so that the City may obtain the most efficient and effective purchasing operation possible. Clarification of the procedures to be used should benefit both the using department and the Purchasing Department by decreasing the time to make purchases required to carry out departmental functions and operations. Therefore, this policy shall explain the City's purchasing policies and procedures serving as a general framework within which decisions are made.

The primary function of the Purchasing Department is to provide assistance to all departments of the City by procuring the best purchases at the lowest possible cost consistent with the quality needed for the proper conduct, function, and operation of each using department. Furthermore, all City employees directly or indirectly associated with the purchasing functions of the City must work collectively to promote the City's best interest in obtaining the maximum value for each dollar of expenditure.

As revisions and/or additions to the policies contained herein become necessary, new pages will be sent to all recipients who are requested to maintain and keep this policy in a current and up-to-date form at all times.

If there are any questions regarding this policy or the procedures contained herein, please contact the Purchasing Department at City Hall.

Requests for additional copies of the policy should be addressed to the Purchasing Department at City Hall.


Interim C.M. CITY MANAGER
11/13/20
CITY OF SHELBYVILLE

I. PURCHASING LIMITS

As designated in The Shelbyville Municipal Code, under Article VII, Sec. 2 (i), the City Manager shall act as Purchasing Authority for the City, with power, except as set out in these procedures, to procure purchases and dispose of and/or transfer surplus property for the proper conduct, function, and operation of the City.

All purchases extending beyond the end of any one (1) fiscal year must have prior approval of the governing body.

All purchases made under and in accordance with this policy must be within budget allocations and schedule. Purchases exceeding budget allocations or outside of the budget schedule shall be reviewed and approved, **in writing**, by the City Manager for purchases valued at less than fifteen thousand (\$15,000) dollars, and by the Mayor and governing body for purchases valued at, or equal to, fifteen thousand (\$15,000) dollars or more.

A. PURCHASES LESS THAN FIFTEEN THOUSAND (\$15,000) DOLLARS;

The City Manager, or person appointed as Purchasing Agent by the City Manager (through the authority granted under Article VII, Sec. 2 (g) of The Shelbyville Municipal Code and in accordance with policies and procedures adopted by the City Council), shall have the authority to:

- (1) Make non-emergency purchases **valued at, or equal to, fifteen hundred (\$1500) dollars or less**, including all components related thereto, singly, or in aggregate (when customarily purchased in lots of two (2) or more), during any fiscal year, and except as provide herein. (See Part II, Section B)
- (2) Make non-emergency purchases **exceeding fifteen hundred (\$1500) dollars, and less than five thousand (\$5,000) dollars**, including all components related thereto, singly, or in aggregate (when customarily purchased in lots of two (2) or more), during any fiscal year, except as provided herein, and shall require competitive pricing quotations from at least two (2) vendors. (See Part II, Section B)
- (3) Make non-emergency purchases **valued at, or equal to, five thousand (\$5,000) dollars or more, and less than fifteen thousand (\$15,000) dollars**, including all components related thereto, singly, or in aggregate (when customarily purchased in lots of two (2) or more), during any fiscal year, except as provided herein, and shall require competitive pricing quotations from at least three (3) vendors. (See Part II, Section B)

The above shall be purchased from the lowest competitive pricing quotation and/or from which is most advantageous to the City. Furthermore, a copy of all competitive pricing quotations

shall be recorded and maintained in the office of the Purchasing Department for a minimum period as defined and required by any and all record retention laws and policies.

B. LOCAL PREFERENCE (EXCLUDING SEALED BIDS)

When making purchases on behalf of the City, preference shall be given to dealers with stores or warehouses within the City so long as quality, delivery, and services are equal.

To permit awarding of purchases to local vendors, **excluding sealed bids**, a percentage of not more than a ten percent (10%) allowance may be made towards the final price of competitive pricing quotations (competitive bids) for purchases up to, and equal to, five thousand (\$5,000) dollars, and a percentage of not more than a five percent (5%) allowance may be made towards the final price of competitive pricing quotations (competitive bids) for purchases exceeding five thousand (\$5,000) dollars, but less than fifteen thousand (\$15,000) dollars.

C. PURCHASES VALUED AT, OR EQUAL TO, FIFTEEN THOUSAND (\$15,000) DOLLARS OR MORE

The following shall apply to all purchases **previously budgeted**, except as provided herein, requiring an expenditure of City funds **valued at, or equal to, fifteen thousand (\$15,000) dollars or more**:

- (1) After a determination of adequate funds, and in accordance with the budget schedule, the City Manager and/or Purchasing Agent shall advertise for sealed bids and/or proposals. In the event a sealed request for proposal is deemed the most appropriate means of acquisition, the request will be taken to the next City Council Business Meeting for authorization. TCA 12-3-1207 requires authorization of the governing body prior to letting a Request for Proposal. The Request for Proposal guidelines below in section C. (7) must be followed.
- (2) All sealed bids and/or proposals shall be selected and approved by the governing body, and procured from either the lowest responsible and responsive bidder, from the most responsible and responsive proposer, or from which is most advantageous to the City.

The following shall apply to all purchases **not previously budgeted**, except as herein provided, requiring an expenditure of City funds **valued at, or equal to, fifteen thousand (\$15,000) dollars or more**:

- (3) A description of all purchases shall be prepared by the City Manager and/or Purchasing Agent.

- (4) The above required description shall be submitted to the governing body for authorization to call for sealed bids and/or proposals.
- (5) After a determination that adequate funds are available, the governing body may authorize advertisement for sealed bids and/or proposals. In the event a sealed request for proposal is deemed the most appropriate means of acquisition, the Request for Proposal guidelines below in section C. (7) must be followed.
- (6) All sealed bids and/or proposals shall be selected and approved by the governing body and procured from either the lowest responsible and responsive bidder, from the most responsible and responsive proposer, or from which is most advantageous to the City.

