



Purchasing Manual

Purchasing Policies and Procedures

Prepared by

City of Olathe Purchasing Division

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The Purchasing Division

Mission Statement

“The Purchasing Division partners with clients and suppliers to enhance and expand competitive procurement service delivery.”

Core Purpose

“As stewards of public resources, the Purchasing Division provides procurement support and guidance to City Staff”

The City of Olathe Purchasing Division is an active member and supporter of the following organizations:



National Institute of Governmental Purchasing



Mid-America Council of Public Purchasing



Forward

The Purchasing Division has prepared this Purchasing Manual for use by all Departments and Divisions of the City of Olathe. The purpose of this policy manual is to serve as a reference for employees to maximize the value of public funds in procurement and to maintain an ethical, quality procurement system.

Competition is the byword. From an economic standpoint, competition in public purchasing is an almost indispensable means for improving the quality of purchases, encouraging innovation among suppliers, increasing the City's latitude of choice and, most importantly, assuring the reasonableness of costs. Competition coupled with standardization and economies of scale will maximize the City's opportunity to obtain the greatest value for the tax dollar.

To develop an effective and efficient procurement program, all personnel involved must work as a cross functional team for the betterment of the City as a whole. Those individuals whose responsibilities require them to become a part of the purchasing cycle must be knowledgeable of the policies and procedures adopted herein as a general framework for ethical procurement practices. Our goal is the promotion of the City's best interest through intelligent activities and fair dealing with the vendor community.



Judy Meisel, CPPO, CPPB
Purchasing Manager

TABLE OF CONTENTS

SECTION 10: INTRODUCTION

	<u>Subsection</u>
Purpose of Manual	10.1
Centralization of Purchasing Authority	10.2
Applicability	10.3
Responsibility	10.4

SECTION 20: PURCHASING AUTHORITY

City Council	20.1
City Manager	20.2
Department Directors	20.3
Purchasing Manager	20.4
Purchasing Authority Table	20.5
Contract/Expenditure Approval Table	20.6

SECTION 30: SOURCE SELECTION, COMPETITIVE BIDDING, AND AWARDS

Small Purchases – Purchases of less than \$5,000	
30.1	
Informal Solicitations – Purchases of \$5,000 to \$24,999	
30.2	
Formal Solicitations - Purchases of \$25,000 or more	
30.3	
Non-Responsive Bid Definition	30.4
Responsible Vendor Definition	30.5
Bid Irregularities	30.6
Exemptions to Competitive Solicitations	30.7
Waiver Process to Formal Competitive Bids	30.8
Rejection of Bids	30.9
Protested Solicitations or Awards	30.10
Disagreements About Recommendations	30.11

SECTION 40: SOLE SOURCE DESIGNATION

Authority	40.1
Sole Source Criteria	40.2
Procedures	40.3

SECTION 50: EMERGENCY PURCHASES

Emergency Purchase Definition	50.1
Authority	50.2
Emergency Purchase Procedures	50.3

SECTION 60: PURCHASING AND REQUISITIONING CYCLE

Introduction	60.1
Anticipation of Needs	60.2
When to Use a Purchase Request	60.3
How to Prepare Request	60.4
Purchasing Division Responsibility	60.5
Timetables	60.6

SECTION 70: PURCHASE ORDER

Purpose	70.1
When to Use a Purchase Order	70.2
Process	70.3
Subsequent Changes or Cancellations	70.4
Approval	70.5
Receiving Procedure	70.6

SECTION 80: PROCUREMENT CARD PROGRAM

Introduction	80.1
Purpose	80.2
How it Works	80.3
Who Does What?	80.4
Requesting a Procurement Card	80.5
Limitations on Use of Procurement Card	80.6
Other Conditions	80.7
Prohibited Use of Procurement Cards	80.8
Allowable Purchases	80.9
Violations	80.10

SECTION 90: DEPARTMENT PURCHASE ORDERS

Purpose	90.1
When to Use a Department Purchase Order	90.2
Process	90.3
Approval	90.4
Receiving Procedure	90.5

SECTION 100: PRICE AGREEMENTS

Purpose	100.1
Instructions for Price Agreements	100.2

SECTION 110: CHECK REQUESTS

Purpose	110.1
When to Use a Check Request	110.2
Process	110.3
Approval	110.4

SECTION 120: PETTY CASH

Purpose	120.1
Policies	120.2

SECTION 130: SHIPPING AND HANDLING

Required Method	130.1
FOB Destination	130.2
FOB Origin	130.3

SECTION 140 - INSPECTION, TESTING, AND RECEIVING

Purpose	140.1
Inspection	140.2
Damage	140.3
Reporting Damage	140.4
Returns	140.5
Testing	140.6
Receiving	140.7
Incomplete/Partial Orders	140.8

SECTION 150: PROFESSIONAL SERVICES PROCUREMENT

Purpose	150.1
Authority	150.2
Procedures for Contracting for Professional Services – \$25,000 or More	150.3

SECTION 160: CONTRACTS

General	160.1
Approvals	160.2
Contracts for Services	160.3
Contract Administration	160.4
Contracts for Public Improvements	160.5
Multiyear Contracts	160.6

SECTION 170: CHANGE ORDERS

General	170.1
Authority	170.2

SECTION 180: SPECIFICATIONS AND STANDARDIZATION

General	180.1
Authority	180.2
Types of Specifications	180.3
Specifications “Do’s and Don’ts”	180.4
Preparation of Specifications	180.5
Changing Specifications	180.6
Standardization	180.7

SECTION 190: DISPOSAL OF SURPLUS PROPERTY

General	190.1
Policy	190.2
Methods of Disposal	190.3
Allocation of Proceeds	190.4
Sales to Employees	190.5
Disposal of Grant Funded Equipment	190.6

SECTION 200: COOPERATIVE PROCUREMENT

General	200.1
Authority	200.2

SECTION 210: SOCIO-ECONOMIC POLICIES

Personnel Practices	210.1
Class I Contracts	210.2

SECTION 220: - DELETED 2008

SECTION 225: SUSPENSION & DEBARMENT OF VENDORS

Purpose of Suspension or Debarment	225.1
Effects of Suspension or Debarment	225.2
Suspension of Vendors	225.3
Debarment of Vendors	225.4
Continuation of Current Contracts	225.5
Suspension or Debarment Procedure	225.6
Duration of Suspension/Debarment	225.7
Appeal of Suspension or Debarment	225.8

SECTION 230: TERMS AND DEFINITIONS

SECTION 240: INSTRUCTIONS TO BIDDERS AND GENERAL CONDITIONS

NOTE: Individual sections within this manual may be updated periodically. Each section references the latest revision date for that section. Department Directors will be notified as sections are revised.

SECTION 10: INTRODUCTION**10.1 Purpose of Manual:**

The purpose of this Purchasing Manual is to provide for the fair and equitable treatment of all persons involved in public purchasing by the City, to maximize the purchasing value of public funds, to codify and standardize the City's purchasing rules and regulations for orderly and efficient administration, to provide safeguards for maintaining a procurement system of quality and integrity, and foster effective, broad-based competition within the free enterprise system.

All City of Olathe employees shall familiarize themselves with the regulations set forth and shall adhere to the policies and practices established herewith. The City Manager reserves the right to waive regulations established in this manual if it is determined to be in the best interest for the City of Olathe.

10.2 Centralization of Procurement Authority:

Except as otherwise provided herein, all rights, power, duties and authority, relating to the procurement of supplies and services are vested in the Resource Management Department, Purchasing Division. The sale and disposal of surplus supplies and equipment are also the responsibility of Purchasing Division. Authority may be delegated only by the Purchasing Manager with approval of the Director of Resource Management and the City Manager within the parameters established in this manual.

NOTE: Public improvements and construction procurement policy shall be vested with the Public Works Director and are addressed within a separate manual.

10.3 Applicability:

Chapter 3.50 of the Olathe Municipal Code (The Procurement Ordinance) governs all procurement activity by the City of Olathe. The Procurement Ordinance and this Purchasing Manual shall apply to the procurement of all materials, equipment, and services required by all Departments of the City. Purchases subject to contracts between the City and other governmental bodies are excluded. When any procurement involves the expenditure of federal or state funds, the procurement shall be conducted in accordance with any mandatory applicable federal and state laws or regulations.

10.4 Responsibility:

- A. The City Manager is responsible for the City's purchasing system. This responsibility is delegated through the Resource Management Director to the Purchasing Manager.
- B. The Purchasing Manager is the principal public purchasing official of the City. The Purchasing Manager's responsibilities are enumerated in this manual under *Section 20 - Purchasing Authority*.
- C. Department Directors are responsible for ensuring their Departments' purchasing activities are in accordance with the rules and regulations set forth herein.
- D. **Violation of these policies and procedures shall be grounds for disciplinary action up to and including termination and/or criminal prosecution. Any purchase or contract entered into by an elected or appointed City official, Department Director or employee that violates the rules and regulations defined**

in this policy manual may be determined to be the personal and financial responsibility of that individual.

SECTION 20: PURCHASING AUTHORITY**20.1 City Council:**

The responsibility for all purchases made by the City of Olathe is held by the City Council. City Council shall authorize the City Manager to establish procurement rules and regulations for all City personnel.

20.2 City Manager:

The City Manager is the Chief Executive Officer of the City and shall be responsible for the conduct of all City Departments. In the absence of the City Manager, the Assistant City Manager(s) shall be responsible for the conduct of all City Departments. The City Manager shall establish the rules and regulations for the procurement of all goods and services and such rules and regulations shall be applicable to all City employees. The City Manager and City Council possess the sole authority for any deviation from purchasing regulations. If improper purchasing practices occur, the City Manager may invoke disciplinary action(s) upon the individual, Division and/or Department. Disciplinary action may be in the form of restricted purchasing delegation, restitution, suspension, termination or any other form deemed appropriate by the City Manager.

20.3 Department Directors:

By authority of the City Manager, Department Directors shall be delegated purchasing authority and responsibility as set forth within this manual. Additionally, Department Directors are given the responsibility of ensuring that all personnel in their Department are knowledgeable of and fully understand purchasing procedures established by the City Manager. By following the requirements established within this manual, Department Directors may be able to make better use of budgeted funds for their Department. Through proper planning of purchases, so as to allow the Purchasing Division sufficient time to obtain proposals, quotations or bids (with an allowable lead time for delivery), Departments shall not only be able to realize savings through competition between vendors, but shall also preclude unnecessary delays.

Department Directors may delegate purchasing authority to their employees as required to facilitate the activities within their scope of responsibility. However, the ultimate responsibility remains with the Director for the activities of their subordinate employees.

If Department Directors have any questions concerning procurement procedures, the Purchasing Manager or any member of the Purchasing Staff is prepared to offer assistance.

20.4 Purchasing Manager:

By the authority of the City Manager, the Purchasing Manager is hired by the Resource Management Director and shall work under his/her supervision. The Purchasing Manager shall be responsible for the daily operations of the Purchasing Division. The Purchasing Manager shall have the actual authority and power to insure compliance with the contents of this policy manual. It shall be his/her responsibility to comply with the following:

- A. Purchase or Contract: To purchase or contract for all supplies and services required by any City Department or Division, all in accordance with purchasing procedures as prescribed herein and such rules, regulations and procedures as the Purchasing Manager may adopt for the internal management and operation of the Purchasing Division together with such other rules and regulations as shall be prescribed by the City Manager and/or the City Council.

- B. Purchase Authority- Goods and Services: Responsible for the centralized procurement system. Purchasing activities may be delegated to the Department Director or their designees in accordance with the policies and procedures herein.
- C. Minimum Expenditure: Act to procure for the City acceptable quality in supplies, equipment and contractual services at the least expense to the City.
- D. Encourage Competition: Endeavor to obtain as full and open competition as possible and practical on all purchases and sales.
- E. Rules and Regulations: Propose amendment of procurement rules and regulations authorized by this Purchasing Manual for consideration and approval by the City Manager.
- F. Purchasing Analysis: Keep informed on current developments in the field of purchasing, pricing, market conditions and new products, and secure for the City the benefits of research done in the field of purchasing by other governmental jurisdictions, national technical societies, trade associations having national recognition and by private businesses and organizations.
- G. Forms & Systems: Prescribe and maintain such official City of Olathe forms and systems as necessary for compliance with this Purchasing Manual.
- H. Vendor File: Prepare and maintain a file of current and potential vendors for solicitation of bids and proposals. Vendors shall be listed by the commodities and/or services they offer either electronically or manually within the Purchasing Office or in an electronic data base.
- I. Bulk Purchases: When beneficial to the City maximize the benefits and the possibilities of buying "in bulk" so as to take full advantage of the economy of scales through quantity discounts.
- J. Central Receiving: Exercise direct supervision over the City's central receiving and distribution system.
- K. Surplus Property: Sell, trade, auction or otherwise dispose of surplus supplies, materials, and equipment belonging to the City as is in the best interest of the City.
- L. Cooperative Purchasing: When in the best interest of the City, participate in, sponsor, conduct or administer cooperative purchasing agreements.

20.5 Purchasing Authority Table:

The following table is to be used as a quick reference to determine who makes the purchase on behalf of their Department or Division, and the process to be utilized.

Dollar Purchase Range	Who makes this purchase?	Purchase Process Used
\$1 - \$4,999	<ul style="list-style-type: none"> • All City employees as delegated by Department Director • Purchasing Division if requested by Department 	<ul style="list-style-type: none"> • Procurement Card is preferred to \$4,999. • Department Purchase Order (OF)
\$5,000 - \$14,999	<ul style="list-style-type: none"> • Purchasing Division Staff • User Department staff as authorized by their Department Director 	<ul style="list-style-type: none"> • Procurement Card if authorized by Department Director and Purchasing Manager, and purchase is from a price agreement vendor • Department Purchase Order if price agreement vendor, or documentation of quotes obtained if not price agreement vendor and as authorized by Department Director • Purchase Requisition (OR/OI/OU) with documentation of competition (fax, e-mail, or written quotations) if not price agreement vendor
\$15,000 - \$24,999	<ul style="list-style-type: none"> • Purchasing Division Staff • User Department staff as authorized by the Purchasing Manager 	<ul style="list-style-type: none"> • Purchase Requisition (OR/OI/OU) if not price agreement vendor • Department Purchase Order if current price agreement in place with vendor • Purchasing will obtain quotes and issue purchase order.
\$25,000 – 49,999 <hr/> \$50,000 and over	<ul style="list-style-type: none"> • Purchasing Division Staff only 	<ul style="list-style-type: none"> • Purchase Requisition (OR/OI/OU) entered by requesting department/division. • Purchasing will advertise and solicit bids or proposals and issue purchase order. <hr/> <ul style="list-style-type: none"> • Purchase Requisition (OR/OI/OU) entered by requesting department/division. • Purchasing will advertise and solicit bids or proposals • Purchasing will submit for Council approval. • Purchase order/agreement issued after Council approval.

