

Chapter 25-Procurement, Conflict of Interest

(ORD #3-99)

(ORD #17-02)

(ORD #19-22)

(ORD #23-24)

(ORD #24-25)

Chapter 25-Procurement, Conflict of Interest

Subchapter A-General Provision

25.010.

This Chapter provides guidelines to be followed in purchasing goods and services for the City. These policies and procedures supersede all prior purchasing directives, memoranda, and practices. The City Administrator and/or Mayor shall be responsible for enforcing this policy.

1. (ORD #3-99) Purchase of property and services and sale of property. The City may purchase property or services as directed and approved by the City Council, and the City may sell any property as directed and approved by the City Council.
2. (ORD #19-22) Bids. Lowest and Best Quality Competition. All purchasing will demonstrate a reasonable and good faith effort to obtain goods and services at the lowest possible cost with the optimum quality needed. Competition among suppliers shall be encouraged. If the City Council determines to take bids for the purchase or sale of property or services, the City Council may accept or reject any bid in its sole discretion.
3. Preference Area Vendors. Vendors will be treated in a fair and professional manner with preference given to area vendors if all other things are equal.
4. Budget Goal. The City Council sets goals, priorities, and standards for the City programs and services through adoption of the annual budget. The budget establishes expenditure levels for each department. Subject to the rules contained within these regulations no further Council action is required to initiate purchases within the budget limits.
5. Expenditures in excess of a department's budget are not permitted except upon approval of the City Council.
6. Department Head Authority. Department Heads are granted full responsibility and broad discretion by the City Administrator or Mayor to make purchases within the scope of their departmental appropriations subject to the rules contained within these regulations and administrative policies. Budget appropriations do not mandate expenditure unless the need continues to exist at the time of purchase. The Mayor or City Administrator may establish spending levels below those budgeted if revenue collections are inadequate to fulfill budgetary needs.
7. Sales Tax Exemption. All City purchases are exempt from the sales taxes of Missouri and its political subdivisions.

25.020 (Ord #19-22) Competitive Quotes, Purchase Orders and Bids.

1. Consistent with the rules of this Ordinance, city administration shall establish administrative policies and procedures that promote the

efficient use of competitive quotes and purchase orders for purchases less than five thousand dollars (\$5000).

2. Purchases Requiring City Council Approval.

- a. Contracts
- b. Agreements
- c. Purchases over ten thousand dollars (\$10,000.00)
- d. *Exception: If a Department Head has budgeted for an asset purchase and has obtained background history or value comparison estimates; and if the purchase is a time-sensitive purchase; the Mayor and the appropriate Council Committee Chairperson may sign a PO verifying: 1. The due diligence performed by the Department head; 2. Funds are available in the budget; and 3. The treasurer has confirmed that the city has received enough revenue to make the purchase. The Department Head will then inform the City Council of the purchase at the next City Council meeting.*

3. Purchases over One Thousand Dollars. All purchases made by any department of the City exceeding one thousand dollars (\$1000.00) must be documented with a purchase order and approved and signed by the applicable department head, City Administrator or Mayor, and a City Council committee person assigned to that department. Like purchases are not permitted to be broken up for the sole purpose of avoiding the use of a purchase order.

4. Purchases over Five Thousand Dollars. Purchases and Contracts for projects, repairs, or services in excess of five thousand dollars (\$5000) require documentation of three (3) competitive quotes. These purchases must also be documented with a purchase order signed by the Department Head and approved by the City Administrator or Mayor, and a City Council committee person assigned to that department.

5. Purchases and contracts for projects, repairs or services in excess of ten thousand dollars (\$10,000.00) require legal advertisement, written specifications, sealed bids, and are awarded by the City Council. Sealed bids shall be submitted to the City Administrator or Mayor for public opening and evaluation prior to City Council action. This ordinance shall not be interpreted or construed in a manner that would prohibit the Mayor of Holden from expending city resources to protect the City's property or citizenry.

6. Exceptions to the bidding requirement shall be as follows.

- a. Contracts for professional services. For the purpose of this section, professional services shall include architectural services, engineering services, land surveying, planning services, accounting services, real estate broker services, and legal services provided by an attorney.
 - i. The City Administrator or Mayor shall develop administrative policy to address qualifying, selecting and negotiating for professional services.
 - ii. Contracts for professional services shall be negotiated on the basis of demonstrated competence and qualifications for

the type of service required and at fair and reasonable prices.

