



MEMORANDUM

TO: Honorable Mayor and City Council Members

FROM: Mary Morgan, Finance Director
Jeff James, Assistant City Manager
Jim Ryan, City Manager

DATE: May 9, 2017

SUBJECT: Revised Purchasing Policy

After City Staff researched both current State Procurement Laws and other municipalities' purchasing policies, Staff recommends revising the City's Purchasing Policy. The significant changes in the proposed revised Purchasing Policy are increasing the threshold from \$1,000 to \$3,000 before an informal bid process is required, adding a requirement of an electronic notification system for purchases over \$50,000 and separating the purchasing policy from the purchasing manual.

Staff is recommending increasing the threshold from \$1,000 to \$3,000 before an informal bid process is required because Staff believes the labor costs involved in obtaining the required three quotes is greater than potential savings that may be obtained at a threshold level below \$3,000 and the time could be better used to provide services to citizens. The \$3,000 threshold level is based on the requirement of State law, in which the City is required to contact at least two historically underutilized businesses, if any exists in the county, and provide them an opportunity to participate in the informal bidding process. Staff reviewed other municipalities' purchasing policies and found that their thresholds for informal bids were \$3,000.

Staff also recommends adding a requirement of an electronic notification system for purchases over \$50,000 based on discussions at prior City Council meetings. This will allow potential vendors to register with the City by areas of interest. The system will notify potential vendors based on areas of interest through e-mail when the City has issued a solicitation for any purchases over \$50,000.

Staff also recommends separating the purchasing policy from the purchasing manual because the manual is the process the City uses to implement the City Council approved purchasing policy. The manual changes periodically based on changing technology, changes in internal processes and structure, and development of improved internal controls. For example, our current purchasing processes are very manual and paper intensive. Staff is currently working on utilizing currently owned technology to streamline the process and reduce the manual and paper process. The manual will be updated for the new changes as they occur.

RECOMMENDATION:

Staff requests that Council considers and approves resolution 2017-XXX as presented.

RESOLUTION NO. 2017 - _____

A RESOLUTION AMENDING THE CITY OF WHITE SETTLEMENT PURCHASING POLICY BY REPEALING THE 2011 ADOPTED VERSION AND REPLACING WITH A NEW PURCHASING POLICY; PROVIDING FOR DEFINITIONS, AUTHORITY, RESPONSIBILITY, AND GUIDELINES; PROVIDING FOR THE REPEAL OF RESOLUTIONS TO THE EXTENT OF ANY CONFLICT; PROVIDING FOR DISTRIBUTION OF THE REVISED POLICY TO ALL APPLICABLE CITY EMPLOYEES; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of White Settlement has previously adopted a Purchasing Policy; and

WHEREAS, the Purchasing Policy may be amended by the approval of City Council; and

WHEREAS, the City Council, after due and careful consideration, has determined that it is reasonable and necessary to amend the Purchasing Policy; and

WHEREAS, the City Council has reviewed the Purchasing Policy, enclosed herein, and has determined that the policy adequately meets the needs of the City of White Settlement;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF WHITE SETTLEMENT, THAT:

SECTION 1

The City of White Settlement Purchasing Policy is hereby repealed and replaced with a new updated Purchasing Policy, attached hereto as "Attachment A".

SECTION 2

This Resolution shall supersede and repeal any previous Resolutions of the City of White Settlement to the extent of any conflict.

SECTION 3.

The Purchasing Division is hereby directed to distribute a copy of the revised Purchasing Policy to each employee involved in the purchasing process of the City of White Settlement.

SECTION 4.

This resolution will be effective May 10, 2017, upon its adoption by the City Council.

PASSED AND APPROVED the 9th day of May, 2017, by the City Council of the City of White Settlement, Texas.

Approved:

Ronald A. White, Mayor

Attest:

Amy Arnold, City Secretary



**City of
White Settlement, Texas**

**PURCHASING
POLICY**

May 2017

STATEMENT OF GENERAL POLICY

It is the policy of the City of White Settlement (City) that all purchasing shall be conducted strictly on the basis of economic and business merit. This policy is intended to promote the best interest of the citizens of the City.

It is important to remember that City purchasing operates in full view of the public. In order to assure an open purchasing process and economy in purchasing, the City Council has determined that competitive bidding will be used as much as possible in the purchase of goods and services for the City.

The City intends to maintain a cost effective purchasing system conforming to good management practices. To be successful, the system must be backed by proper attitudes and cooperation of not only every department head and official, but also every supervisor and employee of the City. The establishment and maintenance of a good purchasing system is possible only through cooperative effort.

