

## Chapter 56

### PURCHASING\*

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- \* **Charter References:** Division of purchases, § 6-9; competitive bidding, § 6-11; purchases in excess of \$1,000.00, § 6-12.  
**Cross References:** Administration, ch. 2.  
**State Law References:** Municipal Purchasing Act, G.L. 1956, § 45-55-1 et seq.

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- Sec. 56-1. Purchases and contracts between \$1,000.00 and \$2,500.00.**  
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#### **Sec. 56-1. Purchases and contracts between \$1,000.00 and \$2,500.00.**

(a) All purchases and contracts in excess of \$1,000.00 and not exceeding \$2,500.00 shall be awarded by the purchasing agent to the lowest responsible bidder.

(b) Within ten days after the end of each month, the purchasing agent shall submit a report to the council president and the chairperson of the city council finance committee on purchases and contracts in excess of \$1,000.00 and not exceeding \$2,500.00 which were awarded during the month. The report shall include the following information: vendor name; date of invoice; amount of invoice; cumulative amount invoiced to the city by the vendor for the fiscal year through the month for which the report is made and including a general description of the item or service being purchased.

(Code 1971, § 2-27; Ord. No. O-02-19, § I, 10-17-02)

#### **Sec. 56-2. Purchases and contracts in excess of \$2,500.00.**

All purchases and contracts, including but not limited to the purchase of or contracts for professional services, in excess of \$2,500.00 shall be subject to the provisions of this chapter as to notices and bids. The award of such purchases and contracts in excess of \$2,500.00 is subject to approval of the city council.

(Code 1971, § 2-28; Ord. No. O-95-21, § I, 6-19-95)

#### **Sec. 56-3. Solicitation of bids.**

(a) Bids are to be sought from the public and from known sources of supply by notice in accordance

with the requirements of section 56-4.

(b) The purchasing agent shall also solicit bids from known previous suppliers and prospective suppliers who have requested in writing that their names be maintained on a bidder list. The purchasing agent shall maintain a bidder list and forward to those on the list a copy of the public notice.

(c) If in the opinion of the department director requesting the purchase or of the purchasing agent, it would be feasible and advantageous to the city to do so, bids shall be solicited for pre-owned motor vehicles, trucks and other motorized equipment, in addition to bids for a new model of the same item. Bids received by the purchasing agent for both used and new items shall be submitted to the city council with the recommendation of the requesting department. In the event that no bids for used items were solicited, a written statement of the director of the requesting department or of the purchasing agent shall be submitted to the city council stating the reasons why no such bids were solicited.  
(Code 1971, § 2-29; Ord. No. O-07-23, § I, 9-18-07)

#### **Sec. 56-4. Posting and publication of invitation to bid; contents.**

Public notices are to be posted at five public places within the city which the purchasing agent may designate. In addition to such posted notices, notice shall be published once at least ten days prior to the date set for the opening of bids in a public newspaper of general circulation in the state. All notices are to state a general description of the article or articles to be purchased; the quality, grade, quantity and delivery date; the location where bid forms and specifications can be obtained; and the date, time and place set for the opening of bids.

Any and all bids for motorized vehicles shall include a provision that bidders provide responses that include pricing for alternative fuel arrangements in such motorized vehicles, such as, but not limited to E-85, hybrid and bio-diesel alternative fuel arrangements.

(Code 1971, § 2-30; Ord. No. O-07-7, § I, 5-22-07; Ord. No. O-08-2, § I, 1-15-08)

**Editors Note:** Ord. No. O-08-2, § I, 1-15-08 shall automatically be repealed on March 1, 2009, unless reenacted by the city council prior thereto.

#### **Sec. 56-5. Bid procedure.**

(a) *Submission of bids.* All bids shall be submitted in a sealed enclosure and clearly marked as such. Bids opened inadvertently due to lack of proper identification shall be immediately resealed, and a log of such occurrences maintained by the purchasing agent.

(b) *Bid opening meetings.*

(1) Bids shall be opened at a public meeting at the time, date and place contained in invitation to bid. The purchasing agent shall prepare and post an agenda notice at least five days prior to the scheduled meeting date.

(2) The opening of bids shall be in the order established by the posted agenda and the agenda shall continue uninterrupted until completion.

(3) Once an agenda item has been reached and any bid on that agenda item has been opened, no other bid on that agenda item will be accepted and any such bid shall be deemed late.

