



Procurement Policy of the City of Franklin, Tennessee

A. General Provisions

This Procurement Policy of the City of Franklin, Tennessee shall apply to the City's procurement of materials, supplies, vehicles and equipment, the purchase of services (including both the design and/or construction of new infrastructure and facilities as well as the design and/or construction of improvements to existing infrastructure and facilities), leases and lease-purchases, and the disposal and transfer of surplus personal property, all for the proper conduct of the City's business.

All contracts, leases and lease-purchase agreements are subject to the approval of the Board of Mayor and Aldermen, unless otherwise provided by resolution or ordinance. Any contracts, leases and lease-purchase agreements extending beyond the end of the current fiscal year shall be so noted prior to consideration by the Board of Mayor and Aldermen. Leases and lease-purchase agreements meeting certain criteria (pursuant to T.C.A. § 9-24-104) are subject to preapproval by the Tennessee Comptroller of the Treasury Division of Local Government Finance. For any lease agreement that exceeds twelve (12) calendar months and for which the payments are at least \$50,000.00, then see also the City's Lease Accounting and Reporting Policy as approved by resolution of the Board of Mayor and Aldermen.

Whenever the City undertakes its own competitive procurement process for the procurement of goods and/or services, then the City is hereby authorized to utilize the one or more of the following procurement methodologies best suited for the intended procurement:

- request for quotations (not for purchases valued at \$50,000 or more)
- solicitation for bids
- request for proposals
- request for qualifications

This Procurement Policy is intended to promote the public interest and preserve and enhance the public trust by establishing a transparent procurement system by which the City conducts its procurement, and by providing vendors (including suppliers, service providers and contractors) with a fair forum for competing for City business.

B. Responsibilities of Departments

The following are the responsibility of each department:

1. Departments shall be responsible for purchases and projects valued less than \$50,000. (In the context of this Procurement Policy, whenever any dollar thresholds are referenced, the estimated total value of the purchase or project, including all components related thereto, either over the course of the term of the award or, in the absence of a term of award, over the course of the next twelve (12) months, shall be considered.)
2. Departments shall use pricing established pursuant to City procurement awards or Tennessee statewide contracts (SWCs) if and as available. The use of pricing established by cooperative purchasing arrangements approved by the City Administrator for use by the City, as well as pricing established by other Tennessee local governments pursuant to a competitive procurement process involving "public advertisement" (hereby defined to mean the same as that term is used in T.C.A. § 6-56-301 *et seq.*, the Tennessee Municipal Purchasing Law of 1983, or T.C.A. § 12-3-1201 *et seq.* (Public Purchases – Local Governments), as they may be amended from



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time to time) and sealed submittals, are acceptable alternatives and may be used in lieu of competitive pricing established by the City or the State.

3. Departments shall coordinate with City Purchasing and/or City Finance as to the method of payment that best meets the needs of the City.
4. Before placing an order for any non-emergency purchase valued at or greater than \$20,000, departments shall prepare and submit a procurement requisition, on the form prescribed by City Purchasing, and await approval thereof. For orders for emergency purchases valued at or greater than \$20,000, the procurement requisition may be completed within ten (10) calendar days after placing the order (see also provision D, "Circumstances under which competitive pricing is not required," subsections 2 and 18, provision K, "Emergency Purchases," and provision Y ("Emergency policies and procedures")).
5. Purchases valued less than \$50,000 but not less than \$20,000 shall not be made unless and until, wherever possible, the department shall have obtained and forwarded to the Purchasing Manager competitive quotations from at least three (3) vendors, said quotations to be either supplied in writing by the vendor or reduced to writing by the department, accompanied by a tabulation of the comparative aspects of the quotations obtained, a recommendation as to which quotation should be accepted and a procurement requisition for the recommended quotation. As an alternative to obtaining competitive quotations from at least three (3) vendors, departments may use any of the procurement methodologies approved for usage for purchases valued at \$50,000 or more.
6. All foreseeable purchases, including those valued less than \$20,000, should not be made unless and until the department head or his or her authorized representative is satisfied that the value of the purchase is fairly priced and not more than what would be expected in the current marketplace. At the discretion of the department head or his or her authorized representative, for foreseeable purchases valued less than \$20,000, the department should, whenever it is prudent to do so, obtain multiple competitive quotations, said quotations to be either supplied in writing by the vendor or reduced to writing by the department.
7. As soon as practicable but within ten (10) calendar days of receipt of items ordered, departments shall be responsible for verifying that the items conform to the order. The process for taking delivery of items is as follows:
 - a. Inspect the goods to verify that they are in acceptable condition.
 - b. Verify that all operating manuals and warranty cards are included in the delivery of the goods, if applicable.
 - c. Verify that the number of items ordered have been delivered, making special note when all or part of a particular order has been back-ordered.
 - d. Ensure that purchases of capital assets of the City have been properly reported, either directly or indirectly, to City Finance and the City's Risk Manager and, if rolling stock, City Fleet, on forms prescribed by those respective offices, so that records of such purchases may be updated, insurance coverage may be obtained, and vehicle tags may be obtained, all in a timely manner.
8. Regardless of method of payment, departments shall be responsible for reviewing, approving and allocating to the proper fund-function-department combination all invoices authorized for payment.
9. It shall be the responsibility of each department to allow time for competitive procurement solicitation, ordering and delivery pursuant to this Procurement Policy.
10. No employee shall make any indication that he/she will recommend a particular product for purchase, knowingly bind the City to a specific vendor, or make any representation as to his or her authority to bind the City by contract when such is not the case.
11. No employee shall intentionally split purchases in order to circumvent City procurement thresholds.

