

## CITY OF TARPON SPRINGS ADMINISTRATIVE CODE

**SUBJECT: Procurement Guidelines**

**EFFECTIVE DATE: November 16, 2022**

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This code addresses general procurement guidelines applicable to the acquisition of supplies and services.

### **Section 1: General Procurement Guidelines**

- 1.1 All procurement requests for supplies or services, unless exempt by administrative code, small order procurement policy, available on a blanket purchase agreement/term contract or less than \$5,000, shall be submitted to procurement services through the City's eProcurement System and approved by the department director or designee.
- 1.2 All procurement requests must be within the limits of the current budget or covered by supplemental appropriation.
- 1.3 All procurements over \$10,000 must be approved by the Finance Director or designee in order to ensure adequate funding is available.
- 1.4 The following methods are available to be utilized in the acquisition of supplies and services; depending on the nature of the supplies/services being sought and the projected expense:
  - 1.4.1 *Competitive Sealed Bidding.* For procurements of \$25,000 or more, competitive sealed bidding is the preferred method for the procurement of supplies and services.
  - 1.4.2 *Competitive Sealed Proposals.* When it is determined that competitive, sealed bidding is not practicable or not advantageous to the City, a contract may be entered into by using the competitive sealed proposals method.
  - 1.4.3 *Small Procurements.* Small procurements under \$25,000 which are not accomplished through either a blanket purchase agreement or use of a purchasing card are solicited in the following manner:

Under \$4,999	Best Quote
\$5,000 - \$24,999	Three written, facsimile or electronic quotes
  - 1.4.4 *Single Source.* A contract may be awarded without competition when it is determined in writing that there is only one source for the required supply or service or when competitive bidding is either not feasible or advantageous to the City or such other reasons in accordance with the City Charter.

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- 1.4.5 *Emergency Procurement.* A procurement may be made under emergency provisions when it is determined that conditions exist which create a disruption of essential operations or conditions adversely affecting the safety, health or security of persons or property such as may arise by reason of floods, hurricanes, riots, equipment failures, or such other reason as may be proclaimed by the City Manager or his/her designee.
- 1.5 All procurements of \$25,000 or more shall be approved by the Mayor and Board of Commissioners.
- 1.6 All procurements between \$10,000 and \$25,000 shall be approved by the City Manager or his/her designee.
- 1.7 Bid proposals will be evaluated on the following basis:
- An award is made to the responsive and responsible offeror whose bid proposal is determined in writing to be the most advantageous to the City, taking into consideration price and the evaluation factors set forth in the bid proposals, together with others as appropriate.
- 1.8 A multiple award may be made when two or more bidders or offerors for similar supplies is necessary for adequate delivery, service, or product compatibility.
- 1.9 Specifications should be written in a manner to allow open competition. Specifications should emphasize functional or performance criteria and should limit, when practicable, design or physical descriptions to those meeting the need or those suitable for the intended purpose. Available standard commercial products should be used, and unique requirements should be avoided when practicable. Performance criteria should clearly identify how the acceptability of work performed will be determined; the user department's duties in terms of identifying and documenting unacceptable performance; and the consequences of unacceptable performance.
- 1.10 Pursuant to Florida State Statute 255.05, any contract for construction of a public building, for the pursuit and completion of a public work, or for repairs upon a public building or public work shall require a Payment and Performance Bond with a surety insurer authorized to do business in the State. For contracts less than \$200,000, the City may exempt a contractor from executing the Payment and Performance Bond.
- 1.11 A protest from a vendor must first be made in writing to the Director of Procurement Services. The Director of Procurement Services shall investigate the protest and present the findings in writing to the vendor. If the protest is not resolved to the satisfaction of the vendor, he or she may then make an appeal to the City Manager or his/her designee.
- 1.12 The City may participate in or administer cooperative purchasing agreements for the procurement of supplies or services. Such cooperative purchasing may include, but is not limited to, joint or multi-party contracts with other public entities and open-ended state

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contracts made available by the State of Florida. The City may also, in lieu of other competitive sealed bidding procedures, accept a competitively bid proposal or contract which has been supplied by state, or county government or any municipalities or agencies.

