

## CHAPTER 3.50

### PROCUREMENT POLICIES

**Sections:**

3.50.010	Definitions.
3.50.020	General.
3.50.030	Competitive Sealed Bidding.
3.50.040	Competitive Sealed Proposals.
3.50.050	Purchases Less Than \$25,000.
3.50.060	Sole Source Procurement.
3.50.070	Emergency Procurement.
3.50.080	Procurement of Professional Services.
3.50.090	Renewal/Extension Option.
3.50.100	Change Orders.
3.50.110	Property Acquisition.
3.50.120	Disposition of Property.
3.50.130	Recycled Paper Product Preference.

**3.50.010 Definitions.** For the purposes of this Ordinance the following terms, phrases, words, and their derivations shall have the meaning given herein:

- (a) "Advantageous" connotes a judgmental assessment of what is in the City's best interest.
- (b) "Business" means any corporation, partnership, individual, sole proprietorship, joint stock company, joint venture, or any other private legal entity.
- (c) "Change Order" means a written modification or addition to a purchase order or contract.
- (d) "City" is the City of Olathe, Kansas.
- (e) "City Manager" means the City Manager or his designated representative for the City of Olathe.
- (f) "Competitive Sealed Bid (IFB)" means a formal publicly advertised solicitation to prospective suppliers requesting their competitive firm price quotation in response to a detailed set of specifications. Not subject to discussion or negotiation after opening.
- (g) "Competitive Sealed Proposal (RFP)" means a publicly advertised request to prospective contractors for an offer of pricing, terms and conditions with reference to some work or undertaking. A solicitation document used for negotiated procurements.
- (h) "May" denotes the permissive.
- (i) "Practical" denotes what may be accomplished or put into practical application.
- (j) "Procurement" means buying, purchasing, renting, leasing, or otherwise acquiring any supplies, services, materials or equipment. It also includes all functions that pertain to the obtaining of any supplies, services, materials or equipment including description of requirements, selection and solicitation of sources, preparation and award of contract and all phases of contract administration.
- (k) "Responsible Bidder or Offeror" means a person who has the capability in all respects to perform fully the contract requirements, and the integrity and reliability which will assure good faith performance.
- (l) "Responsive Bidder" means a person who has submitted a bid that conforms in all material respects to the Invitation For Bids.

(m) "Services" means the furnishing of labor, time, or effort by a contractor.

(n) "Shall" denotes the imperative.

(o) "Supplies" means all property, including but not limited to equipment, materials, commodities and printing. (Ord. 99-119 § 2, 1999; Ord. 95-15 § 2, 1995; Ord. 88-155 § 1, 1988.)

**3.50.020 General.** Competitive sealed bidding is the preferred method of procurement; however, competitive sealed bidding is not always practical and advantageous and in certain situations described in this chapter other methods of procurement, such as competitive sealed proposals, may be used. (Ord. 99-119 § 2, 1999; Ord. 95-15 § 2, 1995; Ord. 88-155 § 1, 1988.)

**3.50.030 Competitive Sealed Bidding.** All supplies, materials, equipment and services, when the estimated cost is \$25,000 and greater, shall be purchased by competitive sealed bidding from the lowest responsive and responsible bidder, after due notice inviting bids and unless specifically provided otherwise herein.

(a) Public Notice

(1) Distribution. Invitation for Bids (IFB) or notices of the availability of Invitations for Bids shall be mailed or otherwise furnished to a sufficient number of bidders for the purpose of securing competition. Notices of availability shall indicate where, when, and for how long Invitations for Bids may be obtained; generally describe the supplies, materials or equipment desired; and may contain other information as is appropriate.

(2) Publication. Notice of every procurement of \$25,000 and greater shall be published once in the official City newspaper.

(3) Public Availability. A copy of the Invitation for Bids shall be available for public inspection at the designated City office.

(b) Bid Evaluation and Award. The City Manager shall recommend to the City Council an award as he determines to be most advantageous to the City, taking into consideration price and any other pertinent evaluation factors. The City Council shall make final award. (Ord. 99-119 § 2, 1999; Ord. 95-15 § 2, 1995; Ord. 88-155 § 1, 1988.)

**3.50.040 Competitive Sealed Proposals.** Competitive sealed proposals (RFP) shall be governed as provided in the following:

(a) Conditions for Use. Competitive sealed proposals may be used where it is necessary to insure fair and reasonable price analysis, but not to preclude competition for technical excellence. Generally, competitive sealed proposals may be used under the following conditions:

(1) The procurement of professional services (except legal services).

(2) The procurement of technical items or equipment.

(3) The procurement of complex services.

(4) The purchase of nonstandard items.

(b) Public Notice. Public notice of the Request for Proposals shall be given in the same manner as provided in section 3.50.030 (Competitive Sealed Bidding).

(c) Evaluation of Proposals. The Request for Proposals shall state all of the evaluation factors. The evaluation shall be based on the evaluation factors set forth in the Request for Proposals. Factors not specified in the Request for Proposals shall not be considered.

(d) Award. The City Manager shall recommend to the City Council an award to the responsible offeror whose proposal is determined to be the most advantageous to the City, taking into consideration price and the evaluation factors set forth in the Request for Proposals. The City Council shall make final award. (Ord. 99-119 § 2, 1999; Ord. 95-15 § 2, 1995; Ord. 88-155 § 1, 1988.)