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C. Responsibilities of Purchasing Manager

The following are the responsibility of the Purchasing Manager:

1. The Purchasing Manager shall assist all departments in procuring operating materials, supplies, vehicles, equipment and services to which this Procurement Policy applies.
2. The Purchasing Manager shall be responsible for facilitating the competitive procurement process by which all purchases to which this Procurement Policy applies and valued at or greater than \$50,000 are made.
3. For all purchases to which this Procurement Policy applies and valued at or greater than \$20,000, the Purchasing Manager shall advocate the purchase of required products and services only either from (a) the responsible bidder or quoter that submits the lowest priced responsive bid or quotation or from (b) the responsible proposer or other respondent that submits the responsive proposal or other submittal that is most advantageous to the City.
4. The Purchasing Manager shall advise the departments about the source and availability of products and services needed by the various departments.
5. The Purchasing Manager shall provide current vendor files available for use and review by departments.
6. The Purchasing Manager shall, upon request, obtain prices on comparable items.
7. The Purchasing Manager shall provide vendor lists, prepare Purchase Orders as necessary, and maintain orderly files.
8. The Purchasing Manager shall be alert on an ongoing basis for new sources and for improved products and services.
9. The Purchasing Manager shall assist the departments in the preparation of specifications for solicitations for bids and the requirements provisions of requests for proposals and requests for qualifications.
10. For formal procurement solicitations, the Purchasing Manager shall prepare and submit for timely publication all legal notices. To promote competition and facilitate the dissemination of documents and information pertaining to formal procurement solicitations, the Purchasing Manager shall post on the City's public website timely information about current formal procurement solicitations.
11. The Purchasing Manager shall periodically review the City's recent records of repetitive purchases, over time, across the organization and across suppliers and service providers, of like products and services, and shall advocate the City consolidate and aggregate its purchase of as many foreseeably necessary like products and services as practicable so to improve pricing for the City, to improve services provided to the City, and/or to reduce the City's cost of operations.
12. To the extent practicable, the Purchasing Manager shall strive to apply procurement thresholds of the City by like product or service for all anticipated needs of the City for the maximum term of a prospective award.
13. The Purchasing Manager shall investigate complaints from departments of poor performance by vendors, or complaints about inferior products, and shall, in consultation with City Law, choose which, if any, remedies are available to the City to pursue.
14. The Purchasing Manager shall be responsible for disposing of the City's surplus personal property of any value, regardless of whether the property was acquired and came to be owned by the City by means of purchase or donation or otherwise, by means of a competitive procurement process and in compliance with City ordinance, except in cases involving data security or other mitigating circumstances. The Purchasing Manager shall develop the appropriate documentation for City Finance in accordance with City ordinance.
15. The Purchasing Manager shall be responsible for administering and overseeing the City's Purchasing Card program.



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16. The Purchasing Manager shall be responsible for otherwise administering and complying with this Procurement Policy and applicable Tennessee state law, specifically T.C.A. § 6-56-301 *et seq.* (Tennessee Municipal Purchasing Law of 1983) and T.C.A. § 12-3-1201 *et seq.* (Public Purchases – Local Governments), as it may be amended from time to time, including keeping and filing required records and reports, as if they were set out herein and made a part hereof and within definitions of words and phrases from the law as herein defined.

D. Circumstances under which competitive pricing is not required

Under any of the following circumstances, competitive pricing (sealed bids or proposals pursuant to public advertising if valued at or greater than \$50,000; competitive quotations from at least three (3) vendors wherever possible if valued less than \$50,000 but not less than \$20,000) is not required. Under any of these same circumstances, neither individual authorization by nor specific reporting to the Board of Mayor and Aldermen is required unless such is otherwise required pursuant to this Procurement Policy.

1. Authorized sole-source purchases (see provision L, “Sole-Source Purchases”).
2. Authorized emergency expenditures (see provision K, “Emergency Purchases”; see also provision D (“Circumstances under which competitive pricing is not required”), subsection 18, and provision Y (“Emergency policies and procedures”).
3. Purchases from instrumentalities created by two (2) or more cooperating governments, such as, but not limited to those established pursuant to T.C.A. § 12-9-101, *et seq.* (Interlocal Cooperation Act).
4. Purchases from non-profit corporations whose purpose or one of whose purposes is to provide products and services specifically to municipalities, as provided in T.C.A. § 6-56-302.
5. Purchases, leases or lease-purchases of real property, as provided by City ordinance and state law.
6. Purchases, leases, or lease-purchases of used or secondhand articles consisting of goods, equipment, materials, supplies, or commodities, as provided in T.C.A. § 12-3-1202.
7. Purchases of supplies, goods, equipment (except new or unused motor vehicles, unless the motor vehicles are manufactured for a special purpose as defined in T.C.A. § 12-3-1208) and/or services (except any transportation infrastructure project, including, but not limited to, projects for the construction or improvement of streets, highways, bridges, tunnels, or any roadway related facility), pricing for which has been established by other units of Tennessee local government, as provided in T.C.A. § 12-3-1203(a) and 12-3-1203(c).
8. Purchases pursuant to Tennessee Department of General Services statewide contracts (SWCs) authorized for use by Tennessee local governments.
9. Purchases from Tennessee Rehabilitative Initiative in Correction (TRICOR).
10. Professional service contracts as provided in T.C.A. § 12-3-1209 (namely, legal services, fiscal agent, financial advisor or advisory services, services from an insurance producer (as that term is defined in T.C.A. § 56-6-102), educational consultant services, and similar services by professional persons or groups of high ethical standards).
11. Other professional services as provided in T.C.A. § 12-4-107 (namely, architectural and engineering services and land surveying).
12. Tort liability insurance, as provided in T.C.A. § 29-20-407.
13. Purchase of fuels, fuel products or perishable commodities, as provided in T.C.A. § 6-56-304.
14. Purchases based on contracts established by a cooperative purchasing arrangement recognized by the City pursuant to Resolution No. 2009-50, as provided in T.C.A. § 12-3-1205.