The following shall apply to all sealed Request for Proposals:

- (7) Pursuant to TCA 12-3-1207 sealed request for proposals require authorization of the governing body prior to letting.

(a) Request for Proposals (RFP) may be used only when qualifications, experience or competence are more important than price in making the purchase, and either:

(i) when there is more than one (1) solution to a purchasing issue and competitive sealed proposals would assist in choosing the best solution;

or

(ii) when there is no readily identifiable solution to a purchasing issue and competitive sealed proposals would assist in identifying one (1) or more solutions.

The request for competitive sealed proposals shall state the relative importance of price and other evaluation factors. The award shall be made to the responsible respondent whose proposal the governing body determines is the most advantageous to the City, taking into consideration price and the evaluation factors set out in the request for competitive sealed proposals. No other factor may be used in the evaluation.

D. EMERGENCY PURCHASES

Purchases and leases of, but not limited to, materials, supplies, or equipment may be made immediately in unexpected emergencies without competitive bidding and public advertisement. However, emergency purchases are costly and all efforts shall be made by using departments to avoid such purchases.

Upon determining the existence of a true emergency, emergency purchases may be authorized by the Department Head of the using department pursuant to T.C.A. § 6-56-304 (3), with subsequent approval by the governing body and **only** when normal functions and operations of the department are expected to be interrupted or in which property, equipment, or life is endangered through unexpected circumstances and an immediate need of an emergency nature exists.

The following shall apply to all emergency purchases:

- (1) All attempts shall be duly made by the Department Head of the using department to contact the City Manager and/or Purchasing Agent for authorization of **all** emergency purchases prior to purchase.
- (2) The using department shall at all times use sound judgment in making emergency purchases and whenever possible make such purchases through vendors in which the using department has had prior adequate and satisfactory experiences.
- (3) Suppliers shall furnish sales tickets, delivery slips, invoices, etc. for all emergency purchases and the terms of the transaction indicating price and other data shall be shown.
- (4) As soon as possible, not to exceed the following "normal business day," all emergency purchases shall be entered into the electronic purchasing system by all using departments with access to such. All using departments outside of the electronic purchasing system shall present all applicable invoices and/or proof of purchases to the Purchasing Department to be entered into the electronic purchasing system.
- (5) As soon as possible, not to exceed the following "normal business day," the Department Head of the using department responsible for the emergency purchase(s) shall prepare a detailed report to the City Manager and Purchasing Agent specifying the nature and details of the emergency, the amount spent, the item(s) purchased, and from whom the purchase(s) was made.
- (6) The City Manager and/or Purchasing Agent shall prepare a report to the governing body notifying them of the emergency purchase(s), the nature and details of the emergency, the amount spent, the item(s) purchased, and from whom the purchase(s) was made.

E. EXCEPTIONS IN WHICH COMPETITIVE PRICING QUOTATIONS AND SEALED BIDS AND/OR PROPOSALS ARE NOT REQUIRED PURSUANT TO PUBLIC ADVERTISING

Purchases which do not require competitive pricing quotations or sealed bids and/or proposals pursuant to public advertising may be allowed only under the following circumstances and except as otherwise provided herein:

- (1) Emergency expenditures arising from unforeseen causes, pursuant to T.C.A. § 6-56-304 (3) and TCA 12-3-1207, with subsequent approval by the governing body.
- (2) Sole source of supply or proprietary products, pursuant to T.C.A. § 6-56-304 (2), as determined after a complete search by the using department and the Purchasing Department.
- (3) Purchases from non-profit corporations such as, but not limited to, the Local Government Data Processing Corporation, whose purpose or one of whose purposes is to provide goods and services specifically to municipalities, pursuant to T.C.A. § 6-56-302 (6).
- (4) Contracts for Professional Services, pursuant to T.C.A. § 12-4-106.
- (5) Purchases of Tort Liability Insurance, pursuant to T.C.A. § 29-20-407.
- (6) Purchases of fuels, fuel products, or perishable commodities purchased in the open market, pursuant to T.C.A. § 6-56-304 (7).
- (7) Purchases, leases or lease-purchases of real property, pursuant to T.C.A. § 6-56-304 (5).
- (8) Purchases, leases or lease-purchases from any federal, state, or local government unit or agency of secondhand articles or equipment or other materials, supplies, commodities, and equipment, pursuant to T.C.A. § 6-56-304 (6) and T.C.A. § 12-3-1003 (a).
- (9) Purchase, trade or receive as a gift, any used or surplus property from another county, municipality, metropolitan government, federal government or any instrumentality of the foregoing, pursuant to T.C.A. § 12-3-1005.
- (10) Purchases of used or secondhand articles consisting of goods, equipment, materials, supplies, or commodities from any private individual or entity, pursuant to T.C.A. § 12-3-1003 (b).
- (11) Purchases of new or secondhand articles or equipment or other materials, supplies, commodities and equipment from any publicly advertised auction, pursuant to T.C.A. § 12-3-1006.
- (12) Purchases made under Title 12, Chapter 3, Part 10 and directed through or in conjunction with the State Department of General Services (statewide contracts), pursuant to T.C.A. § 6-56-302 (3).
- (13) Investment in or purchases from the pooled investment fund established pursuant to Title 9, Chapter 4, Part 7, pursuant to T.C.A. § 6-56-302 (4).
- (14) Purchases from instrumentalities created by two (2) or more cooperating governments such as, but not limited to, those established pursuant to the Interlocal Cooperation Act under Title 12, Chapter 9, pursuant to T.C.A. § 6-56-302 (5).
- (15) The use of pricing established by cooperative purchasing arrangements approved by the City Manager for use by the City. (Including, but not limited to, Resolution 2-12 authorizing the City of Shelbyville to participate in cooperative purchasing arrangements for procurement purposes.)

