

RESOLUTION NUMBER: R201301

A RESOLUTION TO ESTABLISH A PURCHASING POLICY FOR
THE CITY OF LEXINGTON, TENNESSEE

WHEREAS, the Board of Mayor and Aldermen of the City of Lexington, Tennessee wishes to establish policies and procedures for the procurement of equipment, services, materials, and supplies for the operation of municipal government,

NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF MAYOR AND ALDERMEN OF THE CITY OF LEXINGTON, TENNESSEE, that the following policy be adopted:

PURCHASING POLICY

I. Definitions. For the purpose of implementing this chapter, the following definitions shall apply.

Accept - To receive with approval or satisfaction.

Acknowledgment - Written confirmation from the vendor to the purchaser of an order implying obligation or incurring responsibility.

Agreement - A coming together in opinion or determination; understanding and agreement between two or more parties.

All or none - In procurement, the City reserves the right to award each item individually or to award all items on an all or none basis.

Annual - Recurring, done, or performed every year.

Appropriations - Public funds set aside for a specific purpose or purposes.

Approved - To be satisfied with; admit the propriety or excellence of; to be pleased with; to confirm or ratify.

Approved Equal - Alike, uniform, on the same plane or level with respect to efficiency, worth, value, amount or rights.

Attest - To certify to the verity of a public document formally by signature; to affirm to be true or genuine.

Award - The presentation of a contract to a vendor; to grant; to enter into with all required legal formalities.

Awarded Bidder - Any individual, company, firm, corporation, partnership or other organization to which an award is made by the city.

Back Order - The portion of a customer's order undelivered due to temporary unavailability of a particular product or material.

Bid - A vendor's response to an Invitation for Bids or Request for Proposal; the information concerning the price or cost of materials or services offered by a vendor.

Bidder - Any individual, company, firm, corporation, partnership or other organization or entity bidding on solicitations issued by the city and offering to enter into contracts with the city.

Bid Bond - An insurance agreement in which a third party agrees to be liable to pay a certain amount of money should a specific vendor's bid be accepted and the vendor fails to sign the contract as bid.

Bid File - A folder containing all of the documentation concerning a particular bid. This documentation includes the names of all vendors to whom the invitation to bid was mailed, the responses of the vendors, the bid tabulation forms and any other information as may be necessary.

Bid Opening - The opening and reading of the bids, conducted at the time and place specified in the invitation for bids and in the presence of anyone who wishes to attend.

Bid Solicitation - Invitations for bids.

Blanket Bid Order - A type of bid used by buyers to purchase repetitive products. The city establishes its need for a product for a specified period of time. The vendor is then informed of the city's expected usage during the duration of the proposed contract. The city may then order small quantities of these items from the vendor, at the bid price, over the term of the contract.

Board - The Board of Mayor and Aldermen, Lexington Gas System Board and/or Lexington Water Systems Board

Business - Any corporation, partnership, individual, sole proprietorship, joint stock company, joint venture, or legal entity through which business is conducted.

Cancel - To revoke a contract or bid.

Capital Items - Equipment which has a life expectancy of five (5) year longer and a value in excess of \$1,000. Additionally, real estate shall be considered a capital item.

Cash Discount - A discount from the purchase price allowed to the purchaser if payment is made within a specified period of time.

Caveat Emptor - Let the buyer beware; used in proposals or contracts to caution a buyer to avoid misrepresentation.

Certify - To testify in writing; to make known or establish as a fact.

City - The City of Lexington, Tennessee and its divisions of the Lexington Gas System and Lexington Water Systems.

Competitive Bidding - Bidding on the same undertaking or material items by more than one vendor.

Conspicuously - To be prominent or obvious; located, positioned, or designed to be noticed.

Construction - The building, alteration, demolition, or repair of public buildings, structures, highways and other improvements or additions to real property.

Contract - An agreement, grant, or order for the procurement, use, or disposal of supplies, services, construction, insurance, real property or any other item.

Delivery Schedule - The required or agreed upon date of delivery of goods or services.

Discount for Prompt Payment - A predetermined discount offered by a vendor for prompt payment.

Encumber - To reserve funds against a budgeted line item; to charge against an account.

Evaluation of Bid - The process of examining a bid to determine a bidder's responsibility, responsiveness to requirements, qualifications, or other characteristics of the bid that determine the eventual selection of a winning bid.

Fiscal Year - The accounting period of 12 months July 1 through June 30.

F.O.B. Destination - An abbreviation for "free on board" that refers to the point of delivery of goods where the seller absorbs the transportation charges and retains title to and responsibility for the goods until the City of Lexington, Tennessee has received and signed for the goods.

Goods - All materials, equipment, supplies, and printing.