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15. Purchases based on contracts established by the United States General Services Administration (GSA) and authorized by GSA for use by United States of America local governments, except as may be prohibited by applicable Tennessee statute.
16. Other arrangements and methods pursuant to Tennessee and/or federal law.
17. Fees paid by the City for products and services provided to the City by the State of Tennessee, other units of local government, and public utilities and utility districts.
18. Purchases made during a declared state of emergency that applies to the City but only if specific conditions prevent the establishment of competitive pricing; provided, however, that if the emergency purchase is valued at or greater than \$50,000.00, then both the purchase and the specific conditions that prevented the establishment of competitive pricing shall, as soon as practicable, be reported to the Board of Mayor and Aldermen (see also provision D (“Circumstances under which competitive pricing is not required”), subsection 2, provision K, “Emergency Purchases”), and provision Y (“Emergency policies and procedures”).

E. Rejection of Bids, Proposals or Other Submittals

The Purchasing Manager shall recommend to the Board of Mayor and Aldermen to reject any and all bids, proposals or other submittals received pursuant to a formal procurement solicitation issued by City Purchasing, or parts thereof, for any product or service to which this Procurement Policy applies, whenever, prior to the Board of Mayor and Aldermen making an award pursuant to such a formal procurement solicitation, the Purchasing Manager believes the public interest would be best served by such rejection. The Purchasing Manager shall recommend to the Board of Mayor and Aldermen that it reject any such submittal 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 City by the vendor or contractor whenever, prior to the Board of Mayor and Aldermen making an award pursuant to such a formal procurement solicitation, the Purchasing Manager becomes aware of such default.

F. Conflict of Interest, Use of Position, Solicitation

There are several sources of law and regulations, as they may be amended from time to time, that apply to conflicts of interest, use of position and solicitation. They are incorporated by reference and adopted as if fully stated herein.

a. City Charter

Article VIII (“Finance”), Section 16 (“Officers not to be Interested in City Contracts or Work”) of the City of Franklin Charter reads as follows:

No member of the Board of Mayor and Aldermen, or officer elected by said Board, shall be interested in any contract, or work of any kind whatever, under its control and direction, and any contract in which any such person shall have an interest shall be void and cannot be enforced.

b. City of Franklin Municipal Code

Title 1 (“General Administration”), Chapter 8 (“Ethics”) of the City of Franklin Municipal Code sets forth the Code of Ethics for the City of Franklin, which applies to all full-time and part-time elective or appointed officials and employees of the City.

c. City of Franklin Regulations

Article XXI (“General Policies and Procedures”), Section E (“Business Dealings”), of the City of Franklin Human Resource Manual, as it may be amended from time to time, reads as follows:



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Except for the receipt of such compensation as may be lawfully provided for the performance of City duties, and except as noted below, no City officer or employee shall be privately interested in or profit, directly or indirectly, from business dealings with, of, or by the City.

Full-time, part-time, and temporary employees of the City may contract to supply goods and products to the City and/or render services for the City, provided:

1. any service that would be rendered must not be one the employee might provide in the normal scope of their regular duties;
2. the employee would be required to compete for the City's business in the same manner as any other prospective supplier or service provider;
3. the business relationship between the City and the employee must not present a conflict of interest nor a conflict of time with the employee's regular duties;
4. the business relationship between the City and the employee is not prohibited by the City's ethics policy; and
5. the business relationship between the City and the employee is authorized in advance by the City Administrator, and if the relationship is to be for more than one (1) year, it is annually re-authorized by the City Administrator.

Article XXI ("General Policies and Procedures"), Section I ("Use of Position"), of the City of Franklin Human Resource Manual, as it may be amended from time to time, reads in part as follows:

No employee shall make or attempt to make private purchases in the name of the City, nor otherwise use or attempt to use status as a City employee to secure unwarranted privileges or exemptions.

Article XXI ("General Policies and Procedures"), Section F ("Acceptance of Gratuities"), of the City's Human Resource Manual, as it may be amended from time to time, reads in part as follows:

No employee shall accept or solicit any money or other consideration or favor from anyone other than the City for the performance of an act that the officer or employee would be required or expected to perform in the regular course of employment; nor shall any officer or employee accept, directly or indirectly, any gift, gratuity, or favor of any kind that might reasonably be an attempt to influence the individual's actions with respect to City business.

d. Statutes

Certain Tennessee statutes may apply to purchases involving city officers, committee members, etc. Selected Tennessee statutes may be found in Appendix A to this Procurement Policy attached hereto for reference.

