

## Chapter 135

### PROCUREMENT, CONFLICT OF INTEREST

#### **Section 135.010. Purchasing Agent Designated.**

The City Clerk and other department heads are designated as Purchasing Agents for the City.

#### **Section 135.020. Duties Generally.** [R.O. 2013 §130.020; CC §25.020; CC 1991 §130.020]

- A. In addition to the purchasing authority conferred in the preceding Section, and in addition to any other powers and duties conferred by this Code or other ordinance, the City Clerk shall:
1. Act to procure for the City the highest quality in supplies and contractual services at the least expense to the City.
  2. Discourage uniform bidding and endeavor to obtain as full and open competition as possible on all purchases and sales.
  3. Keep informed of current developments in the field of purchasing, prices, market conditions and new products and secure for the City the benefits of research done in the field of purchasing by other governmental jurisdictions, national technical societies, trade associations, and by private business and organizations.
  4. Prepare, adopt and maintain a vendors' catalogue file. Said catalogue shall be filed according to materials and shall contain descriptions of vendors' commodities, prices and discounts.
  5. Explore the possibilities of buying "in bulk" so as to take full advantage of discounts.
  6. Act so as to procure for the City all Federal and State tax exemptions to which it is entitled.
  7. Have the authority to declare vendors who default on their quotations irresponsible bidders and to disqualify them from receiving any business from the municipality for a stated period of time.

#### **Section 135.030. Requisitions Filed With the City Clerk.** [R.O. 2013 §130.030; CC §25.030; CC 1991 §130.030]

- A. Each City department or agency shall file with the City Clerk detailed requisitions or estimates of their requirements in supplies and contractual services in such manner, at such times, and for such future periods as the City Clerk shall prescribe.
1. A City department or agency shall not be prevented from filing, in the same manner,

with the City Clerk at any time a requisition or estimate for any supplies and contractual services, the need for which was not foreseen when the detailed estimates were filed.

2. The City Clerk shall examine each requisition or estimate and shall have the authority to revise it as to quantity, quality or estimated cost.

**Section 135.040. Conflict of Interest.** [R.O. 2013 §130.040; CC §§25.040 — 25.060; CC 1991 §130.040]

- A. No officer or employee of the City shall transact any business in his/her official capacity with any business entity of which he/she is an officer, agent or member or in which he/she owns a substantial interest; nor shall he/she make any personal investments in any enterprise which will create a substantial conflict between his/her private interest and the public interest; nor shall he/she or any firm or business entity of which he/she is an officer, agent or member, or the owner of substantial interest, sell any goods or services to any business entity which is licensed by or regulated in any manner by the City.
- B. No officer or employee of this City shall enter into any private business transaction with any person or entity that has a matter pending or to be pending upon which the officer or employee is or will be called upon to render a decision or pass judgment. If any officer or employee is already engaged in the business transaction at the time that a matter arises, he/she shall be disqualified from rendering any decision or passing any judgment upon the same.
- C. Any person who violates the provisions of this Section shall upon conviction thereof be punished as provided in Section 100.220 of this Title.

**Section 135.050. Gifts and Rebates.** [R.O. 2013 §130.050; CC §25.070; CC 1991 §130.050]

The City Clerk and every other officer and employee of the City are expressly prohibited from accepting, directly or indirectly, from any person, company, firm or corporation to which any purchase order or contract is or might be awarded any rebate, gift, money, or anything of value whatsoever, except where given for the use and benefit of the City. Violation of the provisions of this Section shall upon conviction thereof be punished as provided in Section 100.220 of this Title.

**Section 135.060. Competitive Bidding Required.** [R.O. 2013 §130.060; CC §25.080; CC 1991 §130.060]

All purchases of and contracts for supplies and contractual services in excess of five thousand dollars (\$5,000.00), and all sales of personal property which has become obsolete and unusable shall, except as specifically provided herein, be based wherever possible on competitive bids.

**Section 135.070. Formal Contract Procedure.** [R.O. 2013 §130.070; CC §25.090; CC 1991 §130.070]

All supplies and contractual services, except as otherwise provided in this Chapter, when the estimated cost thereof shall exceed five thousand dollars (\$5,000.00), shall be purchased by formal, written contract from the lowest responsible bidder, after due notice inviting proposals.

All sales of personal property which have become obsolete and unusable, when the estimated value shall exceed five thousand dollars (\$5,000.00), shall be sold by formal written contract to the highest responsible bidder, after due notice inviting proposals.