- (16) Purchases from Tennessee Rehabilitative Initiative in Correction (TRICOR), pursuant to T.C.A. § 41-22-119.
- (17) Purchases through other units of governments as authorized by the Municipal Purchasing Act of 1983, as may be amended from time to time.
- (18) Any other purchases exempt by law.

II. RESPONSIBILITIES OF DEPARTMENTS

The function of the Purchasing Department is to provide a service for all departments and shall benefit all departments while serving the interests and good of the City. Furthermore, the efficient and effective function of the Purchasing Department, and the benefits to be derived therefrom, shall depend on the mutual cooperation of each using department and the Purchasing Department. This policy shall guide all using departments and the Purchasing Department as to their individual responsibilities in ensuring mutual cooperation for the efficient and effective function of the Purchasing Department in which all using departments benefit and the interests and good of the City are served.

A. RESPONSIBILITIES OF THE PURCHASING DEPARTMENT

The following shall be the responsibility of the Purchasing Department:

- (1) Assist and cooperate with all using departments in procuring purchases and in meeting the using department's needs for operating materials, supplies, equipment, vehicles, and services to which this policy applies.
- (2) Know and advise the using departments about the source and availability of needed products and services.
- (3) Search for new and improved sources of supplies and services.
- (4) Upon request, obtain prices on comparable items.
- (5) Review prices of comparable items upon receipt of the using department's requisition.
- (6) Provide vendor lists, prepare purchase orders as necessary, and maintain orderly files that shall be open to public inspection.
- (7) Maintain and provide current vendor files for use and review by all departments.
- (8) Maintain an active current file with complete information on warranties or guarantees of any purchases.
- (9) Advocate procurement of, and procure, purchases that are of the lowest competitive price or most advantageous to the City and meet the using department's requirements.
- (10) Prepare and advertise requests for bids for purchases to which this policy applies and for that which is valued at, or equal to, fifteen thousand (\$15,000) dollars or more; and maintain bid files.
- (11) Assist in the preparation of specifications in coordination with individual using departments.
- (12) Ensure that purchases of capital assets of the City have been properly reported, either directly or indirectly, on forms prescribed by those respective offices so that records of such purchases may be updated, and if applicable, insurance coverage and/or vehicle tags may be obtained, all in a timely manner.

- (13) Investigate, document, and take appropriate actions to remedy complaints of poor performance of vendors, delinquent delivery of purchases, and complaints about inferior merchandise and services. Actions may include, and not limited to, withholding all or part of payment, seeking an alternative source for purchase, and the removal of the vendor from the vendor list. (Removal of a vendor from the vendor list shall be according to Part III, Section E (1) of this policy.) The Purchasing Department may also consult with the City Attorney for guidance as to which remedy is most appropriate or for any other available remedies.
- (14) Transfer or dispose of surplus property.
- (15) On an ongoing basis, pursue consolidating the purchases of as many products and services as economically possible in order to reduce costs and/or improve services provided to the City.
- (16) Determine the requirement of performance and bid bonds.
- (17) Keep items in reserve of sufficient quantities to meet normal requirements of the City for a reasonable length of time within space availability.
- (18) Comply with these procedures and the Municipal Purchasing Law of 1983, as amended, including required records and reports, as if they were set out herein and made a part hereof, and within the definitions of words and phrases from the law as defined.
- (19) Maintain and update the electronic purchasing system in use by the City and train all users.

B. RESPONSIBILITIES OF THE USING DEPARTMENT

The following shall be the responsibility of each using department:

- (1) Make any non-emergency purchases **valued at, or equal to, fifteen hundred (\$1,500) dollars or less**. Such purchases should only be made once the Department Head (or authorized representative in the Department Head's absence) of the using department is satisfied that the value of the purchase is fairly priced and not more than what would be expected in the current market place. Though not required, departments are highly encouraged to obtain competitive pricing quotations from at least two (2) vendors. (See Part III, Section B)
- (2) Make any non-emergency purchases **exceeding fifteen hundred (\$1,500) dollars, and less than five thousand (\$5,000) dollars**. The using department shall obtain and forward to the Purchasing Department competitive pricing quotations from at least two (2) vendors, either supplied in writing or electronically by the vendor or documented and reduced to writing by the using department, accompanied by a tabulation of the comparative aspects of the quotations obtained, a recommendation as to which

quotation should be accepted, and a requisition for the recommended quotation, and await purchase approval by the Purchasing Department. (See Part III, Section B)

- (3) Make any non-emergency purchases **valued at, or equal to, five thousand (\$5,000) dollars or more, and less than fifteen thousand (\$15,000) dollars**. The using department shall obtain and forward to the Purchasing Department competitive pricing quotations from at least three (3) vendors, which must be supplied in writing or electronically by the vendor, accompanied by a tabulation of the comparative aspects of the quotations obtained, a recommendation as to which quotation should be accepted, and a requisition for the recommended quotation, and await purchase approval by the Purchasing Department. (See Part III, Section B)
- (4) For non-emergency purchases **valued at, or equal to, fifteen thousand (\$15,000) dollars or more**, please see Part I Section C.
- (5) Use pricing established pursuant to citywide or statewide contracts if and as available, and/or pricing established by cooperative purchasing arrangements approved by the City Manager for use by the City. (Including, but not limited to, Resolution 2-12 authorizing the City of Shelbyville to participate in cooperative purchasing arrangements for procurement purposes.)
- (6) Assist the Purchasing Department by suggesting sources of supply.
- (7) Plan purchases in order to eliminate avoidable emergencies.
- (8) Initiate specification preparation on items for sealed bid.
- (9) Allow the necessary and required time to allow for competitive solicitation, the Purchasing Department to process the required requisition and issue the necessary purchasing order, and for the proper delivery of items by suppliers and vendors.
- (10) As soon as possible, but within ten (10) calendar days of receipt of item(s) ordered, verify that the item(s) conform to the order.

