

CITY OF FORT SMITH
PURCHASING POLICIES
AND PROCEDURES
MANUAL



OUR VISION

The Purchasing Department shall lead the City of Fort Smith in safeguarding an ethical and professional public procurement process that contributes to an environment in which City residents and businesses can prosper and grow together.

OUR DUAL MISSION

The Purchasing Department shall enable City of Fort Smith departments to acquire the services and supplies needed to provide quality services to residents of the City of Fort Smith, while striving to exhibit high standards of professionalism, service, and ethics to our internal and external clients. The Purchasing Department shall preserve, maintain, and provide ready access to public records in an efficient, transparent, and timely manner in conformance with all State laws and City policies.

OUR VALUES

Accountability

Taking ownership and being responsible to our clients and other stakeholders for our actions to provide a means for engagement, continuous development and success of both individuals and departments.

Ethics

Acting in a manner true to these values to preserve the client's trust with thoughtful, collaborative decision-making and actions that align with the goals, success and ideals of our city, and ensures fairness for the public good.

Impartiality and Objectivity

Ensuring conscious acceptance of diverse members, ideas and solutions that demonstrate innovation and socially and ethically responsible advancement of public procurement education and best practices.

Professionalism

Upholding high standards of performance and ethical behavior to balance diverse member engagement, needs, and interests.

Service

Obligation to assist clients and stakeholders to support the profession and its members, through collaboration and educating to improve government procurement methods.

Transparency

Easily accessible and understandable information, policies and processes to demonstrate responsible commitment to moving the profession forward.

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Foreword

This manual contains the updated policies and procedures for purchasing related activities. Its purpose is to provide guidance and instruction for all City of Fort Smith employees involved in the purchasing process as well as a reference for staff and management.

The procedures included herein are provided to further clarify the purchasing policy of the City. Procedures should provide guidance to departments regarding purchasing and have been designed to promote efficiency and accountability within the purchasing process.

This manual is effective immediately upon approval by the Board of Directors and supersedes all previously issued policies, procedures, manuals, instructions or directives.

In accordance with Fort Smith Municipal Code, Chapter 2, Article V, **[DIVISION 2. – PURCHASES](#)**, the Purchasing Department along with all City employees will follow the City of Fort Smith Purchasing Guidelines.

Legal and organizational changes will bring about ongoing policy and procedural changes. Revisions will be issued that reflect these changes in order to keep this manual current. If there are any questions left unanswered, feel free to contact the Purchasing Department at 479-784-2268 or by email at purchasing@fortsmithar.gov. Any comments or suggestions for improving this manual are always welcome.

1. INTRODUCTION

1.1. Role

The role of purchasing is to support and enhance the mission of the City of Fort Smith by delivering excellent municipal services in a financially responsible manner. Sound purchasing policies and procedures based upon laws and high ethical standards promote public confidence and trust in government.

1.2. Purpose

The policies and procedures provided in this manual are established to ensure the fair and equitable treatment of all persons involved in public purchasing, to maximize the purchasing value of public funds in procurement, and to provide safeguards for maintaining a procurement system of quality and integrity.

The purpose of this manual is to:

- Provide general orientation and procedural guidelines for all City Departments to use in procuring goods and services and doing so in the most efficient and economical manner possible.
- Provide a unified procurement system with centralized responsibility.
- Ensure consistency of all purchasing activities that integrate with all the City of Fort Smith operational areas.
- Establish operational policies for the City's Purchasing System that assures the community that the goods and services required to support the operations of city government are procured in a manner consistent with City Ordinances, Administrative Directives, and Arkansas Statutes.
- Assure the community that the procurement system of the city is committed to fair and equal opportunity with integrity and openness.

The City of Fort Smith operates under a coordinated purchasing structure which embraces a decentralized procurement process but includes elements of centralized procurement to ensure organizational consistency. The combination of these structures allows for good internal control and system-wide efficiencies without excessive limitations on departments, giving them the purchasing power to order supplies or services at their own discretion, and yet doing so within the purchasing parameters as outlined in this manual.

Under the guidance of the Finance Department, the Purchasing Department employs three full-time employees (Purchasing Manager, Purchasing Technician, and Contract Specialist). The department supports the Finance Division in delivering cost savings and improving its ability to control budgets and cash outflows. Having the Purchasing Department within the Finance Division helps strengthen internal controls and provides added transparency as it integrates with the Tyler Munis financial system.

The Purchasing Department acts as a facilitator for other departments since procurement primarily occurs at the department level from planning, order placement, and receiving the purchases. The procurement of goods and services is executed where and how it makes the most sense, while the Purchasing Department facilitates the process, contributes structure, and ensures compliance with the purchasing rules and regulations.