20.6 Contract/Expenditure Approval Table:

The following table indicates final contract approval and/or payment authorization for City expenditures.

Expenditure Amount	Final Approval/Authorization
\$1 - 14,999	Department Director
\$15,000 - 49,000	City Manager
\$50,000 or more	City Council

SECTION 30: SOURCE SELECTION, COMPETITIVE BIDDING AND AWARDS**30.1 Small Purchases (\$4,999 or less):**

Non-repetitive purchases of an aggregate amount of less than \$5,000 shall be considered "small purchases" and shall not require a purchase request or purchase order. Small purchases may be made by Department Directors or their respective designees without competition or further approval by the Purchasing Division or the City Manager. Purchases shall not be artificially divided so as to constitute a small purchase under this section. The Purchasing Division will assist clients with small purchases if requested.

30.2 Informal Solicitations (\$5,000 - \$24,999):

Unless otherwise authorized within this manual, any purchase of supplies and services of \$5,001 to \$14,999 shall be made in accordance with the purchases procedures set forth in this section. **Purchases shall not be artificially divided to circumvent the bid process.**

A. Purchase Authority and Process:

1. The Purchasing Manager or employees with delegated purchasing authority shall utilize informal solicitations for the purchase of any materials, services, or professional services not exceeding a cost of \$24,999. If multiple purchases will be made during one fiscal year with an aggregate amount to warrant annual contracting, the Purchasing Manager may require the Department/Division to provide data for a formal competitive solicitation, as is in the best interest of the City.
2. Such purchases shall be made in the *open market*. Whenever practical or advantageous, the Purchasing Manager or employees with delegated purchasing authority shall attempt to obtain written (fax, e-mail, etc.) quotes from a minimum of three (3) vendors. Purchases of materials or services shall be awarded to the vendor supplying the lowest responsible and responsive quote or as determined to be most advantageous to the city. The names of the vendors submitting quotations, the amount of each quotation and the date, shall be documented and maintained as a public record. Maximum use of local suppliers is preferred.
3. The purchasing procedures adopted pursuant to this section may be delegated up to a maximum amount of \$15,000 to Department Directors or their designees provided that the designees have received adequate training as determined and documented by the Purchasing Manager.

30.3 Formal Solicitations (\$25,000 or more):

- Competitive Sealed Bids/Proposals Required: Except as otherwise described herein, any expenditure for supplies, materials and equipment or any contract obligating the City of Olathe of \$25,000 or more shall be purchased under formal competitive sealed bid or competitive proposal procedures.

Competitive Sealed Bid - A competitive sealed bid (IFB – Invitation for Bids) is a method of source selection for a procurement of goods, commodities and/or services estimated to be \$25,000 or more. Award is generally made to the lowest responsive and responsible bidder whose bid complies with the specifications contained in the bid documents. This means that bid price is generally the decisive criterion for determining the vendor who shall receive the award.

Competitive Sealed Proposal - A competitive sealed proposal (RFP - Request for Proposals) is a method of source selection for a procurement estimated to cost \$25,000 or more. Award is generally to the respondent whose offer is considered the best when compared and evaluated against established criteria and all other offers. Cost is not the primary focus of the award. Criteria shall include but not be limited to applicable and appropriate qualifications, experience, referenced successes, and cost factors

- Public Notice Required: Notice of purchases of commodities and/or services estimated to cost \$25,000 or more shall be published in the City's official newspaper at least five (5) working days prior to the last day set for the receipt of solicitations. Public notice of solicitations shall state the place, date and time of the bid opening.
- Public Records: Purchasing Division is responsible for record keeping. All submittals, except confidential or proprietary information as defined by law, are public records and must be retained in accordance with the City's record retention schedule.

A. Competitive Sealed Bid Procedure:

1. Invitation for Bids (IFB): An Invitation for Bids shall be issued and include specifications and all contractual terms and conditions applicable to the procurement, as well as the bid opening time and date.
2. Specifications: Specifications shall be developed by the requesting department/division and forwarded to Purchasing Division along with the appropriate requisition (OR/OI/OU). Specifications shall be indicative of the commodities or services required yet allow for open competition. These specifications will be made available to all interested parties as part of the IFB. If for any reason whatsoever it is necessary to change the specifications or any other of the formal data and there is adequate time as determined by the Purchasing Manager prior to the date of bid opening, an addendum shall be issued setting forth the changes. Specification changes must allow adequate notice and mailing time and shall be coordinated between user Department and Purchasing. This addendum shall be issued to everyone who received a copy of the Invitation for Bids. In certain cases the bid opening may be postponed to allow adequate time for respondents to prepare their bid based on specification changes. If there is not adequate time, the Invitation for Bids shall be canceled and new bid process initiated.
3. Public Notice: At least one (1) bid invitation notice shall be published in the official City newspaper at least five (5) work days prior to the date for opening the sealed bids.
4. Bonding: Bonding for service contracts shall occur at the discretion of the Purchasing Manager or the Department Director of the using Department.
5. Bid Opening: The opening of sealed bids shall be a public ceremony; bids shall be opened by the Purchasing Manager or his/her designated representative, at the time and place specified in the Invitation for Bids. The amount of each bid and such relevant information as the Purchasing Manager or his/her designated representative deems appropriate, together with the name of each bidder, shall be announced. **BIDS MUST BE RECEIVED PRIOR TO THE SPECIFIED TIME AS ESTABLISHED IN THE INVITATION FOR BIDS. BIDS RECEIVED AFTER THE SPECIFIED DEADLINE MUST BE RETURNED TO THE NON-RESPONSIVE VENDOR UNOPENED.**

6. Bid Submission and Bid Evaluation: Bids shall be submitted without alteration or correction except as authorized in this subsection. Bids shall be evaluated based on the requirements set forth in the Invitation for Bids, which may include criteria to determine acceptability, such as inspection, testing, quality, workmanship, delivery and suitability for a particular purpose. Those criteria that will affect the price and be considered in evaluation for award shall be objectively measurable, such as discounts, allowances, transportation costs and total or life cycle costs. The Invitation for Bids shall set forth the evaluation criteria to be used. **No criteria may be used in bid evaluations that are not set forth in the bid documents.**
7. Correction or Withdrawal of Bids: Correction or withdrawal of inadvertently erroneous bids before and after a bid opening may be permitted in accordance with this subsection. Mistakes discovered before the bid opening may be modified or withdrawn by written notice received in the Purchasing Office prior to the time set for the bid opening. After the bid opening, corrections in bids shall be permitted only to the extent allowable in the bid documents and that the bidder can show by clear and convincing evidence that the mistake of a non-judgmental character was made. Except for the foregoing, after the bid opening no changes in bid prices or other provisions of bids shall be permitted. All decisions to permit the correction or withdrawal of bids shall be supported by a written determination made by the Purchasing Manager or his/her designated representative.
8. Award: An award shall be made by written notice to the lowest responsible and responsive bidder whose bid meets the requirements and criteria set forth in the Invitation for Bids. In the purchase of supplies or services pursuant to this section, amounting in value to \$50,000 or more, the Purchasing Manager or his/her designated representative shall submit a recommendation of award to the City Council. The Purchasing Manager may award bids from \$25,000 to \$49,999 without prior Council approval, but shall make a quarterly report of such awards to the Council for their information.

B. Competitive Sealed Proposal/Competitive Negotiation Process: A contract for supplies or services for \$25,000 or more may be entered into by use of the competitive sealed proposal/competitive negotiations method when (i) the Purchasing Manager or his/her designated representative determines that the complex nature or technical details of a particular procurement make the use of competitive sealed bidding either not practical or not advantageous to the City; (ii) specifications cannot fairly or objectively be prepared as to permit competition in an Invitation for Bids; (iii) equipment or service is available from a limited number of sources; or (iv) specifications cannot practically be prepared except by reference to specifications of the equipment of a single source of supply.

1. Requests for Proposals: Proposals shall be solicited through a formal sealed proposal process.
2. Public Notice: At least one (1) proposal invitation notice shall be published in the official City newspaper at least five (5) work days prior to the deadline date for receiving proposals.
3. Receipt of Solicitations: No proposals shall be opened until the time designated in the public notice for the solicitation. **At this stage only the names of respondents are public record; all other information is confidential until contract negotiations are completed.**

4. Evaluation Factors: Proposal evaluation criteria should measure how well each proposal meets the desired requirements established before proposals are received. Final consideration for awarding of contract shall not be based solely on price. A combination of qualifications, past experience, demonstrated successes, references, fees and costs, capacity to fulfill all requirements of the contract and other qualifying considerations shall be considered for evaluation purposes.

The preliminary rating of proposals received is usually based upon the proposals as presented, and on the criteria in the RFP. Once the preliminary ratings are tabulated, the top performers (numbers vary dependent upon the solicitation) are invited in for interviews/discussions of their proposals.

5. Discussion with Respondents and Revisions to Proposals: As provided in the Request for Proposals, discussions may be conducted with responsible respondents who submit proposals determined to best comply with the requirements of the RFP, for the purpose of clarification to assure full understanding of their proposal and conformance to the requirements set forth in the RFP. Respondents 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 best and final offers.
6. Award: Award shall be made to the most responsive firm or individual whose proposal is determined to be the most advantageous to the City, taking into consideration evaluation factors set forth in the Request for Proposals. No other factors or criteria shall be used for this evaluation. The contract file shall contain the basis on which the award was made. In the purchase of supplies or services pursuant to this section, amounting in value to \$50,000 or more, the Purchasing Manager or his/her designated representative shall submit a recommendation for award to the City Council. The Purchasing Manager may award bids from \$25,000 to \$49,999 without prior Council approval, but shall make a quarterly report of such awards to the Council for their information.

When issuing Competitive Sealed Proposals, a determination must be made if the process is to be single or multi-step. In a multi-step process, the Purchasing Manager will determine if it would be in the best interest of the City to obtain **qualification letters or statements of interest from prospective providers prior to soliciting proposals**. If that is determined to be the best method, the process will start with the letter(s).

The following process shall be adhered to in varying degrees as agreed upon between the using Department and the Purchasing Manager.

Step 1: The first step requires the using Department Director to designate a representative to serve as *Project Lead*. Prior to preparing a request to issue a Request for Proposals (RFP), the Project Lead shall confer with the Purchasing Division to determine whether an RFP is the appropriate mechanism for the procurement or if a qualification letter/statement of interest is the first step of the process. If the RFP is recommended, a schedule for the selection process shall then be established.

Step 2: The Project Lead shall prepare a purchase requisition to transmit to the Purchasing Manager with the Scope of Work (minimum requirements for services) for the project. The Scope of Work (SOW) shall be submitted in writing in Microsoft Word™. The SOW seeks results; it is performance oriented and requires a systematic approach. It should define the mission of the RFP or answer the question 'why' this acquisition is being made or considered. It shall also discuss in broad terms how the mission is to be accomplished, and the expected outcomes of the solicitation. The SOW needs to define the logical flow of activities, who is responsible for what, etc. - it identifies the responsibilities of both parties (City and supplier).

Step 3: Accompanying the SOW shall be (1) a proposed calendar of events and (2) the recommended evaluation criteria to be incorporated into the RFP and used to rank and select the provider. The Department shall also provide the names and addresses of the recommended evaluation team members and a list of prospective respondents to be contacted.

Step 4: The Purchasing Division shall prepare a draft RFP for Departmental review & revision. Only after all revisions are made will the RFP be issued to the prospective respondents by the Purchasing Division.

Step 5: The Purchasing Division shall receive all proposals until the deadline date and time specified. At that time, submittals shall be opened and recorded. **At this stage only the names and addresses of respondents are public record; all other information is confidential until contract negotiations are completed.**

Step 6: Copies of the proposals shall be distributed to the evaluation team members for preliminary ratings based on the proposals as received and the criteria contained in the RFP.

Step 7: Evaluation team members shall then meet. The team reviews the compilation of the ratings for each proposal and determines the strengths and weaknesses of each. **The evaluation must be done in accordance with the criteria contained in the RFP.** The team then determines which and how many of the respondents they would like to interview, if that is determined to be necessary to further understand the proposals and their degree of responsiveness to the requirements of the RFP.

The information in proposals is confidential during the evaluation process. A representative of the Purchasing Division shall facilitate the review process and assist the committee to assure that evaluations are conducted as stated in the RFP. Final rankings are made following interviews or oral presentations.

Remember, the committee recommendation does not authorize the committee or Department to notify any respondent of the status of the evaluation. All communication with respondents to the RFP must be through the Purchasing Manager to maintain confidentiality.

Step 8: The Purchasing Manager and the Project Lead shall conduct negotiations with the recommended respondent until a final contract is agreed upon. If terms or compensation cannot be agreed upon with the best-qualified respondent, then negotiations shall be formally terminated with that respondent. If proposals were submitted by one or more other respondents determined to be qualified, negotiations may be conducted with such other respondents, in order of their respective qualification ranking, and the contract may be awarded to the respondent then ranked best qualified if the amount of compensation is determined to be fair and reasonable.

Step 9: Award shall be made to the most responsive firm or individual whose proposal is determined to be the most advantageous to the City, taking into consideration evaluation factors set forth in the Request for Proposals. No other factors or criteria shall be used for this evaluation. The contract file shall contain the basis on which the award was made. In the purchase of supplies or services pursuant to this section, amounting in value to \$50,000 or more, the Purchasing Manager or his/her designated representative shall submit a recommendation for award to the City Council. The Purchasing Manager may award bids from \$25,000 to \$49,999 without prior Council approval, but shall make a quarterly report of such awards to the Council for their information.

Step 10: All responding to the RFP shall be notified of the selection.

30.4 Non-Responsive Bid Definition:

A responsive bid is one that is in substantial conformance with the requirements of the Invitation for Bid. Bidders who substitute their standard terms and conditions for that of the City's bid documents or who qualify their bids in such a manner as to nullify or limit their liability to the City are non-responsive bidders.

A. Determination of Non-Responsive: the following are examples of non-responsive bidders/vendors:

- A bidder who fails to deliver a bid prior to the specified time and date as shown on the Invitation for Bids is considered late and the bid shall not be opened.
- A bidder who fails to conform to required delivery schedules as set forth in the bid documents or in the permissible alternatives.
- A bidder who qualifies prices in such a manner that the firm's bid price cannot be determined ("price in effect at time of delivery").
- A bidder who fails to offer goods or services that comply with the specifications of the bid.
- A bidder who makes the purchasing authority the responsible party for determining that the bidder's products conforms to the specifications.
- A bidder who fails to furnish bid surety.
- A bidder who limit the rights of the City under any contract clause.

30.5 Responsible Vendor Definition:

A "Responsible Vendor" is a person who has the capability in all respects to perform fully the contract requirements and the tenacity, perseverance, experience, integrity, reliability, capacity, facilities, equipment and credit which shall assure good, full and faithful performance.