G. City Officer and Employee Communication with Vendors During Formal Procurement Solicitations for Sealed Submittals

Between the time a formal procurement solicitation for sealed submittals is issued by the City and the time an award is made, members of the Board of Mayor and Aldermen as well as employees of the City shall refrain from any form of communication with one or more vendors that may be competing for the award about any aspect of the procurement other than either in the context of a public meeting or by way of City Purchasing. The foregoing is not meant to preclude a representative of the City from answering questions from vendors if the question is already addressed in the formal solicitation documents, if the City representative is certain of the correct answer, and if City Purchasing is informed of the communication. Otherwise, any inquiries from one or more vendors that may be



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competing for such an award shall be directed to City Purchasing which shall determine whether an addendum to the formal procurement solicitation should be prepared and issued to all vendors known or thought to be interested in the procurement opportunity. Vendors that may be competing for an award pursuant to a formal procurement solicitation shall be instructed that, until that award has been made, they shall not communicate about either the content of or the procurement process pertaining to the relevant formal procurement solicitation with any official, employee or other representative of the City except through City Purchasing. The City reserves the right to disqualify any vendor that initiates unauthorized communication with the City during the procurement phase.

H. City Officer and Employee Business Dealings with the City

See Article XXI (“General Policies and Procedures”), Section E (“Business Dealings”), of the City of Franklin Human Resources Manual.

See also Title 1 (“General Administration”), Chapter 8 (“Ethics”), of the City of Franklin Municipal Code.

I. Tie Bids and Tie Quotations

Whenever the City utilizes its own competitive procurement process, and in the event of tie bids or tie quotations (that is, when two or more responsible bidders or quoters submit responsive bids or quotations at identical total pricing for the minimum or estimated quantity indicated), then the tie bids or tie quotations shall be broken by means of one of the following methods, in descending order:

1. The award shall be made to the vendor who bid or quoted the soonest delivery of the product or completion of the service of all the vendors submitting the tie bids or tie quotations.
2. The award shall be made to the vendor who offered the pricing for the longest period of time for potential future orders of all the vendors submitting the tie bids or tie quotations.
3. If one or more of the vendors submitting the tie bids or tie quotations competed for the City’s business the last time the City solicited bids or quotations for the same product or service, then the award shall be made to the vendor who offered the lowest pricing at that time of all the vendors submitting the tie bids or tie quotations.
4. If one or more of the vendors submitting the tie bid or tie quotation have done business with the City within the most recent 24 months, then the award shall be made to the vendor who has done the most business with the City (measured in dollars) in that time frame of all the vendors submitting the tie bids or tie quotations.
5. The award shall be made by means of random selection, such method to be administered by the Purchasing Manager and to give equal opportunity to all the vendors submitting the tie bids or tie quotations.

J. Determining Responsible Respondents and Responsive Submittals

Whenever the City utilizes its own competitive procurement process, products and services shall be purchased either from (a) the responsible bidder or quoter that submits the lowest priced responsive bid or quotation or from (b) the responsible proposer or other respondent that submits the responsive proposal or other submittal that is most advantageous to the City. (The term “responsible bidder or quoter” and the term “responsible proposer or other respondent” shall mean a business entity or individual determined by the City to have the integrity and reliability as well as the financial and technical capacity to perform the requirements of the procurement solicitation and subsequent contract. The term “responsive bid or quotation” and the term “responsive proposal or other submittal” shall mean a submittal determined by the City to fully conform in all material respects to the procurement



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solicitation and all of its requirements, including all form and substance.) In determining whether a competing respondent is responsible and whether the submittal is responsive, criteria such as the following may be taken into consideration:

1. The ability of the competing vendor to perform the contract or provide the material or service required.
2. Whether the competing vendor 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, expertise and efficiency of the competing vendor.
4. The previous and existing compliance by the competing vendor or a predecessor in interest with laws and ordinances relating to the contract or service.
5. The quality of the competing vendor's performance of previous contracts or services, including the quality of such performance for other public sector agencies and/or private sector customers.
6. The sufficiency of financial resources and the ability of the competing vendor to perform the contract or provide the service.
7. The ability of the competing vendor to provide future maintenance and service for the use of the materials, supplies, vehicles, equipment or contractual service contracted.
8. Compliance by the competing vendor with all specifications included in the solicitation for bids or with all requirements included in the request for proposals or request for qualifications.
9. The ability of the competing vendor to deliver and maintain any requisite bid bonds or performance bonds.

K. Emergency Purchases

When in the judgment of the City Administrator, the department head or the Purchasing Manager there exists an emergency impinging on public health, safety or welfare and a purchase valued at or greater than \$20,000 is necessary, then the competitive procurement provisions contained in this Procurement Policy may be waived; provided, however, that if the emergency purchase is valued at or greater than \$50,000, then it shall, as soon as practicable, be reported to the Board of Mayor and Aldermen.