The process for taking delivery is as follows:

- a. Inspect item(s) to verify they are in acceptable condition noting any item(s) on back-order, discrepancies in types, numbers, condition, or quality of item(s).
 - b. Within ten (10) days of receipt of item(s), report any discrepancies or back-ordered item(s) to the Purchasing Department.
 - c. Verify that all operating manuals and warranty cards are included in the delivery of the item(s), if applicable.
- (11) Advise the Purchasing Department of any dissatisfaction with any vendor performance, stating the reasons therefore.

- (12) Advise the Purchasing Department of the delinquent delivery of purchases which have not been delivered as promised or expected immediately upon delinquency so that the Purchasing Department may take proper actions as necessary to remedy the delinquency.
- (13) Forward copies of any correspondence with suppliers concerning prices, adjustments, and defective merchandise to the Purchasing Department including invoices, bills of lading, delivery tickets, and other papers relating to purchases.
- (14) Review and have approved by the Department Head (or authorized representative in the Department Head's absence), and allocate to the proper budget code, all invoices submitted for payment.
- (15) Advise the Purchasing Department and Finance Department as to any discounts and/or payment requirement. Otherwise payments within net thirty (30) days and by electronic means (either direct deposit – such as "ACH" or "Electronic Funds Transfer") shall be the default payment.
- (16) Advise the Purchasing Department of any surplus property.
- (17) Comply with these procedures and the Municipal Purchasing Law of 1983, as amended, including required records and reports, as if they were set out herein and made a part hereof, and within the definitions of words and phrases from the law as defined.
- (18) Furthermore, **no employee** shall make any indication that he/she will recommend a particular product for purchase, knowingly bind the City to a specific vendor, or make any representation as to his or her authority to bind the City by contract when such is not the case.

III. REQUISITIONS, ITEMS SUBMITTED FOR PAYMENT, AND PURCHASE ORDERS

Requisitions are required for all purchases and they let the Purchasing Department know in detail the needs of the using department.

All requisitions, invoices, and any other items submitted for payment shall be submitted far enough in advance to allow the Purchasing Department time to review the submission and competitive prices, submit payment, allow for sufficient time for delivery, and avoid emergencies.

No requisition shall split orders to circumvent any provision of the foregoing policy and anything contained herein or any other policy established by the City. All purchases customarily purchased in aggregate (lots of two (2) or more) shall be purchased as such. Furthermore, no requisition shall be submitted for the sole purpose of eliminating surplus budgetary balances.

A. PURCHASING DEPARTMENT SHALL:

- (1) Review and process all requisitions submitted electronically, through the electronic purchasing system, in a timely manner and shall clearly state any and all reasons for any rejected requisitions by entering such into the electronic purchasing system.
- (2) Review and process all requests for purchases, invoices, and any other items submitted for payment, outside of the electronic purchasing system, in a timely manner and enter such into the electronic purchasing system. Furthermore, the Purchasing Agent shall contact the submitting department and clearly state in writing any and all reasons for any rejected invoices or any other rejected items submitted for payment.

B. USING DEPARTMENT SHALL:

- (1) Originate all requisitions, by entering such into the electronic purchasing system and ensuring all fields are completely and properly filled in by all departments with access to said system, attaching thereto as stated and required herein, competitive pricing quotations, a tabulation of the comparative aspects of the quotations obtained, and a recommendation as to which quotation should be accepted and why. Failure to follow the above may result in a delay in processing and/or rejection of the submittal. (See Part II Section B)
- (2) Forward all requests for purchases, invoices, and any other items submitted for payment outside of the electronic purchasing system, after approval and signature of the Department Head of the using department (or authorized representative in the absence of the Department Head), to the Purchasing Department who shall enter such into the electronic purchasing system. Furthermore, as stated and required herein, competitive pricing quotations, a tabulation of the comparative aspects of the quotations obtained,

and a recommendation as to which quotation should be accepted and why shall be forwarded to the Purchasing Department by attaching said to any request for purchase. (See Part II Section B)

C. PURCHASE ORDERS

Purchase orders shall be issued through the following, except as otherwise stated herein:

For purchases valued at, or equal to, fifteen hundred (\$1,500) dollars or less, purchase orders shall be issued through the electronic purchasing system with approval of the Department Head (or authorized representative in the Department Head's absence), subject to review by the Purchasing Department.

For all purchases exceeding fifteen hundred (\$1,500) dollars, and less than fifteen thousand (\$15,000) dollars, purchase orders shall be issued through the electronic purchasing system upon approval of the Purchasing Department.

For all purchases valued at, or equal to, fifteen thousand (\$15,000) dollars or more and for all capital purchases, purchase orders shall be issued through the electronic purchasing system upon approval of the governing body and upon entrance into the electronic purchasing system by the Purchasing Department.

D. CANCELLATIONS

All cancellations of any order shall be initiated by the City Manager and/or Purchasing Agent. Upon cancellation, a purchase order shall be issued to the next best vendor or the purchasing process renewed.

