

**CHAPTER 4****PURCHASING**

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**SECTION 400. DEFINITIONS**

Unless otherwise provided herein, for the purpose of this chapter, the following terms, phrases, words and their derivations shall have the meanings given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural number. The word "shall" is always mandatory.

A. **City** refers to the City of Tulsa, Oklahoma, and means the City government in all its forms, including not only all City departments but also any agency, commission, board or other person or entity acting for or on behalf of the City of Tulsa, provided, however, that any improvement district created pursuant to 11 O.S.1991, §§ 39-101, *et seq.*, shall not be included in this definition thereby exempting such improvement districts from the provisions of this chapter.

B. **Council** is the legislative body of the City of Tulsa, Oklahoma.

C. **City Purchasing Agent or Agent** is the Purchasing Agent of the City of Tulsa, Oklahoma.

D. **Contractual Services** means and includes all telephone, gas, water, electric light and power service; towel and cleaning service; leases for all grounds, buildings, office or other space required by the using agencies except leases from the state, a state agency, or a political subdivision (as defined herein); leases for all personal property

required by the using agencies; and the rental, repair or maintenance of equipment, machinery and other city-owned personal property. The term shall not include professional and other contractual services which are in their nature unique and not subject to competition, nor shall it include public improvement contracts for the construction, maintenance or repair of streets, alleys, sidewalks, storm sewers, water and sanitary sewer lines and plant facilities where such public improvement contracts are awarded pursuant to provisions of the Charter of the City of Tulsa, nor shall it include services or maintenance authorized and provided for an improvement district pursuant to 11 O.S.1991, § 39-103.1.

**E. Cooperative Purchasing Plan** shall mean an agreement entered into between two or more entities of government for acquisitions pursuant to a single contract obtained through a competitive bidding process.

**F. Mayor** shall mean the chief executive officer of the City of Tulsa or his or her designee.

**G. Political Subdivision** shall mean a municipality, school district, county, or public trust with a city, town, school district or county as its sole beneficiary or beneficiaries, and all their institutions, instrumentalities or agencies.

**H. Supplies** means and includes all supplies, materials and equipment.

**I. Using Agency** is any department, board, commission, agency division, section, bureau or other unit in the City government using supplies or procuring contractual services as herein provided, except as otherwise exempted by this chapter.

**J. Purchasing Card** means and includes the commercial credit card issued to authorized City employees for the purchase of supplies and services.  
*Ord. Nos. 11704, 18204, 18272, 19432, 20179*

#### **SECTION 401. CITY PURCHASING AGENT**

The Purchasing Agent shall have the powers and duties prescribed herein.

**A. Bond.** The Agent shall give an official bond in the sum of One Hundred Thousand Dollars (\$100,000.00) to be fixed by resolution of the Council.

**B. Scope of Purchasing Authority.**

1. The Agent shall have the power and it shall be the Agent's duty to purchase or contract for all supplies and contractual services needed by any using agency which derives its support wholly or in part from the City.

2. The Agent shall purchase or contract for those supplies and contractual services set forth in paragraph 401.B.1. of this title in accordance with:

- a. Purchasing procedures as prescribed by this title;
- b. Such written rules and regulations as the Agent shall adopt for the internal management and operation of the Division of Purchasing, including rules and regulations concerning the receipt and disposal of stock determined to be surplus in accordance with Section 412 of this title; and,
- c. Such other written rules and regulations as shall be prescribed by the Charter and Revised Ordinances of the City of Tulsa.

3. All rules and regulations adopted by the Agent for the internal management and operation of the Division of Purchasing, including rules and regulations concerning the receipt and disposal of stock determined to be surplus in accordance with Section 412 of this title, shall be approved by the Council and filed in the office of the City Clerk.

4. **Exception Prohibited.** The authority of the Agent to negotiate all purchases for all using agencies shall not be abridged by excepting any particular using agency.

5. **Unlawful Purchases.** Except as herein provided, it shall be unlawful for any City officer or employee to order the purchase of any supplies or make any contract within the purview of this chapter, other than through the Purchasing Agent and any such purchase ordered or any contract made contrary to the provisions herein shall not be approved by City officers, and the City shall not be bound thereby.

