

Thompson's SATON

CHAPTER 4

PURCHASING POLICY

SECTION

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5-401. **Definitions.** For the purpose of implementing this chapter, the following definitions shall apply:

- (1) "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.
- (2) "Bidder." Any individual, company, firm, corporation, partnership or other organization or entity bidding on solicitations issued by the town and offering to enter into contracts with the town.
- (3) "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.
- (4) "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.
- (5) "Bid solicitation." Invitations for bids.
- (6) "Capital items." Equipment which has a life expectancy of one (1) year longer and a value in excess of ten thousand dollars (\$10,000.00).
- (7) "Competitive bidding." Bidding on the same undertaking or material items by more than one (1) vendor.

(8) "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.

(9) "Fiscal year." An accounting period of twelve (12) months, July 1 through June 30.

(10) "Invitation for bid." All documents utilized for soliciting bids.

(11) "Invoice." A written account of merchandise and process, delivered to the purchaser; a bill.

(12) "Local bidder." A bidder who has and maintains a business office located within the corporate limits of Thompson's Station, Tennessee.

(13) "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.

(14) "Public purchasing unit." Means the State of Tennessee, any county, town, town, governmental entity and other subdivision of the State of Tennessee, or any public agency, or any other public authority.

(15) "Purchase order." A legal document used to authorize a purchase from a vendor. A purchase order, when given to a vendor, should be pre-numbered and 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.

(16) "Reject." Refuse to accept, recognize, or make use of; repudiate, to refuse to consider or grant.

(17) "Responsive bidder." One who has submitted a bid which conforms in all materials respects to the invitation for bids.

(18) "Safe source procurement." An award for a commodity which can only be purchased from one supplier, usually because of its technological, specialized, or unique character.

(19) "Town." The Town of Thompson's Station, Tennessee.

(20) "Vendor." The person who transfers property, goods, or services by sale. (Ord. #08-023, January 2009)

5-402. Purchasing agent. The town administrator shall be the purchasing agent for the municipality. Except as otherwise provided in this policy, all supplies, materials, equipment, and services of any nature shall be approved and acquired by the purchasing agent or his/her representative. Purchases by other employees or officers of the town are prohibited unless approved by the purchasing agent. (Ord. #08-023, January 2009)

5-403. General procedures. The following procedures shall be followed by all town employees when purchasing goods or services on behalf of the town. For all purchases over one thousand dollars (\$1,000.00), a written purchase

order for the item(s) to be purchased shall be created and delivered to the purchasing agent. 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.

(1) For purchases under five hundred dollars (\$500.00), the purchasing agent shall use his/her best offers to obtain the best value for the town, but shall not be required to obtain competitive prices for these purchases. For purchases between five hundred dollars (\$500.00) and one thousand dollars (\$1,000.00), the purchasing agent shall contact at least two (2) vendors, but shall not be required to obtain and record formal quotes for competitive pricing before authorizing such purchase.

(2) For purchases between one thousand dollars (\$1,000.00) and two thousand five hundred dollars (\$2,500.00), the purchasing agent shall obtain at least two (2) verbal or written quotes, documented and filed including the name of the vendor, date and amount of quote. Bids for these purchases may be solicited by phone, direct mail, fax, email or any other method reasonably calculated to obtain competitive bids.

(3) For purchases between two thousand five hundred (\$2,500.00) and ten thousand dollars (\$10,000.00), the purchasing agent shall obtain at least two (2) written quotes and shall receive the approval of the mayor before making such purchase. Bids for these purchases may be solicited by phone, direct mail, fax, email or any other method reasonably calculated to obtain competitive bids.

(4) For purchases in excess of ten thousand dollars (\$10,000.00), competitive sealed bids shall be obtained as set forth in § 5-405 below.