A. Determination of Non-Responsibility: The following are reasons a bidder/vendor may be declared non-responsive:

1. The bidder is not a regular dealer or supplier of the goods or services offered;
2. The bidder does not have the ability to comply with the required delivery or performance schedule;
3. The bidder does not have a satisfactory record of performance as documented by the requesting Department's Department Director or designated representative or as referenced by other jurisdictions or customers;
4. The bidder does not have a satisfactory record of integrity; and
5. The bidder does not have the necessary facilities, organization, experience, technical skills or financial resources to fulfill the terms of the contract/purchase order.

30.6 Bid Irregularities:

The Purchasing Manager has authority to waive bid irregularities if: **1)** the item being waived is only a matter of form or is an immaterial variation from the exact requirements of the Invitation for Bids; **2)** the item being waived has trivial or no effect on price, quality, quantity, delivery or performance; and **3)** such a waiver would not affect the relative standing of bidders or be otherwise prejudicial to them. Examples of irregularities that may be waived are:

- Failure to furnish with the bid certain required information regarding the vendor's qualifications to perform the contract.
- Failure to submit required descriptive information on the products offered.
- Failure to return the proper number of executed bids or attachments, including certifications and affidavits.
- Failure to return a bid addendum or amendment if on the face of such bid the bidder acknowledges receipt of addendum or amendment or if the addendum or amendment does not have material effect on the bidder's liability under the terms of the contract.
- Failure to sign a bid, when evidence is submitted with the bid that clearly shows that the bid was the one intended by the bidder and that failure to sign was strictly an oversight.

When such irregularities are discovered by the purchasing authority, the bidder is requested to remedy the problem within a reasonable timeframe by later submitting omitted data or by providing a written statement of intent.

30.7 Exemptions to Competitive Solicitation:

- A. The following items are **exempted** from competitive bidding:
- Supplies, materials, services costing \$5,000 or less.
 - Purchases made cooperatively with other units of government such as the State of Kansas, government cooperative groups, and extended awards from other governmental agencies; the City may, when deemed appropriate, extend its award to other governmental agencies;
 - Purchases from federal, state or other local government units;
 - Magazines, books and periodicals;
 - Supplies, products or services indispensable to the City which are obtainable, for practical purposes, only from a single source, as identified by the Purchasing Manager using the procedure herein set forth;
 - The material qualifies as an object of fine art;
 - A particular material is required to match materials currently in use by the City.
 - OEM repair parts purchased from the source vendor.

30.8 Waiver Process to Formal Competitive Bids:

The formal bid process may be waived by the City Manager at the request of the Purchasing Manager if deemed in the best interest of the city.

30.9 Rejection of Bids:

All bids may be rejected when one or more of the following occur:

- All bids exceed the budgeted amount;
- There are no responsible bidders;
- There are no responsive bidders;
- The project is abandoned; or
- The specifications, scope and/or terms and conditions need to be revised.

30.10 Protested Solicitations or Awards:

A. Protest: Any actual or prospective bidder, contractor or vendor who is aggrieved in connection with the solicitation or award of a contract and purchase order may protest to the Purchasing Manager, Resource Management Director or City Manager as set out in this Section. The protest shall be submitted in writing to the Purchasing Manager or his/her designated representative, within seven (7) working days after the aggrieved person knows or should have known of the facts giving rise thereto.

- Protests in connection with a solicitation or award of a contract involving an amount less than \$25,000 shall be filed with and determined by the Purchasing Manager.
- Protests in connection with a solicitation or award of a contract involving an amount of \$25,000 but less than \$50,000 shall be filed with and determined by the Resource Management Director.
- Protests in connection with a solicitation or award of a contract involving an amount of \$50,000 or more shall be filed with and determined by the City Manager.

B. Authority: The Purchasing Manager, Resource Management Director or City Manager, as set out in the previous subsection, shall have the authority to settle and resolve a protest of an aggrieved bidder, contractor or vendor, actual or prospective, concerning a solicitation or award of a contract. A written decision regarding the protest shall be rendered within thirty working days after the protest is filed. This authority shall be exercised in accordance with the City procurement rules and regulations set forth herein. After thirty days no decision is made, the written protest shall be forward to the City Attorney's office for resolution.

30.11 Disagreements About Recommendations:

If the Department and the Purchasing Division disagree about the award recommendation, the Department Director or designee and the Purchasing Manager or designee shall meet to review the reasons for the disagreement. The mutual goal of the Department and the Division is to award to the lowest responsive and responsible bidder for goods or services that meet the Department's requirements contained in the specifications. Disagreements that cannot be resolved shall be forwarded to the City Manager's office for final determination.

SECTION 40: SOLE SOURCE DESIGNATION

40.1 Authority:

This manual allows for exemption from the competitive procurement process when a written determination has been made by a Department Director or Division Manager, and approved by the Purchasing Manager, City Manager or City Council, that there is only one source practicably or reasonably available to supply a commodity or service.

40.2 Sole Source Criteria:

The following are the criteria used for determining sole source:

- The Vendor is the original equipment provider and required parts or equipment are unavailable from another vendor;
- The compatibility or conformity with City owned equipment, materials, or expertise in which non-conformance would require the expenditure of additional funds;
- No other equipment is available that shall meet the specialized needs of the Department or perform the intended function;
- Detailed justification is available which reasonably establishes that the Vendor is the only source practicably available to provide the item or service required;
- Written demonstration and justification is available which reasonably and practicably establishes that the selection of a sole source Vendor is in the best interest of the City.

40.3 Procedures:

A. Documentation:

The Department shall provide written documentation and/or justification that reasonably or practically establishes that the proposed Vendor is the only source reasonably or practicably available to provide the item or service required. In an effort to insure that sole source justifications are valid over time, the Purchasing Manager may request the using Department update the information or justify that the sole source conditions continue to be valid.

B. Authorization Thresholds:

When, in the opinion of the Purchasing Manager the best interests of the City shall be served, the Purchasing Manager may authorize the use of sole source procurement procedures provided the expenditure is less than \$25,000. Requests for sole source expenditures of \$25,000 to \$49,999 shall be approved by the City Manager, and sole source procurements of \$50,000 or more shall be approved by City Council.

SECTION 50: EMERGENCY PURCHASES**50.1 Emergency Purchase Definition:**

An *emergency purchase* is a purchase made when a lack of which would threaten 1) The functioning of City government, 2) the preservation or protection of property, machinery, or equipment, and/or 3) the health or safety of any person.

50.2 Authority:

In case of an emergency as defined above, the City Manager may waive all provisions for competitive bidding. In such instances, the City Manager may delegate this authority to the appropriate Department Director or Purchasing Manager. Emergency needs shall be purchased by informal open market procedure, as expeditiously as possible, at not more than commercial prices. When expenditures are \$25,000 or more, a full report of the circumstances necessitating the emergency action shall be presented for ratification to the City Council.

50.3 Emergency Purchase Procedures:

- A. Unless otherwise described within this manual, the following are procedures to be followed for emergency purchase situations:
 1. During normal City business hours, the Department shall notify the Purchasing Manager of the emergency situation and request verbal approval to proceed with the emergency purchase. The Department shall provide the following:
 - a. The nature of the emergency;
 - b. The estimated cost of the services/goods required; and
 - c. The vendor recommended to receive the order.
 2. In the event of an actual emergency during non-working hours, the Department Director or designee may purchase directly any supplies whose immediate procurement is essential as described above. For expenditures of \$25,000 or more, the Department Director or designee of the Department using the emergency procedure shall submit by close of business the next work day a written report explaining the circumstances of the emergency to the Purchasing Manager.

SECTION 60: PURCHASING AND REQUISITIONING CYCLE**60.1 Introduction:**

The core of the central purchasing system is the Purchase Requisition. Requisitions are required for all procurement transactions in excess of \$5,000 except as otherwise provided herein. (For acquisition of goods and services costing \$5,000 or less, the preferred method of processing is the City Procurement Card). The requisition (OR/OI/OU) authorizes the Purchasing Division to begin the research and procurement process for the fulfillment of the purchase. **The Purchasing Division is not authorized to act on behalf of the Department or Division until the receipt of the requisition. The appropriate authority in the Department/Division has approved the action if the requisition is received in the Purchasing Office.**

60.2 Anticipation of Need:

Requesting Departments should prepare the requisition far enough in advance so ordinary purchases do not become emergencies. By planning and forecasting purchases in advance, the Purchasing Division, vendors and requesting Department may realize the advantages of soliciting competitive quotations, bids or proposals.

Required delivery dates on goods and services vary greatly and order requisitions should be prepared accordingly. Departments should realize unnecessary work delays could be created if order requests are not presented in a timely manner. Lack of planning on the part of the using Department shall not be translated into lack of customer service on the part of the Purchasing Division.

60.3 When to Use a Purchase Request:

Requisitions (E One Form OR/OI/OU) are entered for all commodity purchases above **\$5,000** except as otherwise provided herein.

- OR – use for most commodities or services
- OI – use for computer and technology purchases – routes through ITS for approval before coming to Purchasing.
- OU – use for approved vehicle and equipment purchases – routes through Vehicle Maintenance and Accounting before coming to Purchasing.

60.4 How to Prepare a Purchase Request:

The Department needing/desiring a product or service should complete the appropriate E-1 Purchase Request Form (OR/OI/OU). This form initiates the procurement process and defines the requestor, vendor, what is needed, and accounting information. The Purchase Request should include detailed specifications on the equipment, service or product. **Any supplemental or detailed information shall be attached to the first line of the Purchase Request.** The supplemental information may include specifications and suggested vendors.

The Department shall enter the requisition with an expected/necessary delivery date, account number, complete description and estimated pricing along with any suggested or potential vendors. Description of the needed material or service is vital to the procurement process. Give a clear description of the item desired as to size, color, type, grade and any other pertinent information. If the purchase requires formal detailed specifications, Purchasing shall request from the Department such technical assistance as may be required in preparing the specifications.

After the requisition is accurately and fully completed, the requisition documents are approved and routed electronically to Purchasing for appropriate action.

60.5 Purchasing Division Responsibility:

Purchasing shall review all requisitions and proceed according to City purchasing rules and regulations (and other applicable professional purchasing practices) to acquire goods or services in a timely manner.

Purchasing staff shall prepare all bidding documents, including the final specifications; a copy shall be forwarded to the Department for review prior to the time the bids are sent out. Any clarifications or changes after the issuance of the bid shall be transmitted to potential vendors by a written addendum.

With the assistance of the ordering Department, Purchasing shall process all justifications and purchase recommendations to the City Manager or City Council prior to award of the purchase order as required.

60.6 Timetables:

The following are approximate timetables for the purchasing cycle from receipt of the requisition to completion of the purchase order. Factors affecting this timetable may include workload, complexity of acquisition, number of items requisitioned, clarification of specifications or requirements, approvals or unanticipated problems.

<u>Dollar Threshold</u>	<u>Method</u>	<u>Response Time</u>
\$5,001 - \$15,000	Quotes/fax/e-mail	Purchase Order issued within 2 work days *
\$5,001 - \$15,000	Quotes/fax/e-mail	Purchase Order issued within 5-10 work days **
\$10,001 - \$24,999	Written solicitation	Purchase Order issued within 15 – 30 days.
\$25,000 and above	Solicitation w/public notice	Purchase Order issued within 30 – 60 days.
\$25,000 and above	RFP w/public notice	Purchase Order issued within 60 – 90 days.

***IF QUOTATIONS ARE OBTAINED BY THE USING DEPARTMENT/DIVISION**

****IF QUOTATIONS ARE OBTAINED BY THE PURCHASING DIVISION**

SECTION 70: PURCHASE ORDERS**70.1 Purpose:**

A purchase order (OP) is a document that states the terms and conditions of a proposed transaction and creates a contractual relationship between a vendor and the City. It describes the quantity and quality of the required goods and includes other information, such as shipping terms, delivery dates and location, and the prices quoted in the bid. Purchase Orders are issued by the Purchasing Division from Purchase Requisitions (OR/OI/OU) submitted.

A department purchase order (OF) is issued by the requesting department for commodities or services valued between \$5,000 and \$14,999, for under \$5000 purchases if a P-card cannot be used, or for purchases from price agreement vendors. (See Section 90 – Department Purchase Orders.)

70.2 When to use Purchase Order:

Purchase orders are required for all invoiced purchases of commodities, materials or supplies and services with an expected expenditure of City funds of more than \$5,000 unless otherwise described herein.

70.3 Process:

Purchase orders (OP) are issued by the Purchasing Division from the requisitions received in the Purchasing Division. Department purchase orders (OF) are issued by departments, with approval by their Department Director and the Purchasing Buyer responsible for their department.

70.4 Subsequent Changes or Cancellations:

Whenever a change of any kind on a purchase order (OP) is required, the originating Department shall forward a memorandum that provides the information to be changed and a justification for doing so. **Only Purchasing is authorized to change and/or cancel the original purchase order.**

70.5 Approval:

Purchase Orders are approved for payment in accordance with final approval authority requirements set forth in this manual under *Section 20 - Purchasing Authority*, and as designated in the E1 financial system.

70.6 Receiving Procedure:

When the material or service is delivered to the Department, the authorized agent of the Department, as assigned by the Department Director, shall inventory and inspect the delivery to ensure the material(s) and/or service(s) are as listed on the shipping document and are in acceptable condition.

If all materials are received in acceptable condition, the receiving Department shall receive these items in E1 according to proper procedures, which notifies Accounts Payable to proceed with payment to the vendor as soon as an invoice is received.

If materials and/or services received are damaged or defective, they should not be used. If possible, notation should be made upon the receipt in the presence of the delivery agent. Departments shall notify the Purchasing Division immediately when damaged or defective

commodities are received. For more explicit receiving guidelines see *Section 140 - Inspection, Testing, and Receiving*.

SECTION 80: PROCUREMENT CARD PROGRAM

80.1 Introduction:

The City of Olathe Procurement Card Program is designed to improve the efficiency in processing small dollar purchases (under \$5000) from any vendor that accepts the VISA® Procurement Card. This program shall allow the cardholder to purchase approved commodities directly from our vendors. Each procurement card is issued to a named individual who is responsible for all purchases made with the card. The City of Olathe is clearly identified on the card as the "Corporate" buyer of goods and services. Purchases are exempt from sales tax in the State of Kansas.

The Purchasing Division and Accounting Division shall monitor the performance of the program.