- 1.13 The City may participate in Job Order Contracting (JOC) construction services contracts for the procurement of construction services. This may be done as a competitive bid, or as cooperative purchasing agreements.
  - 1.13.1 The structure of the JOC will require departments to submit a project request task work order that is signed off by the department director, project administration and procurement services. Funds will be verified by Finance.
  - 1.13.2 The task work order will then be submitted to the contractor for proposal request. Selection and evaluation will be made. Every effort will be made to select the contractor based on performance history, vendor rotation, and/or availability to perform the work.
  - 1.13.3 Final contract delivery/purchase order agreements over \$25,000 will be signed by the City Manager.
- 1.14 Pursuant to Section 112.313 of the Florida Statutes, all City employees who participate in the procurement program shall adhere to the following ethical standards:
  - 1.14.1 A City official or City employee may not directly or indirectly procure contractual services for the City from a business entity of which a relative is an officer, partner, administrator, or proprietor, or in which he, his spouse, or child has a material interest.
  - 1.14.2 No employee acting as a procurement official, procurement manager, or buyer may, directly or indirectly, procure, rent, or lease any supply or service from a business entity in which he, his spouse, or child is an officer, partner, administrator, or proprietor, or in which he, his spouse, or child (or any combination of them) owns a material interest. Nor may a public officer or employee, acting in a private capacity, rent, lease, or sell any supply or service to the City.
- 1.15 Gratuities - City employees shall refrain from accepting gifts, entertainment, favors or services from present or potential suppliers to the City that might influence, or appear to influence, procurement decisions. Employees may accept trivial items as a matter of courtesy, but may not solicit them.
- 1.16 Vendor Relationships - In carrying out their procurement responsibilities, City personnel shall:
  - Know and observe fair, ethical, and legal trade practices and remain alert to the legal ramifications of procurement services decisions.

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- Encourage competition through open, equitable and fair practices.
- Conduct business with potential and current suppliers openly, fairly, equitably, and in an atmosphere of good faith.
- Avoid restrictive specifications.
- Avoid the intent and appearance of unethical or compromising practices.
- Promote positive supplier relationships through courtesy and impartiality in all phases of the procurement cycle.

1.16 Federal Grants – All procurements by Federal Grant recipients and subrecipients with provisions of 2 C.F.R. Section 200.317 – 326. All procurement transactions must be conducted in a manner providing full and open competition consistent with the standards of 2 C.F.R. Section 200.317 – 326. In case of a conflict between the City’s Procurement Guidelines and Federal Code, the most restrictive rule shall prevail.

### **Section 2: Development of Specifications**

Specifications for the acquisition of supplies and services should be written in a manner to allow open competition whenever it is practical to do so.

#### **2.1 Definitions.**

*2.1.1 Brand Name Specification.* A specification that is limited to one or more items by manufacturers' names or catalog numbers.

*2.1.2 Name or Equal Specification.* A specification that uses one or more manufacturers' names or catalog numbers to describe the standard of quality, performance, and other characteristics needed to meet City requirements and which provides for the submission of equivalent or equal supplies.

*2.1.3 Qualified Products List.* An approved list of supplies or services described by model or catalog number which, prior to competitive solicitation, the City has determined will meet applicable specifications and requirements.

*2.1.4 Specification.* Any description of the physical, functional, or performance characteristics or nature of a supply or service. A specification includes, as appropriate, requirements for inspecting, testing, or preparing a supply or service for delivery.

*2.1.5 Specification for Common or General Use.* A specification that has been developed and approved for repeated use.

#### **2.2 General Provisions**

*2.2.1 Purpose.* The purpose of a specification is to serve as a basis for obtaining a supply or service adequate and suitable for the City's needs. This should be done

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in a cost effective manner, taking into account the total cost of ownership and operation, as well as the initial acquisition cost. It is the code of the City that specifications permit maximum practicable competition consistent with this purpose. Specifications should be drafted with the objective of clearly describing the City's requirements.

