

CITY OF TARPON SPRINGS ADMINISTRATIVE CODE

SUBJECT: Procurement Guidelines

EFFECTIVE DATE: April 2, 2024

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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 Procurement Services Director and, the Finance Director or designee to ensure adequate funding is available.
- 1.4 Methods of Source Selection 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/Sole Source.* A contract may be awarded without competition when it is determined in writing that there is only one source for the required

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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.

- 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 Environmentally Preferable Purchasing (Green Purchasing). It is the policy of the City to purchase recycled and environmentally preferable goods. Environmentally preferable goods are defined as "products or services that have a lesser or reduced effect on human health and the environment when compared with competing products or services that serve the same purpose." This includes products that contain recycled material, reduce toxicity and pollution, conserve energy, conserve water and prevent waste. This policy will be carried out consistent with the City's obligations and purpose, and with an overall intent to obtain competitive prices to provide value to the taxpayers.
- 1.8 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.
- 1.9 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.
- 1.10 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.

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- 1.11 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.
- 1.12 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.
- 1.13 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 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, City, or county government or any municipalities or agencies.
- 1.14 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 a cooperative purchasing agreement.
 - 1.14.1 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.
 - 1.14.2 The task work order will be submitted to the contractor for proposal request. Selection and evaluation will be made. Every effort will be made to select the JOC contractor based on performance history, vendor rotation, and/or availability/experience to perform the work.
 - 1.14.3 Final contract delivery/purchase order agreements over \$25,000 will be signed by the City Manager.
- 1.15 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:
 - 1.15.1 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.
 - 1.15.2 No employee acting as a procurement official, procurement manager, or

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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.

1.16 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.

1.17 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.
- 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.

1.18 Uniform Guidance for Federal Awards -

1.18.1 The Federal Office of Management and Budget ("OMB") issued Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, 2 CFR Chapter I, Chapter II, Part 200, et al. (the "Uniform Guidance"), in the Federal Register on December 19, 2014. The Uniform Guidance was generally effective on December 26, 2014.

1.18.2 Section 200.110 of the Uniform Guidance states that non-Federal entities comply with the procurement standards in found in the Uniform Guidance. Section 200.317 Procurement by states, when procuring property and services under a Federal award, a State must follow the same policies and procedures it uses for procurements from its non-Federal funds. The State will comply with §§ 200.321, 200.322, and 200.323 and ensure that every purchase order or other contract includes any clauses required by § 200.327. All other non-Federal entities, including subrecipients of a State, must follow the procurement standards in §§ 200.318 through 200.327. The City of Tarpon Springs (City) will take steps to ensure that the procurement standards found in the Uniform Guidance are properly implemented.

1.18.3 Uniform Guidance significantly reforms federal grant making to focus resources on improving performance and outcomes. The intent is to reduce administrative burdens for grant applicants and recipients and reduce the risk of waste, fraud, and abuse.

1.18.4 Procurement guidance is specifically located in Sections 2 CFR 200.317-200.326. This guidance focuses on increased competition and transparency in the procurement

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process. The City will implement best practices to meet the requirements mentioned in Sections 2 CFR 200.317-200.327. 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 in a cost-effective manner, considering 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

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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. Procurement Services Department will recommend modifications and approve specifications prior to publishing for solicitations.

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.

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

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- 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 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 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.

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3.1.5 Late Bids, Late Withdrawals and Late Modifications.

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.

3.1.6 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.

3.1.7 Acceptance. Bids shall be unconditionally accepted without alteration or correction.

3.1.8 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.

3.1.9 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.

3.1.10 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.

3.1.11 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.
- 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.
- 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:

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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 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.

3.2.8 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.

3.2.9 Award. An award shall be made to the responsible offeror whose proposal

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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.

3.2.10 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.

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.

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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:

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

Internal inventory of City assets and contracts should be performed prior to obtaining any supplies and/or services to prevent a duplication of contract or unnecessary fraud, waste and abuse. A price check should be made on expenditures less than \$3,000 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 \$3,000.