E. NON-PERFORMANCE

Failure of a vendor to complete a purchase order in a satisfactory manner within the specified time agreed upon, failure to provide and/or complete the service, provide required materials and supplies, or failure to honor a quoted price on services, materials, or supplies may result in one or more of the following actions:

- (1) The removal of the vendor from the vendor list for a period of not less than six (6) months or more than two (2) years.
- (2) The vendor may be allowed to find the needed item for the City from another supplier at no additional cost to the City.
- (3) The City may be allowed to purchase the needed services, materials, or supplies from another source and charge the vendor for any difference in cost as a result thereof.

- (4) The City may withhold all or part of payment until services or delivery of materials or supplies have been rendered in a satisfactory manner.
- (5) The City may also consult with the City Attorney for guidance as to which remedy is most appropriate or for any other available remedies.

F. EXPEDITED AND RUSH ORDERS AND REQUESTS FOR PAYMENT

Expedited and/or rush orders will only be made in extreme circumstances. Any department wishing to expedite and/or rush an order shall indicate such to the Purchasing Department by entering such, and the reasons and circumstances of the requested expedited and/or rush order, into the requisition submitted through the electronic purchasing system; or for all other requisitions outside of the electronic purchasing system, by contacting the Purchasing Department and providing in writing the reasons and circumstances of the requested expedited and/or rush order. (In regards to payment, net thirty (30) days shall be the standard procedure.)

IV. SEALED BIDS AND PROPOSALS

Sealed bids and proposals are required for **all** purchases valued at, or equal to, fifteen thousand (\$15,000) dollars or more, unless herein stated, and advertisement of bids shall not be less than five (5) business days before opening date.

Competitive sealed bidding as defined herein is the preferred method of procurement and should be used if the criteria for vendor selection can be clearly defined and the selection process will benefit the municipality. However, the use of competitive sealed proposals is available for use when competitive sealed bidding is either not practical or not advantageous to the City.

Competitive sealed bidding and proposals both assure price and product competition and the use of functional or performance specifications to facilitate consideration of alternative means of meeting the City's needs. The criteria to be used in the evaluation process under either method must be fully disclosed in the solicitation and only that criteria which has been disclosed may be used to evaluate sealed bids and proposals.

Competitive sealed bidding and competitive sealed proposals differ in the following:

- (1) Under competitive sealed bidding, judgmental factors shall only be used to determine if the supply, service, or construction item bid meets the purchase description. Under competitive sealed proposals, judgmental factors are allowed to determine not only if the items being offered meet the purchase description, but may also be used to evaluate competing proposals (whereas such is not allowed under competitive sealed bidding). The effect of this different use of judgmental evaluation is that under competitive sealed bidding, once the judgmental evaluation is completed, award is made on a purely objective basis to the lowest responsive and responsible bidder. Under competitive sealed proposals, the quality of competing products or services may be compared and trade-offs made between price and quality of the products or services offered. Award under competitive sealed proposals is then made to the responsible proposer whose proposal is most advantageous to the City.
- (2) Competitive sealed bidding and competitive sealed proposals also differ in that, under competitive sealed bidding, no change bids are allowed once they have been opened, except for correction of errors in limited circumstances. However, competitive sealed proposals permit discussions after proposals have been opened to allow clarification and changes in proposals provided that adequate precautions are taken to treat each proposer fairly and to ensure that information from competing proposals is not disclosed to others.

A. PURCHASING DEPARTMENT SHALL:

- (1) Prepare bid requests.
- (2) Establish a date and time for bid opening in accordance with the budget schedule.
- (3) For all requests of bids exceeding budget allocations and/or outside of the budget schedule, the City Manager and/or Purchasing Agent shall seek prior approval from the governing body prior to bid requests for purchases valued at, or equal to, fifteen thousand (\$15,000) dollars or more. (See Part I and Part I Section C)
- (4) Select possible sources of supply.
- (5) Prepare specifications with the input and assistance of the using department. (See Part V Section O)
- (6) Mail bid requests and advertise as appropriate.
- (7) Assist Bid Committee in receiving and opening bids.
- (8) Evaluate bids with the assistance of the using department and bid committee.
- (9) Prepare bids and make a recommendation of award to the governing body for approval.
- (10) Contact the vendor in which the bid has been awarded and enter winning bid into the electronic purchasing system.
- (11) Maintain all specification and bid data files.

B. USING DEPARTMENT SHALL:

- (1) Initiate specification preparation on items for sealed bid.
- (2) Specifications shall be submitted to the Purchasing Department at least four (4) weeks prior to the established bid opening date and shall include specific information about the item(s) needed such as the quantity, size, preferred or required brand, performance requirements, etc. (See Part V Section O)
- (3) Assist in specification preparation if necessary.
- (4) Assist in the evaluation of bid results if necessary.

C. ASPECTS TO BE CONSIDERED IN BID AWARD

In addition to price and that which is most advantageous to the City, the following aspects, not limited to, shall be considered in the award of a bid:

- (1) The ability of the competing vendor to perform the contract or provide the material or service required.
- (2) Whether the competing vendor can perform the contract or provide the material or service promptly and within the time specified without delay or interference.
- (3) The character, integrity, reputation, experience, and efficiency of the competing vendor.
- (4) The previous and existing compliance of the competing vendor with the laws and ordinances relating to the contract or service.

- (5) The quality of the competing vendor's performance of previous contracts or services, including the quality of such contracts or services in other municipalities or performed for private sector customers.
- (6) The sufficiency of financial resources and the ability of the competing vendor to perform the contract or provide the service.
- (7) The ability of the competing vendor to provide future maintenance and service for the use of the materials, supplies, vehicles, equipment, or contractual service contracted.
- (8) Compliance with all specifications in the solicitation for sealed bids or proposals.
- (9) The ability of the competing vendor to deliver and maintain any necessary bid bonds or performance bonds.