(c) *Determination of lowest responsible bidder.* In determining the lowest responsible bidder, the awarding authority, consistent with section 6-12 of the Charter, shall consider:

- (1) The ability, capacity and skill of the bidder to perform the contract or provide the service required.
- (2) Whether the bidder can perform the contract or provide the service promptly, or within the time specified, without delay or interference.
- (3) The character, integrity, reputation, judgment, experience and efficiency of the bidder.
- (4) The quality of performance of previous contracts or services.
- (5) The previous and existing compliance by the bidder with laws and ordinances relating to the contract or service.
- (6) The sufficiency of the financial resources and ability of the bidder to perform the contract or provide the service.
- (7) The quality, availability and adaptability of the supplies or contractual services to the particular use required.
- (8) The ability of the bidder to provide future maintenance and service for the use of the subject of the contracts.

(d) *Award to other than low bid.* When a bid is awarded to other than the lowest bid, a full and complete statement of the reasons therefor shall be prepared and maintained by the purchasing agent for bids between \$1,000.00 and \$2,500.00 and shall be placed on the public record of the city council for bid items in excess of \$2,500.00.

(e) *Authorization of further negotiation.* When proposals for bid are submitted to the city, and, in the opinion of the city council finance subcommittee, further negotiation with the low bidder may result in a decrease in the price bid for the bid item as specified, the city council finance subcommittee may authorize the finance director to negotiate with the low bidder only, such negotiation to occur prior to the awarding of the bid. The finance director, in any case in which he/she has been authorized to negotiate pursuant to this subsection, shall report to the city council finance subcommittee at the business meeting next following said authorization. (Code 1971, § 2-30.1)

#### **Sec. 56-6. Exception to notice requirement.**

In any case where compliance with the provisions of this chapter relative to newspaper publication and posting of notices would work to the disadvantage of the city or would prevent a purchase or contract award in time to avoid or alleviate a public emergency, then purchases and contracts may be made without the public notices and newspaper publication provided for, in the following manner:

- (1) The purchasing agent may make such awards within the monetary limits herein provided, upon his/her certification to the city clerk that in his/her opinion the award must be so made, and stating therein the particulars of the public emergency or prospective disadvantages upon which his/her opinion is based. The city clerk shall present such certifications to the city council at the next regular or special meeting of the council following his/her receipt of the same.
- (2) The city council may make such awards for purchases and contracts in excess of \$2,500.00 upon the affirmative vote of six councilmembers at any regular or special meeting on the question of the existence of the public emergency or prospective disadvantage to the city.

(Code 1971, § 2-31)

#### **Sec. 56-7. Furnishing surety.**

Surety must be furnished to the purchasing agent when required by the purchasing agent.

(Code 1971, § 2-32)

#### **Sec. 56-8. Rejection of bids.**

The purchasing agent has the right to reject any or all bids.

(Code 1971, § 2-33)

#### **Sec. 56-9. Joint agreements with other municipalities.**

Subject to the approval of the city council of all awards costing in excess of \$2,500.00, and provided that opportunity be given for competitive bidding by newspaper publication as provided herein, the purchasing agent is authorized, on behalf of the city, to enter into one or more joint agreements with one or more other Rhode Island municipalities for purpose of purchasing materials, supplies, tools and other items common in usage with such other municipalities.

(Code 1971, § 2-34)

#### **Sec. 56-10. Use of services of state division of purchases.**

Subject to the approval of the city council of all awards costing in excess of \$2,500.00, the purchasing agent is authorized to seek the services of the state division of purchases in procuring items necessary to the operation of the city which items are in common usage to those procured by the state. The purchasing agent is authorized to file with the state purchasing agent a certified copy of this chapter as evidence of authorization to participate in purchase contracts of the state purchasing agent. The city will be bound by such terms and conditions as the state purchasing agent may prescribe and will be responsible for payment directly to the vendor under each purchase contract.

(Code 1971, § 2-35)

#### **Sec. 56-11. Nondiscrimination clause to be included in contracts.**

All contracts entered into by the city shall contain a nondiscrimination clause which shall provide that the contractor will not discriminate against any employee or applicant for employment because of physical or mental disability for any position for which the employee or applicant is qualified, and that in the event of

noncompliance the city may declare the contractor in breach and take any necessary legal recourse, including termination or cancellation of the contract.  
(Code 1971, § 2-36)

**Sec. 56-12. Purchase of recycled paper.**

Whenever the city requests a bid for paper products, it shall require vendors to submit their bids reflecting the cost of using recycled paper as well as the cost of using virgin paper. For purposes of this section, "recycled paper" shall mean paper with a recycled content of 50 percent or of which the majority of the product is manufactured of recycled paper stock. Whenever the cost of recycled paper is equivalent to or less than the cost of virgin paper, the city shall purchase the recycled paper.