80.2 Purpose of Card:

The purpose of procurement card guidelines and policies is to accomplish the following:

- Reduce the cost of high volume, low dollar amount transactions. The program helps reduce the use of check requests, petty cash, and small dollar purchase orders.
- Provide an efficient method of purchasing and paying for commodities and services.
- Reduce field crew travel time involving purchases.
- Reduce paperwork.
- Develop reasonable and enforceable policies, procedures and audit controls. The program is NOT intended to avoid or bypass appropriate purchasing or payment procedures. Instead, the program compliments the existing processes available.
- Increase the number of vendors immediately accessible by the City of Olathe.
- Improve management reporting on low dollar amount transactions.
- Provide for disciplinary action if the procurement cards are misused.
- Ensure that the City bears no legal liability for inappropriate use of the procurement card.

NOTE: The policies and procedures provided herein are minimum standards for Departments. Department Directors may establish additional controls.

80.3 How It Works:

The procurement card program simplifies the purchasing process. Purchasing responsibility is delegated to the ordering Department enabling an authorized cardholder to place an order directly with the vendor.

When the supplier at the point-of-sale requests a purchase authorization, the VISA procurement card system validates the transaction against preset limits established by the employee's Department Director or Division Manager. All transactions are approved or declined electronically based on the procurement card authorization criteria established. The authorization criteria may be adjusted periodically as needed and may include, but not be limited to, the following:

- Single transaction limit
- Monthly spending limit
- Approved merchant category codes
- Approved vendors

The authorization process occurs through the electronic system that supports the procurement card processing services under the City's agreement with the bank that issued the City's card, United Missouri Bank.

80.4 Who Does What?

The following is a summation of the responsibilities of the individuals and agencies involved in the procurement card program.

Cardholder

- Hold and secure P-card.
- Use purchase log to record all transactions.
- Order/receive materials and services.
- Make certain sales tax is NOT charged.
- Collect and receive sales receipts.
- Handle disputed items.
- Match receipts and purchase log with monthly card activity statement.
- Review monthly statements for validity of all transactions.
- Process all billing statements within 10 days of closing date.
- Cancel lost or stolen cards and notify the Program Administrator (Purchasing)
- Comply with all purchasing and P-card policies and procedures.

Department/Division Administrator

- Timely processing of all monthly activity statements for the Department for account verification.
- Review monthly statement of each cardholder to ensure inclusion of necessary receipts.
- Check to make certain sales tax is charged only when appropriate.
- Ensure availability of funds in proper account codes.
- Verify appropriateness of account codes.
- Enter Check Request into City's E1 Financial System
- Process all cardholder activity statements, forwarding statements and supporting receipts to Accounts Payable Division within 15 days of statement closing date.
- Handle disputed items that cardholder is unable to resolve.
- Notify the Program Administrator of terminated or transferred employees and return cancelled cards to the Program Administrator.
- Notify the Program Administrator of lost or stolen cards.
- Arrange cardholder training for cardholders with the Program Administrator (Purchasing).
- Comply with all purchasing and P-card policies and procedures.

Department Director/Division Managers

- Request procurement cards for designated employees
- Set Departmental spending limits within established guidelines.
- Designate representatives responsible for authorizing charges.
- Evaluate the need to cancel or reissue cards when employees transfer within the City.
- Review each cardholder's monthly statement and purchase log in a timely manner.
- Comply with all purchasing and P-card policies and procedures.

Program Administrator (Purchasing Division)

- Coordinate program policy issues.
- Create and maintain cardholder hierarchy for control and reporting purposes.
- Create dollar transaction limits for cardholders and oversee any necessary and required modifications.
- Process properly authorized card requests and card strategy changes.
- Assign merchant codes to particular card strategies and change when in the City's best interests.
- Block merchant/commodity codes when appropriate.
- Administer training program for all cardholders.
- Coordinate issuance and cancellation of cards.
- Maintain policy and cardholder guides/manuals.
- Evaluate P-card feedback from suppliers and from Departments.
- Coordinate and maintain internal controls.
- Audit monthly reports for compliance to P-card program policies and procedures.
- Participate in resolving billing disputes.
- Monitor use of cards and selection of vendors.
- Participate in ongoing program reviews.
- Provide cardholders all relative information regarding card-use policy and procedures.

Accounting Division

- Receive monthly processed activity statements from Department Administrators and balance with City's summary statement.
- Balance monthly summary statements with cardholder's activity reports for the same time period.
- Journal entries as required.
- File and store statements, receipts, etc.
- Audit statements for compliance with city regulations.
- Monitor missing documentation and notify the Program Administrator.
- Notify the Program Administrator of any violations or discrepancies.

80.5 Requesting a Procurement Card:

To secure a Procurement Card, a person must be an employee of the City of Olathe and have delegation of authority or, in other words, be authorized to purchase goods, materials and services on behalf of the city. Department Directors are charged with this authority.

Complete the Procurement Card Cardholder Account Action Request form (Intranet, City Blank Forms, P-card Account Action Request). The Department Director will determine the dollar amount and types of commodities and services employee will be authorized to purchase. This form will be sent to the Purchasing Division, who will then process and forward the request to UMB Bank. Upon receipt of the card from the bank, employee will be scheduled for training. Once training is completed, cardholder will sign the City of Olathe Procurement Card Cardholder Agreement (Intranet, City Blank Forms, Cardholder Agreement), then receive and sign their P-card.

Cardholder shall keep the card in a secure place. Although the card is in their name, it is the property of the city of Olathe and is only to be used for city purchases as defined in this manual.

New cards will be automatically sent to Department Administrators approximately two (2) weeks prior to the expiration date on the card.

80.6 Limitations on Use of Procurement Card:

- A. Cardholder Use Only: Only the employee whose name is embossed on the card may use the card. No other individual is authorized to use the card.
- B. City Purchases Only: The card is to be used for City authorized purchases only. The procurement card cannot be used for any personal use and any such use shall require immediate reimbursement and may result in disciplinary action which may include dismissal.
- C. The Department Director approving the assignment of a procurement card shall set single purchase limits, as well as monthly limits. Unless otherwise authorized by the Program Administrator, the maximum individual purchase limit is **\$5,000** and the maximum allowable monthly limit is **\$15,000**.
- D. Multiple items may be purchased but in no event can a purchase exceed the maximum purchase limits as established by the Department Director. Payment for purchases must not be split to stay within the single purchase limit. Deliberately splitting a purchase to circumvent these procedures may result in suspension or revocation of the P-card.

80.7 Other Conditions:

- A. All items purchased over-the-counter must be immediately available. **No back ordering is allowed.**
- B. All items purchased during one telephone or FAX transaction must be delivered in a single delivery. If an item is not immediately available **no back ordering is allowed.**

80.8 Prohibited Use of Purchasing Cards:

The following types of items **MAY NOT** be purchased with a City procurement card, no matter the dollar amount.

- Any item exceeding \$5,000 in value.
- Cash advances, cash refunds.
- Personal items.
- Personal phone calls
- Local (Olathe) gasoline and oil purchases
- Consulting and/or professional services
- Computer hardware or software unless authorized by the Program Administrator.
- "Split" purchases
- Any merchandise, product or service normally considered to be inappropriate use of City funds
- Any commodities ordered for inventory or for a work order

80.9 Allowable Purchases:

- Building/landscape materials.
- Contractor Services, e.g. HVAC, electrical, carpentry, etc.
- Catering and food for business use.
- Miscellaneous maintenance and repair requirements.
- Office supplies
- General operating supplies
- Uniform and clothing purchases
- Education, i.e. registration for classes, conferences, seminars, etc.
- Postage
- Subscriptions, books, videos
- Memberships
- Approved travel expenses such as hotels, fuel, car rental, shuttle/taxi and airline tickets (a per diem will continue to be issued for travel related meals and personal phone calls. The P-card shall not be used for meals and personal phone calls related to travel for the City, unless a per diem is not given to the employee.)

NOTE: All travel expenses including those charged to P-cards must follow all city travel/business expense policies. P-card expenses will be recorded on cardholder's business expense statement as a P-card expense.

80.10 Violations:

- A. Making purchases which exceed the cardholder's specific dollar limit. It is the responsibility of the ordering Department to ensure all "extra" charges such as freight handling, set-up, etc., are considered before a procurement card transaction is made. A vendor's willingness to honor a procurement card transaction exceeding the cardholder's single transaction limit does not authorize the cardholder to make purchases.
- B. Purchases from vendors that create conflicts of interest, e.g. companies owned by the City employee or relatives or where the employee has or will gain or benefit directly or indirectly from the purchase.

SECTION 90: DEPARTMENT PURCHASE ORDER**90.1 Purpose:**

A Department Purchase Order (OF) is a document that is to be used by Departments for small purchases as described herein (purchases under \$5,000) or when there exists a current price agreement for the goods or services to be purchased. Like the Purchase Order, the Department Purchase Order states the terms and conditions of a proposed transaction and creates a contractual relationship between a vendor and the City. It describes the quantity and quality of the required goods or services and includes other information, such as shipping terms, delivery dates and location, and the prices quoted in the bid.

90.2 When to use Department Purchase Orders:

The Department Purchase Order for small dollar purchases (under \$5,000) should only be used when the use of a City P-card is not possible or practicable. They may only be used for invoiced purchases of commodities, materials or supplies and services with an expected expenditure of City funds of \$5,000 or less unless a current price agreement exists or by approval of the Purchasing Manager.

If a price agreement with the vendor exists, the requesting Department/Division may enter the information into E-1 and produce a department purchase order to be faxed or sent to the vendor. The department purchase order and all invoices and related correspondence should indicate the price agreement number on them.

If no price agreement exists, all purchases over \$5,000 must be submitted on a purchase requisition (OR/OI/OU), accompanied by either three or more quotes, or for sufficient information to allow the Purchasing Division to prepare bid solicitations.

90.3 Process:

Ordering Department personnel shall enter all Department Purchase Orders (**OF**) in the E1 Finance System.

90.4 Approval:

Department Purchase Orders must be approved for payment in accordance with final approval authority requirements set forth in this manual under *Section 20 - Purchasing Authority*.

90.5 Receiving Procedure:

When the material or service is delivered to the Department, the authorized agent of the Department, as assigned by the Department Director, shall inventory and inspect the delivery to ensure the material(s) and/or service(s) are as listed on the shipping document and are in acceptable condition.

If all materials are received in acceptable condition, the receiving Department shall receive the item(s) in E1, which then notifies Accounts Payable that the transaction is ready for payment. If there is a paper copy of the invoice, please mark "OK TO PAY" and the Department Purchase Order number on the face of the invoice and forward to Accounts Payable for payment processing.

If materials and/or services received are damaged or defective, they should not be received in E1. If possible, notation of the damage should be made upon the receipt in the presence of the delivery agent. In any case, Departments shall notify the vendor immediately when damaged or defective commodities are received and request instructions for return of the defective materials and the receipt of undamaged goods or credit. For more detailed receiving guidelines see *Section 140 – Inspection, Testing, and Receiving*.

SECTION 100: PRICE AGREEMENTS**100.1 Purpose:**

Price Agreements are CONTRACTS established with suppliers to allow individual purchases by the City without going through the competitive bidding process each time a purchase is made. Price Agreements also take advantage of volume discounting based on the annual estimated quantities purchased by the City, set terms and conditions for purchases, and provide tax exemption information to the vendors.. Whether or not the vendor will accept the City's P-card for payment of small dollar (under \$5000) purchases is also arranged.

Price Agreements do not commit the City to purchase any merchandise or service from the vendor. They are issued to advise the vendor of the merchandise and/or service the City may require and outlines the ordering, receiving and invoicing procedures.

Only the Purchasing Division shall issue Price Agreements. Prices shall be established, per the policies in this manual. Pricing information shall be made available to ordering Departments and the Accounting Division to insure correct payment is made to the participating vendor.

Requests for the issuance of Price Agreements by the Purchasing Division shall be made in writing, by Departments having needs that are applicable to Price Agreements. It is the responsibility of each Department to provide the need for the price agreement, as well as the approximate annual quantity anticipated and/or estimated dollar amount that shall be spent during the fiscal year for a particular product category or products.

It must be clearly understood by all individuals authorized to place orders against Price Agreements that there shall be strict adherence to the provisions established in the Price Agreement, with no exceptions.

It is the Purchasing Division's responsibility to make the vendor fully aware of the procedures of the Price Agreement and that the vendor complies with the procedures. It is also the Purchasing Division's responsibility to provide adequate information and instructions to the Departments and individuals involved in the use of the Price Agreement.

100.2 Instructions for Price Agreements:

- A. The City P-Card shall be used for all orders placed against Price Agreements for purchases less than \$5,000. If the use of a P-Card is not possible or practicable, a Department Purchase Order shall be used.
- B. Orders against Price Agreements can be made by phone, e-mail, or in person after the employee has received proper approval. Employee(s) shall identify themselves and provide the following information: service or description, part number if applicable, quantity, required date, point of delivery and Price Agreement number.
- C. Vendor shall prepare a delivery ticket or receipt showing the above information and provide it to the ordering employee.
- D. If using a Department Purchase Order, receive the goods in E1 and forward the invoice, marked with the price agreement number and Department Purchase Order number, to Accounts Payable for processing.

SECTION 110: CHECK REQUESTS**110.1 Purpose:**

A Check Request (OC) is a document that may be used by Departments to authorize the Accounts Payable staff to issue a check to a vendor that has provided specific non-competitive goods or services to the City. The Check Request describes the reason for the expenditure and the total amount of the check to be issued. Check Requests will be limited to the following transactions unless approved by the Purchasing Manager:

- Monthly P-card payments to the bank
- Subscriptions - Newspapers, magazines, periodicals, etc.
- Training materials - videos, books, tapes, etc. (excludes computer software)
- Travel advances and other business expenses
- Utility services - electric, gas, etc.
- Postage
- Insurance
- Rent of office or storage space
- Facility rental - Conferences, meetings, seminars, etc.
- Filing fees
- Petty cash reimbursements
- Turnpike expenses
- Garnishments/benefits
- Bond/interest payments

110.2 When to use Check Requests:

The Check Request (OC) should only be used when the use of a City P-card or any other purchasing method is not possible or practicable. They may only be used for invoiced payments for specific commodities, materials or supplies and services as described herein.

110.3 Process:

The Department requesting the issuance of the check shall enter the Check Request (OC) into E1. The associated receipt, invoice, or other verification of valid expenditure shall have the words "OK TO PAY" and the Check Request number written on the face of the document and forwarded to Accounts Payable for payment processing.

110.4 Approval:

Check Requests must be approved for payment in accordance with final approval authority requirements set forth in this manual under *Section 20 – Purchasing Authority*.

SECTION 120: PETTY CASH

120.1 Purpose:

Petty Cash may be used for purchases of less than \$50.00 when funds are needed immediately and a City procurement card cannot be used.

120.2 Policies:

Petty Cash policies are addressed separately in the City's *Petty Cash Manual*.

SECTION 130: SHIPPING AND HANDLING

130.1 Required Method:

The City's preferred shipping and handling term is ***FOB Destination (Olathe)***.