D. REJECTION OF BIDS

The City Manager and/or Purchasing Agent shall recommend rejecting any and all bids or parts of bids whenever public interest would be best served by such rejection. The governing body shall not accept the bid of a vendor or contractor who is in default on the payment of taxes, licenses, fees or other money of whatever nature that may be due the City by the vendor or contractor.

E. NON-PERFORMANCE

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

- (1) The removal of the vendor from the bid list for a period of not less than six (6) months or more than two (2) years.
- (2) The vendor may be allowed to find the needed item for the City from another supplier at no additional cost to the City.
- (3) The City may be allowed to purchase the needed services, materials, or supplies from another source and charge the vendor for any difference in cost as a result thereof.
- (4) The City may withhold all or part of payment until services or delivery of materials or supplies have been rendered in a satisfactory manner.
- (5) The City may also consult with the City Attorney for guidance as to which remedy is most appropriate or for any other available remedies.

F. ELECTRONIC BIDDING, INVITATIONS TO BID, REQUESTS FOR PROPOSALS AND OTHER SOLICITATIONS

Reserved

G. LEGAL RECOGNITION OF ELECTRONIC RECORDS, ELECTRONIC SIGNATURES, AND ELECTRONIC CONTRACTS

Reserved

H. GENERAL GUIDELINES OF SEALED BIDS AND PROPOSALS

The following shall apply to all sealed bids and proposals:

- (1) Bid or Proposal Opening - Bids shall be opened at the time and date specified on the bid request and shall be opened publicly and read aloud with a tabulation provided to all participating vendors. Proposals for extensive systems, complicated equipment, or construction projects may, with prior approval of the governing body, be opened privately in cases where the disclosure of the contents of the proposal could not be readily evaluated and would have a negative impact on both the vendor and the City.
- (2) Late Bids - No bids received after closing time shall be accepted and shall be returned unopened to the vendor. Bids postmarked on the bid opening date, but received after the specified time shall be considered late and returned unopened.
- (3) Bid Opening Schedule – The Purchasing Agent is responsible for setting bid opening dates and times. (See Part I, Part I Section C, and Part IV Section A)
- (4) Telephone and facsimile Bids – The Purchasing Department shall not accept any sealed bid or proposal by telephone or facsimile. (Only in rare and extreme circumstances, and with prior approval of the City Manager, will sealed bids or proposals be accepted by facsimile.)
- (5) Bid Form – Bids shall not be accepted on any vendor letterhead, vendor bid form or other substitutions unless special permission is granted by the City Manager.
- (6) Unsigned Bids – Failure of a vendor representative to sign a sealed bid or proposal removes that sealed bid/proposal from consideration. A typed official's name will not be acceptable without that person's written signature.
- (7) Acceptance of Bids – The City reserves the right to reject any or all bids, 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 bid(s) which in the judgment of the governing body is in the best interest of the City.
- (8) Bid Bonds – The City Manager and/or Purchasing Agent may require that bidders submit a bid bond or other acceptable guarantee equal to five percent (5%) 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.
- (9) Performance Bonds – The City Manager and/or 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.

- (10) Shipping Charges – Bids shall include all shipping charges to the point of delivery and shall be considered on the basis of delivered price, except as otherwise authorized by the governing body.
- (11) 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.
- (12) Approved Equal Policy – Specifications furnished in the request for bid are intended to establish a desired quality, performance level, or other minimum requirements which will provide the City with the best product at the lowest possible price.

When a brand name and/or model are designated, it signifies the minimum quality acceptable. If an alternate is offered, the bidder must furnish proof of equivalency and include the brand name or model to be furnished along with complete specification and descriptive literature, and if requested, a sample for testing. (The user reserves the right to determine equivalency.) Brands and/or models other than those designated as “equal to” products shall receive equal consideration.

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

- (13) Vendor Identification – Potential suppliers shall be selected from existing vendor files, using department’s suggestions, and any and all sources available to locate vendors related to a specific product or service and new suppliers shall be added to the bid list as they are identified.
- (14) Tie Bids – A tie bid is one in which two or more vendors offer a sealed bid or proposal that meet all specifications, terms, and conditions at identical total pricing for the minimum or estimated quantity indicated and shall be determined by one of the following factors:
 - (a) discount allowed;
 - (b) delivery schedule;
 - (c) previous vendor performance;
 - (d) vendor location; or,
 - (e) trade-in value offered.
- (15) Cancellation of Invitation for Bid or Request for Proposal – An invitation to bid, a request for proposal, or other solicitations may be canceled and any and all bids or proposals may

be rejected in part as may be specific in the solicitation when it is in the best interest of the City. The reasons, therefore, shall be made part of the bid or proposal file.

- (16) Public Advertisement – In addition to publication in a newspaper of general circulation as required by law, the Purchasing Agent shall make any and all other efforts deemed appropriate to notify all prospective bidders of the invitation to bid.
- (17) Mistakes in Bids – Mistakes in bids detected prior to 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 City Manager who shall determine if all or a portion of any bid bond (if required) shall be surrendered to the City as liquidated damages for any costs associated with the bid withdrawal.

V. GENERAL GUIDELINES

A. CONTRACTUAL PURCHASES

Materials, supplies, and services which are customarily and constantly required for the proper conduct, function, and operation of the City shall be purchased by sealed bid and/or proposal awarded by the governing body for a contract period determined to be in the best interest of the City. This procedure shall apply to all purchases in which the amount of the purchase is valued at, or equal to, fifteen thousand (\$15,000) dollars or more within any one (1) fiscal year. For such purchases of less than fifteen thousand (\$15,000) dollars, the award shall be made by the City Manager / Purchasing Director.