This manual sets forth the purchasing policies and procedures as established by the Board of Directors through ordinance. It is not intended to address every issue, exception, or contingency that may arise in the course of purchasing activities but rather prescribe basic standards to be applied in all situations. The basic standard that should always prevail is the exercise of good judgment in the use and stewardship of city resources.

This manual may be instructive regarding the policies and procedures but is not intended to establish procurement procedures for public works contracts of the City governed by the provisions of Title 22, Chapter 9 of the Arkansas Code Annotated and associated public works contract issues including specifications development, insurance requirements, payment and performance bonds, and general and special conditions of work.

1.3. Objectives of the Purchasing Department and this Manual

- 1.3.1. To conduct and monitor all purchasing activities in accordance with State and City statutes, including the [Fort Smith Municipal Code, Chapter 2, Article V, Division 2-Purchases](#).
- 1.3.2. To conduct business with integrity, fairness and dignity so as to maintain public trust and reduce the city's exposure to criticism and legal action.
- 1.3.3. To secure the correct commodities, equipment, and services at the right quality and quantity, on a timely basis, as efficiently as possible, and at the lowest overall cost.
- 1.3.4. To conserve public funds by obtaining the best products and services for the dollars budgeted and spent.
- 1.3.5. To provide all customers with quality service in a manner that is courteous, responsive, accessible, and seamless.
- 1.3.6. To maintain continuity of supply to support on-going services, operations, and schedules.
- 1.3.7. To furnish timely information to management and appropriate departments covering market conditions and trends, and the probable effect on supply and price.
- 1.3.8. To provide a meaningful partnership with the business community and assure vendors that impartial and equal treatment is afforded to all who wish to do business with the city.
- 1.3.9. To establish specifications which will encourage competition and accurately describe the equipment, materials and services needed.
- 1.3.10. Administration of a purchasing card program for efficient expenditures of funds within the guidelines of the Purchasing Card Procedures. (*See Section 5.2*)

1.4. General Policies

- 1.4.1. All City of Fort Smith employees ("Employees") who participate in the solicitation and approval of purchases and contracts are personally responsible for becoming familiar with and abiding by all applicable State of Arkansas Statutes, City of Fort Smith Ordinances, and Purchasing policies and procedures in this manual governing such activities.
- 1.4.2. Employees should endeavor to receive maximum value for the public dollar and to make purchases in the best interest of the City.
- 1.4.3. The City Administrator is authorized by the Fort Smith Municipal Code to administer purchasing of supplies, materials, equipment, and services for the

City. [Fort Smith Municipal Code Sec. 2-181.](#)

- 1.4.4. To assist in the performance of these duties, the City Administrator may designate an authorized representative (Purchasing Manager) for the city. It is the Purchasing Manager's responsibility to provide leadership in all purchasing and contracting activities for the city.
- 1.4.5. It is the Purchasing Manager's responsibility with concurrence of the City Administrator to develop and maintain a purchasing manual consistent with the City Purchasing Policies which shall provide for rules, regulations, and procedures for the internal management and purchasing functions within the city.
- 1.4.6. The Purchasing Manager shall supervise the procurement of all supplies, services, or other items as needed by the city; and sell, trade, donate, destroy, transfer, or otherwise dispose of surplus property as approved by either the City Administrator or the Board of Directors.
- 1.4.7. All qualified bidders shall be afforded equal opportunities to earn the city's business and will compete on equal terms.
- 1.4.8. Awards shall be made for bids and quotes that provide the best value to the city, taking into consideration the vendor's expertise, business judgment, experience, references, facilities to carry out the agreement and previous work and financial ability. The City reserves the right to waive minor irregularities, reject and/or accept any and all bids, in whole or in part, or take such other action that serves the best interests of the city.
- 1.4.9. The Board of Directors reserves unto itself the final approval of all purchases that exceed \$75,000. [Fort Smith Municipal Code Sec. 2-182\(b\)\(4\).](#) The Mayor has been requested to sign all contracts approved by the Board of Directors unless the Board of Directors direct other signature. The City Administrator shall sign all other contracts unless signature by the Mayor is directed or requested.
- 1.4.10. It is the intent of the City to make purchases from suppliers who have adequate financial strength, high ethical standards and a record of adhering to specifications, maintaining shipping promises and giving maximum service. New sources of supply shall be given due consideration as multiple sources of supply are necessary to ensure availability of materials and competitive pricing.
- 1.4.11. The City shall strive to maintain strong and enduring relationships with vendors of proven ability and with those who have a desire to meet the needs of the city. To accomplish this, purchasing activities shall be conducted so the vendors will value the city's business and make every effort to furnish its requirements based on quality, service, and price.
- 1.4.12. Employees engaged in purchasing shall promote constructive competition by constantly seeking new bidders, obtaining bids consistent with the provisions of this manual, and developing more than one active source of supply for various products and services.
- 1.4.13. Acceptance of money, gifts, gratuity, other consideration or favors of any kind by any employee or official from anyone other than the city is prohibited. Staff shall not become obligated to any vendor and must not accomplish any city transaction from which they may personally benefit. (*See Section 3*)