130.2 FOB Destination (Free on board destination):

FOB Destination means the Vendor maintains title for the goods until the Purchaser receives them. The vendor pays the shipping costs and is responsible for claims against the Carrier.

130.3 FOB Origin:

Accepting a quote of FOB Origin has consequences for the City if the shipment is lost or damaged. FOB ORIGIN means the Purchaser accepts title to the goods from the moment they are picked up by the Carrier. The Purchaser pays shipping costs and is responsible for claims against the Carrier.

SECTION 140 - INSPECTION, TESTING, AND RECEIVING: INSPECTION, TESTING, RECEIVING**140.1 Purpose:**

Receiving is the formal verification that a commodity, service, or equipment has arrived in good condition and is of the specified quantity and quality. It also serves as authorization to the Accounts Payable staff to process payment to the vendor including any pre-determined payment discounts. Payment cannot be issued until the receipt is made in E1 and verified against the Purchase Order and invoice. Proper receiving requires a sound inspection and, when necessary, testing process. This section describes the receiving process.

140.2 Inspection:

Each Department is responsible for receiving commodities and services delivered to the City. Any shortages, late deliveries, damaged merchandise, or other problems related to the vendor's performance should be reported to the Purchasing Division as soon as possible. Inspection and testing of delivered items should occur at the time of delivery or pickup by the user Department at Central Receiving. Central Receiving personnel do not have the technical knowledge or facilities to perform adequate inspection and/or testing; but will attempt to observe obvious defects or shortcoming and notify the user Department immediately. The ultimate burden of inspection and testing is the responsibility of the user Department.

When receiving ordered goods, the user should conduct an initial inspection of the merchandise to determine its condition. A comparison should be made of the goods received against the product specifications of the original order. When a determination has been made that items received meet specifications and are not damaged, the receiving department shall enter the receipt in E1.

140.3 Damage:

Visible damage: If freight is visibly damaged, receiving personnel shall instruct the freight line driver to:

- a. Note the damage on the freight bill
- b. Sign the freight bill

Concealed damage: If there has been concealed damage, save the shipping cartons. Notify the freight line and request an "inspection report of concealed damage." Notify the Purchasing Division of what has occurred as soon as possible.

NOTE: All boxes and packing materials should be kept in the event of visible or concealed damage freight shipments.

140.4 Reporting Damage:

Damaged freight should always be reported to the freight line, within the same day of the delivery, if possible. Freight claims have a very limited window for reporting damage, depending on the freight line; therefore, it is imperative that it be reported to the freight line and to the vendor as soon as possible after the damage has been discovered.

140.5 Returns:

Damaged supplies, equipment, or materials should not be returned to the freight line or the vendor until a return authorization has been received. Follow the instructions on the return authorization to insure proper credit is given for the goods returned. Forward copies of all shipping documents and information to the Purchasing Division as soon as possible after the goods are returned.

140.6 Testing:

Arrangements for the utilization of outside testing laboratories can be made by the Purchasing Division. Payment for testing will normally be made from the requesting Departments' budget; however, if the test reveals non-spec material has been supplied, the vendor will pay for the testing or face disqualification from future bidding.

140.7 Receiving:

All materials and equipment received in poor condition, damaged, or noncompliance with the contract, should be reported to the Purchasing Division in writing as soon as possible.

Departments shall pay particular attention to the delivery ticket and how it matches the City's Purchase Order. The employee receiving the materials must verify that all items were shipped as stated on the delivery ticket prior to electronically receiving the goods. Once the goods have been received electronically and a valid invoice has been received in Accounts Payable, the vendor will be paid.

140.8 Incomplete/Partial Orders:

In the event an order is incomplete, the Department should make the inquiry for scheduled shipment of the remaining order or contact the Purchasing Division to make that inquiry.

The City may make partial payments whenever partial shipments are made; providing the goods are received in proper condition.

SECTION 150: PROFESSIONAL SERVICES PROCUREMENT

150.1 Purpose:

The City frequently requires the specialized skills, knowledge, resources, and services of private contractors or consultants to complete complex studies, to develop or revise procedures, to conduct audits, to train staff, to design facilities, or to provide a specialized product. The purpose of this section is to set forth policy and procedures for procuring professional, technical and expert services (Professional Services) expected (1) to cost less than \$25,000 and (2) services expected to cost \$25,000 or more.

150.2 Authority:

Under \$15,000: For the purpose of procuring services, any using Department or Department requiring such services may procure them on its own behalf when the total cost is less than \$15,000. Department Directors or their designees are responsible for selection and contract administration. Competition is not required; nevertheless, Department Directors are responsible for selection based on applicable and appropriate qualifications, experience, referenced successes and cost factors.

\$15,000 to \$24,999: With the approval of the City Manager, professional services with a total cost between \$15,000 and \$24,999 can be procured without competition. Department Directors are responsible for providing the City Manager with a written justification and recommendation for the selection.

150.3 Procedures for Professional Service Contracts of \$25,000 or more:

The provisions of *Section 30.3 – Formal Solicitations, or Requests for Proposals*, shall apply to all procurements of professional services (except legal services) which are expected to cost \$25,000 and greater.

The selection process for professional services shall be competitive, usually through the RFP process. The requesting department shall provide the scope of work to be performed, any special requirements expected from the successful respondent, what the City will be provided during the performance of the contract, and any other information which will be needed to develop a clear and measurable contract with the successful respondent. The Purchasing Division will facilitate the RFP process, working in tandem with the requesting Department.

Once the requirements of the professional service are determined, the process continues as follows:

- An evaluation team is determined.
- Purchasing reviews requirements and adds standard boilerplate information, terms and conditions for doing business with the City.
- Dates for issuing the RFP, the pre-proposal conference (if needed), receipt of questions regarding the RFP, and for the receipt of proposals are set.
- The requesting department provides suggested firms/individuals who may be interested in providing services needed.
- The RFP is issued to those on the prospect list, as well as advertised, and displayed on the City's internet bidding site, Demandstar by Onvia™
- Addendums are issued following discussions at the pre-proposal conference as well as any questions received until the deadline for posting questions.
- Proposals received are distributed to the members of the evaluation team, who rates the proposals according to the criteria contained in the RFP.

- Preliminary proposal ratings are compiled by the Purchasing Division and the top respondents determined. If deemed necessary, interviews with the top respondents are scheduled.
- A second round of ratings, again based on the criteria in the RFP, is given by the evaluation team at the interviews.
- Final compilation of ratings is performed, and evaluation team is advised of the apparent winning proposal.
- If all are in consensus with the award to the winning respondent, the Purchasing Division will proceed with obtaining City Council approval to proceed with the contract (for contracts valued over \$50,000) or with the contract with the awarded respondent..
- If the evaluation team cannot reach a consensus based on the preliminary proposals and the interviews, a meeting will be called by the Purchasing Division to review and determine the best proposal.
- Once award has been made and approved, the contract for the professional services is processed and signed by both parties. Dependent upon the type and duration of the services obtained, a price agreement or purchase order is then issued.

Legal services expected to be \$50,000 and greater shall be governed by the following:

- (a) Not less than three (3) law firms shall be contacted to submit proposals for the services required by the City;
- (b) the proposals shall be submitted to the City Council, which shall award a contract based upon the proposal that is most advantageous to the City, taking into consideration not only price, but also technical competency.
- (c) The City Attorney shall maintain a list of law firms along with qualifications and specialties which may be utilized in requesting proposals.

SECTION 160: CONTRACTS**160.1 General:**

Contract shall mean any agreement enforceable by law between the City and one (1) or more outside parties, regardless of form or title, for the procurement of materials or services. To be effective, a contract must include an offer and acceptance by competent parties and the furnishing of some good or service for an agreed monetary consideration.

160.2 Contract Approval:

Only the Mayor or designee, the City Manager or designee, Department Directors or designee, and the Purchasing Manager or designee are authorized to sign contracts which bind the City for the procurement of goods and services unless a specific delegation or exemption is made by City Council resolution, code, regulation or letter of authority to another official or employee. Approval thresholds are as delineated in this manual under *Section 20 - Purchasing Authority*.

160.3 Contracts for Services:

Before requisitioning approval of an individual or firm to provide services to the City, the Department should be certain that no violation of the policies set forth in this manual, or any law, including but not limited to Internal Revenue Service (IRS) regulations, will occur. Care must be taken to make sure the service contract does not establish an employer-employee relationship with the City. Generally, the following tests support a personal service contract with an individual:

- The individual has performed similar services on a contractual basis with other clients;
- The individual has paid tax withholding and social security withholding as a self-employed person and agrees to do so during its contract with the City; and
- The individual shall perform the duties independently without direct detailed supervision by the City to include independence in establishing work hours and location of performance of duties.

160.4 Contract Administration:

- A. Departmental contracts shall be administered by the using Department. The Department Director is responsible for designating the contract administrator (a.k.a. project manager) prior to the solicitation of personal service contracts. Public works projects shall be administered by the Public Works Director or designee.
- B. The Departmental contract administrator shall be responsible for assuring that the contractual relationship is completed successfully and in accordance with contract terms and conditions. The contract administrator may or may not be a City employee.
- C. Among the activities of a contract administrator is the following:
 - (1) Inspecting, accepting and recording contractor performance,
 - (2) Communicating to and with contractors the City's requirements,

- (3) Evaluating contractor performance,
- (4) Notifying Purchasing promptly of any disputes, failures to perform or other problems with contractors (non public works or legal contracts),
- (5) Documenting all activities of the contract and assuring copies of important documents are retained and/or forwarded to the Purchasing Division, and
- (6) Processing payments and contract close-out documents.

D. Unless otherwise described within this manual, it shall be the Purchasing Division's responsibility to:

- (1) Maintain the City's record file of the contract,
- (2) Review and approve all requests for changes in delivery, price or specifications *before* any action is taken by the Department or contractor,
- (3) Create Purchase Order or price agreement
- (4) Resolve disputes with Contractors,
- (5) Issue any cure notices, demand letters or contract default/termination notices to Contractors.

160.5 Contracts for Public Improvements:

A. Contracts for Public Improvements (construction) are addressed in a separate manual.

160.6 Multiyear Contracts:

Unless otherwise provided by law, a contract for supplies or services may be entered into for a period of time deemed to be in the best interest of the City, if conditions of renewal or extension are included in the solicitation. Payment and performance obligations for succeeding fiscal years shall be subject to availability and appropriation of funds thereof.

When funds are not appropriated or otherwise made available to support continuation of performance in a subsequent fiscal year, the contract shall be canceled and the Contractor may be reimbursed for the reasonable value of any authorized non-recurring costs incurred.

Annual service and product contracts may be renewed by the Purchasing Manager and Department Director based on satisfactory performance of the contractor.

SECTION 170: CHANGE ORDERS

170.1 General:

Change orders are issued to cover costs or address changes in terms and conditions associated with unforeseen problems not addressed in the bidding or contract document, or changes/modifications that may be recommended after a contract award.

170.2 Authority:

Change orders on contracts may be approved by the City Manager for amounts less than **\$50,000**. Change orders of \$50,000 or greater must be approved by the City Council.

CAUTION: All personnel working with contractors must be cautious about making "constructive changes" based upon their "apparent authority." Such changes might result from an innocent statement, such as, "I would like to see you do....." When the contractor proceeds to perform what it considered an instruction and bills the City for the change, a dispute may arise because the change was not properly approved and funds are not available for it. Making such statement(s) may be create personal liability for the charges and be grounds for disciplinary action.

SECTION 180: SPECIFICATIONS AND STANDARDIZATION

180.1 General:

The term, "specification" or "specifications" refers to that portion of a solicitation that describes the required characteristics of a commodity or service. It is used interchangeably with the terms, "purchase description," "purchase specification," "purchase requirement," "commercial item description," "scope of work" and "statement of work." A specification may include requirements for samples, prototypes, inspection, testing, warranty and packaging. The specification portion of a solicitation should not contain bidding instructions, contractual terms and conditions, delivery, pricing formats or similar material. The specifications are the communication medium between the purchaser and the seller and the basis on which the bids are prepared. Specifications for each item should be definite and precise to eliminate the possibility of misunderstanding on the part of the vendor or the purchaser.

REMEMBER, the fundamental premise of public procurement is that maximum price competition minimizes government costs. Specifications shall be prepared accordingly.

Specifications which call for only one "brand or trade name" item to be furnished shall not be issued unless prior approval is granted by the Purchasing Manager. "Brand names" may be used to establish an acceptable or minimum standard that all vendors must meet or exceed, but the term "or equal" will be used to allow for brand competition if available.

In considering and developing specifications, it must always be remembered that expenditures derived from public sources and administered by public bodies cannot be expected to provide for luxurious levels of quality. Therefore, the general policy of purchasing grades of merchandise or services which represent an optimum between quality and price and provide a satisfactory level of service shall be followed. Value provided to the City shall be the primary consideration.

A specification should:

- Allow for competition
- Identify those measurable physical, functional, and quality characteristics common to at least two manufacturers
- Stipulate all requirements, either directly or by reference to other specifications, publications or drawings.

A GOOD specification should be:

- Simple, consistent, and exact, but not so specific that a loophole will allow a bidder to skip over any of the provisions and to take advantage of their competitors or the Buyer.
- Measurable or capable of being checked. It should describe the method of checking that will govern acceptance or rejection.
- Reasonable in its tolerance. Unnecessary precision is too expensive and too restrictive.
- As fair to the vendor as possible.
- Capable of being met by several bidders for the sake of competition.
- Clear and up-to-date. Old and unclear specifications can be expensive.
- Flexible. Inflexible specifications defeat the process.

180.2 Authority:

The Purchasing Manager is responsible for and has the authority to accept or reject any specification. Since the purpose of a specification is to translate a user's need into the delivery of a good or service, the development of specifications must be a cooperative effort

between the using Department and the Purchasing Division. Prior to release of a specification as part of a solicitation, the Purchasing Manager or Buyer must be satisfied that it shall result in a fair and equitable competitive procurement.

180.3 Types of Specifications:

There are several types of specifications; the development, selection and use of a particular type is dependent on the situation, time, information available and needs of the user.

A. PERFORMANCE SPECIFICATIONS: Performance specifications (also known as Functional Specifications) are **preferred** since they communicate what a product is to do, rather than how it is to be built. Among the ingredients of a performance specification would be the following:

- A general nomenclature or description;
- What do you want it to do?
- **Required** performance characteristics (minimum/maximum) to include speed, storage, production capacity, usage, ability to perform a specific function;
- Operational requirements, such as limitations on environment, water or air cooling, electrical requirements;
- Site preparation requirements for which the contractor shall be responsible, such as electricity, plumbing, or elements for which the City shall be responsible;
- Compatibility requirements with existing equipment or programs;
- Conversion requirements for maintaining a current equipment or system until switching to the new equipment or system;
- Must be measurable;
- Delivery and installation requirements;
- Maintenance requirements;
- Supplies and parts requirements;
- Quantity and method of pricing;
- Warranty; and
- Who will provide warranty/service work?