- iii. When a project requiring professional services is anticipated, the city council, or a committee of the city council, shall evaluate statements of qualifications and performance data of firms capable of performing the required service. The following criteria shall be used in evaluating the qualifications:
 - 1. The specialized experience and technical competence of the firm with respect to the type of services required.
 - 2. The capacity and capability of the firm to perform the work in question within the time limitations fixed for completion of the project.
 - 3. The past record of performance of the firm with respect to such factors as control of costs, quality of work, and ability to meet schedules.
 - 4. The firm's proximity to and familiarity with the area.
- iv. The city will meet with representatives of one or two of the firms best qualified and attempt to negotiate a satisfactory contract. If there is a failing of accord, the city will undertake negotiations with other qualified firms.
- v. Nothing in this section will prevent the city from negotiating directly with a firm that has provided the required services to the city within the past 12 months and said services were provided in a satisfactory manner and at fair and reasonable prices.
- b. Sole source purchases. If there is only one source of a particular service or commodity required by the city, the City Administrator or Mayor may waive competitive bidding for the service or commodity.
- c. Emergency purchases. In an emergency situation which requires the immediate procurement of services or commodities, the Mayor or City Administrator may waive competitive bidding for the services or commodities. If the Mayor uses his authority under this section, the Mayor shall advise the City Council of such action and the reason therefore at the next regular City Council meeting and a record of such action shall be recorded in the meeting minutes.
- d. Cooperative purchases. The bidding policy shall not apply to purchases made under cooperative government purchase contracts which the city is authorized to use, such as state purchasing contracts, state department of transportation contracts and federal General Services Administration (GSA) contracts.
- e. Medical and legal services. Due to their specialized nature, medical and legal services are not subject to the competitive bidding policy. Contracts for such services shall be negotiated.

- f. Construction of buildings. Contracts for the construction of buildings, including associated site preparation, utilities and parking areas, may be negotiated on the basis of demonstrated competence and qualifications and at fair and reasonable prices, following procedures listed in subsection (ii) of this section.

25.030. (ORD #9-22) Emergency Expenditures.

The Mayor may authorize purchases exceeding one thousand dollars (\$1000.00) in emergencies. If the Mayor uses his authority under this section, the Mayor shall advise the City Council of such action and the reason therefore at the next regular City Council meeting and a record of such action shall be recorded in the meeting minutes.

25.040. Conflict of interest.

No officer or employee of the City shall transact any business in their official capacity with any business entity of which they are an officer, agent or member or in which they owns a substantial interest; nor shall they make any personal investments in any enterprise which will create a substantial conflict between their private interest and the public interest; nor shall be or any firm or business entity of which they are an officer, agent or member, or the owner of substantial interest, sell any goods or services to any business entity which is licensed by or regulated in any manner by the City.

25.050. Same, officers and employees not to deal with certain entities.

No officer or employee of this City shall enter into any private business transaction with any person or entity that has a matter pending or to be pending upon which the officer or employee is or will be called upon to render a decision or pass judgment. If any officer or employee is already engaged in the business transaction at the time that a matter arises, they shall be disqualified from rendering any decision or passing any judgment upon the same.

25.060. Gifts and rebates.

The City Clerk and every other officer and employee of the City are expressly prohibited from accepting, directly or indirectly, from any person, company, firm or corporation to which any purchase order or contract is, or might be awarded, any rebate, gift, money or anything of value whatsoever, except where given for the use and benefit of the City. Also excepted would be an occasional meal, a ticket to a sporting event or the theater or comparable entertainment which is neither so frequent nor so extensive as to raise any question of propriety. Violation of the provisions of this Section shall upon conviction thereof be punished as provided in Chapter 13 of this Code.

25.070. Same; penalties.

Any person who violates the provisions of Subchapter A (Section 25.020, Section 25.030, Section 25.040, Section 25.050, or Section 25.060) shall, upon conviction thereof, be punished as provided in Chapter 13 of this Code.

(ORD #17-02)

Subchapter B -- Disclosure of Conflicts of Interest and Financial Interests

25.500. Declaration of Policy.

The proper operation of government requires that public officials and employees be independent, impartial, and responsible to the people; that government decisions and policy be made in proper channels of the governmental structure; that the public office not be used for personal gain;

and that the public have confidence in the integrity of its government. In recognition of these goals, there is hereby established a procedure for disclosure by certain officials and employees of private financial or other interests in matters affecting the city.

