

To: Department Directors

Re: Updated Purchasing Manual

From: Lanny Lambert, City Manager

Date: August 7, 2014

Attached is the City's updated purchasing policy for use by all City departments and purchasing officers. The policy has been updated to reflect state laws regarding Historically Underutilized Businesses, recent City Council changes regarding expenditures requii-ing Council approval, and the City's local bidders policy.

As required by state law, any purchase between \$3,000 and \$50,000 will require staff to reach out to at least two Historically Underutilized Businesses in Hays County (see page 5). Information is provided in the manual vith requirements and how to find HUBs in Hays County. Attached at the end of the manual is the most current list of Hays County HUBs as of August 3, 2014, as well as a form that will be required to fill out for each qualifying purchase. This fo1m will provide documentation of the City's compliance of state HUB laws.

[At the July 15, 2014 City Council meeting the Council granted the City Manager authority over expenditures not to exceed \$15,000 per expenditure. The Council also authorized the City Manager to execute contracts for said expenditures, and execute contracts not requiring the expenditure of public funds. As a condition, the City Manager will report said expenditures to the Council during the City Manager Report portion of City Council meetings.] Amended by the City Council on September 5, 2023 requiring only purchases totaling \$50,000 and above to be reviewed and approved by City Council and increased the City Manager's purchasing authority from \$15,000 to \$50,000.

The City of Kyle wishes to have local companies compete for contracts for goods, services and construction projects because the local bidder offers the best combination of price and additional economic development opportunities for the city, including the employment of local residents. Information has been included in this updated purchasing manual regarding City of Kyle Resolution no. 795, authorizing city staff, when evaluating competitive bids, to give preference to local companies.

CITY OF KYLE PURCHASING MANUAL

Revised: August 7, 2014 Amended: October 17, 2016 Amended: September 5, 2023

This Purchasing Manual is intended for use as a guide to the City purchasing needs. When used, the policies and procedures established herein should enable the City to obtain needed goods and services efficiently and economically and keep account of funds spent by encumbering money at the time of purchase. City employees involved in the purchasing process should be familiar with, and adhere to, the guidelines set forth in this manual.

The cooperation of all employees is essential if the City is to obtain the maximum value for each tax dollar spent. While this manual does not answer all questions related to purchasing, it does provide the foundation for an effective purchasing system.

The material in the manual is subject to revision to meet the often rapidly changing developments encountered in the field of purchasing and in the economy. Within these limits it is hoped that this manual will prove beneficial to the City of Kyle and all City of Kyle employees.

The reason for this manual is to provide a guide for purchasing. Included in the manual are instructions on how to plan for purchases, how to process a purchase request and a purchase order, the assistance necessary to write bid specifications and the bidding of supply agreements.

The manual is written to assist in complying with statutes and ordinances governing the City and to comply with an established system of internal control. All purchases for the City should be made in accordance with the procedures outlined in this manual.

With this manual, purchasing procedures should seem less formidable and more understandable. When these procedures are followed, the results are increased efficiency throughout the City and a saving of City funds. Please become familiar with these policies and procedures.

GLOSSARY

BID ADVERTISEMENT-A public notice put in a newspaper of general circulation containing information about an Invitation to Bid (IFB) or a Request for Proposal (RFP).

BIDDER LIST-A list of vendors who have expressed an interest in submitting bids for particular categories of goods and services.

CONTRACT OR AGREEMENT - A formal written agreement, executed by the City and a vendor, containing the essential terms and conditions under which goods or services are to be furnished to the City. A contract or agreement, when properly signed by the authorized City representative, is a commitment of the City's funds.

GOODS - Includes any personal property to be purchased by the City, including equipment, supplies, materials, and component or repair parts.

HIGH TECHNOLOGY PROCUREMENT - Means the procurement of equipment, goods, or services of a highly technical nature, including: data processing equipment and software and firmware used in conjunction with data processing equipment; telecommunications equipment and radio and microwave systems; electronic distributed control systems, including building energy management systems; and technical services related to those items.