C. **Additional Powers and Duties.** In addition to the purchasing authority conferred in Subsection B. above and in addition to any other powers and duties conferred by this chapter, the Agent shall perform the duties given herein.

1. **Minimum Expenditure.** The Agent shall act to procure for the City the highest quality in supplies and contractual services at least expense to the City.

2. **Encourage Competition.** The Agent shall discourage uniform bidding and endeavor to obtain as full and open competition as possible on all purchases and sales.

3. **Rules and Regulations.** In conjunction with the Director of Finance, the Agent shall establish and amend, when necessary, rules and regulations authorized by this chapter and any others necessary to the operation of the Purchasing Division.

4. **Purchasing Analysis.** The Agent shall keep informed of current developments in purchasing, prices, market conditions and new products, and shall secure for the City the benefits of research done in the field of purchasing by other governmental jurisdictions, national technical societies, trade associations having national recognition and by private businesses and organizations.

5. **Supplier Catalog File.** The Agent shall prepare, adopt and maintain a supplier catalog file, indexed according to materials and containing descriptions of vendors' commodities, prices and discounts.

6. **Bulk Purchases.** The Agent shall exploit the possibilities of buying in bulk so as to take full advantage of discounts.

7. **Federal and State Tax Exemptions.** The Agent shall act so as to procure for the City all federal and state tax exemptions to which it is entitled.

8. **Disqualification of Bidders.** The Agent shall have the authority to declare that vendors who default on their quotations are unsecured bidders and to disqualify them from receiving any business from the municipality for a stated period of time.

9. **Written Specifications.** The Agent shall adopt and enforce written specifications as required to procure all supplies, equipment and services.

10. **Standardization.** The Agent shall adopt a minimum number of standard qualities, sizes and varieties of supplies consistent with the successful operation of the City government.

11. **Effects of Adoption.** After its adoption, each standard specification shall, until revised or rescinded, apply alike in terms and effect to every future purchase and contract for the supply described in such specification.

12. **Laboratory Facilities.** The Agent shall have the authority to make use of the laboratory and engineering facilities of the City and the technical staffs thereof in connection with his work of preparing and adopting standards and written specifications.

13. **Pre-Bid Conference.** The Agent shall have the authority to conduct pre-bid conferences and make attendance mandatory for contractors wishing to submit a bid.  
*Ord. Nos. 17976, 18589*

#### **SECTION 402. REQUISITION AND ESTIMATES**

All using agencies, with the authorization of the head of the department under which the using agency operates, shall file with the Agent detailed requisitions or

estimates of their requirements for supplies and contractual services in such manner, at such times and for such future periods as the Agent shall prescribe.

A. **Unforeseen Requirements.** A using agency shall not be prevented from filing with the Agent, in the same manner, at any time, a requisition or estimate for any supplies and contractual services, the need for which was not foreseen when the detailed estimates were filed.

B. **Revisory Power in Agent.** The Agent shall examine such requisition or estimate and shall have the authority to revise it as to quantity, quality or estimated cost; but revision as to quality shall be in accordance with the standards and specifications established pursuant to this chapter.

#### **SECTION 403. ENCUMBRANCE OF FUNDS**

Except in cases of emergency, the Agent shall not issue any order for delivery on a contract or open market purchase until the Director of Finance shall have certified, after pre-audit, that there is to the credit of the using agency a sufficient unencumbered appropriation balance, in excess of all unpaid obligations, to defray the amount of such order.

*Ord. No. 8583*

#### **SECTION 404. PROHIBITION OF INTEREST**

A. Any purchase order or contract within the purview of this chapter in which the Agent or any officer or employee of the City is financially interested, directly or indirectly, shall be void; provided, however, that, subject to the provisions of the Charter of the City of Tulsa, the Mayor, in any given case may, after examination of all the facts and circumstances, enter into binding contracts with employees where the City will receive extraordinary benefits by virtue of such contract.

B. For purposes of this section "financially interested" shall mean ownership of more than twenty-five percent (25%) of the business or of the common stock therein or any percentage which constitutes a controlling interest, but shall not include any such interest held by a blind trust.