25.610. Conflicts of Interest.

- a. All elected and appointed officials as well as employees of a political subdivision must comply with conflict-of-interest statutes under Chapter 105 of the Missouri Revised Statutes as well as any other state law governing official conduct.
- b. Any member of the governing body of a political subdivision who has a "substantial or private interest" in any measure, bill, order, or ordinance proposed or pending before such governing body must disclose that interest to the clerk of such body and such disclosure shall be recorded in the appropriate journal of the governing body. Substantial personal or private interest is defined as ownership by the individual, their spouse, or their dependent children, whether singularly or collectively, directly, or indirectly of:
 1. 10% or more of any business entity; or
 2. an interest having a value of ten thousand dollars (\$10,000.00) or more; or
 3. the receipt of a salary, gratuity, or other compensation or remuneration of five thousand (\$5,000.00) or more, per year from any individual, partnership, organization, or association within any calendar year.

25.620. Disclosure Reports.

Each elected official, candidate for elective office, the chief administrative officer, the chief purchasing officer, and the full-time general counsel shall disclose the following information by May 1st, or the appropriate deadline as referenced in Section 105.487, RSMo, if any such transactions occurred during the previous calendar year.

- a. For such person, and all persons within the first degree of consanguinity or affinity of such person, the date and the identities of the parties to each transaction with a total value in excess of five hundred dollars (\$500.00), if any, that such person had with the political subdivision, other than compensation received as an employee or payment of any tax, fee or penalty due to the political subdivision, and other than transfers for no consideration to the political subdivision.
- b. The date and the identities of the parties to each transaction known to the person with a total value in excess of five hundred dollars (\$500), if any, that any business entity in which such person had a substantial interest, had with the political subdivision, other than payment of any tax, fee or penalty due to the political subdivision or transactions involving payment for providing utility service to the political subdivision, and other than transfers for no consideration to the political subdivision.
- c. The chief administrative officer, chief purchasing officer, and candidates for either of these positions also shall disclose by May 1,

or the appropriate deadline as referenced in Section 105.487, RSMo, the following information for the previous calendar year:

1. The name and address of each of the employers of such person from whom income of one thousand dollars (\$1,000.00) or more was received during the year covered by the statement;
2. The name and address of each sole proprietorship that he owned; the name, address and the general nature of the business conducted of each general partnership and joint venture in which he was a partner or participant; the name and address of each partner or coparticipant for each partnership or joint venture unless such names and addresses are filed by the partnership or joint venture with the secretary of state; the name, address and general nature of the business conducted of any closely held corporation or limited partnership in which the person owned ten percent (10%) or more of any class of the outstanding stock or limited partnership units; and the name of any publicly traded corporation or limited partnership that is listed on a regulated stock exchange or automated quotation system in which the person owned two percent (2%) or more of any class of outstanding stock, limited partnership units or other equity interests;
3. The name and address of each corporation for which such person served in the capacity of a director, officer or receiver.

25.630. Filing of Reports.

The financial interest statements shall be filed at the following times, but no person is required to file more than one financial interest statement in any calendar year;

1. Every person required to file a financial interest statement shall file the statement annually not later than May 1 and the statement shall cover the calendar year ending the immediately preceding December 31; provided that any member of the City Council may supplement the financial interest statement to report additional interests acquired after December 31 of the covered year until the date of filing of the financial interest statement.
2. Each person appointed to the office shall file the statement within thirty days (30) of such appointment or employment covering the calendar year ending the previous December 31;
3. Every candidate required to file a personal financial disclosure statement shall file no later than fourteen days (14) after the close of filing at which the candidate seeks nomination or election or nomination by caucus. The time period of this statement shall cover the twelve (12) months prior to the closing date of filing for candidacy.
 - a. Financial disclosure reports giving the financial information required in Section 3 shall be filed with the local political subdivision and with the Missouri Ethics Commission. The reports shall be available for public inspection and copying during normal business hours.

25.640. Penalties.

Any person who violates the provisions of Subchapter 3 shall, upon conviction thereof, be punished as provided in Chapter 13 of this Code.

25.650. Filing of Ordinance.

A certified copy of this ordinance, adopted prior to September 15th, shall be sent within ten (10) days of its adoption to the Missouri Ethics Commission.

25.660. (ORD #19-22) Effective Date and bi-annual filing.

This ordinance shall be in full force and effect from it's passage on August 15, 2024. A certified copy of this ordinance, re-adopted prior to September 15th of every even calendar year, shall be sent within ten days of its adoption to the Missouri Ethics Commission.