HISTORICALLY UNDERUTILIZED BUSINESS - Is a for-profit entity that has not exceeded the size standards prescribed by 34 TAC §20.23, and has its principal place of business in Texas, and is at least 51% owned by an Asian Pacific American, Black American, Hispanic American, Native American, American woman and/or Service Disabled Veteran, who reside in Texas and actively participate in the control, operations and management of the entity's affairs.

INVITATION FOR BID (IFB) - Specifications and formal bidding documents requesting pricing for a specific good or service which has been advertised for bid in a newspaper.

LEASE - A contract for the use of real estate, personal property, or equipment for a term in return for a specified rent or other compensation.

LOWEST RESPONSIBLE BID-The lowest bid or offer meeting all requirements of the specifications, terms, and conditions of the invitation for bid. It expressly is understood that the lowest responsible bid includes any related costs to the City in a total cost concept. The term 'responsible' refers to the financial and practical ability of the bidder to perform the contract.

PURCHASE ORDER - An order by the City for the purchase of goods and services written on the City's standard Purchase order form and which, when accepted by the vendor without qualification with the specified time limit, becomes a contract. It is the vendor's authority to deliver and invoice for goods or services specified, and the City's commitment to accept the goods or services for an agreed upon price.

PURCHASE REQUEST - A request by a department that authorizes the Purchasing Manager to enter in to a contract with a vendor to purchase goods or services for the City and to charge the appropriate department budget or project.

PURCHASING-The act, function, and responsibility for the acquisition of goods and services.

REQUEST FOR PROPOSALS (RFP) - Requesting an offer be made by a vendor, this allows for negotiations after a proposal has been received but before award of the contract.

SERVICES - Includes all work or labor performed for the City on an independent contractor basis, including maintenance, construction, manual, clerical, or professional services.

SPECIFICATIONS - A statement containing a detailed description or enumeration of particulars, as to the terms of a contract, details of requirements for goods or services.

VENDOR - One who sells something.

DETERMINING PURCHASE CATEGORY

The Purchases of goods and services described in this manual fall within one of the following categories. You should use the purchase category to initially decide whether competitive bidding requirements apply to the purchase. If these requirements do not apply, then the purchase category will tell you whether price information must be obtained from vendors before determining which vendor to use.

When determining which category a purchase will fall into, you should bear in mind requirements under City Statutes and State Laws. The Texas Local Government Code requires competitive bidding on proposals for all City purchases exceeding \$50,000 in amount, and prohibits a City employee from making 'separate, sequential, or component purchases to avoid the competitive bidding requirements.' A violation is a Class B misdemeanor.

The Texas Local Government Code does not require competitive bidding for purchases exceeding \$50,000 if the purchase is made through a State of Texas approved contract or cooperative.

These requirements strongly encourage anticipating your needs for an entire budget year for supplies, equipment and services. **If** you anticipate purchasing several like items the total cost of which would be over the \$50,000 in a budget year, you must combine the purchases and use the competitive bidding in order to comply with state law.

PURCHASE CATEGORIES

CATEGORY f -PURCHASES LESS THAN \$500

The Department Head may exercise discretion for the acquisition of such purchases as authorized in the current fiscal budget, within the guidelines established elsewhere in the policy manual. Purchases in this category may be made by Department Heads or City employees designated by Department Heads. Purchases in this category do not require a purchase order.

CATEGORY 2- PURCHASES GREATER THAN \$500 BUT LESS THAN \$1,500

A minimum of three telephone or written quotations is required for purchases of goods or services within this category. Purchases in this category require an approved purchase order in advance of the purchase. Telephone quotations should also involve email documentation.

CATEGORY 3 - PURCHASES GREATER THAN \$1.500 BUT LESS THAN \$15.000

A minimum of three written quotations is required for purchases of goods and services within this category. Purchases in this category require an approved purchase order in advance of the purchase.

CATEGORY 4-PURCHASES GREATER THAN \$15,000 BUT LESS THAN \$50,000

The purchaser will secure competitive written quotes for all transactions reasonably anticipated to be in this category. An advertised notice must be published in the newspaper. [Purchases in this category require City Council approval in advance of the purchase.] Amended by City Council September 5, 2023, increasing the City Manager's purchasing authority from \$15,000 to \$50,000.