The emergency basis for pricing should be used only if necessary. Purchases that qualify as emergencies are to be based on emergency pricing only if another basis for pricing (e.g., federal General Services Administration (GSA) via GSA contract, State of Tennessee via Tennessee statewide contract (SWC), one of the cooperative purchasing arrangements recognized by the City) that would be compliant with this Procurement Policy is not known to be available. (See also provision D ("Circumstances under which competitive pricing is not required"), subsections 2 and 18, and provision Y, "Emergency policies and procedures.")

L. Sole-Source Purchases

In the context of this Procurement Policy, whenever any dollar thresholds are referenced, the estimated total value of the purchase or project, including all components related thereto, either over the course of the term of the award or, in the absence of a term of award, over the course of the next twelve (12) months, shall be considered. To the extent practicable, departments and the Purchasing Manager shall strive to apply procurement thresholds of the City by like product or service for all anticipated needs of the City for the maximum term of a prospective award.

The sole-source basis for pricing should be used only if necessary or financially advantageous to the City. Except when financially advantageous to the City to do otherwise, purchases that qualify as sole-source are to be based on



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sole-source pricing only if another basis for pricing (e.g., federal General Services Administration (GSA) via GSA contract, State of Tennessee via Tennessee statewide contract (SWC), one of the cooperative purchasing arrangements recognized by the City) that would be compliant with this Procurement Policy is not known to be available.

Sole-source purchases valued at less than \$20,000 may be authorized by the end-user department. Sole-source purchases valued at less than \$50,000 but not less than \$20,000 may be authorized by the Purchasing Manager upon being satisfied that it is not possible to obtain competitive quotations from at least three (3) vendors. Except as noted in this provision L (“Sole-Source Purchases”), sole-source purchases valued at or greater than \$50,000 may not be made unless and until individually authorized by the Board of Mayor and Aldermen. Authorized sole-source purchases do not require sealed bids or proposals pursuant to public advertising. The criteria for evaluating sole-source purchases valued at or greater than \$20,000 are presented in Appendix B to this Procurement Policy. Sole-source purchases pertaining to circumstances under which sealed bids or proposals pursuant to public advertising are not required, as same are listed in provision D (“Circumstances under which competitive pricing is not required”), even if valued at or greater than \$50,000, require neither individual authorization by nor specific reporting to the Board of Mayor and Aldermen unless otherwise required to be authorized or reported pursuant to this Procurement Policy.

Sole-source purchases valued at or greater than \$50,000 that do not require individual authorization by (but which shall, as soon as practicable, still be reported to) the Board of Mayor and Aldermen include:

- a. Repairs to, maintenance of, licenses for and/or maintenance agreements for products already in use by the City, provided the product manufacturer representative has stated in writing that the vendor is the sole source available to the City, and provided the vendor has stated in writing that the quoted pricing is the lowest municipal unit pricing available at that time and in the foreseeable future for the quantity indicated. Examples: engine repairs made by the manufacturer or the manufacturer’s representative for a vehicle; license and maintenance agreements for computer software.
- b. Purchases of items necessary to maintain, expand or improve a manufacturer-specific system already in use by the City, and/or another governmental agency with which the City must cooperate in order to provide the public service relevant to the proposed purchase, and that requires interchangeability or interconnectivity of and/or communication between the component parts, provided the product manufacturer representative has stated in writing that the vendor is the sole source available to the City, and provided the vendor has stated in writing that the quoted pricing is the lowest municipal unit pricing available at that time and in the foreseeable future for the quantity indicated. Examples: water meters and related parts; traffic signal equipment and related parts; athletic field lighting (and related parts) connected to a centralized master control; automated external defibrillators; cardiac monitors; telemetry/supervisory control and data acquisition equipment.
- c. Purchases of items that have, for good and sufficient reason, previously been standardized by the City, provided the product manufacturer representative has stated in writing that the vendor is the sole source available to the City, and provided the vendor has stated in writing that the quoted pricing is the lowest municipal unit pricing available at that time and in the foreseeable future for the quantity indicated. Examples: low-pressure wastewater collection grinder pumps and related parts; self-contained breathing apparatus; vehicle exhaust evacuation systems at individual fire stations, including installation if only one authorized installer is assigned to serve the City; vehicle extrication equipment.

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M. Purchasing Card Program

The Purchasing Card Program shall be administered by the Purchasing Manager pursuant to procedures established therefor. Department heads shall determine which employees of their department shall be issued City purchasing cards. Employees who are authorized and expected to travel on behalf of the City and at the City's expense shall be issued purchasing cards and are expected to use same in lieu of being given travel advances.

