

OAKLAND PARK CODE OF ORDINANCES
CHAPTER 2
ARTICLE VII. PURCHASING

Sec. 2-191. Purpose.

The purpose of this article is to provide for the fair and equitable treatment of all vendors, contractors and bidders who do and seek to do business with the city, to maximize the purchasing value of public funds in procurement, and to provide safeguards for maintaining a procurement system of quality and integrity.

(Ord. No. O-2005-026, § 2, 9-7-05)

Sec. 2-192. Definitions and terms.

As used in this article the following terms shall mean:

- (1) *Addenda*: Written or graphic instruments issued prior to the opening of bids which clarify, correct, or change the bidding documents or contract documents.
- (2) *Brand name specification*: A specification limited to one or more items by manufacturers names or catalogs.
- (3) *Brand name or equal specifications*: A specification that refers to manufacturers' names or catalog numbers to describe the standard of quality, performance or other salient characteristics needed to meet the city's requirements and which provides for the submission of equivalent products.
- (4) *Competitive bids or offers*: The solicitation of two (2) or more bids or offers submitted by responsive and qualified bidders or offerers.
- (5) *Construction*: The process of building, altering, repairing physical structures.
- (6) *Contractor*: Any person or business entity having a contract with the City of Oakland Park.
- (7) *Contractual services*: The rendering of time and effort by a contractor rather than furnishing specific supplies. The term applies only to those services rendered by individuals and firms who are independent contractors. Contractual services shall not include exempt contractual services as more specifically identified in this document.
- (8) *Invitation to bid*: A written solicitation for competitive, sealed bids with the title, date, and hour of the public bid opening designated therein and specifically defining the supplies or contractual services for which bids are sought. The invitation to bid shall be used when the city can establish precise specifications that define the scope of work for which a contractual service is required or that define the actual supplies required. The invitation to bid shall include instruction to bidders, plans, drawings and specifications if any, bid form, and other required forms and documents to be submitted with bid.
- (9) *Obsolete property*: Any personal property belonging to the city which can no longer be used for its intended purpose, which has completed its useful life cycle, or whose use has become economically impracticable as determined by the purchasing administrator.
- (10) *Public improvements*: Municipal and other public buildings, bridges, tunnels, streets, and sidewalks.
- (11) *Purchasing administrator*: The principal purchasing official for the city who is responsible for the procurement of supplies and contractual services, as well as the disposal of supplies.
- (12) *Request for proposals*: A written solicitation for sealed proposals with the title, date and hour of public opening designated. A request for proposal shall include, but is not limited to,

general information, functional or general specifications, statement of work, proposals instruction and evaluation criteria. All requests for proposals shall state the relative importance of price and any other evaluation criteria. The city may engage in competitive negotiations with offerors determined to be both responsive and responsible for the purpose of clarification to assure full understanding of and conformance to the solicitation requirements. Offerors shall be accorded fair and equal treatment with respect to any opportunity for discussion and revision of proposals and such revisions may be permitted after submissions and prior to award for the purpose of obtaining the best and final offer.

(13) *Responsible bidder or responsible offeror:* A person or business entity having the capability in all respects to fully perform the contract requirements and the experience, ability, reliability, capacity, facilities, equipment, financial resources and credit which will give a reasonable expectation of good faith performance.

(14) *Responsive bidder or responsive offeror:* A person who has submitted a bid, which conforms in all material respects to the invitation to bid or request for proposals.

(15) *Sole source:* The only known vendor or the only responsible vendor capable of providing supplies or contractual services to the city.

(16) *Supplies:* All personal property, including but not limited to, supplies, goods, equipment, material, and printed goods, purchased, leased, or otherwise contracted for by the city.

(17) *Surplus property:* Any personal property belonging to the city, which is capable of being used but is in excess of the normal operating requirements of the city.

Definitions not contained in this article may be defined in the city's administrative procurement manual.

(Ord. No. O-2005-026, § 2, 9-7-05)

Sec. 2-193. Authority to authorize public improvements.

The authority to authorize public improvements is subject to the provisions of the City Charter.

(Ord. No. O-2005-026, § 2, 9-7-05)

Sec. 2-194. Authority of purchasing administrator.

The purchasing administrator shall have the authority to:

(1) Draft and promulgate purchasing procedures subject to the approval of the city manager.

(2) Solicit quotations, both verbal and written.

(3) Issue invitations to bid and issue requests for proposals.

(4) Implement and enforce operational procedures for making purchases. Such operational procedures shall require written records adequate to document the competitive quote obtained and shall include the businesses name, contact person, dates of inquiry, nature and description of supply for which inquiry is being made and amounts quoted.