*Ord. No. 16798*

#### **SECTION 405. COMPETITIVE BIDDING REQUIRED**

All purchases of and contracts for supplies and contractual services and all sales of personal property which has become obsolete and unusable shall, except as specifically provided herein, be based on competitive bids whenever possible. Dispositions of any structures, fixtures and other improvements on real property, other than dispositions by sale, are excluded from the provisions of this chapter and shall be

handled by the Director of the Urban Development Department as a matter of site clearance under policies and procedures to be adopted by the Mayor. Sales of structures, fixtures, and other improvements on real property shall be handled by the Director of the Urban Development Department in accordance with the provisions of this chapter on sales of personal property.

*Ord. No. 17904*

#### **SECTION 406. FORMAL CONTRACT AND OPEN MARKET PROCEDURE**

Contractual services shall be purchased by formal written contract. Contractual services, when the estimated cost thereof is less than Twenty-five Thousand Dollars (\$25,000.00), may be purchased using the open market procedure as provided for herein. Contractual services, when the estimated cost thereof is Twenty-five Thousand Dollars (\$25,000.00) or more, shall be purchased from the lowest secure bidder, after due notice inviting bids.

All expenditures for supplies, materials, or equipment, when the estimated cost thereof is One Hundred Thousand Dollars (\$100,000.00) or more, shall be purchased by formal written contract from the lowest secure bidder, after due notice inviting bids. All expenditures for supplies, materials, and equipment, when the estimated cost thereof is between Twenty-five Thousand Dollars (\$25,000.00) and One Hundred Thousand Dollars (\$100,000.00), shall be purchased by formal written contract or by purchase order from the lowest secure bidder, after due notice inviting bids. Notwithstanding the foregoing limitations, competitive bidding shall not be required and the Purchasing Agent shall have the authority, instead, to make purchases from a Cooperative Purchasing Plan or under contracts let by the state of Oklahoma, when the best interests of the City would be served. All sales of public property which is no longer needed for public purpose, when the estimated value shall exceed One Thousand Dollars (\$1,000.00), shall be sold by sealed bid or by public auction to the highest secure bidder, after due notice inviting bids.

##### **A. Notice Inviting Bids.**

1. **Newspaper.** The Agent shall cause to be published notice inviting bids in at least one (1) daily newspaper in the City of Tulsa at least five (5) days preceding the last day set for the receipt of bids or conducting an auction. The newspaper notice required herein shall include a general description of the services required or the articles to be purchased or sold and shall state where bid forms and specifications may be obtained and the time and place for opening bids or the public auction.

2. **Bidders' List.** The Agent shall also solicit sealed bids from all responsible prospective suppliers who have requested their names to be added to a "Bidders' List" maintained by the Agent by sending a copy of such newspaper notice or such other

notice as will acquaint them with the proposed purchase or sale. In any case, invitations sent to the vendors on the Bidders' List shall be limited to commodities that are similar in character and ordinarily handled by the trade group to which the invitations are sent.

**B. Bid Deposits.** When deemed necessary by the Agent, bid deposits shall be prescribed in the public notices inviting bids. Unsuccessful bidders shall be entitled to return of surety where it has been required. A successful bidder shall forfeit any surety required upon failure on his part to enter a contract within ten (10) days after the award.

**C. Bid Opening Procedures.**

1. **Sealed.** Except in the case of public auctions, bids shall be submitted sealed to the office of the City Clerk and shall be identified on the envelopes as bids.

2. **Opening.** Bids for supplies, materials, equipment or contractual services shall be opened in public at the time and place stated in the public notices.

3. **Tabulation.** A tabulation of all bids received shall be made by the Agent and the tabulation shall be available for public inspection in the office of the City Clerk at all reasonable times.

**D. Rejection of Bids.**

1. **Public Interest.** The Mayor shall have the authority to reject all bids, parts of any or all 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.

2. **Bidders in Default to City.** The City shall not accept the bids of a contractor who is in default on the payment of taxes, licenses or other monies due the City.

3. **Bidders Not Attending Pre-Bid Conference.** The City shall not accept the bids of a contractor who did not attend a mandatory pre-bid conference.

**E. Award of Contract.**

1. **Authority in the Mayor.** The Mayor shall have the authority to award contracts within the purview of this chapter.

