

TITLE 21. PURCHASING

Chapter 1. Purchasing System, 21-1-1 to 21-1-14.

Chapter 1. Purchasing System

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21-1-1. Purchasing System Adopted. Pursuant to Chapter 72-6 of the Utah Code Annotated, 1953, as amended, and other pertinent provisions of the laws of the State of Utah, there is hereby adopted and established a purchasing system for the city.

History: 4/84, 12/94, 05/00

21-1-2. Administration. The city manager is designated as the city's purchasing agent, who shall administer the purchasing system and perform the duties and have powers concerning purchasing matters as follows:

- (1) Administer and maintain the purchasing system according to the rules and regulations established or authorized by this and applicable law.
- (2) Establish a reasonable procedure manual to govern this act.
- (3) Prescribe and maintain such forms as are reasonably necessary for the operation of this act and other rules and regulations.
- (4) Recommend to the mayor and council additional changes from time to time that may be considered desirable, and to interpret, with legal advice, the provisions of this act and applicable statutes.
- (5) Negotiate and recommend execution of contracts for the purchase of supplies, materials, equipment,

and contractual services after consultation with department heads and other responsible city agents.

- (6) Seek to obtain as full and open competition as possible either by bidding or negotiation.

History: 4/84, 9/84, 12/94, 05/00

21-1-3. General Provisions. (1) No purchases shall be made and no encumbrances shall be incurred unless funds sufficient to cover the purchase or encumbrance have been budgeted and are available and the purchase is approved by the appropriate city officials, as herein provided. Any obligation contracted by any unauthorized official shall not be valid or enforceable against the city.

(2) No officer or employee of the city shall purchase for and on behalf of the city any material or supplies, goods, wares, merchandise, or services of any kind or character, except as provided for by this title and other administrative procedures. No voucher, check, or other methods of payment shall be honored if this method is not followed; however, this subsection shall not apply to emergency purchases as specifically provided for in Section 21-1-11.

(3) The city recorder shall countersign all contracts made on behalf of the city and shall maintain a properly indexed record of all such contracts.

History: 4/84, 9/84, 12/94

21-1-4. Acquisition of Supplies, Materials, and Equipment. (1) Purchases or contracts for purchases of supplies, materials, or equipment where the amount to be paid by the city is less than \$5,000.00 must be approved by the city manager or his designee.

(2) Purchases or contracts for purchase of supplies, materials or equipment costing the city \$5,000.00 or more must be approved by the city council.

(3) Open market procedures as set forth in Section 21-1-7 may be used for purchases or contracts for purchase of supplies, materials, or equipment costing the city less than \$25,000.00. Notwithstanding the foregoing, the city manager may require any purchase for supplies, materials or equipment to be bid formally if, in his determination, such actions would be in the best interests of the city.

(4) Formal bidding, as set forth in Section 21-1-8 will be used for purchases or contracts for the purchase of supplies, materials, or equipment where

the cost to the city is \$25,000.00 or more except as identified in (5).

(5) For Class C roadway construction and maintenance as defined in Utah Code § 72-6-109, formal bids are required for construction projects over \$100,000.00 and for maintenance projects over \$100,000.00.

(6) The restriction contained in subsection (3) and (4) shall not apply whenever the requesting department determines in writing, to the satisfaction of the city council, that there is only one source for the requisitioned item or that the use of open market procedures or formal bidding is either not practicable or advantageous to the city under the circumstances.

History: 4/84, 9/84, 12/94, 05/00

21-1-5. Acquisition of Services. (1) Contracts for services costing the city less than \$5,000.00 annually must be approved and authorized by the city manager or his designee.

(2) Contracts for services costing the city \$5,000.00 or more annually must be approved by the city council.

(3) Open market procedures, as set forth in Sections 21-1-7 & 8, will be used for all contracts for services with the exception of contracts for architectural, engineering, legal, computer programming, or other professional or technical services. These types of service contracts shall be negotiated for on the basis of demonstrated competence and qualification and at fair and reasonable prices.

(4) The city manager may require any acquisitions of services to be bid formally if, in his determination, such actions would be in the best interests of the city.

History: 4/84, 9/84, 12/94, 05/00

21-1-6. Awarding Construction Contracts. (1) Construction contracts costing the city less than \$5,000.00 must be approved by the city manager or his designee.

(2) Construction contracts costing the city \$5,000.00 or more must be approved by the city council.

(3) Open market procedures, as set forth in Section 21-1-7, may be used for awarding construction contracts costing the city less than \$25,000.00 or less for public works and general fund improvements (Section 10-7-20(2), Utah Code Annotated, 1993).

(4) Formal bidding, as set forth in Section 21-1-8, will be used for awarding construction contracts costing the city \$25,000.00 or more for public works improvements and \$25,000.00 or more for general fund improvements.

(5) For Class C roadway construction and maintenance as defined in Utah Code 72-6-109, formal bids are required for construction projects over \$100,000.00 and for maintenance projects over \$100,000.00.