2. DUTIES & RESPONSIBILITIES

2.1. Purchasing Manager

The Purchasing Manager works under the direction of the Chief Financial Officer. The Purchasing Manager shall serve as the public purchasing official for the City and shall be responsible for the procurement of all supplies and services as authorized by the City Administrator as his or her designated representative. [*Fort Smith Municipal Code Sec. 2-181.*](#)

2.2. Function

- 2.2.1. Develop purchasing objectives, policies, programs, and procedures for the acquisition of materials, equipment, supplies, and services.
- 2.2.2. Coordinate and supervise purchasing of all user departments.
- 2.2.3. Provide purchasing assistance to all user departments.
- 2.2.4. Consolidate the purchase of like or common items or services.
- 2.2.5. Prepare and/or draft specifications for formal bids.
- 2.2.6. Provide administration for the City Purchasing Card program (“P-Card”).
- 2.2.7. Ensure all purchases are conducted as per city, state, and federal statutes.
- 2.2.8. Resolve, monitor, and negotiate contract disputes regarding contract compliance.
- 2.2.9. Request and/or assist with audit of departments for compliance of city purchasing policy.
- 2.2.10. Maintain accurate records of certain City owned assets and provide for a regular inventory of these assets.
- 2.2.11. Have the authority to waive inconsistencies and irregularities in the bid process in purchases less than \$75,000, with concurrence of the City Administrator and/or Chief Financial Officer.
- 2.2.12. Have the authority to declare vendors who default on their quotations and/or services as irresponsible bidders, and to disqualify them for receiving any business from the City for a stated period of time with concurrence of the City Administrator and/or Chief Financial Officer.
- 2.2.13. Delegate purchasing authority to departments in accordance with applicable rules and regulations as set forth in the purchasing manual.
- 2.2.14. Approve or reject purchases made by various departments in a manner inconsistent with this Purchasing Manual.
- 2.2.15. Assist with contract administration.

2.3. Objectives

- 2.3.1. To know and become acquainted with the needs of all departments.
- 2.3.2. To procure products or services that meet the department’s requirements and are deemed as the best value to the city.
- 2.3.3. To know the sources and availability of needed products.
- 2.3.4. To write manuals, provide training, and be a source of information to all departments in meeting their purchasing needs.
- 2.3.5. To maintain good vendor relations.
- 2.3.6. To inform department staff members of market changes, new products, and other such factors.
- 2.3.7. To assist with the understanding of sound purchasing policy and procedures throughout all departments of the city.

- 2.3.8. To exchange ideas and information with other public purchasing agencies to solve common challenges.
- 2.3.9. To develop standardized specifications for use by all departments, improve the purchasing practices, and apply them when feasible.
- 2.3.10. To interpret legal procurement laws and ensure compliance by all departments.

2.4. Relations with City Departments

The Purchasing Manager shall establish and maintain open communication with city departments in order to meet their purchasing needs.

2.5. Requesting Department's Responsibilities

- 2.5.1. Initiate purchase requests as outlined in this Purchasing Manual, allowing sufficient lead time for the Purchasing Manager to approve requisitions so that orders are placed and delivered in a timely manner.
- 2.5.2. Inform and train staff of the city's purchasing policies as outlined in this manual and help ensure that all policies are followed.
- 2.5.3. Communicate needs for supplies, equipment, services, and materials to the Purchasing Manager with sufficient lead-time so that procurement can be made using applicable purchasing manual procedures.
- 2.5.4. Prepare clear and unrestrictive technical specifications or functional requirements when needed for products or services.
- 2.5.5. Review bid tabulation sheets or submitted proposals and inform the Purchasing Manager of the department's recommendations for the award.
- 2.5.6. Send proper documentation to waive competitive bidding when declaring sole source procurement.
- 2.5.7. Promptly inform the Purchasing Manager of any contract compliance issues.
- 2.5.8. Inspect materials, supplies, services, and equipment delivered in order to determine that cost, quality, and quantity conform to specifications.
- 2.5.9. Endeavor to obtain as full and open competition as possible on all procurement activities.
- 2.5.10. Prepare standards and written specifications of goods, services, professional services, and public improvement projects as may be used by the department.
- 2.5.11. Be bound by all purchasing principles, policies and ethical standards as set forth within this manual.
- 2.5.12. Provide sufficiently defined information on items to be purchased and assist in the preparation of specifications.
- 2.5.13. Prepare Purchase Requisitions and upload the necessary documentation through the [Munis Purchase Order System](#). NOTE: Access in Munis is role & function based.
- 2.5.14. Plan purchases in advance to eliminate avoidable emergencies.
- 2.5.15. Upload complete receiving information to the Munis System.
- 2.5.16. Submit invoices in a timely manner to Accounts Payable for prompt payment.
- 2.5.17. Notify the Purchasing Department of surplus property.