Invitation for Bid - All documents utilized for soliciting bids.

Invoice - A written account of merchandise, price and all costs, delivered to the purchaser; a bill.

Lead Time - The period of time from the date of ordering to the date of delivery which the buyer must reasonably allow the vendor to prepare goods for shipment.

Life Cycle Costing - Technique that considers the total cost of purchasing, maintaining, operating, and disposal of a piece of equipment when determining the low bid.

Local Bidder - A bidder who has and maintains a business office located within the corporate city limits of Lexington, Tennessee.

Material Receiving Report - A form used by the department head or supervisor to inform others of the receipt of good purchased.

Performance Bond - A bond given to the purchaser by a vendor or contractor guaranteeing the performance of certain services or delivery of goods within a specified period of time with the purpose to protect the purchaser against a cash loss which might result if the vendor did not deliver as promised.

Pre-bid Conference - A meeting held with potential vendors a few days after an invitation for bids has been issued to promote uniform interpretation of work statements and specifications by all prospective contractors.

Procurement or Purchasing - Buying, renting, leasing, or otherwise obtaining supplies, services, construction, insurance or any other item; also, includes functions that pertain to the acquisition of such supplies, services, construction, insurance and other items, including descriptions of requirements, selection and solicitation of sources, preparation and award of contracts, contract administration, and all phases of warehousing and disposal.

Public - Open to all.

Public Purchasing Unit - Means the State of Tennessee, any county, city, town, governmental entity and other subdivision of the State of Tennessee, or any public agency, or any other public authority.

Purchase Order - A legal document used to authorize a purchase from a vendor. A purchase order, when given to a vendor, should contain statements about the quantity, description, and price of goods or services ordered, agreed terms of payment, discounts, date of performance, transportation terms, and all other agreements pertinent to the purchase and its execution by the vendor.

Quote - Written commitment by vendor on price of goods.

Reject - Refuse to accept, recognize, or make use of; refuse to consider or grant.

Responsive Bidder - One who has submitted a bid which conforms in all materials respects to the invitation for bids.

Sealed - Secured in any manner so as to be closed against the inspection of contents.

Sole Source Purchase or Procurement - An award for a commodity which can only be purchased from one supplier, usually because of its technological, specialized or unique character.

Specifications - Any description of the physical or functional characteristics of a supply, service, or construction item. It may include a description of any requirement for inspecting, testing, or preparing a supply, service, or construction item for delivery.

Standardization - The making or adapting of items to conform to recognized qualifications.

Telephone Bids - Contacting at least two vendors to obtain verbal quotes.

Using Department - The City Department seeking to purchase goods and services or which will be the ultimate user of the purchased goods and services.

Vendor - The person who transfers property, goods, or services by sale.

- II. **Purchasing Agent.** The City Recorder and General Manager of Utilities or their designees shall be the purchasing agent for their respective divisions. All supplies, materials, equipment, and services of any nature shall be approved and acquired by the Purchasing Agent except as otherwise provided in this policy.

- III. **General Procedures.** Purchase Orders are to be obtained through the Purchasing Agent for all purchases in accordance with this resolution. Actual cost of purchase or calculated maximum estimate shall be entered on PO. Recurring costs such as monthly bills for utilities, telephone, internet, etc. are exempt from Purchase Order requirements. Unforeseen minor purchases that require immediate acquisition are exempt with the written approval of the CFO.
The following procedures shall be followed by all City employees when purchasing goods or services on behalf of the City.
 - A. Items Expected to Cost \$10,000 or More.
 1. The Department Head of the using department shall deliver to the CFO a written purchase request for the item(s) to be purchased. Such request shall include a brief description of the item(s) to be purchased, specifications for the item being purchased, the estimated cost of the items, and shall indicate whether the item(s) have been approved in the annual budget.
 2. The CFO shall review the purchase request for completeness and accuracy. Requests not

provided for in the annual budget shall be forwarded to the Board for final review and approval. When approved by the Board, request shall be signed by the Mayor or Board Chairman and returned to the CFO.

3. All approved requests shall be signed by the CFO and returned to the Purchasing Agent who shall proceed with procurement in compliance with this resolution and issuance of purchase order.

B. Items Expected to Cost \$500 to \$9,999.99.

1. The Department Head of the using department shall deliver to the Purchasing Agent a written purchase request for the item(s) to be purchased. Such request shall include a brief description of the item(s) to be purchased, specifications for the item(s) being purchased, the estimated cost of the item(s), and shall indicate whether the item(s) have been approved in the annual budget.
2. The Purchasing Agent shall review the purchase request for completeness and accuracy. Utility Division requests shall then be forwarded to the General Manager or Assistant General Manager of Utilities and all other requests to the CFO for final review and approval.
3. All approved requests shall be signed by the GM/ AGM or CFO and returned to the Purchasing Agent who shall proceed with procurement in compliance with this resolution and issuance of purchase order.