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 and Sole Source Procurement

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.

(1) Single Sourcing; is a procurement decision whereby purchases are directed to one source because of standardization, warranty, or other factors, even though other competitive sources may be available.

(2) Sole Source Procurement; is a selection of one particular supplier to the exclusion of all others. This decision may be based on lack of competition, proprietary technology, copyright, warranty or a supplier's unique capability.

The following are examples of circumstances which could necessitate single source procurement/exemption from the competitive process:

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- 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 Exemption from the Competitive Process

3.6.1 The following procurement categories may be eligible for exemption from the competitive process based upon the determination of the City Manager or Designee that approval of such an exemption is in the best interest of the City.

- Advertisements.
- Repairs based upon shop estimates for equipment that has been disassembled.
- Goods or services purchased from grants, gifts, bequests or donations to the extent that the application of this Manual would conflict with the requirements, conditions, or limitations attached to the grant, gift, bequest, or donation.
- Legal services including retaining services of law firms or other outside counsel for any reason, expert witnesses, court reporter services, appraisal services, trial consultants or similar persons or firms deemed by the City Attorney as necessary to address the legal needs of the City, together with document management and production, legal research, and information technology products and services
- The item is for artistic services for public display.
- The services are for prevention of mental health, including drug abuse prevention.

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- The items or services are provided by another government agency or from a nonprofit organization authorized to do business in the State of Florida.
- The service is for health services, examinations, diagnosis treatment, prevention, medical consultations.
- The service or commodity is for training and education services or recreational field trip instructors, trainers, facilitators, professional advisors and speakers.
- Dues and memberships in trade or professional organizations; registration fees for trade or career fairs; fees and costs of job-related seminars and training.
- Utility Services: water, sewer, electrical, gas, or other regulated utility, communications and data transmission services subject to government rate control.

3.6.2 The operating department/division seeking an Exemption shall, complete an Single Source Purchase Request Form in OnBase, along with required supporting documentation, as indicated on the form, and specifying the estimated or actual anticipated expenditure, and forward to the Procurement Services Department for review. Once reviewed and approved by the Procurement Services Director, the operating department/division, depending on expenditure level, may be required to prepare a department background memorandum and request Board approval at the next available agenda.

Exemptions over the approval authority given to the City Manager require Board approval.

Approved Exemptions are valid for a period of twelve (12) months, unless otherwise determined by the Procurement Services Director or the Board.

Exempt purchases in excess of \$10,000 require a contract in addition to a Purchase Order. In the judgment of the Procurement Services Director, contracts may be required for Exempt purchases less than \$10,000.

In all cases the requesting department/division shall strive to obtain best value from a vendor when obtaining goods and services under an Exemption.

3.6.3 Should the Procurement Services Director determine that the request is not eligible for exemption and/or that it would be in the best interest of the City to conduct a competitive process, the requesting department/division will be required to work with Procurement staff on an appropriate method.

3.7 Informal Competition (Purchases \$5,000 - \$25,000) Invitation to Quote (IFQ)

3.7.1 Three (3) written quotes will be sought by departments/divisions for purchases exceeding \$5,000 but not greater than \$25,000. Departments/Divisions will seek the lowest quote obtained (based on quote

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identified unit or total price), from the responsive (submits all information requested, agrees to meet timeline, terms and conditions, etc.) and responsible (has references that check, current licenses, certifications, demonstrated years of experience with equipment and staff to perform the work, etc.) bidder.

3.7.2 Where departments/divisions staff are unsuccessful in securing three (3) comparable quotes, the departments/divisions will seek the assistance of the Procurement Services, where it may be determined by the Procurement Services Director that a good faith effort was conducted, and an award may be made with fewer than three (3) quotes. The Procurement Services may recommend that additional sourcing and soliciting are required by either the departments/divisions staff or by the Procurement Services staff.