CATEGORY 5 -PURCHASES OVER \$50,000

Sealed competitive bids or proposals must be secured for all transactions reasonably anticipated being in access of \$50,000. An advertised notice must be published in the newspaper. Purchases in this category require City Council approval in advance of the purchase.

EXEMPT PURCHASING FUNCTIONS

Some examples of exemptions from competitive bidding provided by state law are:

- 1. Professional Services
- 2. Items available from only one source, such as captive replacement parts, utility services, and items that are available from only one source because of patents, copyrights, secret processes, or natural monopolies.
- 3. Purchases made because of a public calamity that requires the immediate appropriation of money to relieve the necessity of the City's residents or to preserve the property of the City.
- 4. Purchases necessary to preserve or protect the public health or safety of the municipality's residents.
- 5. Purchases necessary because of unforeseen damage to public machinery, equipment, or other property.
- 6. Expenditures for a public improvement project, already in progress, authorized by the voters of the municipality, for which there is a deficiency of funds for completing the project in accordance with the plans and purposes authorized by the voters.
- 7. Pursuant to §271.083, Local Government Code, purchases of an item under a state contract (for example through a cooperative) satisfy any state law requiring the City to seek competitive bids or proposals for the purchase of the item.

Depending on the type of goods or services to be procured and the amount of funding involved, exempt purchases are often made through a request for proposals procedure even though such a procedure is not required under state law.

<u>CITY MANAGER AUTHORIZATION</u>

The application of exemptions from competitive bidding requirements for purchases in excess of \$50,000 is to be approved in each case by the City Manager. Based on previously stated policies and procedures, the user department is responsible for obtaining a purchase order approved by the City Manager before any order is placed that requires a purchase order (above \$500). Further, the user department must obtain City Manager approval for any contract less than [\$15,000] increased to \$50,000 by City Council increasing the City Manager's purchasing authority from \$15,000 to \$50,000 on September 5, 2023, or any contract with no money spent.

In the absence of the City Manager being available for signature, the Assistant City Manager may sign on behalf of the City Manager.

HISTORICALLY UNDERUTILIZED BUSINESSES

Pursuant to §252.0215, Local Government Code, the City, in making an expenditure of more than \$3,000 but less than \$50,000, shall contact at least two historically underutilized businesses in the county in which the City is situated on a rotating basis, based on information provided by the comptroller pursuant to Chapter 2161, Government Code. If the Iist fails to identify a historically underutilized business in the county in which the City is situated, the City is exempt from this section.

The Texas Comptroller's website has an online database to search for HUBs in Hays County. This database can be accessed at https://mycpa.cpa.state.tx.us/tpasscmblsearch/index.jsp A list of HUBs in Hays County as of August 3, 2014 is attached to this manual as a reference.

A Historically Underutilized Business Outreach Certification Form must be filled out for each qualifying purchase. This form will serve as documentation of the City's compliance of state HUB laws.

CONTRACTS WITH LOCAL BIDDERS

The City of Kyle wishes to have local companies compete for contracts for goods, services and construction projects because the local bidder offers the best combination of price and additional economic development opportunities for the city, including the employment of local residents. The Local Government Code allows a municipality to give local preference to a bidder who is not the low bid if the local bidder meets the conditions of Section 271.9051.

City of Kyle Resolution no. 795 authorizes city staff, when evaluating competitive bids, to give local preference if the contractor meets the following requirements of Section 271.9051:

- The local bidder's principal place of business is in the city limits of the City; and
- The solicitation for bids or proposals for goods or services states that local preference may be considered in awarding the contract; and
- Construction contract is for less than \$100,000 and a contract for goods and services is less than \$500,000; and
- The local bidder is within ten percent (10%) of the lowest price received; and
- City Council determines in either the Resolution awarding the contract or in the minutes
 of the Council meeting that the local bidder offers the best combination of price and
 additional economic development opportunities for the City, including the employment
 of local residents.

This resolution does not prohibit the City from rejecting all bids and proposals.