(5) Award contracts for the purchase of supplies and contractual services with prior approval, or the actual execution of the contract, by the city manager as provided below:

a. Any contract for supplies and contractual services not exceeding one thousand dollars (\$1,000.00) may be made in accordance with the small purchase procedures. Supply purchases shall not be artificially divided so as to constitute a purchase under this section.

b. Purchases of supplies and contractual services when the estimated value is between one thousand and one dollars (\$1001.00) and two thousand five hundred dollars (\$2500.00) may be made upon receipt of two (2) documented telephone quotes. Purchase shall be made from the most responsive and responsible quoter.

c. Purchases of supplies and contractual services when the estimated value is between two thousand five hundred and one dollars (\$2,501.00) and seven thousand five hundred dollars (\$7500.00) may be made upon receipt of not less than three (3) documented telephone quotes. In order to determine a fair and reasonable price, additional quotes may be solicited. Purchase shall be made from the most responsive and responsible quoter.

d. Award contracts for the purchase of supplies and contractual services which are exempt from the requirements of formal competitive procurement, when the total cost thereof does not exceed seven thousand five hundred dollars (\$7,500.00); provided however, that the purchasing administrator shall have no authority to make emergency procurements above that amount.

e. In the case of an emergency situation declared by either the federal government, state government, or city commission, purchasing authority in any of the above circumstances may be increased to an amount not to exceed seven thousand five hundred dollars (\$7,500.00).

(6) Renew contracts below twenty-five thousand dollars (\$25,000.00) for supplies and contractual services provided that the following criteria are all satisfied.

a. The terms and conditions of the original contract expressly provide for the city's right to renew the contract at the same prices as originally awarded by the city commission or within price adjustment clause parameters as defined in the solicitation documents or agreement.

b. The purchasing administrator has performed a market survey and/or contract quality review to determine if renewal of the contract is in the best interest of the city. For supplies and contractual services originally procured through the request for proposals or letter of interest processes, a market survey shall be performed only if the purchasing administrator determines that, due to a significant change in the industry or profession providing the services, an evaluation of current market conditions would be effective.

c. The purchasing administrator, together with the using city department, if any, have evaluated the performance of the contractor under the preceding contract term and have determined, in writing, that such performance meets established criteria regarding service, responsiveness and quality levels.

(7) Delegate purchasing authority to procure supplies and contractual services relating to the maintenance and repair of city equipment in an amount not to exceed one thousand dollars (\$1,000.00) to city staff in accordance with established purchasing procedures. In the case of an emergency situation declared by either the federal government, state government, or city commission, delegated purchasing authority may be increased to an amount not to exceed seven thousand five hundred dollars (\$7500.00).

(8) Sell, trade or otherwise dispose of surplus and obsolete property belonging to the city either by sale, barter or exchange, by sealed bid, public auction, cannibalization, trade in, or other means of disposal as may be appropriate and in the best interests of the city. Disposal of surplus or obsolete property for sums in excess of twenty thousand dollars (\$20,000.00) per item, shall be made only after approval by the city commission.

(9) The purchasing administrator shall have no authority to purchase, lease or sell real property without prior city commission authorization and approval.

(Ord. No. O-2005-026, § 2, 9-7-05)

Sec. 2-195. Authority of the city manager.

The city manager has the same rights and authorities as those of the purchasing administrator. In addition, the city manager, in accordance with the requirements of this ordinance, shall have the authority to purchase supplies and non capital equipment, and to contract for repairs and

improvements for the various departments of the city when the estimated total cost thereof does not exceed twenty-five thousand dollars (\$25,000.00) without prior approval of the city commission as provided below.

(1) The city manager may authorize purchases of supplies when the estimated value is in excess of seven thousand five hundred one dollars (\$7,501.00) but not more than twenty five thousand dollars (\$25,000.00) after a minimum of three (3) written quotations have been submitted.

(2) The city manager may authorize, award and execute agreements for professional contractual services in an amount not to exceed twenty five thousand dollars (\$25,000.00) without following competitive procurement procedures.

(Ord. No. O-2005-026, § 2, 9-7-05)

Sec. 2-196. Authority of the city commission.

All purchases and award of contracts for supplies or services in excess of twenty-five thousand dollars (\$25,000.00) must be approved by the city commission before the purchase is made by the purchasing administrator or his designee.

(Ord. No. O-2005-026, § 2, 9-7-05)

Sec. 2-197. Competitive procurement required.

All initial awards of contract for supplies and contractual services when the estimated total cost thereof shall exceed twenty-five thousand dollars (\$25,000.00) shall be awarded by the city commission through the process of competitive sealed bidding, competitive request for proposals, or request for Letters of Interest, except as otherwise provided herein.

(Ord. No. O-2005-026, § 2, 9-7-05)

Sec. 2-198. Exceptions to competitive procurement requirement.