C. Items Expected to Cost Less Than \$500.

1. The Department Head of the using department or their designee shall contact the Purchasing Agent with a request for the item(s) to be purchased giving a brief description and the estimated cost of the item(s).
2. The Purchasing Agent shall proceed with procurement in compliance with this resolution and issuance of purchase order.

IV. Sealed Bid Requirements - \$10,000.00 or Greater.

A. General Procedures.

1. On all purchases and contracts estimated to be in excess of ten thousand dollars (\$10,000.00), except as otherwise provided in this resolution, formal sealed bids shall be submitted at a specified time and place to the Purchasing Agent and/or Department Head. All such bids shall be submitted to the Board at the next regularly scheduled meeting or special called meeting together with the recommendation as to the lowest responsive bidder.
2. Notice inviting bids shall be published at least once in a newspaper of general circulation in Henderson County, and at least five days preceding the last day to receive bids. The newspaper notice shall contain a general description of the item(s) to be secured, and the date, time, and place for opening bids. Full bid specifications shall be made available at the associated division's business office.
3. In addition to publication in a newspaper, the Purchasing Agent may take other actions deemed appropriate to notify all prospective bidders of the invitation to bid, including, but not limited to, advertisement in community bulletin boards, metropolitan newspapers, professional journals, and electronic media.

- B. Bid Deposit. When deemed necessary, bid deposits may be prescribed and noted in the public notices inviting bids. The deposit shall be in such amount as the Purchasing Agent shall determine and unsuccessful bidders shall be entitled to a return of such deposits within ten (10) calendar days of the bid opening. A successful bidder shall forfeit any required deposit upon failure on his/her part to enter a contract within ten (10) days after the award.

- C. Performance Bond. The Purchasing Agent may require a performance bond before entering into a contract, and in such amount as he/she shall find reasonably necessary to protect the best interests of the city and furnishers of labor and materials in an amount not less than that provided by Tennessee Code Annotated.
- D. Record of Bids. The Purchasing Agent shall keep a record of all bids submitted in competition thereon, including a list of the bidders, the amount bid by each, and the method of solicitation and bidding. Such records shall be open to public inspection and maintained in the City Recorder's office or the Utility's business office.
As a minimum, the bid file shall contain the following information:
1. A copy of the bid advertisement.
 2. A copy of the bid specifications.
 3. A list of bidders and their responses.
 4. A copy of the purchase order.
 5. A copy of the invoice.
- E. Determining Bid Awards. The following criteria shall be considered in determining all bid awards:
1. The ability of the bidder to perform the contract or provide the material or service required.
 2. Whether the bidder can perform the contract or provide the service promptly, or within the time specified, without delay or interference.
 3. The character, integrity, reputation, judgment, experience, and efficiency of the bidder.
 4. The previous and existing compliance by the bidder with laws and resolutions relating to the contract or service.
 5. The quality of performance of previous contracts or services, including the quality of such contracts or services in other municipalities or in the private sector.
 6. The sufficiency of financial resources and the ability of the bidder to perform the contract or provide the service.
 7. The ability of the bidder to provide future maintenance and service for the use of the supplies or contractual service contracted.
 8. Compliance with all specifications in the solicitation for bids.
 9. The ability to deliver and maintain any requisite bid bonds or performance bonds.
 10. Total cost of the bid, including life expectancy of the commodity, maintenance costs, and performance.
- F. Rejection of Bids. The Board shall have the authority to reject any and all bids, parts of bids, or all bids for any one or more supplies or contractual services included in the proposed contract, when the public interest will be served thereby. The Purchasing Agent shall not accept the bid of a vendor or contractor who is in default on the payment of taxes, licenses, fees or other monies of whatever nature that may be due the City by said vendor or contractor.
- G. Statement When Award Not Given to Low Bidder. When the award for purchases or contracts is not given to the lowest bidder, a full and complete statement of the reasons for placing the order elsewhere shall be prepared by the Purchasing Agent or Department Head and filed with all the other papers relating to the transaction.
- H. Award in Case of Tie Bids. When two or more vendors have submitted the low bid, the following criteria shall be used to award the bid:
1. If all bids received are for the same amount and quality of service equal, the purchase contract shall be awarded to the local bidder.
 2. If two or more local bidders have submitted the low bid or if no local bids are received and two or more out-of-town bidders have submitted the low bid, the winning bidder shall be

determined by the Board based on factors such as discount allowed; delivery schedule; previous vendor performance; trade-in value offered; etc.