The purchasing process is not instantaneous. Time is required to complete the steps required by State law. In order to accomplish timely purchasing of products and services at the least cost to the City, all departments must cooperate fully. Prior planning and the timely submission of requisitions are essential in order to expedite the purchasing process and to assure that the process is both orderly and lawful.

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CITY OF WHITE SETTLEMENT PURCHASING POLICY

1.0 GOVERNING AUTHORITY

The primary governing authority for the City's Purchasing Policy shall be the City's Charter in conjunction with Local Government Code Chapter 252, "*Purchasing and Contracting Authority of Municipalities.*" All Purchasing activity shall be governed by the Purchasing Policy, in accordance with applicable state and local government codes. The Mayor and Council shall from time to time review the Purchasing Policy and the City's resolution shall record any changes made to the Policy.

All powers of the City vest in the City Council. Authority for purchasing of goods and services is delegated to the City Manager provided the purchase does not exceed \$50,000. The City Manager's authority is delegated to the Purchasing Division, subject to the requirements of this policy and adopted purchasing procedures.

2.0 PURPOSE AND SCOPE

The Purchasing Policy applies to the procurement activities of the City. All procurement activities for the City shall be administered in accordance with the provisions of this policy, with the express intent to promote open and fair conduct in all aspects of the procurement process.

3.0 OBJECTIVES

The Purchasing Division is responsible for ensuring that City departments comply with federal, state and local statutes regulating competitive sealed bids, competitive sealed proposals, professional services, high technology purchases, cooperative purchases, and emergency and sole-source purchases. The Purchasing Division solicits for all competitive procurements as required by law, evaluates bids and proposals, and with the user department makes recommendations to the Mayor and City Council for awarding of contracts.

The Purchasing Division is a functional support division and should be included in all stages of acquisition, through planning, ordering, and receiving. The Purchasing staff issues purchase orders (POs) and bids/proposals, and negotiates and executes contracts to deliver goods and services in a timely manner. This is to ensure compliance with the State of Texas competitive bid statutes and the City's purchasing policies.

The Purchasing Division is committed to providing quality service through effective teamwork and communication with City departments and vendors alike, in order to fulfill the purchasing needs of the City in a professional, responsive and timely manner in compliance with all City policies and applicable federal, State, and local purchasing laws. Public purchasing has the responsibility to obtain the most value for the tax dollar in a fair, efficient and equitable manner. To achieve this objective, the Purchasing Division seeks to foster as much competition as possible. In doing so, we adopt the goal of fairness by ensuring all who wish to compete for the opportunity to sell to the City can do so. The policy is intended to:

1. Give all suppliers full, fair, prompt and courteous consideration;
2. Encourage open and fair competition;
3. Solicit supplier suggestions in determination of clear and adequate specifications and standards;
4. Cooperate with suppliers and consider possible difficulties they may encounter; and
5. Observe strict truthfulness and highest ethics in all transactions and correspondence.

General Duties of the Purchasing Division

1. Observe and enforce the policy and procedures outlined in the City of White Settlement Purchasing Policy or as directed by the City Manager or his/her designee;
2. Advise and assist in the formulation of policies and procedures connected with the purchasing activities of the City, and keep the Director of Finance advised of such policies and procedures;
3. Investigate and analyze research done in the field of purchasing by other governmental agencies and by private industry, in an effort to keep abreast of current developments in the fields of purchasing, price, market conditions and new products;
4. Coordinate, organize, and assist departments in the specification writing process to ensure that specifications are written concisely and are not written in an exclusive manner;
5. Join with other governmental agencies in cooperative purchasing plans when it is in the best interest of the City;
6. Receive, open, and evaluate competitive solicitations;
7. Act in an advisory role on evaluation committees;
8. Coordinate with user departments and prepare staff reports recommending award of competitive solicitations for City Council approval;
9. Combine purchases of similar items whenever possible and practical, to allow for better pricing and establish a more competitive atmosphere;
10. Assist department heads in the disposition of junk and scrap material such as pallets, scrap pipe, paper products, etc;
11. Dispose of stolen, abandoned and recovered property coming into the possession of the City;
12. Dispose of surplus City property and record disposition;
13. Issue Sales Tax Exemption Certificates and W-9 Federal Identification Number and Certification to vendors; and
14. Conduct regular training sessions for employees involved in the purchasing process.