2.6. Disciplinary Action for Violations

When a purchasing policy, manual, or ordinance violation is discovered, the Purchasing Manager will investigate the surrounding circumstances and provide findings to the Chief Financial Officer, Department Head, Chief Human Resources Officer, and City

Administrator. Violations of the established purchasing policies, procedures and ordinance may result in disciplinary action and/or other consequences such as the revocation of purchasing authority or financial software use. Violations of the purchasing policies, manual, or ordinance may lead to disciplinary action up to and including termination as well as criminal prosecution depending on the nature of the violation. The Chief Financial Officer, in coordination with Human Resources, will notify the Department Head and City Administrator of any violations wherein disciplinary action or legal action may be warranted.

3. CODE OF ETHICS AND CONDUCT

Ethics Statement: “The staff of the Purchasing Department is governed by the highest ideals of honor and integrity in all public and professional relationships in order to merit the respect and inspire the confidence of the City of Fort Smith and the public we serve”.

- 3.1. In conjunction with the City’s [Code of Business Conduct](#), it is essential that all personnel involved in the procurement process conduct themselves in a manner that maintains impartiality and complete objectivity, to meet the continuing scrutiny of suppliers and the public. In dealings with the business community, it is necessary to exercise a strict rule of personal conduct to ensure that business relations are not compromised or even have the appearance of being compromised. The city's reputation for fairness and integrity in dealing with suppliers and others must always be maintained. The city also expects vendors and third parties to conform to these standards.
- 3.2. The city is committed to a purchasing process that fosters fair and open competition, is conducted under the highest ethical standards, and enjoys the complete confidence of the public. To achieve these purposes, the city subscribes to the following code of ethics:
 - 3.2.1. The City will avoid unfair practices by granting all competitive respondents’ equal consideration as required by state, federal, and city regulations.
 - 3.2.2. The city will conduct business in good faith, demanding honesty and ethical practices from all participants in the purchasing process.
 - 3.2.3. The city will promote positive respondent and contractor relationships by affording respondent representatives courteous, fair, and ethical treatment.
 - 3.2.4. The city will make every reasonable effort to negotiate equitable and mutually agreeable settlements of controversies with a respondent.
 - 3.2.5. The City will avoid involvement in any transactions or activities that could be a conflict between personal interest and the interests of the city.
 - 3.2.6. Character is an important asset in commerce and should be given major consideration in the selection of sources of supply or service.
- 3.3. The City's Purchasing Department is a member of the National Institute of Governmental Purchasing ([NIGP](#)), a national organization of procurement professionals. As members of NIGP, the Purchasing Department promotes the [NIGP ethical principles](#) that govern the conduct of every person employed by a public sector procurement or materials management organization.

3.4. Code of Ethics

- 3.4.1. Employee Responsibility to the City
 - 3.4.1.1. Follow the lawful instructions of the city.
 - 3.4.1.2. Understand and not abuse the authority granted by the city.
 - 3.4.1.3. Avoid activities that would compromise or give the perception of compromising the best interest of the city.
 - 3.4.1.4. Reduce the potential for any charges of preferential treatment by actively promoting the concept of competition.
 - 3.4.1.5. Obtain the maximum benefit for funds spent as representatives of the city.
- 3.4.2. Conflict of Interest (see [Code of Business Conduct-A](#))
 - 3.4.2.1. Avoid any private or professional activity that would create a conflict between your personal interest and the interests of the city.
 - 3.4.2.2. When possible, avoid engaging in personal business with any company that is a supplier to the city.
 - 3.4.2.3. Avoid lending money to or borrowing money from any supplier.
 - 3.4.2.4. Avoid any other actions, conduct, or other real or perceived conflicts of interest as included in the [City of Fort Smith Employee Handbook](#).
- 3.4.3. Perception
 - 3.4.3.1. Avoid the appearance of unethical or compromising practices in relationships, actions, and communications.
 - 3.4.3.2. Avoid business relationships with personal friends. Request reassignment if the situation arises.
 - 3.4.3.3. Avoid noticeable displays of affection, which may give the impression of impropriety.
 - 3.4.3.4. Avoid holding business meetings with suppliers outside the office. When such meetings do occur, the meeting location should be carefully selected so as not to be perceived as inappropriate by other persons in the business community or your peers.
- 3.4.4. Gratuities
 - 3.4.4.1. Never solicit or accept money, loans, credits or prejudicial discounts, gifts, entertainment, favors or services from your present or potential suppliers that might influence or appear to influence purchasing decisions.
 - 3.4.4.2. Never solicit gratuities in any form for you or the city.
 - 3.4.4.3. Items of nominal value offered by suppliers for public relations purposes are acceptable when the value of such would not be perceived by the giver, receiver, or others as posing an ethical breach, in amounts of \$50.00 or less. (See [Code of Business Conduct-J](#))
 - 3.4.4.4. Gifts offered exceeding nominal value (\$50.00) shall not be accepted.
 - 3.4.4.5. In the case of any gift, care should be taken to evaluate the intent and perception of acceptance to ensure it is legal, it will not influence your buying decision, and it will not be perceived by your peers and others as unethical. However, any offering from a vendor, or potential vendor, which has been given to a group and which is kept and/or consumed on

the premises would not be considered inappropriate.