- 2.2.2 *Functional or Performance Description.* Specifications should, to the extent practicable, emphasize functional or performance criteria while limiting design or other physical descriptions to those necessary to meet the needs of the City. To facilitate the use of such criteria, requesting departments should endeavor to include as part of their procurement requests the principal functional or performance needs to be met.
- 2.2.3 *Commercially Available Products.* It is the general code of the City to purchase standard commercial products whenever practicable. In developing specifications, accepted commercial standards should be used, and unique requirements should be avoided to the extent practicable.

### 2.3 **Development of Specifications**

- 2.3.1 *Procurement Description or Specification.* The procurement description or specification should include the essential physical and functional characteristics necessary to express the minimum requirements of the City, such as: (a) common nomenclature; (b) kind of material, i.e., type, grade, class, alternatives, etc.; (c) electrical data, if necessary; (d) dimensions; (e) size or capacity; (f) principles of operation; (g) environmental conditions; (h) intended use, including location, operating conditions, and acceptable product levels within the range of products available in the commercial marketplace; equipment with which the item is to be used; and (j) other pertinent information that further describes the supply or service required.
- 2.3.2 *Alternate Specification.* A specification may provide an alternate description of supplies or services where two or more design, functional, or performance criteria will satisfactorily meet the City's requirements.
- 2.3.3 *Contractual Terms - Not to be Included.* Specifications must not include any solicitation or contractual terms or conditions, such as the time or place for the bid opening, time of delivery, payment, liquidated damages, or qualification of bidders. These clauses should be included in the appropriate sections of the bid package, i.e., Instructions to Bidders, Terms and Conditions, etc.
- 2.3.4 *Use of Existing Specifications.* If a specification for a common or general use item has been developed, or if a qualified products list has been developed for a particular supply or service, it must be used unless the Director of Procurement Services or the director of the requesting department makes a determination that it is not in the City's best interest and that other specifications should be used.

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2.3.5 *Brand Name or Equal.* Brand name or equal specifications may be used when it is determined that:

- No other design or performance specification or qualified products list is available;
- Time does not permit the preparation of another form of procurement description not including a brand name;
- The nature of the product or the nature of the City's requirements makes use of the brand name or equal specification suitable for the procurement;
- The use of brand name or equal specifications is in the City's best interest.

2.3.6 *Designation of Several Brands.* Brand name or equal specifications should designate three, or as many different brands as are practicable, as "or equal" references and must state that substantially equivalent products to those designated will be considered for award.

2.3.7 *Qualified Products List.* A qualified products list may be developed when testing or examination of supplies prior to issuance of the solicitation is desirable or necessary in order to best satisfy the City's requirements. When developing a qualified products list, a representative group of potential suppliers must be solicited in writing to submit products for testing and examination to determine acceptability for inclusion on a qualified products list. Any potential supplier, even though not solicited, may offer their product for consideration. Inclusion on a qualified products list must be based on results of tests or examinations conducted in accordance with prior published requirements.

### **Section 3: Methods of Source Selection**

The City obtains supplies and services through a variety of processes. Procurement Services is responsible for determining the most appropriate process to follow in acquiring supplies and services at competitive costs.

#### **3.1 Competitive Sealed Bids**

City contracts shall generally be awarded by competitive sealed bidding. The following provisions shall be applicable to competitive sealed bidding processes:

3.1.1 *Invitation for Bids.* An Invitation for Bids (IFB) shall be issued for procurements of \$25,000 and over and shall include specifications and all contractual terms and conditions applicable to the procurement.

3.1.2 *Public Notice.* A minimum of ten (10) calendar days of public notice of an IFB shall be given prior to the bid opening date set forth in the IFB. Such notice may be published in a newspaper of general circulation. The notice should state the

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date, time and location of the bid opening as well as a description of the supply, service or construction desired.