**3.50.050 Purchases Less Than \$25,000.** The City Manager shall adopt operational procedures for making purchases of less than \$25,000. Such operational procedures shall provide for obtaining adequate and reasonable competition and for making records to properly account for funds. (Ord. 99-119 § 2, 1999; Ord. 95-15 § 2, 1995; Ord. 88-155 § 1, 1988.)

**3.50.060 Sole Source Procurement.** A Contract under \$25,000 may be awarded for supplies, services, materials or equipment without competition when the City Manager determines that there is only one source available. A written record of the factors pertinent to such award will be maintained. For sole source contracts of \$25,000 and greater, approval of the City Council will be required. (Ord. 99-119 § 2, 1999; Ord. 95-15 § 2, 1995; Ord. 88-155 § 1, 1988.)

**3.50.070 Emergency Procurement.** Notwithstanding any other provision of this Ordinance, the City Manager may make emergency procurements when there exists a threat to public health, welfare or safety provided that such emergency procurements shall be made with such competition as is practical under the circumstances. Such emergency condition is further defined as an immediate and serious need for supplies, services, materials or equipment that cannot be timely met through normal procurement methods and the lack of which would threaten:

- (a) The functioning of City government.
- (b) The preservation or protection of property; and/or
- (c) The health or safety of any person. (Ord. 99-119 § 2, 1999; Ord. 95-15 § 2, 1995; Ord. 88-155 § 1, 1988.)

**3.50.080 Procurement of Professional Services.** Professional services are generally associated with the following disciplines:

- (a) Architect, engineer and land surveying services.
- (b) Appraisal services.
- (c) Financial, accounting and auditing services.
- (d) Legal services.
- (e) Consulting services.
- (f) Health care services.
- (g) Insurance services.
- (h) Data processing consulting and programming services.
- (i) Testing and inspection services.
- (j) Photographic, art or marketing services.
- (k) Employment of temporary employees as advisors, lobbyists, etc.

The provisions of section 3.50.040 (Competitive Sealed Proposals) shall apply to all procurements of professional services (except legal services) which are expected to be \$25,000 and greater. Procurement of professional services (including legal services) expected to be less than \$25,000 shall be made in accordance with section 3.50.050 (Purchases Less Than \$25,000).

Professional services uniquely applicable to a project may be determined to be a sole source service and may be negotiated with a single contractor in accordance with the procedures contained in section 3.50.060 (Sole Source Procurement).

Legal services expected to be \$25,000 and greater shall be governed by the following:

- (a) Not less than three (3) law firms shall be contacted to submit proposals for the services required by the city;
- (b) the proposals shall be submitted to the governing body, which shall award a contract based upon the proposal that is most advantageous to the city, taking into consideration not only price, but also technical competency.

(c) The City Attorney shall maintain a list of law firms along with qualifications and specialties which may be utilized in requesting proposals. (Ord. 99-119 § 2, 1999; Ord. 95-15 § 2, 1995; Ord. 88-155 § 1, 1988.)

**3.50.090 Renewal/Extension Option.** Unless otherwise provided by law, a contract for supplies, materials, equipment or services may be renewed or extended provided the term of the contract and conditions for renewal or extension, if any, are included in the solicitations. The option will only be exercised as it is deemed to be in the best interest of the City. Consideration will include price, quality, vendor performance, economic trends and other evaluation factors which would affect the City's best interest. The City Manager shall make recommendation for renewal/extension of any contract totaling \$25,000 and greater to the City Council for review. The City Council shall make final award as it is determined to be most advantageous to the City. (Ord. 99-119 § 2, 1999; Ord. 95-15 § 2, 1995; Ord. 88-155 § 1, 1988.)

**3.50.100 Change Orders.** Change orders are issued to cover costs or address changes in terms and conditions associated with unforeseen problems not addressed in the bidding or contract document, or changes/modifications that may be recommended after a contract award. Change orders on contracts may be approved by the City Manager for amounts less than \$25,000. Change orders of \$25,000 or greater must be approved by the City Council; provided, however, that in instances where it is in the best interest of the City for a change order to be implemented prior to the next regularly scheduled meeting of the City Council, the City Manager shall have the authority to authorize the change subject to ratification by the City Council. (Ord. 99-119 § 2, 1999; Ord. 95-15 § 2, 1995; Ord. 88-155 § 1, 1988.)

**3.50.110 Property Acquisition.** A contract for the purchase of interests in real property associated with an approved public improvement project may be approved by the City Manager if the cost for the acquisition is less than \$25,000. All other property acquisition shall require approval of the City Council. (Ord. 99-119 § 2, 1999; Ord. 95-15 § 2, 1995; Ord. 88-155 § 1, 1988.)

**3.50.120 Disposition of Property.** The City Manager may transfer, sell, exchange or destroy any surplus, obsolete, abandoned or confiscated property without competitive bidding if such property has a value of less than \$25,000. No property shall be sold without receiving competitive bids if the value is \$25,000 and greater. For the purposes of this ordinance, a public auction shall qualify as competitive bidding. (Ord. 99-119 § 2, 1999; Ord. 95-15 § 2, 1995; Ord. 88-155 § 1, 1988.)

**3.50.130 Recycled Paper Product Preference.** Notwithstanding any other provision of this Chapter, the Governing Body may, by Resolution, establish policies granting preferences in awarding contracts to vendors submitting bids for recycled paper products.” (Ord. 99-119 § 2, 1999; Ord. 95-15 § 2, 1995; Ord. 94-54 § 1, 1994.)