

PROCUREMENT POLICY

Purpose:

- a. Encourage procurement of goods and services for use by the City of Arkansas City on the basis of the best necessary quality at least cost (best value).
- b. Provide for ready availability of goods and services to support timely and effective service delivery, with a minimum of cumbersome procedure.
- c. Maintain a competitive private sector purchasing environment for the City of Arkansas City.
- d. Provide for appropriate budgetary control and financial oversight of the procurement procedures.

SECTION I: GENERAL

In the interests of eliminating delays in service provision, the city will use a decentralized purchasing system subject to the control of this policy, and, within that, at the discretion of the Department Head. Departments of the City are encouraged and expected to coordinate the purchase of similar items. Bulk or large quantity purchasing is encouraged in those areas where storage space is available, and inventory can be controlled.

Any purchases made are to be approved by the Department Head, and are subject to the further general oversight of the Finance Director or City Manager. The Department Head's signature shall be considered as an affirmative statement that they have reviewed all items entered on that listing. As such, the invoice is required to be signed by the Department Head or appointee in all cases. Staff involved in purchasing is expected to use common sense and good judgment in the application of these guidelines.

All goods must be verified as received prior to processing invoices for payment.

Packing slips which are received and sent to the accountant are regarded as acknowledgement that the goods were received. Initials on the invoice, and the Departments Heads signature is an affirmative statement that the goods or services were properly ordered and received by the City of Arkansas City.

Goods and services purchased by the city are intended to provide services to the public. Diversion of materials or services purchased by the city to personal or private use (without public purpose) is considered to be mis-use, and will result in administrative and/or criminal justice system consequences.

Local Preference: In order to maintain the most competitive environment, a formal local preference option is not provided. Specifically, there is no percentage price preference in bids or other competitive processes. However, local service, city efficiency, and other similar judgment factors may be used in determining whether a purchase provides the best value.

SECTION II: DUTIES GENERALLY

In addition to the purchasing authority conferred in the preceding section, and in addition to any other powers and duties conferred by this policy, the Department Head shall:

1. act to procure for the City the highest quality in supplies and contractual services at the least expense to the City.
2. prepare and adopt written specifications for all supplies and services.
3. discourage uniform bidding and endeavor to obtain as full and open competition as possible on all purchases and sales.
4. keep informed of current developments in the field of purchasing, prices, market conditions and new products, and secure for the City the benefits of research done in the field of purchasing by other governmental jurisdictions, national technical societies, trade associations, and by private businesses and organizations;
5. prescribe and maintain such forms necessary for the operation of the purchasing function.
6. prepare, adopt and maintain a vendors' catalog file. Said catalog shall be filed according to materials and shall contain descriptions of vendor's commodities, price and discounts.
7. exploit the possibilities of buying "in bulk" so as to take full advantage of discounts.
8. act so as to procure for the City all federal and state tax exemptions to which it is entitled.
9. have the authority to declare vendors who default on their quotations irresponsible bidders and to disqualify them from receiving any business from the municipality for a stated period of time.
10. inspect or supervise the inspection of all deliveries with regard to quantity, quality and conformance to specifications; and
11. pursue all appropriate claims against the supplier, shipper or carrier.

SECTION III: REQUISITIONS AND ESTIMATES

Each city department shall file with the purchasing agent detailed requisitions or estimates of their requirements for supplies and contractual services in such manner, at such times (i.e. budget preparation), and for such future periods as the purchasing agent shall prescribe.

SECTION IV: CONFLICT OF INTEREST

No officer or employee of the city shall transact any business in his official capacity with any business entity of which he is an officer, agent or member or in which he owns a substantial interest; nor shall he make any personal investments in any enterprise that will create a substantial conflict between his private interest and the public interest; nor shall he or any firm or business entity of which he is an officer, agent or member, or the owner of substantial interest, sell any goods or services to any business entity that is licensed by or regulated in any manner by the agency in which the officer or employee serves.

SECTION V: CONFLICT OF INTEREST – OFFICERS AND EMPLOYEES NOT TO DEAL WITH CERTAIN ENTITIES

No officer or employee of this City shall enter into any private business transaction with any person or entity that has a matter pending to be acted upon which the officer or employee is or will be called upon to render a decision or pass judgment. If any officer or employee already is

engaged in the business transaction at the time a matter arises, he shall be disqualified from rendering any decision or passing any judgment upon the same.

SECTION VI: CONFLICT OF INTEREST – PENALTIES

A minimum fine of \$500.00 punishes any person who violates the provisions of Section IV or Section V shall, upon conviction thereof or as determined by current statute or judges' sentence.