PURCHASING PROCEDURES

The purpose of this section of the manual is to describe the way in which any type of goods or services should be procured for the City. The procurement system includes several methods of making purchases. These methods are designed for specific purchasing needs.

Because there are several ways to purchase goods and services to meet the diverse needs of the City, it is imperative that each department plans in advance for its purchases so that the best method of procurement may be utilized.

Keep in mind that if a purchase is anticipated to exceed \$50,000 regardless of the method of purchase the sealed bid or proposal procedures will need to be used.

INITIATING THE PURCHASE

- 1. The user department will determine the purchase category and purchasing method for the proposed purchase. This process may involve a purchase order, telephone quotation, written quotation, competitive quotation or a sealed competitive bid or proposal. It is the responsibility of the user department to follow all purchasing processes stated in this purchasing manual.
- 2. If a purchase order is not required, the user department may proceed with the purchase. The purchase will either be made with a City Procurement Card or will be billed to the City.
- 3. If a purchase order is required, a completed Purchase Order Request Form, with City Manager approval, will be submitted to the Finance Department.
 - a. For purchases greater than \$500 but less than \$1,500, a minimum of three telephone or written quotations must be included with the Purchase Order Request Form.
 - b. For purchases greater than \$1,500 but less than [\$15,000] increased to \$50,000 by City Council increasing the City Manager's purchasing authority from \$15,000 to \$50,000 on September 5, 2023, a minimum of three written quotations must be included with the Purchase Order Request Form.
- 4. If accurate and complete, the Finance Department will check to see if funds are available. If funds are available, the Finance Department will complete the purchase order and return it to the using department to make the purchase. If funds are not available, the request may be returned to the using department. The using department can request the Finance Director to make a budget amendment. Budget amendments must be presented to and approved by the City Council. Once approved, the purchase order will be completed.

MAKING THE PURCHASE

If quotes are obtained, a record of the quotes must be on file before the order is placed. The Purchase Order is a three-part NCR (no carbon required) form.

- The white copy will go to the vendor, (taken by user department, mailed or faxed).
- The yellow copy will go to the receiving department; when order is received user department will complete section on receipt of order.
- The pink copy will go to the Accounts Payable Department as a permanent record.

COMPETITIVE BIDS OR PROPOSALS

If a formal bid or proposal is required, bid specifications or a request for proposal is prepared and mailed to vendors. The bid is advertised in the local newspaper. The user department shall be responsible for establishing and providing a complete written set of specifications along with a requisition. Specifications shall be written on a technical or functional basis. Brand names are to be avoided to ensure a fair competitive environment.

Sealed bids or proposals are received and tabulated by the user department. If the competitive sealed bidding requirement applies to the contract, notice of the time and place at which the bids will be publicly opened and read aloud must be published at least once a week for two consecutive weeks in a newspaper published in the City. The date of the first publication must be before the 14th day before the date set to publicly open the bids and read them aloud.

The lowest and best responsible bid or proposal will be recommended to the Council for their approval. In determining the best value for the City, the City may consider:

- a. The purchase price;
- b. The reputation of the bidder and of the bidder's goods or services;
- c. The quality of the bidder's goods or services;
- d. The extent to which the goods or services meet the City's needs;
- e. The bidder's past relationship with the City;
- f. The impact on the ability of the City to comply with laws and rules relating to contracting with historically underutilized businesses and nonprofit organizations employing persons with disabilities;
- g. The total long-term cost to the City to acquire the bidder's goods or services; and
- h. Any relevant criteria specifically listed in the request for bids or proposals.

The Council will evaluate the recommended vendor and decide to approve or disapprove. If the recommended vendor is not approved the Council may award the bid to another vendor; bids may be rejected altogether. If the recommendation is approved and the Council awards the bid, the Purchaser may submit an award letter to the vendor or may prepare a purchase voucher. If an award letter is sent to the vendor, a copy of the letter should be sent to the Finance Department along with a copy of the approved bid or proposal.