A purchase shall not be artificially divided or split so as to qualify under this or any other section of this Procurement Code. Departments/divisions staff should make all reasonable efforts to purchase goods and services under Board approved contracts. In the event a contract is not available, or staff demonstrates that the price under contract exceeds the price on a non-contract, departments/divisions staff will procure the highest quality items or services at the least expense to the City.

Departments/divisions who are requesting quotes are to conduct themselves in a fair and equitable fashion by providing the same information, under the same conditions, to all vendors in a fair and open competitive process.

3.7.3 Only the Procurement Services staff may issue a qualification based solicitation. Final recommended award of any quote will be reviewed and approved by the Procurement Services Director or Designee.

3.8 Invitation to Negotiate (ITN)

An Invitation to Negotiate (ITN) shall be issued by the Procurement Services Director with public announcement and competition. An ITN is used when it is determined beneficial to issue a written solicitation for competitive sealed replies to select one or more vendors with which to conduct negotiations. Details on the Invitation to Negotiate process and procedures will be contained in the ITN solicitation. The ITN will generally follow the procedure outlined for an RFP.

3.9 Requests for Information (RFI)

An RFI shall be issued by the Procurement Services Director when it is in City's best interest to request information from potential vendors prior to the issuance of a planned solicitation. An RFI is used to collect comments and obtain inputs from the market place.

3.10 Emergency Procurements

3.10.1 Application. Emergency procurements must comply with the procedures

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established for such situations by the Director of Procurement Services.

3.10.2 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 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.

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

3.10.3.1 Under \$10,000. The department director or designee may make emergency procurements of up to \$10,000 when an emergency 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.

3.10.3.2 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:

3.10.3.2.1 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.

3.10.3.2.2 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

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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.

3.10.3.3 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.

Section 4: Debarment and Suspension of Bidders

4.0 All department complaints against vendor performance shall be directed to the Procurement Services Department, which will investigate and take appropriate action to correct the problem(s).

4.1 Integrity of public contracting; purchasing authority to suspend or debar. Maintaining the integrity of the public contracting and purchasing process is vital and a matter of great public interest. Selecting and contracting with highly qualified persons or entities ("vendors") that engage in ethical and responsible business practices protects the public and supports the integrity of the public contracting and procurement process. Because the opportunity to participate in competitive procurements or to supply goods or services to the City is a privilege, not a right, this privilege should be denied to persons or entities that engage or are involved in activities or actions as described herein that adversely impact the quality of goods and services provided to the City for the benefit of the public. In those instances, it is in the best interests of the public to disqualify vendors by suspension or debarment from inclusion on future vendor lists or from consideration for award of new contracts, work, or any work assignments on existing contracts, based upon documentation that the grounds for suspension or debarment as provided herein exist.

4.1.1 Suspension. A vendor shall be suspended for a period of two years or until the conditions described herein have been rectified or resolved, whichever occurs first, as determined by the procurements director based upon the following:

- a. The City has formally declared the vendor in breach of a contract that has resulted in the termination of the contract by the City for failure to comply with the conditions, specifications, or terms of a contract with the City; or
- b. The City has formally disqualified or declared a vendor's bid, quotation, or proposal nonresponsive, based on the vendor's fraud or misrepresentation; or

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- c. The vendor is charged by a court of competent jurisdiction with the commission of a criminal offense as an incident to obtaining or attempting to obtain a public or private contract or subcontract or in the performance of such contract or subcontract; or is charged by a court of competent jurisdiction with the following: embezzlement, theft, forgery, bribery, fraud, falsification or destruction of records, receiving stolen property, or any other offense indicating a lack of business integrity or business honesty which currently, seriously and directly affects responsibility as a City government contractor; or
- d. The vendor becomes insolvent, has proceedings in bankruptcy instituted against it, or has a receiver or trustee appointed over its property; or
- e. The vendor has three or more violations of the code as defined in the Procurement Services Admin Code in any two-year period arising from or related to vendor's business activities, as determined in a court or administrative proceeding, including by plea; or
- f. The vendor and the City are engage in adversarial proceedings (i.e., court proceedings, arbitration, or administrative proceeding) arising from or related to the vendor's performance of a contract with the City; or
- g. The vendor is suspended by another government entity.