4.0 CODE OF ETHICS

By participating in the procurement process, employees of the City of White Settlement agree to:

- Avoid the intent and appearance of unethical or compromising practice in relationships, actions, and communications.
- Demonstrate loyalty to the City by diligently following the lawful instructions of the employer, using reasonable care, and only authority granted.
- Refrain from any private business or professional activity that would create a conflict between personal interests and the interest of the City.
- Refrain from soliciting or accepting money, loans, credits, or prejudicial discounts, and the acceptance of gifts, entertainment, favors, or services from present or potential suppliers that might influence, or appear to influence purchasing decisions.
- Never discriminate unfairly by the dispensing of special favors or privileges to anyone, whether as payment for services or not; and never accept for himself or herself or for family members, favors or benefits under circumstance which might be construed by reasonable persons as influencing the performance of Governmental duties.
- Engage in no business with the City, directly or indirectly, which is inconsistent with the conscientious performance of Governmental duties.
- Handle confidential or proprietary information belonging to employer or suppliers with due care and proper consideration of ethical and legal ramifications and governmental regulations.
- Never use any information gained confidentially in the performance of Governmental duties as a means of making private profit.
- Promote positive supplier relationships through courtesy and impartiality in all phases of the purchasing cycle.
- Know and obey the letter and spirit of laws governing the purchasing function and remain alert to the legal ramifications of purchasing decisions.
- Expose corruption and fraud wherever discovered.
- Uphold these principles, ever conscious that public office is a public trust.

5.0 COMPETITIVE PURCHASING REQUIREMENTS

Under no circumstances shall multiple requisitions be used in combination to avoid other applicable bidding requirements or City Council approval.

5.1 Purchases less than \$3,000

Purchases of non-contract goods or services totaling \$3,000 or less require no quotation.

5.2 Purchases of \$3,000 to \$50,000

Except where otherwise exempted by applicable State law, purchases totaling \$3,000 through \$50,000 require a minimum of three quotes, two of which must be from Tarrant County Historically Underutilized Business (HUB) vendors, if available. All quotations received must be in writing from the vendor and will be evaluated by the Purchasing Division who will then authorize and issue a purchase order.

5.3 Purchases over \$50,000

Purchases of supplies and services exceeding \$50,000 are processed accordingly by the Purchasing Division, and must comply with applicable State laws.

Except as otherwise exempted by applicable State law, requisitions for item(s) whose aggregate total cost is more than \$50,000 must be processed as competitive solicitations (e.g. sealed bids, request for proposals, and request for offers). Texas Local Government Code, Subchapter B, Section 252.021 defines the requirements for competitive solicitations.

In addition to the State's competitive solicitation notice requirements, the City will also maintain an electronic notification system, which allows potential vendors to register by areas of interest. The system will notify potential vendors based on areas of interest through e-mail when the City has issued a solicitation for any purchases over \$50,000.

Under no circumstances shall multiple requisitions of \$50,000 or less be used in combination to avoid otherwise applicable competitive solicitation requirements or City Council approval, which is required for all purchases greater than \$50,000.

Texas Local Government Code, Section 252.062, states:

- (a) A municipal officer or employee commits an offense if the officer or employee intentionally or knowingly makes or authorizes separate, sequential, or component purchases to avoid the competitive bidding requirements of Section 252.021. An offense under this subsection is a Class B Misdemeanor.*
- (b) A municipal officer or employee commits an offense if the officer or employee intentionally or knowingly violates Section 252.021, other than by conduct described in subsection (a). An offense under this subsection is a Class B Misdemeanor.*
- (c) A municipal officer or employee commits an offense if the officer or employee intentionally or knowingly violates this chapter, other than by conduct described by subsection (a) or (b). An offense under this subsection is a Class C Misdemeanor.*

Conviction for any of these offenses may result in immediate removal from office or employment.

5.4 Reciprocity

The State of Texas Reciprocity Law provides that the State or political subdivision cannot award contracts or purchases to non-resident bidders having local preference laws in their resident states unless their bid is lower than the lowest bid submitted by a responsible Texas resident bidder by the amount that a Texas resident bidder would be required to underbid a nonresident bidder to obtain a comparable contract in the state in which the nonresident's principal place of business is located.

5.5 Award of Contract

The City shall award contracts based on criteria deemed in the best interest of the City.

Texas Local Government Code, Section 252.043, states, in part:

- (a) If the competitive sealed bidding requirement applies to the contract for goods or services, the contract must be awarded to the lowest responsible bidder or to the bidder who provides goods or services at the best value for the municipality.*
- (b) Before awarding a contract under this section, a municipality must indicate in the bid specifications and requirements that the contract may be awarded either to the lowest responsible bidder or to the bidder who provides goods or services at the best value for the municipality.*

5.6 Disclosure of Information

Access to bidder-declared trade secrets or confidential information shall be in accordance with the Texas Government Code Chapter 552, the Public Information Act, and applicable City policies implementing this chapter.