Employees' participation in the City's Purchasing Card Program is a privilege and a convenience that includes certain responsibilities. Although the purchasing card is issued in the cardholder's name, it is City property and therefore must be used in accordance with City policies and procedures, as well as with objectively reasonable judgment, especially as follows:

1. The City of Franklin Purchasing Card is provided to employees based on their need to purchase authorized goods and services. A card may be revoked at any time based on change of assignment or location. The card is neither an entitlement nor a reflection of title or position.
2. The card may be used only for authorized obligations of the City; use of the card for a purchase other than an authorized obligation of the City (such as cash, personal purchases as well as alcoholic beverages and entertainment), even if intended for future reimbursement, are specifically prohibited.
3. Purchases made with the card are to comply with City procurement and disbursements policies and procedures. Such City procurement procedures as the need for procurement requisitions, the basis for pricing, contracting, whether a certificate of insurance is necessary to require of the service provider, adequacy of budgeted funding, and timing of payment relative to delivery of the product or service, all apply regardless of method of payment (such as by purchasing card).
4. The cardholder is the only person entitled to use the card and is accountable for all charges attributable to the card.
5. Cardholders are expected to exercise objectively reasonable judgment in deciding whether to make a purchase by considering (a) whether the potential purchase is prudent and necessary, and (b) whether the potential purchase would reflect well on the City and the cardholder, and be perceived by the general public as suitable and appropriate. Improper use of a City purchasing card, especially intentional and unreported but even unintentional and reported, including personal purchases as well as alcoholic beverages and entertainment, even if reimbursed, may be considered misappropriation of City funds, which may result in disciplinary action, up to and including termination.
6. Except for (a) purchases made outside Tennessee, (b) purchases of non-catered prepared meals, and (c) purchases related to travel, the City purchaser/cardholder is responsible for ensuring that the transaction is completed without sales tax being charged to the City. If a transaction has been completed on which sales tax was charged in error, then the cardholder is responsible for contacting the vendor and requesting that the amount of the sales tax be credited back to the same City purchasing card to which the sales tax was charged. Documentation of this effort, and of the vendor's response, shall be submitted in addition to the supporting documentation for the transaction.
7. Cardholders are expected to comply with internal control procedures in order to protect the City's assets. This includes (a) not permitting anyone other than the cardholder to use the card; (b) making sure that each transaction is electronically processed in full and on time in the purchasing card expense reporting system utilized by the City; (c) keeping and submitting on time detailed invoices or itemized payment receipts that substantiate each and every charge attributed to the purchasing card issued to the cardholder; (d) assisting the

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City upon request with reconciling the City's billing cycle statements; and (e) taking reasonable precautions to secure the purchasing card against loss and/or theft.

8. If electronic processing of a purchasing card transaction is not completed by the deadline and City Purchasing has not been previously notified of the need for a delay, then the monthly credit limit for the respective purchasing card may be reduced to \$0 until the processing is complete. This consequence applies to any transaction that has not been correctly allocated, explained with a comment, and approved by the individual assigned to approve purchasing card transactions for that cardholder. Credit limits will be restored to the previous amounts once electronic processing is complete.
9. Failure to submit on time adequate and legible supporting documentation for each transaction or to otherwise comply with established procedures of the City will carry consequences, possibly including reduction or loss of card spend authority, reimbursement of the City by the employee for unauthorized and/or unsubstantiated purchases, and/or disciplinary action, up to and including termination.
10. Cardholders are responsible for cooperating with efforts by the City to resolve any discrepancies by contacting the vendor and/or the issuing bank.
11. All approvers, including both initial as well as final, are responsible for ensuring that purchasing card transactions they approve do adhere to City policies and procedures, are allocated correctly, and are processed in full according to City Purchasing's purchasing card processing schedule. Failure by an approver to do so may result in City Purchasing notifying one or more of that approver's supervisors.
12. A lost or stolen purchasing card, or a card account number that was stolen or may have been compromised, shall, as soon as practicable upon discovery of the loss or theft, be reported by the City to the issuing bank.
13. A cardholder must surrender his or her card upon termination of employment (i.e., retirement or voluntary or involuntary separation).
14. No employee shall intentionally split purchases in order to circumvent City procurement thresholds and/or City purchasing card spend limits.

N. Payment for Purchases

All payments to vendors and service providers shall be made by one of the City's available methods of payment in accordance with City procurement and disbursements policies and procedures.

O. Use of Internet Auctions for Purchases of City Property

The use of internet auctions is generally prohibited as a method for making City purchases unless specifically authorized in advance by the City Administrator.

P. Procurement Protests

Procurement protests shall be handled in accordance with the Procurement Protest Procedure of the City of Franklin, Tennessee as approved by resolution of the Board of Mayor and Aldermen.

Q. Disciplinary Action

Any employee who fails or refuses to comply with the provisions of this Procurement Policy shall be subject to disciplinary action pursuant to and as provided in the Human Resources Manual, as it may be amended from time to time.



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R. Requests for Proposals

Requests for proposals shall be used pursuant to T.C.A. § 12-3-1207 and may be used only when qualifications, experience, or competence are more important than price in making the purchase, and either (1) when there is more than one (1) solution to a purchasing issue and a request for proposals would assist in choosing the best solution; or (2) when there is no readily identifiable solution to a purchasing issue and a request for proposals would assist in identifying one (1) or more solutions. The request for proposals shall state the relative importance of price and other evaluation factors. The award shall be made to the responsible respondent whose proposal the governing body determines is the most advantageous to the City, taking into consideration price and the evaluation factors set out in the request for proposals. No other factor may be used in the evaluation.

S. Requests for Qualifications

Requests for qualifications may be used pursuant to T.C.A. § 12-3-1209 for legal services, fiscal agent, financial advisor or advisory services and similar services by professional persons or groups of high ethical standards, or pursuant to T.C.A. § 12-4-107 for architectural and engineering services and land surveying.