2. **Lowest Secure Bidder.** Contracts shall be awarded to the lowest secure bidder meeting specifications. Bid Specifications may include a point system for evaluating the lowest secure bid. In determining "lowest secure bidder," in addition to price, the following factors 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,
- i. Where an earlier delivery date would be of great benefit to the requisitioning agency, the date and terms of delivery may be considered in the bid award,
- j. The number and scope of conditions attached to the bid, and
- k. If a point system has been utilized in the bid specifications, the number of points earned by the bidder.

3. **Award to Other than Lowest Secure Bidder.** When the award is not given to the lowest secure bidder meeting specifications, such award must be approved by the Council and a full and complete statement of reasons for placing the order with one other than the lowest secure bidder shall be entered in the minutes of the Council.

4. **Tie Bids.**

- a. **Local Bidders.** If two or more bids received are for the same total amount of unit price, quality and service being equal, the contract shall be awarded to the local bidder.

b. **Bidders of Equal Status.** Where paragraph E.4.a. of this section is not determinative, the Agent shall award the contract to one of the tie bidders by drawing lots in public.

5. **Performance Bonds.** Before entering a contract, the Agent shall have the authority to require a performance bond in such amount as he shall find reasonably necessary to protect the best interests of the City.

F. **Prohibition Against Subdivision.** No contract or purchase shall be subdivided to avoid the requirements of this section.

G. **Open Market Procedure.** All purchases of supplies, materials, equipment or contractual services having an estimated cost less than Twenty-five Thousand Dollars (\$25,000.00), and all sales of personal property which has become obsolete and unusable, of less than the estimated value of One Thousand Dollars (\$1,000.00), may be made on the open market, without newspaper advertisement and without observing the procedure prescribed in this section for the award of formal contracts.

1. **Minimum Number of Bids.** All open market purchases in excess of Two Thousand Five Hundred Dollars (\$2,500.00) shall, whenever possible, be based on competitive market quotation bids as set forth below, and shall be awarded to the lowest secure bidder in accordance with the standards set forth in paragraph E.2 of this section.

\$2,500.00 to \$24,999.99	Buyer shall make at least four (4) solicitations (written/telephone) for competitive market quotation bids with at least one such solicitation to be made to a certified M/FBE company (if available) as set forth in the City of Tulsa Human Rights Department M/FBE Directory.
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2. **Recording.** The Agent shall keep a record of all open market orders and the bids submitted in competition thereon, and such records shall be open to public inspection at all reasonable times.

H. **Waiver of Competitive Bidding.** The Mayor may waive the requirement for competitive bidding for the purchase of supplies, materials, equipment or contractual services when some material feature or characteristic of the item or service sought to be purchased is unique and the Purchasing Agent has certified that to the best of his knowledge, after diligent inquiry, the item or service is available from only one source. The Purchasing Agent may require the department head or official requesting the bid waiver to submit an affidavit identifying the unique and material features or characteristics of the item or service. A full and complete statement of the reasons for approving each waiver of competitive bidding shall be filed with the City Clerk.

Nothing in this subsection shall be construed to prohibit emergency purchases made in accordance with Section 410 of this chapter.

*Ord. Nos. 16218, 16553, 17904, 17976, 18204, 19432, 20179, 20585*

#### **SECTION 407. PETTY EXPENDITURES REVOLVING FUND**

There is hereby created a special fund which shall be known as the "Petty Expenditures Revolving Fund." The fund shall be maintained, supervised, and controlled by the Director of Finance of the City of Tulsa, Oklahoma. Any purchase or expenditure by City officers or employees in any City department for supplies and services related to City business, which does not exceed the sum of One Hundred Dollars (\$100.00) in cash may be paid or reimbursed from this fund upon a signed request from the department head authorizing such purchases or expenditures. Any City officer or employee in any City department who is an authorized user of a Purchasing Card may utilize the Purchasing Card to access the Petty Expenditure Revolving Fund for supplies and services related to City business which do not exceed the sum of Nine Hundred Ninety-Nine and 99/100 Dollars (\$999.99).

**A. Amount of Fund.** The amount to be placed in this fund and the allocation of the fund among the various City departments shall be determined by the Mayor.