NOTE: Performance specifications shall be utilized unless impractical or unnecessary to fully and accurately describe Department requirements.

B. DESIGN SPECIFICATIONS: Design specifications describe specific conditions, physical means, dimensions, requirements, and details. Generally, they are not flexible and the supplier has little latitude. They are generally restrictive in allowing competition. Among the ingredients of a design specification would be the following:

- Dimensions, tolerances and specific manufacturing or construction processes;
- References to a manufacturer's brand name or model number;
- Use of drawings and other detailed instructions to describe the product;
- Responsibility falls on the specification writer or the Buyer if it doesn't work or perform as promised.

C. BRAND NAME SPECIFICATIONS:

1. A brand name specification may be used only when the Purchasing Manager has determined that sufficient sources of competition exist for the procurement of the material and that the use of the brand name specification is not intended to limit or restrict competition.
2. A brand name specification may also be used to describe the standard of quality, performance and other characteristics of a material in lieu of a description of its physical or functional characteristics. In such cases, the solicitation shall contain explanatory language that the use of the brand name is for the purpose of

describing the standard desired and that the substitution of equivalent materials is permitted.

3. When a specification mentions a manufacturer's brand name or model number, it should also include the words, "or equal." In this regard, "or equal" is interpreted to mean, "*substantially equal and capable of performing the essential functions of the referenced brand name or model.*" Identify in the requisition any specific features of the referenced brand that must be met.

Brand name specifications...

- Cite brand name and/or model number of item to be purchased
- Should be used **only** when competition exists.
- May be used to describe the standard of quality, performance, or other characteristics of a produce.
- Shall include the phrase "or approved equal."
- May cite more than one brand as acceptable, as long as they are equal.

D. SCOPE OF WORK/SERVICES): The following is an outline of the types of information that should be included in a scope of work or scope of services developed for procurement of independent contractors providing services other than construction, e.g. HVAC maintenance, window washing, demolition, etc.

1. *General Requirements.* Describe in general terms the contractor's responsibility to provide a service or produce a final product.
2. *Specific Requirements.* Next, address the specific tasks, sub-tasks, parameters and limitations which must be considered in producing the service or final project. Such factors as the following should be included:
 - Background of project and current work environment;
 - Minimum or desired qualifications;
 - Amount of service needed;
 - Expected results
 - Location of service;
 - Time limitations;
 - Travel regulations or restrictions;
 - Special equipment required; and
 - Other factors affecting working environment.
3. *City Provided Materials or Services:* List any plans, reports, statistics, space, personnel or other City provided items that must be used or are available for use, by the Contractor.
4. *Deliverables, Reports and Delivery Dates.* Identify the specific delivery dates for all services and products the Contractor must furnish. Be clear about the expectations of the City for the Contractor's performance.

180.4 Preparation of Specifications:

All specifications shall be drafted so as to promote overall economy for the purpose intended and to encourage competition in satisfying the City's needs and shall not be unduly restrictive.

Departments are responsible for submitting draft specifications to Purchasing. Detailed specifications should be submitted to Purchasing via attachment to the requisition in E1; specifications shall be in Microsoft Word™ format. When Purchasing has revised the specifications and included its standard terms and conditions, a final draft will be sent to the Department for their review and approval before solicitation is sent to vendors.

Bids and quotations should be based on concise specifications. A lengthy specification composed or designed solely for the purpose of eliminating competition should be avoided and the actual brand name or common description should be used when no other of its kind would be equally satisfactory. Specifications should be detailed enough to provide a basis for full and fair competitive bidding upon a common standard and should be free from any restrictions that would have the effect of stifling competition.

The Purchasing Manager has authority to require modifications or alterations to a specification to permit competitive bidding. Disagreements between Purchasing staff and Department representatives regarding final bid or proposal specifications shall be resolved by the Resource Management Director.

180.5 Changing Specifications:

Once an Invitation for Bids or Request for Proposals has been issued, no changes in the specifications may be made unless all prospective bidders are notified in an addendum clearly pointing out such changes. This addendum shall instruct the bidder to acknowledge receipt and acceptance of all addenda.

Once a decision has been reached on the specification(s), all bids must be based upon the same specifications and no bidder has a right to substitute other specifications for those contained in the bid.

180.6 Specifications "Do's and Don'ts":

A. DO'S:

- Use the word "must" or "shall" to describe a command or mandatory requirement;
- Use the words "should" or "may" to describe an advisory or optional requirement;
- Be specific and detailed in presenting mandatory requirements; and
- State a requirement of fact once and avoid duplication.

B. DON'TS:

- Present something as mandatory if it is really only optional;
- Write specifications or scope of work that restrict response to a single bidder; and
- Do not over-specify.

180.7 Standard Specifications

A standard specification is developed, through the efforts of the appropriate cross-functional team (from departments/divisions and Purchasing) for use for all or most purchases of an item. It describes all required physical and functional characteristics of a type or group of goods or services, and allows the City to take advantage of lower prices from buying in volume and to reduce inventories. It also maximizes the City's investment in technology, staff training, and equipment. Standardization will be utilized whenever it is determined to be advantageous to the City, particularly in the areas of technology and specialized equipment.

SECTION 190: DISPOSAL OF SURPLUS PROPERTY**190.1 General:**

The final step in the procurement cycle is disposition of an item or items when they are no longer useful to the City. The timely identification of surplus and obsolete material(s) is essential to an effective disposition program. Delayed identification ties up capital, results in higher maintenance and salvage costs and further deterioration of the item.

190.2 Policy:

The Purchasing Manager is authorized to conduct and monitor the City's surplus property program. The following are the City's general policies for disposition of surplus:

- A. The Purchasing Manager may transfer, sell, exchange, or destroy any surplus, obsolete, abandoned, or confiscated property without competitive bidding if such property has a value of less than \$50,000. Such property may be disposed of by appropriate methods as determined by the Purchasing Manager to be in the best interest of the City.
- B. No property shall be sold without receiving competitive bids if the value is \$50,000 and greater.

190.3 Methods of Disposal:

When items become excess, obsolete or surplus, the using Department must report them to the Purchasing Division. In cases of disposal of items with an original purchase cost of \$5000 or more, the Accounting Division shall be notified in order to update the Department's Fixed Asset Accounts. The following are the methods of disposition that may be used for the items:

- A. Transfer: Transferring to another Department with a use for the item is the best method of disposition. The Purchasing Manager periodically shall circulate a list of items available for transfer. A Department wishing to accept an item available for transfer shall notify Purchasing and receive approval for the transfer. Both the transferring and receiving Departments must update their inventory records to document the disposition of the item.
- B. Sale: There are several methods of selling excess and surplus items.
 - (1) Auctions. The City may contract with auctioning service or auction via on-line internet service to sell items to the highest bidder.
 - (2) Sealed Bids. The Purchasing Manager may determine that items shall be sold at a sealed bid sale. Public notice of the sale is made and solicitations are issued to prospective bidders.
 - (3) Commercial Markets. The Purchasing Manager may determine that items may be offered for sale by consignment to established commercial markets. Candidates for this method of sale include antiques, art and specialized equipment.
 - (4) Sale of Scrap. Many items that are no longer usable may have a residual value. The Purchasing Division may arrange for the sale of scrap items.
 - (5) Posted Prices. From time to time, where there is no regular market and demand is erratic, an item may be marked with a pre-established price and sold to the public on a first-come basis.

- C. Trade-in: The Purchasing Manager may determine that it is advantageous to the City to seek bids on replacement items with the bidders allowing/offering trade allowances. Award may be made in the manner that is most advantageous to the City.
- D. Cannibalization: Disassembling an item to use its components for repair or maintenance of a similar item is authorized only if cannibalization has more value and benefit than disposal or trade-in of the item.
- E. Donation: Only the City Council may dispose of an item by donation to a party outside of City government if the item has a value of \$50,000 or more. Donation of items valued at less than \$50,000 shall be approved by the City Manager.
- F. Waste Disposal Hazardous Materials: There are strict federal and state laws regarding the disposal of hazardous materials. Disposal of Hazardous Materials shall be directed by the City's Fire Chief or Environmental Specialist. Departments shall contact the Fire Chief or Environmental Specialist before moving, transferring or selling any hazardous materials.

190.4 Allocation of Proceeds:

Unless otherwise directed by the City Council or required by a grant, the proceeds from the disposition of surplus or excess property shall be deposited in the City's general fund.

190.5 Sales to Employees:

To avoid any appearances of impropriety in the disposition program, employees of the City may not purchase items unless the sale is to the highest bidder at a public or on-line auction, or by sealed bid after appropriate public notification of the sale. The only exception is the sale of surplus computers. Surplus computers may be marked with a pre-established price and sold to employees on a first-come basis. Prior notice of any sale shall be provided to all employees.

190.6 Disposal of Grant Funded Equipment:

When equipment was purchased using funds from State or Federal grant funds, the provisions of the grant must be followed during disposal. It is the disposing Department's responsibility to notify Purchasing of any grant provisions that must be followed. If required by the grant provisions, proceeds from disposal may be returned to the grant-funding agency or Department.

SECTION 200 -- COOPERATIVE PROCUREMENT

200.1 General:

Cooperative procurement is a process by which two or more jurisdictions cooperate to purchase items from the same vendor. This form of purchasing has the benefits of reducing administrative costs, eliminating duplication of effort, lowering prices, sharing information and taking advantage of expertise and information that may be available in only one of the jurisdictions.

200.2 Authority:

- A. The Purchasing Manager is authorized to participate in, sponsor, conduct or administer a cooperative procurement agreement with one or more other public bodies in order to combine requirements, increase efficiency or reduce administrative expenses. Participation in cooperative procurements as described in this section is exempted from competitive bidding and advertising requirements.
- B. The Purchasing Manager is authorized to use the Kansas Division of Purchasing or political sub-Divisions of the State, other governmental entities, and/or public purchasing cooperatives (i.e. Western States Contracting Alliance, US Communities, Kansas City Regional Purchasing Cooperative, etc.) in the purchase of supplies, materials or equipment when such actions shall serve the best interest of the City.
- C. If the Purchasing Manager determines that another jurisdiction or coop has entered into a competitive contract that allows participation by the City ("piggy-backing"), the City may make purchases from such contract(s).

SECTION 210: SOCIO-ECONOMIC POLICIES**210.1 Personnel Practices:**

Successful bidders must comply with K.S.A., 44-1030 ET. seq., the Kansas Act Against Discrimination, which: (1) precludes discrimination against any person in the performance of work under a contract because of race, religion, color, sex, national origin or ancestry; (2) require solicitations or advertisements for employees include the phrase "equal opportunity employer"; and (3) allows the City to terminate their contract for default if provisions of the act are violated.

Chapter 2.44 of the Olathe Municipal Code also prohibits discrimination against individuals in the performance of this contract as a matter of concern to the City, since such discrimination threatens not only the rights and privileges of the inhabitants of the City, but menaces the institutions and foundations of a free democratic state. The affirmative action program is designed to insure a good faith effort will be made to employ applicants and to treat employees during employment equally without regard to race, color, creed or religion, physical handicap, national origin or sex.

210.2 Class I Contracts:

All bidders who are awarded a Class I Contract (\$10,000 or more in aggregate) are required to complete a Questionnaire on Personnel Practices for the City's Human Relations Office, P.O. Box 768, Olathe KS 66051-0768, 913-971-6490. Form must be completed and approved by the HRO before contract for goods or services is in effect. Approved vendors will be issued a certification number by HRO. Certification must be renewed annually.

SECTION 220: CENTRAL STORES - DELETED

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225.1 Purpose of Suspension or Debarment

The City of Olathe shall solicit offers from, award contracts to, and consent to subcontracts only with vendors known to be reliable, ethical and responsible. To that end, the suspension or debarment of vendors from City work that do not meet these criteria may be undertaken. The serious nature of suspension or debarment requires that such sanction be imposed only when it is in the best interests of the public and for the protection of the City, and not for purposes of punishment.

225.2 Effects of Suspension and Debarment

Suspended or debarred vendors are excluded from contracts and department or agencies shall not solicit offers from, award contracts to or consent to subcontracts with these vendors. Such vendors are also excluded from conducting business with the City as agents, representatives, subcontractors or partners with other vendors.

225.3 Suspension of Vendors

The City of Olathe may suspend a vendor or potential vendor from participation in City purchasing opportunities and practices upon determination of just cause by the Purchasing Manager, and during the period of suspension, the City shall reject any bid, proposal or other offer by the vendor and shall return any submission to the suspended vendor.

Just cause for suspension of a vendor shall include, but not be limited to:

1. Failure to comply with the conditions, specifications or terms of a bid or proposal or contract with the City, including a recent record of unsatisfactory performance in accordance with the terms or one or more contracts.
2. Commission of any misrepresentation in connection with a bid or proposal.
3. Charged by a court or 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. If charges are dropped or the vendor found not guilty, the suspension shall be lifted automatically upon notification and proof of final court disposition provided to the City by the vendor.

4. Conviction under state or federal statutes of embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property or any other offense indicating a lack of business integrity or honesty which currently, directly and seriously affects the vendor's responsibility as a City supplier. If charges are dismissed or the vendor found not guilty, the suspension shall be automatically lifted upon written notification and proof of final court disposition provided to the City by the vendor.
5. Conviction under state or federal antitrust statutes arising out of the submission of bids or proposals.
6. Vendor becomes insolvent, has proceedings in bankruptcy instituted against it or consolidates its debts or assigns over its estate or affects for payment thereof or has a receiver appointed over its property; and
7. Any other cause the department the Purchasing Manager determines to be so serious or compelling as to materially and adversely affect the responsibility of the business as a government contractor, including but not limited to suspension by another government entity for substantial cause.

225.4 Debarment of Vendors

The City of Olathe may debar a vendor or potential vendor from participation in City purchasing opportunities and practices upon determination of just cause by the Purchasing Manager, and during the period of debarment, the City shall reject any bid, proposal or other offer by the vendor and shall return any submission to the suspended vendor.

Just cause for debarment of a vendor shall include, but not be limited to:

1. Failure to comply with the conditions, specifications, drawings, schedules, or terms of a bid, proposal or contract with the City.
2. Conviction by or judgment obtained in a court or competent jurisdiction for the commission of offenses in connection with the vendor's commercial enterprise. If the conviction is reversed through the appellate process, the debarment shall be immediately lifted upon written notification and proof of final court disposition to the City from the vendor.
3. Conviction for the commission of any fraud or act of collusion with a bid, quotation, proposal or other act incident to doing business with the City; and
4. Inclusion on Federal debarred vendor list.

225.5 Continuation of Current Contracts

1. The suspension or debarment shall take effect in accordance with the notice provided by the Purchasing Manager, except that if a department continues contracts or subcontracts in existence at the time the vendor was suspended or debarred, the suspension or debarment period shall commence upon the conclusion of that

contract and in the interim the vendor shall not enter into any new City contracts.