SECTION VII: GIFTS AND REBATES

The purchasing agent and every other officer and employee of the City are expressly prohibited from accepting, directly or indirectly, from any person, company, firm or corporation to which any purchase or contract is or might be awarded, any rebate, gift, money, or anything of value whatsoever, except where given for the use and benefit of the City. A minimum fine of \$500.00 or as determined by current statute or judges' sentence shall upon conviction thereof punished per violation of the provisions of this section.

SECTION VIII: METHODS OF PROCUREMENT

Four methods of procurement are allowed by PL 103-355: Small Purchases, Competitive Sealed Bids, Competitive Negotiations and Non-Competitive Negotiations.

1. Small Purchases

Generally, purchases of less than \$10,000 may be authorized by the City Manager or designee.

Small purchases are a relatively simple and informal method used where goods and/or services do not cost in aggregate more than \$25,000.

- a. The proposed bidders shall be notified from the Bidder's list that the City retains on file for goods and services. This list will be updated from time to time to include the most current vendors available. Notification to prospective bidders can be by publications, posted notice on City bulletin board or direct solicitation. Written specifications (i.e. type of service or product being acquired, submission date, etc.) should be provided to assure all responders are bidding on the same goods or services. The purchasing agent shall obtain price or rate quotations in writing from an adequate number of qualified sources (generally considered to be at least three sources). In the event the goods or services are less than \$500, telephone solicitation is allowed.
- b. Written documentation regarding businesses contacted and the prices submitted needs to be retained for the files. All qualified individuals and/or firms shall not be excluded from submitting bids on the proposed purchase or sale of goods or services.
- c. Written documentation regarding basis of selection and cost should also be retained in the files.
- d. For those goods and/or services under \$2,000, an executed invoice or purchase order should be kept as a contract with the business. For those goods or services over \$2,000 but under \$25,000, a formal contract should be completed that includes scope of work price and time frame for delivery or completion.
- e. All purchases of goods and/or services shall be approved by the City Commission.

- f. The unsuccessful bidders will be notified, and copies of such notification will be retained in the City's files.
- g. Purchase Orders will be made on items which will not be received within 90 days, on City Commission items, end of year encumbrances, and specialty items which will not be received by mid-January of the following fiscal year. Invoices which apply to purchase orders will be paid as received, rather than waiting until the purchase order is complete. The invoice needs to be initialed as received and approved for payment. This keeps the city in good standing with the vendors.

2. Competitive Sealed Bids

Competitive sealed bids are initiated by publishing an Invitation for Bids (IFB) including direct solicitation when the cost is estimated to be over \$25,000. Adequate time should be allowed for the preparation of the bids (i.e. scope of work or services), time frame, etc.). A minimum of three weeks should be considered as adequate notification whether published or directly notified. If the notice is to be published, it should be placed in a highly circulated newspaper in the proposed project area. An affidavit of publication should be secured as documentation. The IFB will include scope of work and/or services, contact person, completion of bidding forms including insurance and bonds, if applicable, time frame, time and place for opening of bids.

- a. Detailed specifications for the goods and/or services to be procured must be prepared. This information must be provided by the City to any prospective bidder at any time prior to the opening of bids. All qualified individuals and/or firms (within a reasonable distance) shall not be excluded from submitting a bid. The primary basis for this award is cost.
- b. All bids received must be tabulated and reviewed according to the written criteria given to prospective bidders. The contract will be awarded to the individual or firm with the lowest bid and proper qualifications.
- c. The proposed goods or services shall not be subdivided for the purpose of evading the requirement of competitive bidding.
- d. The contract must be a firm, fixed price contract (lump sum or unit price) and will be approved by the City Commission prior to execution of the written contract.
- e. A written contract shall be prepared incorporating the scope of work, time frame, price, terms of compensation and executed by all parties.

3. Competitive Negotiations

Competitive negotiations are generally used for the solicitation of profession services. The two categories are: Request for Proposals (RFP) and Request for Qualifications (RFQ). They are usually notified by 1) publishing a notice or 2) by direct solicitation.

- a. An adequate number of service providers in the area should be notified. At a minimum all qualified firms and/or individuals should be notified. The RFP is used when price is a factor in the selection (i.e. CDBG administrator, Risk Assessor, Housing Inspector). The RFQ is used when price is considered after selection (i.e. architects, engineers, auditors, financial services, legal services, appraisal services, health care or insurance services).
- b. A written scope of services including rating criteria will be provided to the proposed bidders. Provisions of competitive bidding will apply. However, the RFP selection will

be based according to the rating factors including costs. The RFQ selection will be based according to the rating factors but will not include cost as a deciding factor.