(Code 1971, § 2-37)

**Sec. 56-13. Sale of surplus, obsolete, unused materials and junk property.**

The purchasing agent in the city shall transfer, to or between offices, departments or agencies, supplies, materials and equipment and, subject to the approval of the city council, shall sell, at competitive bid, surplus, obsolete, unused supplies, materials, equipment and junk property. The identification of unserviceable junk property may be made by the director of the department having custody and control of the property, and upon written notification to the city council two weeks prior to its disposal by the purchasing agent, said junk property shall then be disposed of by the purchasing agent by donation to private groups or organizations, if possible, or disposed of in the customary manner of the city. In the case of any junk property not so determined by the department director as outlined above, it shall be determined by the joint decision of the purchasing agent, and chairman of the finance committee or his or her designee, who may be any member of the council, and shall be disposed of by donation to private groups or organizations, if possible, or be disposed of in the customary manner of the city.

(Ord. No. O-97-23, § II, 10-14-97; Ord. No. O-99-64, § I, 12-6-99; Ord. No. O-04-5, § I, 4-8-04)

**Sec. 56-14. Bidding required for subcontractors.**

Whenever a bid is awarded to a vendor for work or services and the awarded contract does not contain a fixed total cost or a fixed unit cost and the awarded contract requires or allows the vendor to purchase goods or services from another vendor, that purchase of goods or services shall be subject to all the provisions of the purchasing ordinances of the city and the bidding shall be conducted by the city purchasing department.

(Ord. No. O-01-13, § I, 7-23-01; Ord. No. O-02-20, § I, 10-17-02)

**Sec. 56-15. Management plan for public property acquisition.**

(a) At least ten days prior to the date upon which a resolution for acquisition of land by the city for open space or for other public purposes is scheduled to be heard by the city council, a proposed management plan for the subject parcel of land shall be submitted to the city council. The management plan shall be prepared by the staff of the planning department with input and recommendations from the land trust and from other departments of the city which would become involved with the land if it was purchased, including but not limited to the public works department and the parks and recreation department. The purpose of the management plan is to allow the city council to make an informed cost benefit analysis regarding the proposed acquisition of land.

The management plan shall include, but not be limited to, the cost to acquire the land, the annual lost tax revenue if the land is acquired, the cost to maintain the land on an annual basis, the department which would be responsible for maintaining the land, the proposed uses for the land, and any costs associated with those proposed uses.

(b) The city council shall not act upon the resolution for city acquisition of the land until a management plan conforming to the provisions of this section has been presented to the city council.  
(Ord. No. O-03-6, § I, 4-22-03)

#### **Sec. 56-16. Repaving on road construction projects.**

On all construction projects which require excavation in the roadway of any street in the city, the contractor performing the work shall apply pavement to the roadway within three days of backfilling and closing the excavated portion of the roadway. Failure to apply pavement within the three day period shall subject the contractor to a penalty of \$500.00 per day for each day of the violation. Relief from the requirement to apply paving may be granted by the director of public works for weather conditions or other circumstances, which, in his or her discretion, would warrant the relief being granted.  
(Ord. No. O-03-1, § I, 2-24-03)

#### **Sec. 56-17. Use of open space bond funds.**

Expenditure of open space bond funds shall be pursuant to the following procedure in order to promote a comprehensive plan for open space acquisition within the city.

- (1) During the month of January every year, each council person shall submit to the mayor a list of no more than three parcels of land within his or her ward which should be considered for acquisition by the city for open space.
- (2) Subject to the provisions of subsection (3) below, any city acquisition of land for open space during the following 12 months, which uses open space bond funds for the acquisition, shall be from the list of parcels of land submitted by the members of the city council during the preceding January.
- (3) Notwithstanding the provisions of subsection (2), and in order to provide for acquisition of land for open space which may become available upon short notice, if the mayor desires to purchase a parcel of land for open space utilizing open space bond funds, which parcel of land is not on the list submitted by the members of the city council, then the mayor must obtain a resolution of approval for the land purchase from the city council prior to signing a purchase and sale agreement for acquisition of said parcel of land.

(Ord. No. O-03-7, § I, 5-20-03)

**Editors Note:** Ord. No. O-03-7, § I, adopted May 20, 2003, amended ch. 56 by adding § 56-16. Inasmuch as other provisions had been designated as § 56-16, the provisions of Ord. No. O-03-7 were included herein as § 56-17 by the editor.