T. Procurement of Property and/or Services under a Federal Award

When procuring property and/or services under a Federal award, the City shall follow applicable provisions of 2 CFR Chapter I and Chapter II, Part 200, et al. (“Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards; Final Rule”), as promulgated December 26, 2013 by Executive Office of the President, Office of Management and Budget, namely sections 200.318 (“General procurement standards”) through 200.326 (“Contract provisions”).

U. Requests to inspect and/or obtain either complete or partial copies of procurement-related public records of the City

Requests to inspect and/or obtain either complete or partial copies of procurement-related public records of the City shall be made and handled as follows:

1. If the requested records could have previously been posted on the City’s public-facing website¹, then requests for such records shall be made by any means and directed to and promptly honored by City Purchasing, and City Purchasing shall provide all such requested records to the requesting party by electronic means.
2. If the requested records would not have previously been posted on the City’s public-facing website¹, then such requests shall be made pursuant to the City’s public records request policy and procedure.

V. Multiple-Contract Awards

¹ Examples of purchasing-related public records that could have previously been posted on the City’s public-facing website are those that are typically posted on the City’s public-facing website and include but are not limited to contracts, staff memorandums of recommendation, tabulations of preliminary results from bid opening, tabulations of respondents, tabulations of bids in response to a City solicitation for bids, tabulations of proposals in response to a City request for proposals, and tabulations of submittals in response to a City request for qualifications.



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When advantageous to the City to do so, the City may issue multiple-contract awards, that is, contracts awarded to more than one supplier and/or service provider for comparable supplies and/or services, provided the provisions of this Procurement Policy and relevant City procurement procedures pertaining to competitively established pricing apply for the total value of all contracts issued for the multiple-contract award.

W. Donated or below-market-priced products or services

If in the judgment of the department head or city administrator a potential donation or a product or service otherwise priced below market would be a benefit to the City, then the City may receive donated or below-market-priced products, whether new or used, or services, provided:

1. The transaction complies with provisions of this Procurement Policy and relevant City procurement procedures pertaining to competitively established pricing for the transaction value of the donation.
2. The transaction is documented, such as by purchase order or another contract.
3. The transaction documentation states:
 - a. That the donation is offered free and clear to the City of Franklin, Tennessee without any expectation of any payment or service or any other consideration in return, including consideration for past or future procurements of or by the City.
 - b. That the donor is not entitled to, and shall not seek, any marketing or advertising or promotional privilege or benefit as a result of the donation.

This section does not pertain to sponsorships or other advertising sold and/or received by the City.

X. Trade-ins

The Franklin Municipal Code provision pertaining to the disposal of surplus personal property of the City does not pertain to any trade-in of a product owned by the City toward the purchase of another product provided the purchase of the other product complies with the provisions of this Procurement Policy and relevant City procurement procedures pertaining to competitively established pricing for the value of the purchase before the value of any trade-in is applied.

Y. Emergency policies and procedures

During a declared state of emergency that applies to the City, the City Administrator may suspend this Procurement Policy and/or the Purchasing Manager may suspend this Procurement Policy and standard procurement procedures administered by the Purchasing Manager and implement temporary policies and procedures as circumstances warrant; provided, however, (a) that any suspension of this Procurement Policy, the rationale for such suspension and any temporary policies shall, as soon as practicable, be reported to the Board of Mayor and Aldermen, and (b) that, to the extent practicable, any such temporary policies and procedures shall deviate from this Procurement Policy and such standard procurement procedures no more than necessary under the circumstances. (See also provision D (“Circumstances under which competitive pricing is not required”), subsections 2 and 18, and provision K, “Emergency Purchases.”)

Z. Openings of sealed bids, proposals or other submittals



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Sealed bids, proposals or other submittals received pursuant to a formal procurement solicitation issued by City Purchasing and pursuant to public advertising, if valued at or greater than \$50,000, shall be opened publicly and may be conducted either (1) in person only or (2) virtually only, by means of an online meeting application that includes both audio/video access via an internet link as well as audio-only access via telephone, rather than in person, or (3) both in person and virtually. How each opening is to be conducted shall be addressed in writing in the relevant procurement solicitation, including any addenda to the procurement solicitation that may be issued. Whenever the opening is conducted either virtually only or both in person and virtually, in order to reduce the opportunity for persons to use any online virtual meeting application as a means for disrupting the opening, the ability for persons attending virtually to be viewed and/or heard by other attendees of such opening may be restricted by, and granted only upon request approved by, City Purchasing.



Procurement Policy of the City of Franklin, Tennessee

APPENDIX A

SELECTED TENNESSEE STATUTES APPLYING TO OFFICERS, COMMITTEE MEMBERS, ETC.

T.C.A. § 6-54-107. Interest of officer in municipal contracts prohibited.