- 3.1.3 *Pre-Opening Modification or Withdrawal of Bids.* Bids may be modified or withdrawn by written notice prior to the time and date set for bid opening.
- 3.1.4 *Bid Opening.* Bids shall be opened publicly in the presence of two or more people at the time and date designated in the IFB. The name of the bidder and such other relevant information as deemed appropriate, shall be recorded; records and bids shall be open for public inspection in accordance with Florida Statute 119.
- 3.1.5 *Late Bids, Late Withdrawals and Late Modifications.*
- 3.1.5.1 Any bid received after the time and date set for receipt of bids is late. Any withdrawal or modification of a bid received after the time and date set for opening of bids at the place designated for opening is late.
- 3.1.5.2 No late bid, late modification or late withdrawal will be considered unless received prior to contract award, and the bid, modification or withdrawal would have been timely for the action or inaction of City staff directly serving the procurement activity.
- 3.1.6 *Acceptance.* Bids shall be unconditionally accepted without alteration or correction.
- 3.1.7 *Evaluation.* Bids shall be evaluated based on the requirements set forth in the IFB. Those criteria that will affect the bid price and that will be considered in the evaluation for award shall be objectively measured, such as discounts, transportation costs, and total or life cycle costs. The IFB shall set forth the evaluation criteria to be used, such as inspection, testing, quality, workmanship, delivery, and suitability for a particular purpose. No criteria may be used in the bid evaluation that is not set forth in the IFB.
- 3.1.8 *Awards.* The contract shall be awarded to the lowest responsible and responsive bidder whose bid meets the specifications, requirements and criteria set forth in the IFB.
- 3.1.9 *Mistakes in Bids.* The Director of Procurement Services is responsible for evaluating all mistakes claimed/made by bidders and determining the action to be taken by the City on the bid in question.
- 3.1.10 *Tie Bids/Proposals (Non CCNA)* In the event two (2) or more Bidders have submitted the lowest and best bids/proposals, preferences may be given in the following order:
- A bidder who has signed and submitted a Drug Free Workplace form, pursuant to section 287.087 Florida Statutes, with the bid.

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- A bidder who has a principal place of business in the City of Tarpon Springs.
- A bidder who has its principal place of business in Pinellas County.
- A bidder has a place of business in the City of Tarpon Springs
- A bidder has a place of business in Pinellas County.
- Otherwise, the bid may be awarded by drawing lots.

### 3.2 *Competitive Sealed Proposals*

When it is determined that the use of competitive sealed bidding is not practicable or not advantageous to the City, a contract may in some cases be entered into by use of the competitive sealed proposals method. The following provisions shall be applicable to competitive sealed proposal processes:

- 3.2.1 *Request for Proposals.* Proposals for procurements of \$25,000 and over shall be solicited through Request for Proposals (RFP).
- 3.2.2 *Public Notice.* A minimum of fifteen (15) calendar days of appropriate public notice shall be given prior to any competitive sealed proposal process.
- 3.2.3 *Modification or Withdrawal of Proposals.* Proposals may be modified or withdrawn prior to the established due date in accordance with procedures set forth for Request for Proposals. The established due date is either the time and date announced for receipt of proposals or receipt of modifications to proposals, if any. If discussions have begun, it is the time and date by which best and final offers must be submitted, provided that only offerors who submitted proposals by the time announced for receipt of proposals may submit best and final offers.
- 3.2.4 *Late Proposals, Late Withdrawals and Late Modifications.* Any late proposal, withdrawal or modification received after the established due date at the place designated for receipt of proposals is late. Late proposals may only be considered in accordance with procedures previously established for late bids.
- 3.2.5 *Receipt of Proposals.* A Record of Receipt of Proposals shall be provided containing the name of each offeror, the number of modifications received, if any, and a description sufficient to identify the item(s) offered. The register of proposals shall be open for public inspection.
- 3.2.6 *Evaluation of Proposals.* The RFP shall state all the evaluation factors, including price, and their relative importance. Evaluations shall be based on evaluation factors set forth in the RFP. Numerical rating systems may be used, but are not required. Factors not specified in the Request for Proposals shall not be considered.
- 3.2.7 *Local Business Preference.* In accordance with the Local Business Preference Policy, preference will be considered after completion of the final rankings. Preference shall be applied to local business in the amount of 5%.