4.1.2 Debarment. A vendor shall be permanently debarred by the Procurement Services Director based on the following:

- a. The City obtains a judgment in an adversarial proceeding between the City and the vendor (i. e., court proceeding, arbitration, or administrative proceeding) arising from the vendor's performance of a contract with the City which remains unsatisfied for a period of 30 days from the expiration of any appeal period or final resolution of any appeal; or
- b. Vendor conviction by or judgment obtained in a court of competent jurisdiction for commission of those offenses in connection with the vendor's business activities stated in subsection (b)(1)c above; [or]
- c. Vendor is debarred by another government entity.

4.2 Public entity crime. Notwithstanding any other provision herein, any vendor who has been convicted of a public entity crime as defined by F.S. § 287.133 shall not be able to transact business with the City to the extent as specified in the statute.

4.3 Decision. The Procurement Services Director shall issue a written notification to suspend or debar based on documentation of the existence of one or more of the conditions described herein. The suspension or debarment shall take effect as

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of the date of the notification. The notification shall state the basis for the action taken and the period of the suspension, or that the vendor has been debarred. Prior to issuance of written notification, the Procurement Services Director may schedule an informational meeting with the vendor to review the documentation supporting the suspension or debarment. The only issue that shall be considered at the informational meeting is whether the condition giving rise to the suspension or debarment has occurred or taken place.

4.4 Effects of suspension and debarment.

a. Suspended or debarred vendors are excluded from receiving any new contracts, awards or otherwise providing new goods or additional services during the period of suspension or during debarment; from having any bids, proposals, quotations, or qualifications considered by the City or responding to other solicitations of the City; and from conducting business with the City as a subcontractor, representative, or joint ventures of other vendors. For the purposes of this subsection (b)(5)a, "new goods or additional services" does not include goods or services provided by the vendor pursuant to a contract, purchase order or work assignment in effect as of the date of suspension.

b. Any business entity controlled by or affiliated with any vendor ineligible for new business pursuant to subsection (b)(5)a may also be prohibited from contracting with the City if the relationship or affiliation is such that the person or business entity by reason of the relationship with the ineligible person or entity could directly benefit from the contract. Such factors as ownership interest, one or more members of the board of officials in common, control of one entity by the other, interlocking, or shared management or principals, and limited management and ownership among family members shall be considered in determining ineligibility under this section of this article.

4.5 Reinstatement

After suspension or debarment, a vendor is not eligible to contract or be awarded work with the City until reinstated by the Procurement Services Director. The vendor must supply information and reasonable documentation indicating that the conditions causing the suspension or debarment have been rectified or resolved. If the charges referenced in subsection (b)(1)c are dismissed or the vendor is found not guilty, the suspension shall be lifted automatically upon written notification and proof of final court disposition provided by the vendor to the City. If the conviction or judgment referenced in subsection (b)(2)b is reversed through the appellate process, the debarment shall be removed immediately upon written notification and proof of final court disposition from the vendor to the City. As a condition of reinstatement, and with approval of the City administrator, the procurement services director may limit the nature and scope of contractual undertakings that must be satisfactorily completed before seeking additional contracts from the City. Nothing herein prevents the City from granting reinstatement prior to the end of the suspension period or debarment where, in

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the procurement services director's judgment, the City's interests have been addressed and the vendor to be reinstated is not likely to engage in similar conduct again.

5.0 Unauthorized commitments. Commitments authorized in excess of \$5,000 obtained without 3 written estimates/quotes or not following solicitation procedures-unless provided for an exemption under the Procurement Administrative Code, without Procurement Services Department Approvals are considered unauthorized.

Unauthorized commitments are agreements that are not binding solely because the government representative who made it, lacked the authority to enter into that agreement on behalf of the government.

Ratification procedures will be followed in accordance with Procurement Services Department Ratification Policy.