2. Departments may not renew or otherwise extend the duration of current contracts or consent to subcontracts with suspended or debarred vendors unless the City determines that an emergency exists justifying the renewal or extension.

225.6 Suspension or Debarment Procedures

1. Investigation and referral – the department or agency using a specific vendor shall promptly investigate and prepare a written report concerning a proposed suspension or debarment. This report shall be forwarded to the Purchasing Manager stating the specific facts and/or events supporting the request for suspension or debarment.
2. Within five (5) working days of receipt of the department or agency Request, the Purchasing Manager shall issue a notice of suspension or debarment and will immediately advise the vendor by certified mail with return receipt requested. The letter shall contain the following specific information:
 - Statement that suspension or debarment has been imposed by the City effective upon receipt;
 - Detailed information regarding the reasons and causes or the suspension or debarment in terms that the vendor will understand the conduct or transaction(s) upon which the action is based.
 - The vendor may, within twenty (20) calendar days of notice, present a written request for reconsideration and including additional information relating to the reason given in the City's letter for suspension or debarment. The Purchasing Manager, in consultation with the Director of Resource Management and the Legal Department, will consider the additional information in deciding whether the decision to suspend or debar should be delayed or revised. If the original decision to suspend or debar is determined to be proper and justified, the vendor shall be suspended as planned.

225.7 Duration of Suspension/Debarment

1. Suspension – A vendor may be suspended for a minimum period of six (6) months if they are believed to be involved in any of the activities in Section 225.3
2. Debarment – A vendor may be debarred for a period not to exceed five (5) years if, after investigation, they are found to be engaged in any of the activities listed in Section 225.4.

225.8 Appeal of Suspension or Debarment

Because circumstances that lead to a suspension or debarment can change over time, a suspended or debarred vendor may at any time during the period of suspension or debarment, appeal to the City for reinstatement to the status of active vendor.

1. The term of suspension or debarment shall last until the City reinstates the vendor either due to the suspension or debarment period having ended or due to an accepted appeal of the suspension or debarment.

2. A vendor wishing to be reinstated as an active vendor shall submit a written request to the Purchasing Manager and shall include a minimum of two references from other entities with whom they have successfully conducted business since being suspended or debarred by the City.

The written appeal shall include specifics regarding why the vendor believes they should be reinstated, including details explaining how circumstances have changed since the suspension or debarment was imposed.

3. If, in the view of the Purchasing Manager, there is reasonable Justification for reinstatement, the appeal application will be forwarded to the Purchasing Manager to verify references and, if substantiated, to complete the reinstatement process. The Purchasing Manager may seek advice of the Legal Department in making the final decision regarding reinstatement.
4. The reinstated vendor will be notified of the change in status to active vendor and the vendor will be considered for quotes, bid, and proposals for goods and services solicited by the City since the date of reinstatement.
5. If, in the view of the Purchasing Manager, the vendor's appeal is not justified or sufficiently substantiated, the appeal may be denied and the vendor will be notified immediately. The balance of the suspension or debarment period will then be completed, unless a subsequent appeal request is received.

SECTION 230: TERMS AND DEFINITIONS

Accounts Payable: the set of liability accounts showing the amounts owed.

Accounts Receivable: the set of accounts showing the amounts due on open customer accounts for goods or services delivered.

Agent: one who is empowered to act for or in place of another.

A/E: All professional services (architectural/engineering) associated with the research, design and construction of facilities.

Bid: an offer submitted by a prospective vendor in response to an invitation for bids (IFB) issued by a purchasing authority; becomes a contract when accepted by the buyer.

Bid Bond: An insurance agreement, accompanied by a monetary commitment, by which a third party accepts liability and guarantees that the bidder will not withdraw the bid, the bidder will furnish bonds as required, and if the contract is awarded to the bonded bidder, the bidder will accept the contract as bid, or else the third party will pay a specific amount.

Bid Deposit: A sum of money or check, deposited with and at the request of the City guaranteeing that the bidder will not withdraw the bid for a specified time, the bidder will furnish bonds as required, and if the contract is awarded to the bonded bidder, the bidder will accept the contract as bid or else the deposit is forfeited.

Bid Opening: the formal process in which sealed bids are opened, usually in the presence of one or more witnesses, at the time and place specified in the IFB. The amount of each bid is recorded and made available for public inspection.

Brand Name Specification: a specification using one or more manufacturers' brand names, with identifying model numbers, to describe the standards of quality, performance, and other characteristics needed to meet the requirements of a solicitation; and which invites bids for equivalent products from any manufacturer.

Centralized Purchasing: A system of purchasing in which all Purchasing authority, responsibility and control of purchasing activities is concentrated in one administrative unit.

Change Order: Written modification or addition to a purchase order.

City: City of Olathe, Kansas

Commodity: any movable, tangible article of trade or commerce.

Competitive Procurement: Quotations, bids, or proposals solicited from more than one qualified supplier.

Competitive Sealed Bid: preferred method for acquiring goods and services for public use, in which award is made to the lowest responsive and responsible bidder, based solely on the criteria set forth in the IFB; does NOT include discussions with bidders. Unless otherwise provided in this manual, **required** on major procurements expected to cost at least \$25,000.

Conflict of Interest: The actual or potential situation in which the personal interests of a vendor, employee, or public official are, or appear to be, in conflict with the best interests of the City.

Contract: An agreement, enforceable by law, between two or more competent parties, to do or not to do something not prohibited by law, for a consideration. Any type of City agreement, regardless of what it may be called, for the procurement or disposal of supplies, services or construction.

Contract Administration: The management of all actions, after the award of a contract, that must be taken to assure compliance with the contract; e.g., timely delivery, acceptance, payment, closing contract, etc.

Contractor: Contractor means any person having a contract with the City to furnish goods or services for a certain price.

Delivery: The formal handing over of property; the transfer of possession, as by carrier to purchaser.

Department Director: refers to all City of Olathe Department Directors or their designees.

Division Managers: Shall refer to all Division Managers including Assistant Directors, Managers, Superintendents, or Supervisors and their designees.

Emergency Purchase: An *emergency purchase* is a purchase made in an exigency, made under special procedures, designed to meet the emergency. Bona fide emergency purchases are made when the lack of which would threaten 1) The functioning of City government, 2) the preservation or protection of property, machinery, or equipment, and/or 3) the health or safety of any person.

Evaluation of Bids: The process of examining bids after opening to determine the bidder's responsibility, responsiveness to requirements and other characteristics of the bid to determine the successful bidder.

Formal Advertising: The placement of a notice in the official City newspaper to inform and solicit the public that the City is requesting bids on specific purchases it intends to make.

Formal Bid: A bid which must be submitted in a sealed envelope and in conformance with a prescribed format to be received and opened publicly at a specified time.

Formal Contract: An agreement, enforceable by law, between two or more competent parties, to do or not to do something not prohibited by law, for a consideration.

Informal Bid: A request for price quotations for a commodity or service that does not require advertising, a sealed bid, public opening, or reading of bids. Appropriate method for purchases costing \$5,001 to \$24,999. Competitive informal written quotes are **strongly recommended** for all purchases.

Invoice: Seller's itemized document stating prices and quantities of goods and/or services delivered and sent to buyer for payment.

Invitation for Bids (IFB): A formal request to prospective vendors soliciting price quotations or bids.

Net Price: Price after all discounts, rebates, etc. have been allowed.

Non-Responsive Bid: A bid that does not conform to the mandatory or essential requirements of the invitation for bid.

Obsolete: No longer in use, discarded, out of date.

Open Market Purchase: A purchase in an amount of \$5,000 or less which is made by buying from any available source, as opposed to buying from a vendor who has responded to an invitation to bid or has a price agreement with the City.

Performance Bond: A contract of guarantee executed upon award by a successful bidder to protect the City from loss due to the bidder's inability to complete the contract as agreed.

Performance Specification: A specification setting forth performance requirements that have been determined to be necessary for the item involved to perform and last as required.

Pre-Bid Conference: Meeting held with prospective bidders prior to solicitation of bids or proposals, to recognize limits, technical aspects, specifications and standards relative to the subject and elicit expertise and bidders interest in pursuing the task.

Prequalification of Bidder: The screening of potential vendors in which a City considers such factors as finances, reputation, management, etc. in order to develop a list of vendors qualified to bid on City contracts.

Price Agreement: An ongoing agreement with a vendor that generally specifies prices, terms, conditions and the period covered, but usually not the quantity.

Privatization: Privatization/outsourcing is a contractual relationship with an outside vendor to assume responsibility for one or more government processes, functions and/or services.

Procurement: Means buying, purchasing, renting, leasing or otherwise acquiring any supplies, services or construction. "Procurement" includes all the functions that pertain to the obtaining of any supply, service or construction, including description of requirements, selection and solicitation of sources, preparation and award of contract and all phases of contract administration.

Proprietary Information: Defined as any information which is not generally known to competitors and which provides a competitive advantage. Unrestricted disclosure of proprietary information places it in the public domain.

Proprietary Article: An item made and marketed by a person or persons having the exclusive right to manufacture and sell it.

Protest: A complaint about a City administrative action or decision brought by a bidder or vendor to the appropriate administrative section with the intention of receiving a remedial result.

Purchase Order: A purchaser's written contract with a supplier formally stating all terms and conditions of a proposed transaction.

Purchasing: Purchasing Division, a Division of the Resource Management Department.

Purchasing Manual: Documents which set forth the City's rules and regulations for the Purchasing Division's relations with suppliers and with other Departments and prescribes the procedures to follow.

Quotation/Quote: Generally a sales proposal including price, sales terms and conditions; a price statement as an offer; a bid.

Request for Proposal (RFP): A request for an offer by one party to another of terms and conditions with references to some work or undertaking. "RFP" means all documents, whether attached or incorporated by reference, utilized for soliciting proposals. Also known as competitive negotiation.

Request for Quotation (RFQ): A form of informal solicitation including obtaining oral or written quotes from vendors without formal advertising and receipt of sealed bids. Normally used for purchases where policies do not require formal sealed bids but is considered good business practice to establish price competition.

Requisition: An internal document by which a using Department sends to the Purchasing Division a detailed request to purchase materials or services to meet their needs, replenish stocks, or obtain materials for specific jobs or contracts. For the City of Olathe, the following E-1 document types are all requisitions:

- OR – used for most goods and services
- OI – used for computer & technology purchases
- OU – used for vehicle and equipment purchases from the VEF (Vehicle and Equipment Replacement Fund)

Responsible Bidder: A person who has the capability in all respects to perform fully the contract requirements and the tenacity, perseverance, experience, integrity, reliability, capacity, facilities, equipment and credit which shall assure good faith performance.

Responsive Bidder: A bidder whose bid does not vary from the specifications and terms set out by the City in the bid documents.

Scrap: Material that is damaged, defective or deteriorated to the extent that it has no value except for its basic material content.

Sealed Bid: A bid submitted in a sealed envelope to prevent dissemination of its contents before the deadline for the submission of all bids; usually required by the purchasing authority on major procurements to ensure fair competition among bidders.

Service Contract: A contract that calls for a contractor's time and effort rather than for a concrete end product.

Services: Services means the furnishing of labor, time or effort.

Sole Source Purchase: The purchase of a commodity which can only be purchased from one supplier, usually because of its technological, specialized or unique character.

Solicitation: The process of notifying prospective bidders that the City wishes to receive bids to provide goods or services. The process might consist of public advertising, the mailing of invitations for bids, the posting of notices, telephone calls to prospective bidders, etc.

State: State of Kansas.

Tabulation of Bids: The recording of bids and bidding data that was submitted in response to a specific invitation for the purposes of comparison, analysis and record-keeping.

Term Contracts. Contracts which establish a source of supply for goods or services for a specified period of time.

User Department: Any Department requiring supplies or services procured pursuant to the City's purchasing rules and regulations.

Vendor: Any firm, individual, corporation, agent or company who may desire to quote on the City's requirements or who wants to purchase items offered for sale by the City; a supplier.

SECTION 240: INSTRUCTIONS TO BIDDERS AND GENERAL CONDITIONS (IFB)

THE FOLLOWING WILL BE INCLUDED IN ALL INVITATION FOR BIDS

**CITY OF OLATHE, KANSAS
PURCHASING DIVISION**

**INVITATION FOR BID
INSTRUCTIONS TO BIDDERS AND GENERAL CONDITIONS**

(Revised 6-08)

1. **SCOPE:** The instructions to bidders and general conditions described herein apply to transactions on material, equipment, supplies or services with an estimated aggregate cost of \$25,000 or more. These conditions shall prevail unless otherwise modified by the City within this bid document.
2. **DEFINITIONS (AS USED HEREIN):**
 - a. The term "Invitation For Bid" means a solicitation of formal sealed bids. The acronym "IFB" means Invitation For Bid.
 - b. The term "bid" means the offer as a price by the bidder.
 - c. The term "bidder" means the person or organization responding to the Invitation For Bid.
 - d. **The term "contractor" means a person or organization who is a successful bidder as a result of a bid and who enters into a contract.**
 - e. The term "change order" means a written order authorized by the Purchasing Manager directing the contractor to make changes to a contract or purchase order resulting from the IFB.
 - f. The term "City" means the City of Olathe, Kansas.
 - g. The term "City Council" means the governing body of the City of Olathe.
3. **PREPARATION OF BIDS:** Bidders are expected to examine the specifications, drawings, and all special and general conditions. Failure to do so will be at the bidder's risk.

Each bidder shall furnish the information required by the IFB. The bidder shall sign the IFB and print or type their name, address, and telephone number in the space provided on the IFB and affidavit form.

Unit price for each unit offered shall be shown, and such price shall include packing and shipping unless otherwise specified. A total shall be entered in the "Total" column for each item offered. In case of discrepancy between the unit price and extended price, the unit price will be presumed correct, subject however, to correction to the same extent and in the same manner of any other mistake.

The bidder must state a definite time for delivery of supplies or performance of services.

The bidder should retain a copy of all bid documents for future reference.

All bids must be signed with the organization name and by an officer or employee having authority to bind the company or organization by his/her signature.

4. **SUBMISSION AND RECEIPT OF BIDS:** Bids must be received prior to the specified time of opening as designated in the IFB. All references to time shall be Olathe, Kansas time.

Bids shall be enclosed in a sealed package. The package shall show the hour and date specified for receipt of bids, the bid number, and the name and address of the bidder.

Facsimile/e-mail bids will not be considered.

Samples of items, when required, must be submitted within the time specified at no expense to the City. If not destroyed by testing, samples will be returned at the bidder's expense unless otherwise specified in the IFB.

Late bids will be rejected.

Failure to follow these procedures is cause for rejection of bid.