B. PURCHASING FROM HANDICAPPED PERSONS

Municipalities must purchase services and commodities from qualified nonprofit work centers for the blind or severely handicapped as defined by T.C.A. § 71-4-702, provided the articles are available and have been certified by the Board of Standards, pursuant to T.C.A. § 71-4-703 (d).

This act has precedence over any law requiring state agency procurement of commodities or services, except laws that require purchases from nonprofit organizations operating under T.C.A., § 71-4-204 and 71-4-205, laws establishing preference for blind vendors operating under T.C.A., Title 71, Chapter 4, Part 5, and laws requiring purchases under T.C.A., § 41-22-118 through 41-22-124.

However, this is not mandatory if the service or commodity is available from any state agency or if the Board of Standards determines the service or item doesn't meet reasonable requirements.

C. TENNESSEE BUSINESS ENTERPRISE PROGRAM

The Tennessee Business Enterprise Program, administered by the Department of Human Services, has the statutory right to provide vending services on most properties owned or leased by the state and local entities, pursuant to T.C.A., Title 71, Chapter 4, Part 5.

Pursuant to T.C.A. § 71-4-501, blind individuals shall be granted priority in the establishment and operation of vending facilities on public property and shall be granted the greatest possible opportunities to operate such vending facilities. Otherwise, in accordance with T.C.A. § 71-4-509, the department shall set aside, or cause to be set aside, a percentage of the net proceeds of the vending facilities in a reasonable amount not to exceed limits set by law.

D. ARCHITECT OR ENGINEER REQUIRED

Plans, specifications, and estimates for any public works project exceeding fifty thousand (\$50,000) dollars must be prepared by a registered architect or engineer, pursuant to T.C.A. § 62-2-107.

E. PURCHASE OF CONFISCATED PROPERTY FROM THE STATE

A municipality may purchase motor vehicles that have been confiscated by the state by any city officer, employee or their agent when the purchase is for municipal use, pursuant to T.C.A. § 12-2-201.

F. FEDERAL EXCISE TAX

The City is exempt from the payment of excise taxes imposed by the federal government and suppliers should be requested to deduct the amount of such taxes from their bids, quotations, and invoices.

G. ITEMS COVERED BY WARRANTY

Prior to repairing any item covered by a warranty or guarantee such as, but not limited to, tires, batteries, roofs, vehicles and equipment, the Purchasing Department shall be contacted and consulted with to verify whether or not an item is covered by warranty.

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 indicating date of receipt.

H. STANDARDIZATION REQUIREMENTS

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

I. INSPECTION AND TESTING

Whenever deemed necessary, the City Manager, Purchasing Agent, or governing body, or upon approval thereby of the request of the Department Head of the using department, may have all deliveries of supplies, materials, equipment, or contractual services inspected to be sure their performance meets the specifications set forth in the contract or purchase order.

Chemical and physical tests of materials submitted with bids and delivery samples, or after products have been delivered, may also be required to determine their quality in

conformance with specifications. In the performance of such tests, laboratory facilities of any outside laboratory may be used.

J. SIGNATURES

Contracts, applications for title, tax exemption certificates, agreements and contracts for utilities or services shall not be signed by any city employee unless authorized in writing by the City Manager and/or Purchasing Agent, or by action of the governing body.

K. TRADE-INS

A list of equipment to be used as trade-in shall accompany the request and specifications, and shall include the model, year, serial number, city tag number, and any other pertinent information. Trade-ins will only be considered when such is deemed to be more advantageous to the City than the sale of said items and prior approval by the governing body has been granted.

L. PROFESSIONAL SERVICE CONTRACTS

Although cost must be considered in awarding such contracts, it must not be the sole factor. Contracts for professional services shall not be awarded on the sole basis of competitive bids, but shall be awarded on the basis of recognized competence and integrity, pursuant to T.C.A. § 12-4-106 (a).

Once a service provider is chosen, the municipality and the provider must enter into a written contract specifying the service, cost, and expenses covered under the contract.

A financial advisory relationship is not considered to exist when the professional acts as an underwriter.

M. PURCHASING MOTOR OIL

Standard specifications for buying lubricating motor oil must include re-refined or recycled lubricating motor oil, unless circumstances or equipment require specialized treatment, pursuant to T.C.A. § 12-3-531.

If specialized treatment is necessary, documented evidence supporting the needs must be available on request.

N. PURCHASES FROM STATE INDUSTRIES (TRICOR)

Municipalities must buy all items produced, repackaged, assembled, warehoused or manufactured by the labor of inmates from the Tennessee Rehabilitative in Correction Board

(TICOR), provided the articles have been certified by the Board of Standards as being in satisfactory condition, of reasonable cost, and available, and the standards adopted by TRICOR may not be changed by municipalities with the intent of evading the law. Pursuant to T.C.A. § 41-22-119.

O. SPECIFICATIONS

Over-specifying or under-specifying items can defeat competition and increase cost. Therefore, specifications should be developed such that they are fair, allow equal opportunity to bid, persuade vendors to bid, and promote competitive bidding. Well written specifications should be clear, accurate, and understandable identifying what is to be purchased and the minimum requirements in which the purchase is subject.

Sources of specifications include: product information from the industry, professional societies, governmental entities, experts, and the NIGP library.