**B. Rules and Regulations.** The Director of Finance shall promulgate written rules and regulations for the use of the Petty Expenditures Revolving Fund, which shall be approved by the Council and filed with the City Clerk.

*Ord. Nos. 16916, 19432, 20179*

#### **SECTION 408. CENTRAL WAREHOUSING**

The Agent may, in his discretion, establish central storerooms and warehouses for the safe storage of all supplies common to more than one using agency. The Agent shall be responsible for the supervision and control of such storerooms and warehouses and the supplies contained therein, and shall keep at all times a current inventory of such supplies along with complete records as to the acquisition and disposition of such supplies.

With respect to supplies of a type peculiar to a single department or using agency, the Agent may permit them to be stored in storerooms or warehouses under the supervision of the head of the department or agency, provided that such individual shall be required to maintain a current inventory of all such supplies and shall furnish the Agent with periodic reports showing the current inventory acquisition and disposition of all such supplies. The Agent shall be empowered to inspect such storerooms or warehouses at any time for the purpose of verifying the correctness of the inventory furnished, and for all other purposes connected with the performance of his duties under the terms of this chapter.

*Ord. No. 19432*

**SECTION 409. PRICE AGREEMENT CONTRACT PROCEDURES**

The head of the using agency shall have the authority to submit requisitions to the Agent for supplies available under the terms of a "price agreement" contract made by the Agent.

**SECTION 410. EMERGENCY PURCHASES**

A. **By Agent.** In case of an apparent emergency which requires immediate purchase of supplies or contractual services, the Mayor shall be empowered to grant written authorization to the Agent to secure by open market procedure as herein set forth, at the lowest obtainable price, any supplies or contractual services, regardless of the amount of the expenditure, subject to all the terms and provisions of the Charter of the City of Tulsa. A full report of the circumstances of the emergency purchase shall be filed by the Agent with the City Clerk and shall be open to public inspection.

B. **By Department Head.** In case of actual emergency occurring during normal office hours the head of any using agency may, with the consent of the Agent and the approval of the Mayor, purchase directly any supplies or contractual services whose immediate procurement is essential to prevent delays in the work of the using agency which may vitally affect the life, health or convenience of the citizens.

**SECTION 411. INSPECTION AND TESTING**

The Agent shall inspect or supervise the inspection of all deliveries of supplies or contractual services to determine their conformance with the specifications set forth in the order or contract.

A. **Inspection by Using Agency.** The Agent shall have the authority to authorize using agencies having the staff and facilities for adequate inspection to inspect all deliveries made to such using agencies under rules and regulations which the Agent shall prescribe.

B. **Tests.** The Agent shall have the authority to require chemical and physical tests of samples submitted with bids and samples of deliveries which are necessary to determine their quality and conformance with the specifications. In the performance of such tests, the Agent shall have the authority to make use of laboratory facilities of any agency of the City or of any outside laboratory.

**SECTION 412. SURPLUS STOCK**

All using agencies shall submit to the Agent, at such times and in such form as he shall prescribe, reports showing stocks of all supplies which are no longer used or which have become obsolete, worn out or scrapped.

A. **Transfers.** The Agent shall have the authority to transfer surplus stock to other using agencies.

B. **Sales.** The Agent shall have the authority to:

1. Sell by competitive bidding, or by an alternative procedure established by the Mayor, all City supplies which are no longer needed, have become unusable or obsolete; or

2. To exchange or trade such supplies, which cost or have an estimated market value of less than One Thousand Dollars (\$1,000.00), for new or reconditioned supplies which have an equivalent market value, or exchange such supplies for services which have an equivalent market value that will have a direct benefit to the public or the City.

3. All net proceeds from the sale of surplus capital equipment purchased with temporary sales tax funds shall be deposited into the General Fund of the City of Tulsa.  
*Ord No. 18589, 21343*

**SECTION 413. COOPERATIVE PURCHASING**

The Agent shall have the authority to join with other units of government in cooperative purchasing plans when the best interests of the City would be served.

**SECTION 414. PENALTY**

All City officers and employees shall comply with the provisions of this chapter. Noncompliance shall be sufficient grounds for dismissal from the service of the City, whether the offender be in the classified or unclassified service.

*Ord. No. 14954*