- I. Waiver of the Competitive Bidding Process. Upon the recommendation of the Purchasing Agent, and the subsequent approval of the Board, that it is clearly to the advantage of the City not to contract by competitive bidding, the requirements of competitive bidding may be waived provided that the following criteria are met and documented in a written report to the Board:
 1. *Single Source of Supply.* The availability of only one vendor of a product or service within a reasonable distance of the city as determined after a complete and thorough search by the using department and the Purchasing Agent.
 2. *State Department of General Services.* A thorough effort was made to purchase the product or service through or in conjunction with the State Department of General Services or via a State contract, such effort being unsuccessful.
 3. *Purchase from Other Governmental Entities.* A thorough effort was made to purchase the product or service through or in conjunction with other municipalities or from any federal or state agency. These purchases may be made without competitive bidding and public advertisement.
 4. *Purchases from Non-Profit Organizations.* A thorough effort was made to purchase the goods or services from any non-profit organization whose sole purpose is to provide goods and services specifically to municipalities.
 5. *Purchases from Tennessee State Industries.* A thorough effort was made to purchase the goods or services from Tennessee State Industries (prison industries).
 6. *Purchases from Instrumentalities Created by Two or More Co-operating Governments.* An effort was made to purchase the goods or services from a co-op or group of governments which was formed to purchase goods and services for their members.
- J. Goods and Services Exempt from Competitive Bidding. The following goods and services need not be awarded on the basis of competitive bidding; provided, however, that the Purchasing Agent and/or the Department Head shall make a reasonable effort to assure that such purchases are made efficiently and in the best interest of the City:
 1. *Certain Insurance.* The City may purchase tort liability insurance, without competitive bidding, from the Tennessee Municipal League or any other plan offered by a governmental entity representing cities and counties. All other insurance plans, however, are to be awarded on the basis of competitive bidding.
 2. *Certain Investments.* The City may make investments of municipal funds in, or purchases from, the pooled investment fund established pursuant to *Tennessee Code Annotated 9-17-105*.
 3. *Motor Fuel, Fuel Products, or Perishable Commodities.* Such commodities may be purchased without competitive bidding.
 4. *Professional Service Contracts.* Any services of a professional person or firm, including attorneys, accountants, physicians, architects, engineers, and other consultants required may be hired without competitive bidding. Contracts for professional services shall not be awarded on the basis of competitive bidding; rather, professional service contracts shall be awarded on the basis of recognized competence and integrity.

V. Competitive Quotes - \$5,000.00 to \$9,999.99.

- A. Competitive quotes shall be obtained on all purchases of supplies, equipment, services, and contracts estimated to be in excess of five thousand dollars (\$5,000.00) but less than ten thousand dollars (\$10,000.00).
- B. A written record of the competitive quotes obtained shall be attached to the purchase order.
- C. This requirement may be waived by joint approval of the CFO and Department Head.

- VI. Purchases and Contracts Costing Less Than \$5,000.00. The Purchasing Agent and/or Department Head of the using department or their designee is expected to obtain the best prices and services available for purchases and contracts estimated to be less than \$5,000.00, but is exempted from the requirements specified in Sections 5-504 and 5-505 of this resolution.
- VII. Conflict of Interest. The City of Lexington Ethics Policy shall be strictly abided by in all aspects of City purchasing.
- VIII. Emergency Purchases. When in the judgment of the Purchasing Agent, Department Head and City Recorder an emergency exists, the provisions of this resolution may be waived; provided, however, the Purchasing Agent shall report the purchases and/or contracts to the Board at the next regular meeting stating the item(s) purchased, the amount(s) paid, from whom the purchase(s) was made, and the nature of the emergency.
- IX. Procedures Upon Taking Delivery of Purchased Items. Before accepting delivery of purchased equipment, supplies, materials and other tangible goods, the employee receiving the goods of the using department shall:
- A. Inspect the goods to verify that they are in acceptable condition.
 - B. Verify that all operating manuals and warranty cards are included, if applicable.
 - C. Verify that the numbers of items purchased have been delivered; making special note when part or all of a particular purchase has been back ordered.
 - D. Complete and return to the Purchasing Agent a Material Receiving Report form with serial numbers for all capital items and fixed assets.
- X. Liability for Excess Purchases. This resolution shall authorize only the purchase of materials and supplies and the procurement of contracts for which funds have been appropriated and are within the limits of the funds estimated for each department in the annual budget or which have been authorized and lawfully funded by the Board. The City shall have no liability for any purchase made in violation of this resolution.
- XI. Additional Forms and Procedures. The Purchasing Agents are hereby authorized and directed to develop such forms and procedures as are necessary to comply with this resolution.

This resolution shall take effect immediately upon its passage, the public welfare requiring it.

Adopted February 5, 2013