- a. No person holding office under any municipal corporation shall, during the time for which such person was elected or appointed, be capable of contracting with such corporation for the performance of any work that is to be paid for out of the treasury. Nor shall such person be capable of holding or having any other direct interest in such a contract. “Direct interest” means any contract with any business in which the official is the sole proprietor, a partner, or the person having the controlling interest. “Controlling interest” includes the individual with the ownership or control of the largest number of outstanding shares owned by any single individual or corporation.
- b. No officer in a municipality shall be indirectly interested in any contract to which the municipality is a party unless the officer publicly acknowledges such officer’s interest. “Indirectly interested” means any contract in which the officer is interested but not directly so, but includes contracts where the officer is directly interested but is the sole supplier of goods or services in a municipality.
- c.
 1. Any member of a local governing body of a municipality who is also an employee of the same municipality may vote on matters in which such member has a conflict of interest if the member informs the governing body immediately prior to the vote as follows: “Because I am an employee of (name of governmental unit), I have a conflict of interest in the proposal about to be voted. However, I declare that my argument and my vote answer only to my conscience and to my obligation to my constituents and the citizens this body represents.”
 2. In the event a member of a local governing body of a municipality has a conflict of interest in a matter to be voted upon by the body, the member may abstain for cause by announcing such to the presiding officer. Any member of a local governing body of a municipality who abstains from voting for cause on any issue coming to a vote before the body shall not be counted for the purpose of determining a majority vote.
 3. The vote of any person having a conflict of interest who does not inform the governing body of such conflict as provided in subdivision (c)(1) shall be void if challenged in a timely manner. As used in this subdivision (c)(3), “timely manner” means during the same meeting at which the vote was cast and prior to the transaction of any further business by the body.
 4. Nothing in this subsection (c) alters, amends, or otherwise affects § 12-4-101(a). In the event of any conflict between this subsection (c) and § 12-4-101(a), § 12-4-101(a) shall prevail.
 5. The legislative body of any metropolitan form of government or charter form of government may opt out of this subsection (c) by resolution.



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T.C.A. § 6-54-108. Penalty for unlawful interest of officer.

Every officer of such corporation who shall unlawfully be concerned in making such contract, or who shall unlawfully pay money upon the same to or for any person declared incapable in § 6-54-107, shall forfeit the amount so paid; and such officer shall be jointly and severally liable to an action for the same, which action may be prosecuted by any citizen of the corporation in its name.

T.C.A. § 12-4-101. Personal interest of officers prohibited.

(a) (1) It is unlawful for any officer, committee member, director, or other person whose duty it is to vote for, let out, overlook, or in any manner to superintend any work or any contract in which any municipal corporation, county, state, development district, utility district, human resource agency, or other political subdivision created by statute shall or may be interested, to be directly interested in any such contract. “Directly interested” means any contract with the official personally or with any business in which the official is the sole proprietor, a partner, or the person having the controlling interest. “Controlling interest” includes the individual with the ownership or control of the largest number of outstanding shares owned by any single individual or corporation. This subdivision (a)(1) shall not be construed to prohibit any officer, committee person, director, or any person, other than a member of a local governing body of a county or municipality, from voting on the budget, appropriation resolution, or tax rate resolution, or amendments thereto, unless the vote is on a specific amendment to the budget or a specific appropriation or resolution in which such person is directly interested.

....

(b) It is unlawful for any officer, committee member, director, or other person whose duty it is to vote for, let out, overlook, or in any manner to superintend any work or any contract in which any municipal corporation, county, state, development district, utility district, human resource agency, or other political subdivision created by statute shall or may be interested, to be indirectly interested in any such contract unless the officer publicly acknowledges such officer’s interest. “Indirectly interested” means any contract in which the officer is interested but not directly so, but includes contracts where the officer is directly interested but is the sole supplier of goods or services in a municipality or county.

....

T.C.A. § 12-4-102. Penalty for unlawful interest.

Should any person, acting as such officer, committee member, director, or other person referred to in § 12-4-101, be or become directly or unlawfully indirectly interested in any such contract, such person shall forfeit all pay and compensation therefor. Such officer shall be dismissed from such office the officer then occupies, and be ineligible for the same or a similar position for ten (10) years.



Procurement Policy of the City of Franklin, Tennessee

APPENDIX B **SOLE-SOURCE PURCHASES VALUED AT OR GREATER THAN \$20,000**

Sole-source purchases valued at or greater than \$20,000 shall be made only when an item is unique and possesses specific characteristics that can be filled by only one source and must have prior approval by the Purchasing Manager or, if the purchase is valued at or greater than \$50,000, then the Board of Mayor and Aldermen except as detailed in provision L, “Sole-Source Purchases.” In determining whether to authorize sole-source purchases valued at or greater than \$20,000, factors such as the following shall be considered:

1. whether the vendor possesses exclusive and/or predominant capabilities or the item contains a patented feature providing a superior utility not obtainable from similar products;
2. whether the product or service is unique and easily established as one-of-a-kind;
3. whether the program requirements can be modified so that competitively priced products or services may be used;
4. whether the product is available from only one source and not merchandised through wholesalers, jobbers or retailers; and
5. whether items must be interchangeable or compatible with in-place items.

After review of the written justification from the requisitioning department and ascertaining that the item to be purchased meets one or several of the above criteria, and provided the product manufacturer representative has stated in writing that the vendor is the sole source available to the City, and provided the vendor has stated in writing that the quoted pricing is the lowest municipal unit pricing available at that time and in the foreseeable future for the quantity indicated, then, in lieu of competitive procurement procedures, the Purchasing Manager shall either authorize the sole-source purchase or, if the purchase is valued at or greater than \$50,000, then forward the request to the Board of Mayor and Aldermen for its consideration except as detailed in provision L, “Sole-Source Purchases.”

Based in part on Rule No. 0690-3-1-.03(3) of Rules of the Tennessee Department of General Services, Purchasing Division.