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- 3.2.8 *Discussion and Revision of Proposal.* As provided in the RFP, discussions may be held with responsible offerors who submit proposals determined to be acceptable or potentially acceptable for award. Discussions are held to promote an understanding of the City's requirements and the offeror's proposal and to facilitate arriving at a contract that will be most advantageous for the City.
- 3.2.9 *Conduct of Discussions.* Offerors shall be accorded fair and equal treatment with respect to any opportunity for discussions and revisions of proposals. The Director of Procurement Services should establish procedures and schedules for conducting discussions. If during discussions there is a need for any substantial clarification of, or change in, the RFP, the request shall be amended to incorporate such clarification or change. Auction techniques revealing one offeror's price to another are prohibited. Any substantial oral clarification of a proposal shall be reduced to writing by the offeror.
- 3.2.10 *Award.* An award shall be made to the responsible offeror whose proposal is determined in writing to be the most advantageous to the City, taking into consideration price and the evaluation factors set forth in the RFP. No other factors shall be used in the evaluation.
- 3.2.11 *Mistakes in Proposals.* The Director of Procurement Services is responsible for evaluating all mistakes claimed/made by offerors and determining the action to be taken by the City on the proposal in question.

### **3.3 *Multi-Step Sealed Bidding***

- 3.3.1 *Application.* This is a two-phase process consisting of a technical first phase composed of one or more steps in which bidders submit unpriced technical offers to be evaluated by the City, and a second phase in which those bidders whose technical offers are determined to be acceptable during the first phase have their price bids considered.
- 3.3.2 *Condition of Use.* Multi-step sealed bidding may be used when it is not practicable to prepare initially a definitive procurement description which will be suitable to permit an award based on price. Multi-step sealed bidding may be used under the following circumstances:
- Available specifications or procurement descriptions are not definite or complete;
  - Definite criteria exist for evaluating technical proposals;
  - More than one technically qualified source is available;
  - Sufficient time will be available for using the two-step method; or
  - A firm, fixed-price contract or a fixed-price contract with economic adjustment will be used.

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3.3.3 *Multi-Step Sealed Bidding.* Multi-step sealed bidding may be used when it is considered desirable:

- to invite and evaluate technical offers to determine their acceptability to fulfill the procurement description requirements;
- to conduct discussions for the purposes of facilitating understanding of the technical offer and procurement description requirements and, where appropriate, obtain supplemental information, permit amendments of technical offers, or amend the procurement description; and
- to award the contract to the lowest responsive and responsible bidder in accordance with the competitive sealed bidding procedures.

3.3.4 *Mistakes During Multi-Step Sealed Bidding.* The Procurement Services Director is responsible for evaluating all mistakes claimed/made by offerors and determining the action to be taken by the City on the proposal in question.

### 3.4 *Small Procurements*

3.4.1 *Application.* This code is established for procurements of less than \$25,000 for supplies and services.

3.4.2 *Amount.* Quotations are solicited in the following manner:

\$2,000 - \$4,999	Best Value
\$5,000 - \$24,999	Three (3) written, facsimile or electronic quotes

A price check should be made on expenditures less than \$2,000 when purchasing unfamiliar supplies.

3.4.3 *Purchasing Card.* The purchasing card is authorized for use in making and/or paying for small procurements of supplies or services up to \$2,000

3.4.4 *Existing Florida State Contracts for Items.* Supplies and services which may be obtained under current Florida State Contracts shall be procured under such agreements in accordance with the terms of such contracts.

3.4.5 *Available from One Business Only.* For items exceeding \$5,000, a single source justification is required. If the supply or service is available from only one business the single source procurement method shall be used even if the procurement is a small procurement as specified.

3.4.6 *Division of Requirements.* Procurement requirements shall not be artificially divided to avoid using other source selection methods.