Nothing within this section shall prohibit the purchasing agent from obtaining quotes or conducting competitive bidding for purchases of the less than the amounts set forth above. (Ord. #08-023, January 2009)

5-404. Rejection of bids. The purchasing agent shall have the authority to reject any and all bids, parts of bids, or all bids for anyone or more supplies or contractual services included in the proposed contract, when the public interest will be served thereby. The purchasing agent may choose not to 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 town by said vendor or contractor. (Ord. #08-023, January 2009)

5-405. Sealed bid requirements for purchases of \$10,000.00 or greater. (1) On all purchases and contracts estimated to be in excess of ten thousand dollars (\$10,000.00), except as otherwise provided in this chapter, formal sealed bids shall be submitted at a specified time and place to the purchasing agent. The purchasing agent shall submit all such bids for award by the board of mayor and aldermen at the next regularly scheduled board 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 Williamson County, and at least five (5) days preceding the last day to receive bids. The newspaper notice shall contain a general description of the article(s) to be secured, and the date, time, and place for opening bids.

(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. (Ord. #08-023, January 2009)

5-406. 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. (Ord. #08-023, January 2009)

5-407. 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, and such records shall be open to public inspection and maintained in the town recorder's office. As a minimum, the bid file shall contain the following information:

- (1) Request to start bid procedures.
- (2) A copy of the bid advertisement.
- (3) A copy of the bid specifications.
- (4) A list of bidders and their responses.
- (5) A copy of the purchase order.
- (6) A copy of the invoice. (Ord. #08-023, January 2009)

5-408. Considerations in 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 ordinances 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 performed for private sector contractors.

(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. (Ord. #08-023, January 2009)

5-409. Statement when award not given to low bidder. When the award for purchases and contracts in excess of one thousand dollars (\$1,000.00) 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 and filed with all the other papers relating to the transaction. (Ord. #08-023, January 2009)

5-410. Award in case of tie bids. When two (2) 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, quality of service being equal, the purchase contract shall be awarded to the local bidder.

(2) If two (2) or more local bidders have submitted the low bid, quality of service being equal, the purchase contract shall be awarded by a coin toss or drawing lots.

(3) If no local bids are received and two (2) or more out-of-town bidders have submitted the low bid, quality of service being equal, the purchase contract shall be awarded by a coin toss or drawing lots.

(4) When the award is to be decided by coin toss or drawing lots, representatives of the bidders shall be invited to observe. In no event shall such coin toss or drawing lots be performed with less than three (3) witnesses. (Ord. #08-023, January 2009)

5-411. Emergency purchases. When in the judgment of the purchasing agent an emergency exists, the provisions of this ordinance may be waived; provided, however, the purchasing agent shall report the purchases and/or contracts to the board of mayor and aldermen at the next regular board meeting stating the item(s) purchased, the amount(s) paid, from whom the purchase(s) was made, and the nature of the emergency. (Ord. #08-023, January 2009)

5-412. Waiver of the competitive bidding process. Upon the recommendation of the mayor, and the subsequent approval of the board of mayor and aldermen, that it is clearly to the advantage of the town 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 of mayor and aldermen:

(1) Single source of supply. The availability of only one vendor of a product or service within a reasonable distance of the town 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. (Ord. #08-023, January 2009)

5-413. 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 town:

(1) Certain insurance. The town 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 town 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 by the town, whose fee is less than two thousand five hundred dollars (\$2,500.00), may be hired without competitive bidding. In those instances where such professional service fees are expected to exceed two thousand five hundred dollars (\$2,500.00), a written contract shall be developed and approved by the board of mayor and aldermen prior to the provision of any goods or services. 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. (Ord. #08-023, January 2009)

5-414. Leases or lease-purchases beyond fiscal year. All leases or lease-purchase contracts which would extend beyond the current fiscal year shall be approved by the board of mayor and aldermen. (Ord. #08-023, January 2009)

5-415. Additional forms and procedures. The purchasing agent is hereby authorized and directed to develop such forms and procedures as are necessary to comply with this chapter. (Ord. #08-023, January 2009)

5-416. Effective date. This chapter shall be in full force and effect from and after its date of passage by the board of mayor and aldermen. (Ord. #08-023, January 2009)

5-417. Severability. Should any section, paragraph, sentence, clause, or phrase of this chapter or its application to any person or circumstance be declared unconstitutional or invalid for any reason, or should any portion of this chapter be preempted by state or federal law or regulation, such decision or legislation shall not affect the validity of the remaining portions of this chapter or its application to other persons or circumstances. (Ord. #08-023, January 2009)

5-418. Repealer. All ordinances or parts of ordinances which are inconsistent with the provisions of this chapter are hereby repealed to the extent of such inconsistency. (Ord. #08-023, January 2009)