RECEIVING OR CLOSING OUT THE PURCHASE

- 1. After the purchase is placed the vendor provides ordered goods or services and submits an invoice to the City.
- 2. The user department will inspect the goods upon delivery, or the services upon completion, to see if specifications have been met.
- 3. If a purchase order was not required, the vendor invoice will be submitted to the Finance Department for payment following the Accounts Payable procedures. If a purchase order was required, the vendor invoice will be attached to the pink copy of the purchase order and returned to the Finance Department for payment following the Accounts Payable procedures.

BLANKET PURCHASE ORDER

A blanket purchase order is issued to make miscellaneous supplies, materials, services, or minor repairs available as needed to user departments. Blanket purchase orders are not intended to be used to acquire items or services required for one-time job requirements.

The general purpose of blanket orders is to:

- 1. Eliminate the need for numerous individual purchase orders for small dollar-value items or services, and
- 2. Provide a means of acquiring needed items or service to make repairs.

EMERGENCY PURCHASES

Emergency purchases are defined as those purchases caused by an unforeseen and dangerous situation requiring immediate action to preserve the health or safety of people or property. When emergency purchases are made, the user department will make the purchase at the best possible price. The use of an emergency purchase for failure to anticipate normal needs should be avoided.

Emergency purchases should be limited to the following: Street Department, Police Department, Water or Wastewater Department.

The City Council must approve emergency purchase orders for \$15,000 or more.

EOUIPMENT MAINTENANCE AGREEMENTS

Annual maintenance agreements for office equipment, computer equipment, or other equipment should be filed on a purchase order. These purchase orders can be filed under the same number and paid on a monthly, quarterly or annual basis.

Once a maintenance agreement has been established with a vendor, the user department will be responsible for calling the vendor for maintenance problems. Copies of all maintenance agreements shall be on file with the City Secretary and the Finance Director.

The following information will be needed for the Purchase Order for a maintenance contract:

- a. Description of equipment
- b. Serial number
- c. Accessories under maintenance
- d. Period of contract
- e. Payment schedule

The user department sends a purchase request (along with the original maintenance agreement and invoice where applicable) to the City Finance Department. Then a purchase order will be issued according to steps described in a previous section. This means of accounting for a maintenance agreement specific to a piece of equipment will result in less confusion at the time of renewal.

RENTAL AND LEASE EQUIPMENT

Sealed bids or State of Texas Contracts will accomplish all lease agreements if the amount of the lease is expected to be \$50,000 or more over the term of the lease agreement. Leases should never be used to avoid or circumvent the requirements for competition that would apply to outright purchases. The soundest rule is that any lease of equipment be subject to the requirements for competition that apply to outright purchases. The City Secretary should be notified of the date the equipment is rented/leased and the date the equipment is returned so that an insurance certificate can be obtained and cancelled. The rental/lease agreement should be processed on a purchase order using the same steps as the procedure described in the previous section.

When renting/leasing is the only viable answer to an equipment need, care should be exercised to provide cancellation options that are favorable to the City. The department should identify the source of funding to cover the payments of equipment rental/lease for the entire period of the contract.

PROFESSIONAL SERVICES

"Professional Services" include services which involve mental or intellectual skills, often accompanied by formal certification or licensing by a state agency, such as accounting, architecture, engineering, medicine, planning, economics, law, financial advisory services and scientific or laboratory consulting services.

State laws exempt the procurement of these services from competitive bidding requirements. The City Council should select professional service consultants on the basis of demonstrated competence and qualifications and should negotiate fees on the basis of what is fair and reasonable for the type of services, rather than on a "low bid" basis. Except for architects, engineers and land surveyors, both price and qualifications can be considered in selecting consultants.

In the case where Federal funding will be used for professional non engineering, architectural, or land surveying services, a cost comparison competitive proposal taking cost and qualifications into account will be followed. Where a project is being funded by a federal grant, the City's procurement process will also comply with the federal laws applicable to the City and the particular grant.

In the case of architectural, engineering services or land surveying services a two-step process can be followed, according to §2254, Texas Government Code, the Professional Services Procurement Act. The first step is initial selection of the most highly qualified provider of those services on the basis of demonstrated competence and qualifications (and not considering price); and the second step involves negotiation of a fee with the selected consultant. If a satisfactory contract cannot be negotiated with the most highly qualified provider of architectural, engineering, or land surveying services, the second most qualified consultant may be undertaken, and so forth until a contract is entered into. It is important to keep in mind for engineers, architects and surveyors that price may not be considered in the initial selection of the consultant.