The following are exempt from the requirements of formal competitive procurement:

(1) Sole source procurement.

a. All specifications shall be drafted so as to promote overall economy for the purposes intended, to encourage competition in satisfying the city's need and shall not be unduly restrictive. Brand name specifications are restrictive of competition and shall only be used as specifically provided in this article.

b. A contract may be awarded without competition when the purchasing administrator makes a written determination, after conducting a good faith review of available sources, that there is only one (1) source for the required supply or contractual service. The purchasing administrator shall conduct negotiations as appropriate to price, delivery and terms. A record of sole source procurement shall be maintained as a public record and shall list each contractors name, amount and type of each contract, and the identification number of each contract file.

c. All sole source procurements, where the cost of the supplies or contractual services exceeds twenty-five thousand dollars (\$25,000.00), shall be authorized by the city commission.

(2) Emergency procurements. The city manager may make emergency procurements of supplies or contractual services where the cost exceeds twenty-five thousand dollars (\$25,000.00) when there exists a clear and present threat to public health, property, welfare, safety or other substantial loss to the city, provided, however, that such emergency procurements shall be made with such competition as is practicable under the circumstances. A written determination of the basis for the emergency and for the selection of the particular contractor shall be included in the contract file. As soon as practicable, a record of the emergency procurement shall be made and

shall set forth the contractor's name, the amount and type of the contract, a listing of the supply or contractual service procured under this contract, and the number of the purchase order, if any. The city commission must be notified, after the fact, of such procurements in excess of twenty-five thousand dollars (\$25,000.00) at the next scheduled commission meeting. In any event any increase over the original amount of an emergency procurement reported to the city commission exceeding ten (10) percent must be reported to the city commission to be noted for the record.

(3) Purchases and acquisitions under contracts of the federal government and the State of Florida or its political subdivisions. Purchases of supplies or contractual services under the provisions of local, state, and federal purchasing contracts shall be exempt from the competitive procurement requirements, provided that the following criteria are all satisfied:

- a. The terms and conditions of the original contract by federal, state, or local government are satisfactory to the city and such terms and conditions are extended to other governmental bodies.
- b. The original contract by the federal, state, or local government for supply purchases is current and in effect at the time of the proposed purchase of supplies or services by the city.
- c. The purchasing administrator has determined that the prices of the original contract are competitive and reasonable.
- d. The city commission must authorize such procurement when the cost of the supplies or contractual services exceeds twenty-five thousand dollars (\$25,000.00).

(4) Exempt contractual services not subject to the competitive procurement requirement are defined as:

- a. Services involving special skill, ability, training, or expertise which in their nature are unique, original or creative.
- b. Legal services including paralegals, expert witnesses, appraisal services, investigative services and court reporters.
- c. Actuarial services.
- d. Auditing services.
- e. Academic program reviews or lectures or seminars by individuals.
- f. Health services involving examination, diagnosis, treatment, prevention, medical consultation or administration.
- g. Artistic services which are original and creative in character and skill in a recognized field of artistic endeavor such as music, dance, drama, painting, and sculpture, photography, culinary arts, fashion design and the like provided however, that contracts for artistic instructors, coaches, teachers, aides, and assistants are deemed contractual services subject to the requirements of competitive procurement.
- h. Performing artists and entertainers hired to provide entertainment for the benefit of the citizens of Oakland Park and the general public at any city facility.
- i. Maintenance service of equipment. When considered to be in the best interest of the city and recommended by the using department and the services to be performed are by the equipment manufacturer, manufacturer's service representative, a distributor of the manufacturer's equipment or when at least three (3) responsible services have been evaluated, the services may be procured without bid.
- j. Advertising.
- k. Utilities including but not limited to electric, water and telephone.
- l. Goods and services provided by other government entities or not-for-profit-organizations.
- m. Copyrighted materials (books, videotapes, etc.) except computer software.
- n. Food, clothing and other promotional items purchased for resale or distribution to the public.

o. The foregoing enumeration of services deemed to be exempt from the competitive procurement requirements is not intended to be an exhaustive or exclusive list. The city manager or his designee may determine if a contractual service must be procured through the competitive procurement process, if not expressly indicated above.
(Ord. No. O-2005-026, § 2, 9-7-05)

Sec. 2-199. Contracts for professional services.

All contracts for professional services as that term is defined in the Consultants Competitive Negotiations Act, Florida Statutes 287.055 (1991), as amended from time to time, shall be awarded in accordance with the procedures set forth in that Act and any city purchasing procedures adopted in furtherance of that Act.

Selection and negotiation committees shall be created to evaluate the qualifications and performance capabilities of offerors responding to the solicitation for professional services, and to competitively negotiate contracts therefore, in accordance with the requirements of the Consultants Competitive Negotiations Act. The city manager shall have the authority to appoint the members of the selection and negotiation committees for each procurement of professional services made pursuant to the Consultants Competitive Negotiations Act.

(Ord. No. O-2005-026, § 2, 9-7-05)

Sec. 2-200. Reserved.

Editor's note: Ord. No. O-2006-013, § 2, adopted July 5, 2006, repealed former section 2-200 in its entirety which pertained to land acquisition procedures and derived from Ord. No. O-2005-026, § 2, 9-7-05.