- c. All proposals will be opened at a regularly or specially convened meeting of the City Commission in accordance with the open meetings rule. Each Commission member will tabulate each RFP or RFQ submission according to the rating criteria. An overall tabulation will be filed with each Commission person's tabulation.
- d. In the best interest of the community, each bidder's reference shall be checked prior to the awarding of any contract. The award of the contract shall be based upon the RFP or RFQ that is most advantageous to the City. References as well as technical competence should factor into the selection as well as price, when applicable.
- e. Upon final selection approval by the City Commission, a written contract formalizing the scope of work and terms of compensation shall be executed. All unsuccessful bidders will be notified in writing and copies of the documentation will be retained in the City's files.

4. Non-Competitive Negotiations

Non-competitive negotiations can be used when 1) The use of competitive negotiations is not feasible, such as only one source is available. 2) There is a public emergency, or 3) The results of competitive negotiations are inadequate.

- a. The scope of the proposed goods and/or services shall be defined as in competitive bidding. The scope will include the proposed goods and/or services, time frame, terms of compensation as defined by the City.
- b. The contract will be approved by City Commission prior to executing a formal contract including bonds, if applicable. All unsuccessful bidders will be notified in writing with copies of the documentation retained in the City's files.
- c. In the case of an apparent emergency that requires an immediate purchase of supplies or contractual services, the City Commission may authorize the purchase at the lowest obtainable price of any supplies or contractual services not in excess of \$5,000. A full explanation of the circumstances of an emergency shall be documented in the minutes of the next regularly scheduled City Commission Meeting and in the General Ledger for auditing purposes.

SECTION IX: SPECIFIC BIDDING PROCEDURES

1. Bid Opening Procedure

Bids shall be submitted sealed to the City and shall be identified as bids on the envelope. They shall be opened in public at the time and place as stated in the public notices. A tabulation of all bids received shall be posted for public inspection and a tabulation report forwarded to the bidders.

2. Lowest Responsible Bidder

The City reserves the right to reject any or all bids. Contracts shall be awarded to the lowest responsible bidder. Bids shall not be accepted from, nor contract awarded to, a contractor who is

in default on the payment of taxes, licenses or other monies due the City. In determining “lowest responsible bidder”, in addition to price, the following shall be considered:

- a. The ability, capacity and skill of the bidder to perform the contract or provide the service required.
- b. Whether the bidder can perform the contract or provide the service promptly, or within the time specified, without delay or interference.
- c. The character, integrity, reputation, judgment, experience and efficiency of the bidder.
- d. The quality of performance of previous contracts or services.
- e. The previous and existing compliance by the bidder with laws and ordinances relating to the contract or service.
- f. The sufficiency of the financial resources and ability of the bidder to perform the contract or provide the service.
- g. The quality, availability and adaptability of the supplies or contractual services to the particular use required.
- h. The ability of the bidder to provide future maintenance and service for the use of the subject of the contract; and
- i. The number and scope of conditions attached to the bid.

3. Justification of Award

When the award is not given to the lowest bidder, the City Commission shall enter a full and complete statement of the reasons for placing the order elsewhere in the journal.

4. Tie Bids

If all bids received or the lowest bids received are for the same total amount or unit price, quality and service being equal, the contract will be awarded to the local bidder.

Where there is no local bidder, the award shall be made on the basis of a drawing of lots to be held in public.

5. Solicitation of Firms

The City will endeavor to notify all minority and women’s business enterprises in the solicitation of any proposal. Documentation will be retained at City Hall on all firms contracted.

An on-going file for these firms, including individuals, shall be maintained for the distribution of future proposals.

The City is an Equal Employment Employer and will not discriminate in the receiving of proposals for work; however, they do reserve the right to reject any and all bids.

The award of the contract shall be based upon the proposal that is most advantageous to the City, taking into consideration technical competence as well as price. All firms will be notified in writing if unsuccessful and copies retained in the City’s files.

SECTION X: COOPERATIVE PROCUREMENT

The purchasing agent shall have the authority to join with other units of government in cooperative purchasing plans when the best interest of the City would be served and after approval of the City Commission.

SECTION XI: AMENDED POLICY

The City may amend any section of this procurement policy without voiding the other sections. The purpose of amending the policy would be to update the procedures to best serve the City.

ADOPTED by the City of Arkansas City, Kansas this ____ day of _____, 2022.

(Seal)

Kanyon Gingher, Mayor

ATTEST:

Lesley Shook, City Clerk