(6) The city manager may require any construction contract for construction to be bid formally if, in his determination, such actions would be in the best interests of the city.

History: 4/84, 9/84, 12/94, 05/00

21-1-7. Open Market Procedure. (1) Open market purchases shall, whenever possible, be based upon at least three (3) bids or price quotations submitted either in person, by telephone, or in writing as required by the city manager.

(2) Notwithstanding the foregoing, purchases costing less than \$1,000.00 shall not require solicitation of bids, as above set forth, but shall nevertheless require the purchase of goods at lowest possible cost to the city.

History: 4/84, 9/84, 12/94

21-1-8. Formal Bidding. (1) Notice inviting bids. Notices inviting bids shall include a general description of the articles and/or services to be purchased, shall state where bid blanks and specifications may be secured, and the time and place for opening bids.

(a) Published notice. Notices inviting bids shall be published at least twice in a newspaper of general circulation, printed and published at least five (5) days prior to the opening of bids.

(b) Bidders' list. Sealed bids shall be solicited from all responsible prospective suppliers or contractors whose names are on the bidders' list or who have made written request that their names be added thereto, if a bidders' list is required by the City Manager.

(c) Bulletin board. Notices advertising pending purchases or contracts shall be posted on a public bulletin board in the city hall.

(2) **Rejection of bids.** At its discretion, the city council may reject any or all bids presented, and all notices calling for bids shall so state. If all bids are rejected and the city council decides to continue with the purchase contract, it shall advertise anew in the same manner as before. If after twice advertising as herein provided and no bid is received that is satisfactory, the city may proceed under open market procedures with the desired purchase or contract.

(3) **Bid bonds.** The city manager may require as a condition of bidding a bid bond or a cashier's check in lieu thereof in the amount of five percent (5%) of the amount bid. Such bid bond shall be required on public works construction projects.

(4) **Award of bids.** Within 30 days of the bid opening, the city council shall award the bid to the lowest responsible bidder. If the low bid is rejected, a full and complete statement of the reasons shall be prepared by the city manager and filed with the other papers relating to the transaction.

(5) **Performance bonds.** Before entering into a contract the purchasing agent may require a performance bond in such amounts as he shall find reasonably necessary to protect the best interests of the city and to assure complete, proper, and full performance of the contract. A performance bond shall be required on public works construction projects.

History: 4/84, 9/84, 12/94, 05/00

21-1-9. Exemptions to Competitive Bidding Requirements. (1) Whenever the requesting department head and the city manager concur that a particular product surpasses competing products in terms of quality, serviceability, and longevity, such a product may be purchased notwithstanding that a competing product could be procured at less cost.

(2) Nothing contained in this title shall be construed to preclude the purchasing supervisor from joining with other units of government in cooperative purchasing plans, with proper authorization.

(3) Whenever any purchase or encumbrance is made with state or federal funds and the applicable state or federal law or regulations are in conflict with this title to the extent that the provisions of this title might jeopardize the use of those funds or future state or federal funds, such conflicting provisions of this title shall not apply and the city shall follow the procedure required by the state or federal law or regulation.

History: 4/84, 9/84, 12/94

21-1-10. Purchases of Real Property. Negotiations for purchases of real property shall be directed by the city manager or his representative. No purchases may be made unless it appears as an expenditure item in the city budget and in no case will it be purchased for an amount more than that projected in the budget, unless the budget is reopened to revise the projected expenditure item and the city council so approves. The final purchase price must be approved by the city council.

History: 4/84, 9/84, 12/94

21-1-11. Emergency Purchases. In cases where there is an immediate need for any material, supplies, or services, the provision of this title may be relaxed within the guidelines contained in the purchasing procedural manual. Any emergency purchase shall only be made after a valid attempt is made to reach such persons that normally must approve the needed purchase.

History: 4/84, 9/84, 12/94

21-1-12. Prohibited Practices. (1) **Gratuities.** Gratuities are prohibited as stated in Section 63-56-72 and 73 of the Utah Code Annotated, 1980, as amended.

(2) **Personal purchases.** Purchases of supplies or equipment for the personal use of an official or employee of the city shall be made only when the item or items are required parts of a worker's equipment and are necessary to the successful performance of the duties of such city official or employee. Other personal purchases shall not be permitted and shall be cause for disciplinary action.

History: 4/84, 9/84, 12/94

21-1-13. City Force Construction. Notwithstanding anything in this title to the contrary, the city shall retain the discretion to construct public works and other new improvements using its own personnel and equipment without requiring bids as allowed by Utah law.

History: 4/84, 9/84, 12/94

21-1-14. Change Orders of Contracts. The city manager is authorized to approve change orders to prevent work stoppage in an amount not to exceed 10% of any contract, when such added expense is in the best interest of the city, where the aggregate change order amount does not exceed \$15,000.

Change orders exceeding this amount or which cause the aggregate to exceed this amount must be approved by the city council. All change orders shall be reported to the city council at the subsequent council meeting.

History: 05/00