Bids having any erasures or corrections must be initialed by the bidder. All bid amounts shall be typewritten or filled in and must be legible or your bid may be rejected.

5. **BID DOCUMENT MISTAKES:** (Kansas statues K.S.A. 75-6901 through 75-6906). The bidder shall not be allowed to modify or correct mistakes in the bid document after the opening of the bid. Failure to complete the entire bid accurately may result in declaring the bid as non-responsive and the bid may be rejected.

Telephone, fax, e-mail, or verbal alterations of a bid will not be accepted. A bid that is in the possession of the Purchasing Division may be altered only by submission of an alternate sealed bid bearing the signature of the person authorized for bidding, provided it is received prior to the time and date of opening.

A bid that is in the possession of the Purchasing Division may be withdrawn by the bidder up to the time of the bid opening. Bids may not be withdrawn after the bid opening time and date if a bid mistake is based upon an error in judgment. If a nonjudgmental mistake, such as a math error, is suspected by the City or the bidder, the bidder shall respond within two (2) business days of the bid opening with a request for the City to consider verification of the mistake. Once a bid has been verified, it shall be considered submitted as verified. The City shall permit a bidder to withdraw its bid without penalty or forfeiture of bid security if: (a) a nonjudgmental mistake is evident on the face of the bid, or (b) the bidder establishes by clear and convincing evidence that a nonjudgmental mistake was made.

6. **ACCEPTANCE OF OFFER:** The signed bid shall be considered an offer on the part of the bidder; such offer shall be deemed accepted upon issuance by the City of a Purchase Order, Price Agreement, or other contractual document.
7. **FIRM PRICES:** The bidder warrants that prices, terms and conditions quoted in their bid will be firm for acceptance for a period of not less than ninety (90) days from the bid opening date unless otherwise specified in the IFB. Such prices will remain firm for the period of performance of resulting purchase orders or contracts which are to be performed over a period of time as indicated in the IFB.
8. **CONTRACT RENEWAL:** The City reserves the right to renew any contract resulting from this IFB at the same prices, specifications, terms and conditions, upon mutual agreement between the City and the contractor.
9. **ESTIMATED QUANTITIES:** Whenever a bid requests prices to be firm for the period of performance, the quantities or usages shown are estimated only with no guarantee made by the City. The quantities are for the bidder's information only, and the City will be bound only for actual quantities ordered.
10. **F.O.B. OLATHE, KANSAS:** Unless otherwise specified in the IFB, all prices quoted by the bidder must be F.O.B. Olathe, Kansas with all delivery, handling, surcharges, and other charges included in the bid price. Failure to do so may cause rejection of bid. The City will not pay additional surcharges.
11. **DISCOUNTS:** Cash discounts will be considered in determining the award. Unless otherwise specified in the IFB, discounts offering 10 days or more will be taken by the City's Accounting Division, with payment being made on the nearest pay period subsequent to receipt, inspection and acceptance of articles, and receipt of correct invoice(s).
12. **AWARD:** Award will be made to the lowest responsible bidder who submits the responsive bid most advantageous to the City.

The City reserves the right to accept or reject any or all bids or part of bids, to waive irregularities and technicalities, and to request rebids on the material described in the IFB.

The City also reserves the right to award the contract on such material as the City deems will best serve its interests.

The City reserves the right to award the contract on a split-order basis, lump-sum or individual-item basis, or such combination as shall best serve the interest of the City unless otherwise specified.

Conditional bids are subject to rejection in whole or in part at the sole discretion of the City.

There shall be no assignment and/or transfer of interests or delegation of contractor's rights, duties, or responsibilities of the contractor under the contract derived from this bid request without the prior written approval of the Purchasing Manager of the City of Olathe.

13. **BRAND NAMES:** If and whenever brand names, make, name of any manufacturer, trade name, or vendor catalog number are specified, it is for the purpose of establishing a grade or quality of material only. When the City does not wish to rule out other brands or makes, the phrase OR APPROVED EQUIVALENT is added. However, if a product other than that specified is bid, it is the bidder's responsibility to identify such product in their bid and must prove to the City that said product is equal to or better than the product specified. Unless otherwise specified, evidence in the form of samples may be requested if the proposed brand is other than that specified by the City. Such samples are to

be furnished as specified in the IFB or upon request of the City. If samples should be requested, such samples must be received by the City no later than four (4) days after formal request is made.

14. **VARIATIONS OF SPECIFICATIONS:** For purposes of bid evaluation, bidder must indicate any variances from stated specifications and/or conditions, no matter how slight. If variations are not stated in the bid, it will be assumed that the product or service fully complies with the City's specifications.

In the event that satisfactory bids are not received, the City reserves the right to consider alternate bids containing deviations from stated specifications.

15. **QUALITY:** Unless otherwise specified in the IFB, all materials used in the manufacture or construction of supplies, materials or equipment covered by this bid shall be new. The items bid must be new, the latest make or model, of the best quality, and highest grade workmanship.
16. **MATERIAL SAFETY DATA SHEET (MSDS):** It is mandatory for a manufacturer, supplier, or distributor to supply an MSDS as required by 29CFR 1910.1200 with the first shipment of hazardous material. Also, at any time the content of an MSDS is revised the vendor is required to provide new information relevant to the specific material.
17. **ACCEPTANCE OF MATERIAL:** The material delivered under this bid shall remain the property of the seller until a physical inspection and actual usage of this material and/or service is made, and hereafter is accepted to the satisfaction of the City. It must comply with the terms herein, and be fully in accord with specifications, and of the highest quality. In the event the material and/or services supplied to the City is found to be defective or does not conform to specifications, the City reserves the right to cancel the order upon written notice to the contractor and return product to contractor at the contractor's expense.
18. **CODES AND REGULATIONS:** All products supplied and work performed within the scope of this request shall be supplied by the successful bidder to all applicable current prevailing codes and regulations.
19. **DELIVERY:** Bidders will indicate the number of calendar days required to make delivery after receipt of a purchase order. Delivery time may be considered in making an award.

Time will be of the essence for any orders placed as a result of this bid. The City reserves the right to cancel such orders, or any part thereof, without obligation if delivery is not made within the time(s) specified on the bid form.

The City may grant additional time for delivery if the City is satisfied the delay is beyond the control of the vendor. Such grant must be in writing and made part of the order.

20. **PRICE CHANGES ON CONTRACTS:** If this IFB is for an estimated quantity of supplies, etc., versus purchase of a specific quantity of articles or service, consideration in awarding bid for yearly contracts will be given:
First to bidder offering firm prices for full contract period; and
Second to bidder offering firm prices subject to market price adjustment.
21. **COPYRIGHT OR PATENT RIGHTS:** Bidder warrants that there has been no violation of copyrights or patent rights in manufacturing, producing or selling the goods shipped or ordered as a result of the bid and bidder agrees to hold the City harmless from any and all liability, loss, or expense occasioned by any such violation.
22. **CONFLICT OF INTEREST:** The contractor, by signing the affidavit form in the IFB or by acceptance of any purchase order resulting from this bid, certifies that to the best of their knowledge or belief, no elected or appointed official of the City of Olathe, Kansas is financially interested, directly or indirectly, in the purchase of the goods or services specified on this order.
23. **TAXES:** The City of Olathe is exempt from any taxes imposed by the State and/or Federal Government. Exemption certificates will be provided upon request. Kansas Tax Exempt No. KS6XLFHVA1, exp 11/01/2010.
24. **MANUFACTURER'S CERTIFICATION:** The City reserves the right to request from bidders a separate manufacturer certification of all statements made in the bid. Failure to provide such certification may result in rejection of bid or default termination of contract for which the bidder must bear full liability.
25. **PERSONNEL PRACTICES:** Successful bidder must comply with K.S.A., 44-1030 et. seq. mandatory provisions of the Kansas Acts Against Discrimination as applied to state and local government contracts, which: (1) precludes discrimination against any person in the performance of work under this contract because of race, religion, color, sex, national origin or ancestry; (2) require solicitations or advertisements for employees include the phrase "equal opportunity employer"; and (3) allows the City to terminate their contract for default if provisions of the act are violated.

Chapter 2.44 of the Olathe Municipal Code also prohibits discrimination against individuals in the performance of this contract as a matter of concern to the City, since such discrimination threatens not only the rights and privileges of the inhabitants of the City, but menaces the institutions and foundations of a free democratic state. The affirmative action

program is designed to insure a good faith effort will be made to employ applicants and to treat employees during employment equally without regard to race, color, creed or religion, physical handicap, national origin or sex.

All bidders who are awarded a Class I Contract (\$10,000 or more in aggregate) are required to complete a Questionnaire on Personnel Practices for the City's Office of Fair Housing and Equal Opportunity, 201 North Cherry, Olathe KS 66061, 913-971-6490. Form must be completed and approved by the FHEO before contract for goods or services is in effect. Approved vendors will be issued a certification number by FHEO. Certification must be renewed annually.

The bidder's attention is directed to all federal and state laws and section 2.44.110 of the Olathe Municipal Code relating to equal employment opportunity for public contracts which, among other things, requires that the contractor agree not to discriminate against any employee or applicant for employment because of race, creed, color, national origin, or sex.

The City of Olathe actively supports the Immigration & Nationality Act (INA) which includes provisions addressing employment eligibility, employment verification, and nondiscrimination. Under the INA, employers may hire only persons who may legally work in the United States (i.e. citizens and nationals of the U.S.) and aliens authorized to work in the U.S. The employer must verify the identity and employment eligibility of anyone to be hired, which includes completing the Employment Eligibility Verification Form (I-9). The contractor shall establish appropriate procedures and controls so no services or products in response to this IFB will be performed or manufactured by any worker who is not legally eligible to perform such services or employment.

26. **TERMINATION:** Subject to the following provisions, any contract resulting from the IFB may be terminated by either party upon thirty (30) days advance written notice to the other party; but if any work or service hereunder is in progress but not completed as of the date of termination, then said contract may be extended upon written approval of the City until said work or services are completed and accepted.
 1. Termination for Convenience
In the event that the contract is terminated or cancelled upon request and for the convenience of the City, without the required thirty (30) days advance written notice, then the City shall negotiate reasonable termination costs, if applicable.
 2. Termination for Cause
Termination by the City for cause, default or negligence on the part of the contractor shall be excluded from the foregoing provision; termination costs, if any, shall not apply. The thirty (30) days advance notice requirement is waived in the event of termination for cause.
 3. Termination Due to Unavailability of Funds
When funds are not appropriated or otherwise made available to support continuation of performance, the contract shall be cancelled at the discretion of the City.
27. **W-9 REQUIREMENT:** The City of Olathe requires a Form W-9 (Request for Taxpayer Identification Number and Certification), updated annually, from all contractors that do business with the City of Olathe. The Form W-9 verifies the Tax Identification Number of the contractor in order that the City can correctly report to the IRS all funds paid to the contractor. A W-9 Form will be sent to the successful contractor along with the purchase order or other purchasing contract that results from this solicitation. Form W-9 can also be found at <http://www.irs.gov/pub/irs-pdf/fw9.pdf>. No payment shall be made to contractor without a current W-9 form being received by the City of Olathe.
28. **DEFAULT OF CONTRACT:** In case of default by the contractor, the City may procure the items or services from other sources and hold the contractor responsible for any excess costs occasioned or incurred thereby.

Failure of a bidder to furnish the equipment, supplies, material, and/or services, as specified, from a bid on which an award is made is cause for elimination of the bidder from the active bidder's list for the products or services concerned.
29. **PERFORMANCE BOND:** At the discretion of the Purchasing Manager, a performance bond may be required under the contract resulting from this IFB. Such bond will be commensurate with the nature of the commodity or services purchased and the dollar amount of the contract.
30. **MODIFICATIONS FOR CHANGES:** No agreement or understanding to modify this IFB and resultant purchase orders or contract shall be binding upon the City unless made in writing by the Purchasing Manager of the City of Olathe.
31. **ORDER OF PRECEDENCE:** In the event of an inconsistency between provisions of the IFB, the inconsistency shall be resolved by giving precedence in the following order: (a) the schedule; (b) Instructions to Bidders and General Conditions; (c) special provisions; (d) other provisions of the contract, whether incorporated by reference or otherwise; and, (e) the specifications.

32. **WARRANTY:** Supplies or services furnished as a result of this IFB shall be covered by the most favorable commercial warranties, expressed or implied, that the bidder and/or manufacturer gives to any customer. The rights and remedies provided herein are in addition to and do not limit any rights afforded to the City by any other clause of this bid. The City reserves the right to request from bidders a separate manufacturer certification of all statements made in the bid.
33. **PURCHASING CARDS:** The City of Olathe has implemented a procurement card program to streamline its purchasing process and to expedite payments to its suppliers. We encourage your acceptance of the City's VISA P-card. Payments made to the successful bidder of this solicitation process will, if at all possible be by use of a VISA Purchasing Card.
34. **PAYMENT:** Payment for materials or services received under this contract shall be upon completion of delivery for each purchase order and submission of invoice to the Accounting Division, PO Box 768, Olathe KS 66051-0768. Normal pay periods for the City are every other Friday.
35. **GOVERNING LAW:** Any agreement resulting from this solicitation shall be interpreted under and governed by the laws of the state of Kansas.
36. **ADDITIONAL INFORMATION:** Additional information may be obtained from the Purchasing Office at (913) 971-8714.
37. **ESCALATION/DE-ESCALATION CLAUSE:** In the event prevailing market conditions warrant an adjustment in contract pricing, the following escalation/de-escalation clause shall be the only clause applicable or acceptable to the City:
 1. Contractor shall give written notice to the Purchasing Manager of any proposed changes from contract prices not less than fifteen (15) calendar days prior to the effective date of said price changes.
 2. Such notice must be accompanied by a copy of the supplier's advisory or notification to the contractor of a justifiable price change.
 3. No price escalation will be authorized in excess of the amount of the increase referred to on the supplier's notice.
 4. The approved price change shall be honored for all orders received by the contractor after the effective date of such price change.
 5. Approved price changes are not applicable to orders already issued and in process at time of price change.
 6. The City reserves the right to audit and/or examine any pertinent books, documents, papers, records, or invoice relating directly to the contract transaction in question after reasonable notice and during normal business hours.
 7. The Purchasing Manager retains the right to determine whether or not such proposed price changes are in the best interests of the City.
 8. If in the opinion of the Purchasing Manager any proposed increase is found unacceptable, the Purchasing Manager reserves the right to cancel the contract upon fifteen (15) calendar days written notice.
 9. Contractors must tie any price change clause to an industry-wide or otherwise nationally recognized index or some other form of verifiable document. Contractor will put the Purchasing Manager on the mailing lists for such publications so the Purchasing Manager can monitor said changes. Such membership will be at no cost to the City.
 10. If parties to the contract can not agree on renewal terms, it is hereby understood that the contract will be cancelled and a new contract will be solicited.