6.0 Waiver of Ordinance

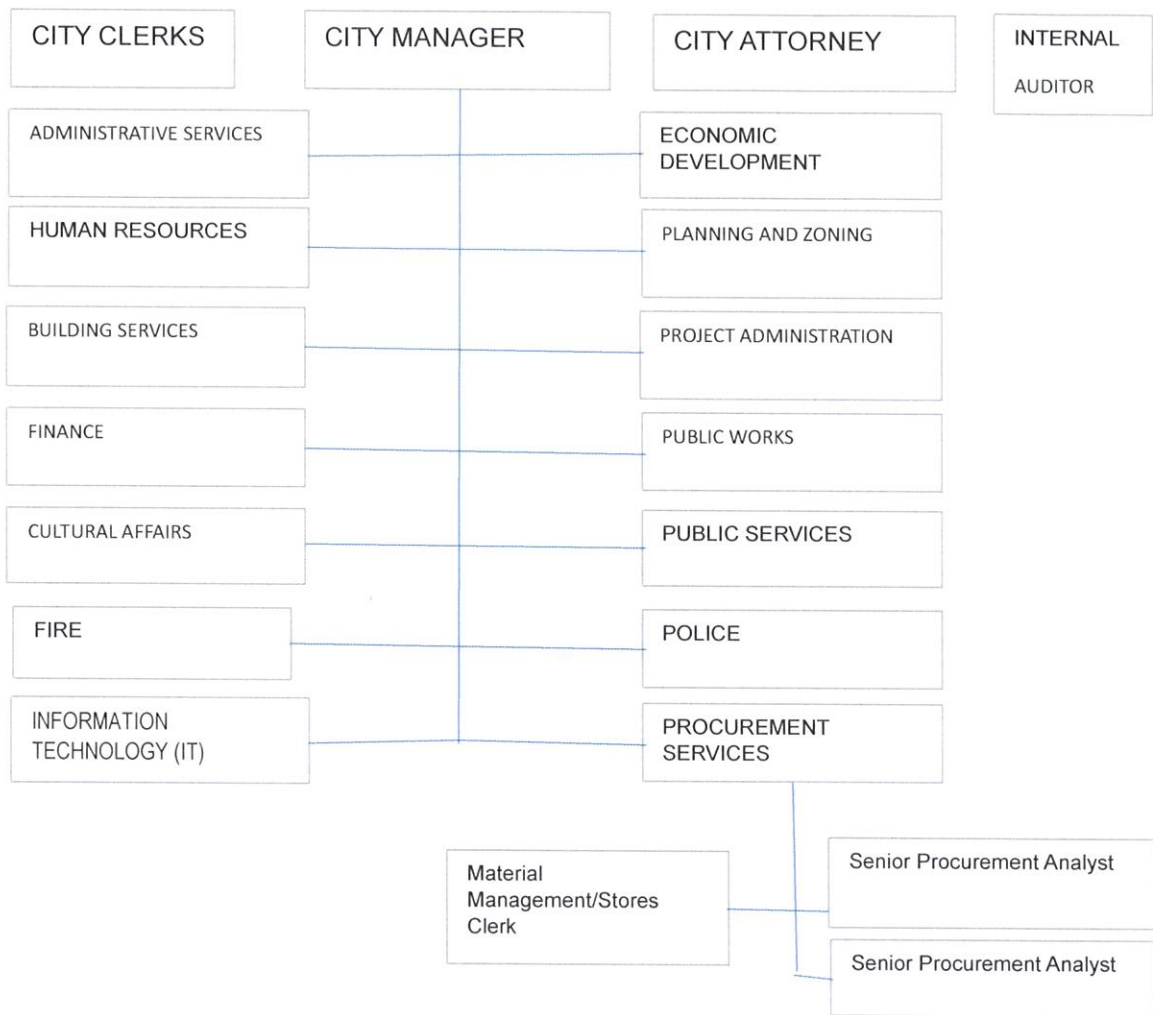
The City of Tarpon Springs Board of Commissioners shall have the authority to waive any and all Procurement ordinance provisions within lawful guidelines and upon formal Board action.