For professional services procurement involving an anticipated fee of \$25,000 or less, the process described may be followed in an informal manner by the Elected Official/Department

Head but must be approved the City Council. For procurements involving an anticipated fee exceeding \$25,000, the Department Head in coordination with the City Manager may use a formal request for proposal procedures. All contracts for equipment maintenance, equipment lease/rental and Professional Services should be approved by the City Attorney and brought before the City Council for approval and signed by the City Manager.

When a user department wishes to initiate an RFP to procure professional services, it should have the approval of the City Council. The user department will evaluate proposals or a committee appointed by the City Council. A contract should be approved by the City Attorney based on the RFP and the consultant's proposal prior to being presented to City Council for approval.

HIGH TECHNOLOGY PROCUREMENT

A process similar to sealed bid procedures may be used for the procurement of goods or services of a highly technical nature, including data processing and telecommunications equipment and services. A user department should get approval from the City Council for any such procurement. After approval has been given, a Request For Proposals (RFP) can be sent out.

The procedure for high-technology RFP is:

- 1. In bidding, the award must be made to the lowest responsible bidder. In a RFP, price and other factors may be considered so that contracts awarded may be to a vendor other than the one offering the lowest price.
- 2. In bidding, the exact nature of the goods or services needed by the Department must be specified, while in an RFP process, the City may specify only the function to be served by the goods or services, leaving it to the vendors to determine how to achieve the desired function. State Law requires high-technology RFP's to specify the relative importance of price and other evaluation factors. The user department may conduct discussions with offerers after the submission of proposals.
- 3. The City Council may negotiate with the vendors during these discussions and prior to award of the contract.

ANNUAL CONTRACTS

The user department will request authorization from the City Council to request bids for goods and/or services such as petroleum products, road materials, work uniforms etc. These contracts are much like purchase orders except that a unit price is shown and not a total price. The following statement is included in the terms and conditions of each request for bids that require an annual contract, or longer as approved by the Court:

1. If this bid is accepted and approved by City Council then this bid becomes **the contract** and there are no oral agreements either expressed or implied.

The user department will continually look for goods and services to purchase on annual contracts to save department budgets and City funds.

JOINT PURCHASES

Occasionally, when it is beneficial to the City of Kyle, the City Council will approve intergovernmental and intra-county joint purchasing, usually by means of a resolution. On an intergovernmental basis, the user department will work with other governments both inside and outside the City.

On an intra-county basis, the user department will coordinate the procurement activities of the departments of the City to maximize the benefits of joint purchasing and annualized contracts for goods and services purchased periodically throughout the year. Additionally, the user department will utilize the existing General Services Commission and other cooperatives to attain the best prices for goods and services.

Re-s ults For HUBs not on Cll.fBL Search

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JBI sveeOEr Rebecca Manzanares PO BOX 951

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:W. •. M2 FEDERAL <u>iNC</u>	Mike Scheiern	705, • ., STE 112 HOPKINS ST	SAN MARCOS	n;	786&E 43,79
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107 vendors. 107 are HUB's, InclLJdes O Inactive Vendors. tio,11: .5earchType= HUB's Onlt..,Lo,'ca:tion County=Hays

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HISTORICALLY UNDERUTILIZED BUSINESS OUTREACH CERTIFICATION FORM

(purchases between \$3,000 and \$50,000)

REQUESTING DEPT: BILL TO:

Type Fax Number

Type Department Name City of Kyle

Type Contact Staff Name

Type Position Title

Type Phone Number

Type Phone Number

Type Phone Number

Type Department Name

100 W Center St
PO Box 40

Kyle, TX 78640

VENDOI	R NO.	VENDOR NAME	CONTACT PERSON	ADDRESS		HUB?
ITEM	QTY	DESCRIPTION OF GOODS/SERVICES	PRICE QUOTED	CONTACT DATE	DOCUMENTATION ATTA	ACHED
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REQUI	RED HUE	3 CONTACT #2				
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