3.4.5. Business Meals

- 3.4.5.1. There are times when, during the course of business, it may be appropriate to conduct business during meals. In such instances, the meal should be for a specific business purpose.
- 3.4.5.2. Avoid frequent meals with the same supplier.
- 3.4.5.3. An Employee should be able to pay for meals as frequently as the supplier. Budgeted funds should be available for such purposes.

3.4.6. Relationships with the Supplier

- 3.4.6.1. Maintain and practice, to the highest degree possible, ethical professional courtesy and competence in all transactions.
- 3.4.6.2. Association with suppliers at lunches, dinners or business organization meetings is an acceptable professional practice enabling the employee to establish better business relations provided that the employee keeps free from obligation. Accordingly, it is strongly recommended that if a seller pays for an activity, that the employee reciprocates.
- 3.4.6.3. Purchase without prejudice, striving to obtain the maximum value for each dollar of expenditure.
- 3.4.6.4. Refrain from showing favoritism or being influenced by suppliers through the acceptance of gifts, gratuities, loans, or favors.
- 3.4.6.5. Adhere to and protect the supplier's business and legal rights to confidentiality for trade secrets, and other proprietary information.
- 3.4.6.6. Refrain from publicly endorsing products.
- 3.4.6.7. Refrain from conducting city business with ourselves or our families.

3.4.7. Relationships with the City

- 3.4.7.1. Remain free of any and all interests and activities which are or could be detrimental or in conflict with the best interests of the city.
- 3.4.7.2. Refrain from engaging in activities where the employee has a significant personal or indirect financial interest.
- 3.4.7.3. Exercise discretionary authority on behalf of the city.
- 3.4.7.4. Avoid acquiring interest in or incurring obligations that could conflict with the interests of the city.

3.4.8. Relationships with Other Agencies and Organizations

- 3.4.8.1. An employee shall not use their position to exert leverage on individuals or firms for the purpose of creating a benefit for agencies or organizations that they may represent.
- 3.4.8.2. All involvement and transactions shall be managed in a professional manner with the interest of the city taking precedence.

3.4.9. Relationships with Professional Organizations and Agencies

- 3.4.9.1. It is the obligation and the responsibility of the employee, through affiliation with a professional organization, to represent that organization in a professional and ethical manner.
- 3.4.9.2. An employee shall not use their position to persuade an individual or

firm to provide a benefit to an organization.

- 3.4.9.3. Remember, the money you spend to support lawful activities is not your own- it belongs to the public trust.

3.5. Equal Opportunity and Non-Discrimination Policy

The policies of the City of Fort Smith prohibit discrimination against any person or business in pursuit of business opportunities because of race, color, creed, religion, sex, national origin, age, disability, veteran's status, marital status, sexual orientation, gender identity, genetic information, political opinions or affiliation, or any other status protected by law of the vendor's owners or personnel. The city shall conduct its contracting and procurement programs to prevent such discrimination.

3.6. Fair and Open Competition

The City's Purchasing Department promotes the precept of a fair and open competitive solicitation process, wherever practicable. Restrictive or proprietary specifications are kept to minimal use and only applied where necessary to meet technical demands for operational compatibility with existing city equipment or for truly unique and cost-effective performance applications.

3.7. Confidential Information

It is unethical and unlawful for any employee or former employee knowingly to use confidential information for actual or anticipated personal gain, or for the actual or anticipated personal gain of any other person.

4. THE PURCHASING PROCESS

- Department identifies a need for goods or services
- Department follows the guidelines of these policies and procedures to create a requisition
- Authorized Department staff reviews and approves the requisition
- Purchasing Department issues a purchase order
- Department or Purchasing places the order with the selected vendor
- Department receives goods/services and invoice
- Department verifies invoice, processes and submits invoice to Accounts Payable
- Accounts Payable audits the invoice prior to processing payment
- Finance Department issues a payment to the vendor for the goods/services provided

5. PURCHASING METHODS – Subject to the financial limits of Section 6

5.1. Petty Cash Purchases

The Chief Financial Officer is authorized to create petty cash funds where they are needed within City government. The size of all petty cash funds will be controlled by the Chief Financial Officer. Routine purchases of items up to One Hundred and Fifty Dollars (\$150) may be made from petty cash without contacting the Finance Department. Purchases may include but not limited to miscellaneous office expenses, emergency

payments, court filings¹, and refunds.