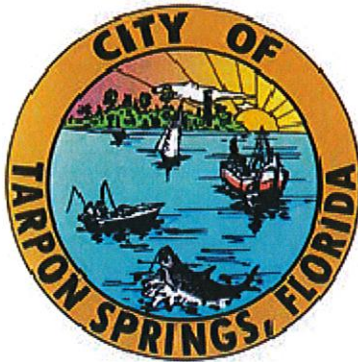
7.0 Conflict and Severability

In the event this Code conflicts with any other ordinance of the City or other applicable law, the more restrictive shall apply. If any phrase or position of this Code is held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portion.

Issue Date: 04-02-2024

Approved by: 
City Manager





City of Tarpon Springs Procurement Services

Ratification Policy

The purpose for this City of Tarpon Springs "CITY" Ratification policy is to establish a culture of openness, trust and integrity in our business practices. All employees and any contractor employees should familiarize themselves with the guidelines that follow this introduction.

1.0 Unauthorized commitments. Commitments authorized in excess of \$5,000 obtained without 3 written estimates/quotes or not following solicitation procedures-unless provided for an exemption under the Procurement Administrative Code, without Procurement Services Department Approvals.

Unauthorized commitments are agreements that are not binding solely because the government representative who made it, lacked the authority to enter into that agreement on behalf of the government.

1.1 Definitions:

- 1.1.2 Implied authority refers to an agent's power to act on behalf of a principal without an express authorization from that principal.
- 1.1.3 Express authority is the authority which the principal has expressly given to the agent whether orally or in writing.
- 1.1.4 Apparent authority, on the other hand, emerges from the principal's actions or statements that lead third parties to reasonably believe that an agent has been given certain authority.

2.0 Ratification. The act of approving an unauthorized commitment by an official who has the authority to do so:

A ratification is a corrective action, NOT a cure to the problem of unauthorized actions.

2.1 The following circumstances must exist before the ratifying authority can ratify an unauthorized action:

- Services were received & accepted by the Gov., or Gov. has/will receive a benefit from the unauthorized action
- The ratifying official has authority to enter into a contractual commitment
- The resulting contract would otherwise have been proper if made by the procurement services department
- The Procurement Analyst reviewing the unauthorized commitment determines the price fair and reasonable
- The Procurement Analyst recommends payment and legal counsel concurs in the recommendation, unless agency procedures expressly do not require such concurrence
- Funds are currently and were available at the time the unauthorized commitment was made

3.0 Ratification Process. The Form Found at Appendix A must be completed, and include the following:

- Statement of Facts and Relevant Records
- Department Director's Actions
- Disciplinary actions (if applicable)
- Steps to prevent recurrence

3.1 Procurement Analyst's Actions

- Review and determine adequacy of facts, records, and documentations
- Prepare statement of facts
- Obtain legal review (if applicable)
- Determine if price is fair and reasonable
- Document e-file as appropriate

Appendix A

Unauthorized Expenditure Form

PROCUREMENT RATIFICATION FORM

FROM: _____

DATE: _____

DEPARTMENT: _____

VENDOR: _____

DEPT. DIRECTOR SIGNATURE: _____ DATE: _____

Amount of Invoice: _____ Invoice Date: _____

The attached request for disbursement does not appear to be in compliance with City Procurement Guidelines for the following reason:

Please forward all documentation with this form attached, and letter of explanation, to the Procurement Services Director.

=====

TO: Procurement Services Director

Please review, and upon approval, forward to the City Manager.

Signature: _____ Date: _____

Resolution:

To process this disbursement, the request must be approved by the City Manager and Finance Director.

=====

TO: City Manager

Please review, and upon approval, forward to the Finance Department for processing.

City Manager Signature: _____ Date: _____

TO: Finance Director

Finance Director Signature: _____ Date: _____