P. SALE AND TRANSFER OF SURPLUS PROPERTY

The Purchasing Department shall be notified in writing upon determination by any Department Head that there is surplus property within their department. Upon notification, the Purchasing Department shall determine the proper method to dispose of said property which may include either the sale of said property to the highest bidder or transfer to another department within the City.

If surplus property is to be sold, the Purchasing Department shall seek approval from the governing body at the next official meeting and prior to sale. Following approval by the governing body, the Purchasing Agent shall list item(s) for sale on govdeals.com

The City Manager shall approve all transfers of surplus property to another department within the City and the City Treasurer shall be notified of such.

Special Exceptions for sale, transfer or donation (Resolution 4-14 amending this section approved by City Council 1/9/2014) - Upon proper request, an employee of the City of Shelbyville, nonprofit organization, or municipal or county government agency may request in writing that a Special Exception to the Purchasing Policies and Procedures be found allowing the sale, transfer or donation of surplus property or assets of the City to be made to the employee, nonprofit, or government agency based upon extraordinary circumstances. The written request form shall be lodged with the Purchasing Agent and City Treasurer for determination of the current value of the property or asset, usefulness of the asset, and the likelihood of future use of the asset. The request evaluation together with the recommendation of the Purchasing Agent and City Treasurer shall be lodged with the City Manager. The City Manager shall have full

authority to determine whether the application rises to the level of a Special Exception. Upon the express recommendation of the City Manager, the request for finding of a Special Exception shall be presented to the City Council for final determination of the request and the setting of the purchase price.

Q. PRODUCTS REQUIRING MSDS INFORMATION

Departments shall maintain a material safety data sheet for chemicals and products on the national MSDSSERACH repository in accordance with law.

R. PURCHASING CARDS

Reserved

S. BUY AMERICA ACT

Pursuant to T.C.A. § 54-5-135 et seq., no agency or entity of state, county, or municipal government shall purchase any materials used for highway or roadway construction, resurfacing, or maintenance from any foreign government or any company wholly owned and controlled by a foreign government, regardless of the location of the company, or from any agency of the foreign government or company.

As used in this section, "materials" includes, but is not limited to, asphalt cement, asphalt emulsion, rock, aggregate, liquid and solid additives, sealers and oils.

This shall not apply if the materials are not produced by American companies in sufficient and reasonably available quantities and are not of satisfactory quality or if the American materials increase the overall project cost by five percent (5%) more than the overall project cost using materials produced by a foreign government owned company.

T. PERSONAL INTEREST OF OFFICERS PROHIBITED

Pursuant to T.C.A. § 12-4-101, it is unlawful for any person whose duty is to vote for or supervise any contract with a municipality to be directly interested in such a contract. Furthermore, no municipal officer or other person whose duty it is to superintend any contract with a municipality shall be indirectly interested in any such contract unless the officer publicly acknowledges such interest.

U. INTEREST OF OFFICER IN MUNICIPAL CONTRACTS PROHIBITED

Pursuant to T.C.A. § 6-54-107, no one holding a municipal office, whether elected or appointed, shall contract with the municipality for any work nor hold or have any direct interest in such contract. Furthermore, no municipal officer shall be indirectly interested in any contract with the municipality unless the officer publicly acknowledges his interest.

V. PUBLIC INSPECTION OF RECORDS

The Purchasing Department shall keep a complete record of all quotations, bids, and purchase orders that shall be open to public inspection.

VI. DEFINITIONS

Customarily Purchased - Items that are purchased regularly under specific circumstances considered reasonable and appropriate.

Controlling Interest - Any individual who has ownership or control of the largest number of outstanding shares owned by any single individual or business, pursuant to T.C.A. § 6-54-107 (a).

Direct Interest - Any contract with any business in which the official is the sole proprietor, a partner, or the person having controlling interest such as ownership or control of the largest number of outstanding shares owned by any individual or corporation, pursuant to T.C.A. § 6-54-107 (a).

Emergency Purchase – Purchase made when normal functions and operations of the department are expected to be interrupted, or in which property, equipment, or life is endangered through unexpected circumstances and an immediate need of an emergency nature exists.

Indirect Interest -Any interest in any contract in which the officer has an interest, but not directly, and includes contracts in which the officer is directly interested but is the sole supplier of goods or services in a municipality, pursuant to T.C.A. § 6-54-107 (b). (Any officer indirectly interested must publicly acknowledge any such interest.)

Like Items - Items that are similar and may be bought at the lowest common denominator, such as size, color, etc.

Lot - A single grouping of like items to be purchased at one time.

Non-Performance - Failure of a bidder to complete a contract, bid, or purchase order in a satisfactory manner within the specified time agreed upon, failure to provide and/or complete the service, failure to provide required materials and supplies or failure to honor a quoted price on services, materials, or supplies.

“Normal Business Day” – The next business day in which a department begins to resume normal functions and operations or in which there is no longer a danger to property, equipment, or life, whichever shall occur first.

Professional Service Contracts - Includes legal services, fiscal agent, financial advisor 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, pursuant to T.C.A. § 12-4-106.

Proprietary Product - A brand-name product made and marketed by one having the exclusive right to manufacture and sell.

Single Source of Supply - When only one vendor is available to provide a product or service within a reasonable marketable distance of the City.

Specifications - A description of the characteristics of a commodity or service required or desired.

“Within the Limits of the Approved Budget” – Purchases must stay within appropriation limits (estimated expenditures) of funds requiring budgets either by law, regulation, or policy. Appropriation limits don’t apply to nonexpendable funds, intragovernmental service funds, and nonexpendable trust funds.

“Within the Limits of the Budget Schedule” – Purchases must stay within the budget schedule (schedule of spending) approved by the governing body and shall be purchased in accordance with such.