The custodian of the fund, under the supervision of the Department Head, is responsible for the fund. The custodian is to be aware of the proper procedures for maintaining the fund and will be held responsible for all discrepancies, misuse, or violation of the fund. The custodian and the Department Head shall approve each voucher. If a custodian is to be replaced, the Finance Department is to be notified. Access to the funds must be restricted to the custodian and the Department Head.

The following regulations shall apply to all petty cash funds:

1. No personal checks are to be cashed.
2. Reimbursement is to be made only to personnel authorized by the Department Head. It shall be the responsibility of the using department to properly code or classify the item or expenditure. Authorization for the custodian to replenish the fund shall be on the written approval of the Department Head.
3. Reimbursement is not to be made until an original invoice or a valid receipt is received by the fund custodian.
4. No reimbursement is to be made for items over \$150 without prior approval by the Chief Financial Officer¹.
5. Items incidental to travel (such as transportation, gasoline, and registration fees) are not reimbursable through petty cash and should be reported on the [Travel Expense Report](#). (See [Travel Policy](#))
6. All petty cash funds will be subject to audit.
7. Custodians of petty cash funds shall request replenishment of the fund when needed. The Finance Department will charge the appropriate expenditure accounts by way of journal entries for the various departments, thus reflecting expenditures made through petty cash funds.
8. The Chief Financial Officer may establish such additional rules and regulations regarding petty cash funds as deemed necessary.

5.2. Purchasing Card

A Purchasing Card (P-Card) is a city issued credit card and is intended for use by an employee/department that has a frequent and recurring need to purchase small dollar supplies and services consistent with purchasing policy of the city. The P-Card program is designed to improve efficiency in processing purchases from any supplier that accepts the credit card. Purchases can be completed from suppliers over the phone, fax, internet, mail, or in person. All P-Card purchases shall follow other provisions and procedures prescribed in the [Purchasing Card Policy & Procedures Handbook](#). The P-Card program is administered by the Purchasing Department.

The P-Card end user may use P-Cards in such cases as purchasing large dollar or one-time approved purchases when the use of a P-Card provides increased efficiency or administrative expediency in procuring goods and services for city departments. Such purchases shall not exceed \$7,500. No P-Card purchases are allowed over \$2,000 without the prior approval of the Chief Financial Officer and City Administrator.

¹ With the approval of the Chief Financial Officer, the Utilities Department is exempt from the petty cash limits for court filing fees.

5.3. Purchase Requisition

A Purchase Requisition (PR) is a method requesting permission to purchase goods or services. This, however, is not a document which can be used to actually purchase goods or services. PRs are only requests for Purchase Orders to be issued. A Purchase Order can only be issued by the Purchasing Department. Each department can create a requisition that, when approved, will be converted to a Purchase Order. A copy of the specifications upon which quotes are to be obtained and copies of all obtained quotes shall be attached to the PR.

5.4. Purchase / Blanket Order

A Standard Purchase Order (PO) or Blanket Purchase Order (BPO) is an agreement between the city and the vendor in which the city agrees to purchase the goods or services described on the purchase order and the vendor agrees to supply to the city. Purchase Orders can be thought of as a contract between the City and the vendor and as such have legal implications when properly authorized and approved. Purchase Orders are issued by the Purchasing Manager after receipt and acceptance of a Purchase Requisition. Purchase Orders encumber department funds. A Purchase Order is the result of an authorized and approved Purchase Request.

Blanket Purchase Orders, while similar to purchase orders, are issued to cover future purchases of known items but in unknown or projected quantities. Blanket orders have fixed or negotiated unit prices. Blanket orders do not guarantee the purchase of any specific quantities.

5.5. Emergency Purchases

An “Emergency” is defined as a situation brought about by a sudden unexpected turn of events or any circumstance or cause beyond the control of the city in the normal conduct of its business. An emergency purchase is made to alleviate a situation where there is a threat to health, welfare, safety or significant disruption of the operations of a department that can only be rectified by immediate purchase of equipment, supplies, materials, or services. An “emergency purchase” must fit the circumstances noted above and requires such competition as is practicable under the circumstance.

Purchases made in expedited and emergency situations are generally more costly than routine purchases. Therefore, they must be kept to a minimum. Poor planning, overlooked requirements, or negligence may cause the need for expedited purchases but are not true “emergencies.”

5.6. Internet Purchases

To protect the assets of the city, it is important to use caution when purchasing goods or services over the Internet. If payment must be made by use of a P-Card, extreme care is to be exercised to ensure the vendor is legitimate and the user understands the return and credit policy in the event the goods do not meet their demand.

