

RESOLUTION NO. 2021 – 04 – 008

A RESOLUTION AMENDING THE CITY OF WHITE SETTLEMENT PURCHASING POLICY; PROVIDING THAT THE PURCHASING POLICY ADOPTED HEREIN SUPERSEDES ANY PRIOR PURCHASING POLICIES; PROVIDING FOR DISTRIBUTION OF THE REVISED POLICY TO ALL APPLICABLE CITY EMPLOYEES; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of White Settlement is a home rule city acting under its charter adopted by the electorate pursuant to Article XI, Section 5, of the Texas Constitution and Chapter 9 of the Local Government Code; and

WHEREAS, the City Council of the City White Settlement previously adopted a Purchasing Policy; 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 Council of the City White Settlement Purchasing Policy hereby adopts the revised Purchasing Policy, attached hereto as "Attachment A".

Section 2.

This Resolution and the Purchasing Policy attached hereto shall supersede any previous Resolutions related to purchasing policies of the City of White Settlement.

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 shall be effective immediately from and after its passage.

PASSED AND APPROVED on this 6th day of April, 2021.

ATTEST:


Amy Arnold, City Secretary




Ronald A. White, Mayor

CITY OF WHITE SETTLEMENT



PURCHASING POLICY

PREFACE

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.

REVIEW & CITY MANAGER APPROVAL

September 13, 2011

May 9, 2017

April 6, 2021

I. GOVERNING AUTHORITY

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

The City Manager has authority for purchasing of goods and services 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.

II. 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.

III. 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:

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

A. 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 Finance Director 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.

IV. 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 City, using reasonable care, and using only the 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 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 the City 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.
- Comply with all State and local regulations governing conflicts of interest, including, Texas Local Government Code Chapter 171.
- Uphold these principles, ever conscious that public office is a public trust.

V. COMPETITIVE PURCHASING REQUIREMENTS

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

The City Manager or his/her designee may authorize and approve contracts and agreements less than \$50,000, provided funds are within the current budget, without specific City Council approval.

The Finance Department shall review all purchases prior to issuing payment.

A. Purchases less than \$3,000

Purchases of non-contract goods or services totaling \$3,000 or less require no quotation and do not require approval through the purchase requisition program.

B. 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.

C. 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.

Electronic and paper bids are accepted for solicitations for purchases over \$50,000. A third party electronic system is utilized to ensure the City is in compliance with bid opening procedures.

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:

- 1) 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.
- 2) 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.
- 3) 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.

D. 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.

E. 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:

- 1) 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.

- 2) 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.

F. 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 offers 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.

G. 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:

- Of demonstrated competence and qualifications to perform the services
- For a fair and reasonable price
- Fees are allowed
- Must be consistent with and not higher than the recommended practices and fees published by the applicable professional associations
- 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."

H. Authorization and Approval of Change Orders

The City Council hereby authorizes the City Manager to approve any and all individual or cumulative change orders which involve a decrease or an increase of \$50,000 or less, provided the total contract expenditures do not exceed the budgeted amount. Individual or cumulative change orders involving a decrease or an increase in excess of \$50,000 will require approval of the City Council, in accordance with Local Government Code, Section 252.048. Individual or cumulative change orders may not increase more than 25% of the original contract price or decrease the original contract by more than 25% without consent of the contractor. Any individual or cumulative change greater than 25% will require a new solicitation (or a finding by the City Council that an exception to bidding, such as "health and safety" is applicable to the additional amount).

I. 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

- Alternatives that would effectively meet the users' needs.

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

J. 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.

K. 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:

- 1) 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;
- 2) A procurement necessary to preserve or protect the public health or safety of the municipality's residents;
- 3) A procurement necessary because of unforeseen damage to public machinery, equipment or other property.

L. 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:

- 1) Items that are available from only one source because of patents, copyrights, secret processes, or natural monopolies;
- 2) Films, manuscripts, or books;
- 3) Gas, water and other utility services;
- 4) Captive replacement parts or components for equipment;
- 5) 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
- 6) 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.

VI. DEBARMENT POLICY STATEMENT

The City or its agent shall verify the debarment status of all vendors prior to utilizing grant funds, by using the Excluded Parties Listing Systems (EPLS) website (<https://www.SAM.Gov>). In addition, the City or its agent must document that verification has occurred. This policy applies to the procurement of all good(s) and service(s) regardless of the unit price or quantity. Verification must be made prior to issuing a new purchase order, blanket purchase order, contract, or single time purchase, because the vendors are being removed and added to the EPLS on a daily basis. A statement in contracts requiring the vendor to verify status can also be utilized.

VII. GRANTS

- A. Expenditures from funds awarded to the City through a grant or government loan may require special processing because of specific legal terms and conditions placed by the funding agency. Grants often have certain purchasing requirements that are different or additional to the City's Purchasing Policy and they require special purchasing procedures. It is the responsibility of the using Department to identify any special purchasing requirements or provisions and to ensure that all requirements are followed.
- B. For federal and State grant funded projects the City shall follow the Procurement process required by the funding agency and grant agreement. Unless otherwise specified in the grant, all grant funded Purchases shall follow the City's Purchasing Policy.
- C. Purchases utilizing federal funds must comply with all requirements of Title 2 of the Code of Federal Regulations (CFR), and the resulting Contract shall include all federal Contract clauses, as applicable. The provisions of 2 Code of Federal Regulations (CFR) Part 200 are hereby incorporated herein by reference and shall be applicable to Procurements funded pursuant to a grant agreement that is governed by those provisions and the resulting contract shall include all federal contract clauses as applicable.

VIII. SURPLUS AND IMPOUNDED PROPERTY POLICY

Any property the City has that becomes obsolete or no longer needed, the department is responsible for notifying the purchasing department for disposal of the property. The department will work with the purchasing department to decide the usefulness of the property and the possible disposition of the property. If no need exists within another department, the City Manager, or designee, will decide the disposition.

Impounded property is handled through the police department's property room. After obtaining the proper documents from the Court the property will be disposed of according to the procedures.

- A. Disposal Process
 - 1) The property will be stored at the department or at the central surplus location until disposition.
 - 2) Disposition can be a sale by auction, a sale by sealed bid, an internet sale, a donation to charity, a disposal as junk, sale, donation to another government entity, or sold as scrap.
 - 3) The Finance department will record the disposition of the items if the items were listed as capital assets in the City's financial records.
 - 4) The Purchasing department will make arrangements for Public auction or

other means for disposition.

- 5) After the disposition of the surplus property the Finance department will record the disposition and amounts of money each item was sold for.

IX. 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.

X. 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.