**Section 135.080. Notice Defined.** [R.O. 2013 §130.080; CC §25.100; CC 1991 §130.080]

A. The notice required by the preceding Section shall consist of the following:

1. Notice inviting bids shall be published once in at least one (1) official newspaper of the City and at least five (5) days preceding the last day set for the receipt of proposals. The newspaper notice required herein shall include a general description of the articles to be purchased or sold, shall state where bid blanks and specifications may be secured, and the time and place for opening bids.
2. The City Clerk shall also solicit sealed bids from all responsible prospective suppliers who have requested their names to be added to a "bidders' list", which the Clerk shall maintain, by sending them a copy of such newspaper notice or such other notice as will acquaint them with the proposed purchase or sale. In any case, invitations sent to the vendors on the bidders' list shall be limited to commodities that are similar in character and ordinarily handled by the trade group to which the invitations are sent.
3. The City Clerk shall also advertise all pending purchases or sales by a notice posted on the public bulletin board in the City Hall.
4. The City Clerk shall also solicit sealed bids by:
  - a. Direct mail request to prospective vendors,
  - b. Telephone, as may seem to him/her to be in the best interest of the City, and
  - c. Internet solicitation.

**Section 135.090. Bid Opening Procedure.** [R.O. 2013 §130.090; CC §25.110; CC 1991 §130.090]

Bids shall be submitted sealed to the City Clerk and shall be identified as bids on the envelope. They shall be opened in public at the time and place stated in the public notices. A tabulation of all bids received shall be posted for public inspection.

**Section 135.100. Lowest Responsible Bidder.** [R.O. 2013 §130.100; CC §25.120; CC 1991 §130.100]

- A. Contracts shall be awarded to the lowest responsible bidder. Bids shall not be accepted from, nor contracts awarded to, a contractor who is in default on the payment of taxes, licenses or other monies due the City. In determining "lowest responsible bidder" in addition to price, the following shall be considered:
1. The ability, capacity and skill of the bidder to perform the contract or provide the 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 quality of performance of previous contracts or services;
  5. The previous and existing compliance by the bidder with laws and ordinances relating to the contract or service;
  6. The sufficiency of the financial resources and ability of the bidder to perform the contract or provide the service;
  7. The quality, availability and adaptability of the supplies or contractual services to the particular use required;
  8. The ability of the bidder to provide future maintenance and service for the use of the subject of the contract;
  9. The number and scope of conditions attached to the bid.

**Section 135.110. Bids Accepted.** [R.O. 2013 §130.110; CC §25.125; CC 1991 §130.110]

All bids shall be accepted or rejected by the Board of Aldermen. When the award is not given to the lowest bidder, a full and complete statement of the reasons for placing the order elsewhere shall be entered upon the journal of the Board.

**Section 135.120. Tie Bids.** [R.O. 2013 §130.120; CC §25.130; CC 1991 §130.120]

If all bids received or the lowest bids received are for the same total amount or unit price, quality and service being equal, the contract shall be awarded to a local bidder. Where there is no local low bidder, the award shall be made on the basis of a drawing of lots to be held in public.

**Section 135.130. Open Market Procedure.** [R.O. 2013 §130.130; CC §25.140; CC 1991 §130.130]

A. All purchases of supplies and contractual services and all sales of personal property which has become obsolete and unusable for which competitive bidding is not required by Section 130.060 of this Code shall be made in the open market, without newspaper advertisement and without observing the procedure prescribed by Section 135.070 for the award of formal contracts.

1. All open market purchases shall, whenever possible, be based on at least three (3) competitive bids and shall be awarded to the lowest responsible bidder in accordance with the standards set forth in Section 135.100.
2. The City shall solicit bids by:
  - a. Direct mail request to prospective vendors,
  - b. Telephone,
  - c. Public notice posted on the bulletin board of the City Hall, and
  - d. Internet solicitation.
3. The City Clerk shall keep a record of all open market orders and the bids submitted in

competition thereon, and such records shall be open to public inspection.

**Section 135.140. Emergency Purchases.** [R.O. 2013 §130.140; CC §25.150; CC 1991 §130.140]

In case of an apparent emergency which requires immediate purchase of supplies or contractual services, the Board of Aldermen may authorize the purchase at the lowest obtainable price any supplies or contractual services regardless of the amount of the expenditure. A full explanation of the circumstances of an emergency purchase shall be recorded in the journal of the Board of Aldermen.