### 3.5 *Single Source Procurement*

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3.5.1 *Application.* Single source procurements can only be made with the concurrence of the Director of Procurement Services.

3.5.2 *Condition of Use.* Single source procurement is not permissible unless a requirement is available from only a single supplier. A requirement for a particular proprietary item does not justify a single source procurement if there is more than one potential bidder or offeror for that item. The following are examples of circumstances which could necessitate single source procurement:

- where a single supplier's item is needed for trial use or testing;
- where a single supplier's item is to be used for resale;
- where additional supplies or services are needed to complete an ongoing task;
- where the compatibility of equipment, accessories or replacement parts is the paramount consideration;
- where the item is a used item which is subject to immediate sale; or
- where the item is a component or replacement part for which there is no commercially available substitute and which can be purchased only from the manufacturer or distributor.

3.5.3 *Determination.* The determination as to whether a procurement is made as a single source shall be made by the Director of Procurement Services or designee. Such determination and the basis therefore shall be in writing. The Director of Procurement Services or designee may specify the application of such determination and the duration of its effectiveness. In cases of reasonable doubt, competition should be solicited. Any request by a requesting department that a procurement be restricted to one potential contractor shall be accompanied by an explanation as to why no other product or source will be suitable or acceptable to meet the need.

3.5.4 *Negotiations in Single Source Procurement.* The Director of Procurement Services or designee shall conduct negotiations, as appropriate as to price, delivery and terms.

### 3.6 **Emergency Procurements**

3.6.1 *Application.* Emergency procurements must comply with the procedures established for such situations by the Director of Procurement Services.

3.6.2 *Definition of Emergency Conditions.* An emergency condition is a situation which creates a disruption of essential operations or conditions adversely affecting the safety, health or security of persons or property such as may arise by reason of flood, hurricanes, riots, equipment failures, or such other reason as may be proclaimed by the City Manager or his/her designee. The existence of such conditions creates an immediate and serious need for supplies or services that

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cannot be met through the normal procurement methods and the lack of which would seriously threaten:

- the functioning of City government;
- the preservation of the protection of property; or
- the safety and health of any person.

3.6.3 *Authority to Make Emergency Procurements.* Authority to make emergency procurements shall be granted in the following manner:

3.6.3.1 *Under \$10,000.* The department director or designee may make emergency procurements of up to \$10,000 when an emergency situation arises and the need cannot be met through normal procurement methods. Upon placing the order the department director or designee is responsible for making a written determination stating the basis of the emergency procurement and for the selection of a particular supplier. Such documentation must be sent promptly to the Director of Procurement Services.

3.6.3.2 *Over \$10,000 and up to \$100,000.* Emergency procurement over \$10,000 and up to \$100,000 must be processed in the following manner:

3.6.3.2.1 *Approval by City Manager or Designee.* Prior to the procurement, emergency procurements over \$10,000 and up to \$100,000 must be approved by the City Manager or designee. Concurrent with the approval of the emergency procurement, the department should contact the Director of Procurement Services to determine how the emergency procurement can be accomplished most expeditiously while providing appropriate safeguards. Justification for this method of procurement along with the City Manager's or designee's authorization must be submitted in writing to the Director of Procurement Services by the director of the requesting department prior to the procurement.

3.6.3.2.2 *Documentation.* Upon placing the order the department director or designee is responsible for making a written determination stating the basis of the emergency procurement and for the selection of a particular supplier. Such documentation must be sent promptly to the Director of Procurement Services who will prepare an agenda brief for the City Manager and placed on an agenda for Board of Commissioner notification. If the Board of Commissioners declares that an emergency exists, or if only a single supplier is reasonably available for any procurement, the Board of Commissioners is authorized to expend any amount without competitive bidding

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3.6.3.3 *Ratification and Approval by Mayor and Board of Commissioners.* For emergency procurements over \$100,000, the Director of Procurement Services must submit to the City Manager for review, written documentation of the procurement action taken. The City Manager shall forward the report to the Mayor and Board of Commissioners for ratification and approval.

Issue Date: 11/17/2022

Approved by:   
City Manager