5.7. Price Quotes

Generally, purchases are made after the opportunity for competition by solicitation of competent vendors. Competitive quotations are to be obtained as specified in Section 6. Purchases exempt from competitive procurement are discussed in Section 9.

5.8. Formal Quotes/Bids

Except for purchases exempt from competitive bids, as outlined in Sections 6 and 9, all purchases exceeding \$75,000.00 require the opportunity for competition through formal quote solicitation conducted or supervised by the Purchasing Manager or, in the case of construction contracts and related services, by the appropriate Department Head.

5.9. Sealed Bids or Invitation To Bid (ITB)

Except for purchases exempt from competitive bids, as outlined in Sections 6 and 9, all purchases exceeding \$75,000 require the opportunity for competition, through formal bid solicitation conducted or supervised by the Purchasing Manager and/or Department Director. This method for purchasing goods and/or supplies is the most preferred formal bid method and is used when specifications are clear and pricing is the main focus. Sealed bids allow a maximum degree of competition among a number of suppliers offering similar products. As a result, prices obtained are generally considerably lower than standard “list” pricing. Sealed bids require considerable effort in the preparation of their terms, conditions, and specifications.

5.10. Sealed Request For Proposals (RFP)

This formal method of procurement of goods, services and/or supplies that exceed \$75,000 is used when competitive sealed bidding (ITB) is not practical. Formal proposals differ from formal bids in the nature of their intent. Bids will usually supply, in detail, the nature and specifications of the goods or services desired. The requesting department has generally provided this data. Proposals, however, will specify the nature of a requirement that needs to be met or function/use to which the purchase must meet. Often, the means of satisfying this requirement is unknown to the requesting department. Therefore, this method will request that vendors submit their proposals for accomplishing a specific goal. These proposals will be diverse relative to approach, means, and cost.

Formal proposals are best used when the objective is vague or lacking in detail or when the vendor’s knowledge of their field may provide innovative and economical solutions. Evaluation criteria must be included in the proposal.

5.11. Acquisition of Professional Services

Contracts for professional services are exempt from competitive bidding. Professional services and the process for procurement are described in Section 9.1.

5.12. State Contracts and Cooperative Procurement

The City is authorized to participate in the State of Arkansas Cooperative Purchasing program. This allows the City to take advantage of negotiated contracts in order to lower prices, lower administrative costs, increase competition, and obtain more favorable terms and conditions.

Cooperative Procurement is a term that refers to the combining of requirements of two or more public procurement entities to leverage the benefits of volume purchases, delivery and supply chain advantages, best practices, and the reduction of administrative time and expenses. Cooperative procurement efforts may result in contracts that are often referred to as “piggyback”.

Piggyback (Piggyback Cooperatives) is a form of intergovernmental cooperative purchasing in which an entity will be extended the same pricing and terms of a contract entered into by another entity. Generally, the originating entity will competitively award a contract that will include language allowing for other entities to utilize the contract, which may be to their advantage in terms of pricing, thereby gaining economies of scale they would otherwise not receive if they competed on their own. Utilization of these sources waives the requirement for competitive or formal competitive bids. Board approval will be required for cooperative purchases over \$75,000.

The City of Fort Smith currently utilizes various city approved cooperative contracts as well as State contracts to obtain goods and services effectively and efficiently while complying with state statutes and with the city's purchasing policies and procedures. The City of Fort Smith currently utilizes (but not limited to) the following Purchasing Cooperatives:

- [GSA](#) - General Services Administration (certain restrictions apply)
- [HGACBuy](#)
- [Omnia Partners](#) (formerly NIPA, TCPN, NCPA, and US Communities)
- [Sourcewell](#) (formerly NJPA)
- [State of Arkansas Contracts](#)
- [TIPS](#)

As cooperative purchasing continues to evolve to meet the ever-changing needs of municipalities, this list of cooperatives may change. Contact the Purchasing Department to inquire about the up-to-date list of approved cooperatives.

5.13. Conducting Due Diligence

Prior to making the decision to use a cooperative contract, a department should conduct extensive due diligence by following this checklist:

1. Compare the cooperative contracts available for the required product or service, conduct market research, and evaluate whether the use of a cooperative contract is appropriate.
2. Analyze all costs associated with conducting a competitive solicitation.
3. Ensure that the use of the cooperative contract meets all competitive requirements.
4. Review the cooperative contract for conformance with all applicable laws and best practices.
5. Analyze the product or service specifications, price, terms and conditions and other factors such as: cost to utilize the contract, shipping, minimum spend requirements, and availability of contract documentation, to ensure that the cooperative contract produces best value.
6. Ensure that the organization/local required terms and conditions are incorporated into the contract.
7. Incorporate or remove additional terms and conditions by developing an addendum or purchase order that is signed by both the City and the supplier.
8. Contact the cooperative lead government agency to verify contract application and eligibility.