Texas Local Government Code Chapter 252.049(b) states, in part:

If provided in a Request for Proposal (RFP), proposals shall be opened in a manner that avoids disclosure of the contents to competing offerers and keeps the proposals secret during negotiations. All proposals are open for public inspection after the contract is awarded, but trade secrets and confidential information in the proposals are not open for public inspection.

5.7 Professional Services

Personal and professional services are exempted from the competitive bidding process and are procured through the use of Request for Qualification (RFQ) documents. The Purchasing Division is available to consult with departments regarding the preparation of information.

Texas Government Code, Chapter 2254, Subchapter A, Professional Services, states that contracts for the Purchasing of defined professional services may not be awarded on the basis of competitive bids. Instead, they must be awarded on the basis:

- (a) Of demonstrated competence and qualifications to perform the services;
- (b) For a fair and reasonable price;
- (c) Fees are allowed;
- (d) Must be consistent with and not higher than the recommended practices and fees published by the applicable professional associations; and
- (e) May not exceed any maximum provided by law.

Professional Services for the purposes of Government Code Chapter 2254 are defined as those *“services within the scope of the practice, as defined by state law, of accounting, architecture, landscape architecture, land surveying, medicine, optometry, professional engineering, real estate appraising, or professional nursing, or provided in connection with the professional employment or practice of a person who is licensed or registered as a certified public accountant, an architect, a landscape architect, a land surveyor, a physician, including a surgeon, an optometrist, a professional engineer, a state certified or state licensed real estate appraiser, or a registered nurse.”*

5.8 Automated Information Systems

All requests for computer equipment, software, telecommunications and related services or supplies should be submitted to the Information Technology (IT) Department for review and technical evaluation. IT will review each request for compatibility with other hardware and software and will investigate alternatives.

Recommendations and comments will include but not be limited to:

- Additional costs incurred because of the purchase;
- Compatibility considerations;
- Cost effectiveness of the request; and
- Alternatives that would effectively meet the users' needs.

Departments may contact the Purchasing Division for all high technology Purchasings so that the Purchasing Division can coordinate with Information Technology to ensure that the appropriate solicitation procedure is used.

5.9 Cooperative Purchases

Cooperative purchasing occurs when two or more governmental entities coordinate some or all purchasing efforts to reduce administrative costs, take advantage of quantity discounts, share specifications, and create a heightened awareness of legal requirements. Cooperative purchasing can occur through interlocal agreements, state contracts, piggybacking, and joint purchases. The Purchasing Division shall take advantage of these types of cooperative purchases when deemed to be in the City's best interest.

5.10 Emergency Purchases

Valid emergencies are those that occur as a result of the breakdown of equipment which must be kept in operation to maintain the public's safety or health, or whose breakdown would result in the disruption of City operations. When this situation occurs, the department shall contact the Purchasing Division and conduct the procurement of supplies and services in accordance with the Purchasing Manual.

The Legislature exempted certain items from sealed bidding in the Texas Local Government Code Section 252.022(a), including, but not limited to:

- a. *A procurement made because of a public calamity that requires the immediate appropriation of money to relieve the necessity of the municipality's residents or to preserve the property of the municipality;*
- b. *A procurement necessary to preserve or protect the public health or safety of the municipality's residents;*
- c. *A procurement necessary because of unforeseen damage to public machinery, equipment or other property.*

5.11 Sole Source Purchases

Sole-source purchases are items that are available from only one source because of patents, copyrights, secret processes, or natural monopolies as defined by local government code.

When a department has identified a specific item with unique features or characteristics essential and necessary to the requesting department and no alternate products are available, a detailed written justification must be provided to the Purchasing Division in advance for review and approval.

The legislature exempted certain items from sealed bidding in Local Government Code Section 252.022(a)7, in part: Procurement of items available from only one source, including:

- A. *Items that are available from only one source because of patents, copyrights, secret processes, or natural monopolies;*
- B. *Films, manuscripts, or books;*
- C. *Gas, water and other utility services;*
- D. *Captive replacement parts or components for equipment;*
- E. *Books, papers, and other library materials for a public library that are available only from the person holding exclusive distribution rights to the materials; and*
- F. *Management services provided by a nonprofit organization to a municipal museum, park, zoo, or other facility to which the organization has provided significant financial or other benefits.*

6.0 RECOMMENDATIONS TO CITY COUNCIL

The City Manager is responsible for making final recommendations to the Mayor and City Council for awarding of contracts, in accordance with approval thresholds, for all solicitations in the stated areas of responsibility.

7.0 PURCHASING MANUAL

The Purchasing Manual contains expanded explanation and process for accomplishing the Purchasing of goods and services in accordance with this policy. The Purchasing Division maintains responsibility for updating the Purchasing Manual in accordance with applicable State and Local Government Codes and the Purchasing Policy, as approved by City Council.