It is a best practice to consider the use of cooperative procurement contracts on a case-by-case basis, and only after proper due diligence has been performed. Cooperative procurement

contracts are usually based on the combined requirements of multiple organizations. The City can save time and money, obtain higher quality products and services, and standardize products and services by using cooperative contracts.

When submitting a Purchase Requisition, the following documentation must be provided to the Purchasing Department in order to use another political entity's awarded contract:

1. Name of Cooperative and the Contract Number
2. Complete copy of vendor's proposal
3. Copy of contract, if applicable

5.14. Sole/Single Source

A sole source purchase means that only one supplier (source), to the best of the requester's knowledge and belief, based upon thorough research, (i.e., conducting a market survey), can deliver the required product or service. Similar types of goods and services may exist, but only one supplier, for reasons of expertise, and/or standardization, quality, compatibility with existing equipment, specifications, or availability, is the only source that is acceptable to meet a specific need. Note the following guidelines:

1. A sole source purchase is a method of acquisition. It is not to be used to avoid competition.
2. A sole source justification is required for every purchase over \$7,500 purchase limits unless the purchase is being competitively solicited.
3. Sole source justifications must be approved by the Purchasing Manager prior to an order being placed.
4. Price cannot be used as a factor in determining if a sole source exists because it indicates the existence of a competitive marketplace.

5.15. Sole Source Justification Criteria

The following list of criteria may be used in determining if a single or sole source situation exists:

1. Only one manufacturer makes the item meet relevant specifications; that manufacturer only sells direct/exclusively through one regional or national representative. The requesting department must provide documentation from the manufacturer/vendor proving sole source status.
2. Item required must be identical to equipment already in use by the end user, to ensure compatibility of equipment, and that item is only available from one source.
3. Maintenance or repair parts by the original equipment manufacturer (OEM) are required for a piece of equipment, and the manufacturer does not have multiple agents to perform these services.
4. Replacement of spare parts is required from the OEM and the OEM does not have distributors for those parts.
5. Patented items or copyrighted materials, which are only available from the patent or copyright holder.
6. Unique expertise, background in recognized field of endeavor, the result of which may depend primarily on the individual's invention, imagination, or talent.
7. Note: An item being a "sole brand", or a "sole manufacturer" does not automatically qualify to be a "sole source". Many manufacturers sell their products through distributors. Therefore, even if a purchase is identified as a valid "sole brand" or "sole manufacturer," the requester should verify whether the manufacturer has multiple

distributors. If the manufacturer does have multiple distributors, competition should be sought among the distributors.

Comments/General Notes are required in Munis if there are no other quotes available to justify the sole source purchase. Following the procedures above will ensure workflow continues without interruption. Be sure to complete all requirements or the requisitions will be rejected.

6. PURCHASING THRESHOLDS (FOUR CATEGORIES)

The City Administrator, as authorized by the Board of Directors, has delegated to the Purchasing Manager the authority to procure materials and services for the City of Fort Smith that are within the guidelines set forth by the Board of Directors.

The purchase process is controlled by two components:

1. Established policy dollar amount
2. Approving authority

Authorization and Documentation Requirements

Levels	Authorized Approvers	Documentation Requirements
Category 1 Less than \$2,000* PO required or P-Card	Department Director; Deputy; Purchasing Manager	Informal quote not required, but encouraged
Category 2 \$2,000 or more but less than \$7,500 PO required or P-Card	Department Director; Deputy; Purchasing Manager	At least three informal quotes; can use online pricing & catalogs
Category 3 Over \$7,500 but less than \$75,000 PO required	Department Director; Deputy; Purchasing Manager	At least three written quotes; can use online pricing
Category 4 Over \$75,000 Agreement & PO required	Board of Directors** Department Director; Deputy Director of Finance; Purchasing Manager	Formal competitive sealed bid solicitation

**Note: Quote shall include freight & taxes, not to exceed \$2,000*

***Board approval & award takes place only during regular Board meetings on the first and third Tuesdays of each month. Special meetings may be called by the Board as necessary. A Board Meeting Agenda Schedule is issued by the City Clerk's office for each calendar year and is available on the City's [website](#).*

Dollar limit categories apply to the total amount to be purchased and/or the total amount to be expended over an initial contract term. Purchase approval thresholds apply to the established level of approving authority (i.e., Department Director, Purchasing Manager, City

Administrator, or Board of Directors).

Regarding the dollar threshold amounts indicated above, the total cost of the purchase should be considered and not the cost of the individual items. In addition, purchases should not be artificially or purposely divided to circumvent the dollar threshold limits.

Purchases made with federal funds have specific purchasing thresholds which are different from those presented above. (*See Section 25*)

If the Purchasing Department or any Department foresees a need for products or services of a like or similar nature costing more than \$75,000 in aggregate within a fiscal year, it may recommend competitive sealed bidding, even though the products and services individually may be under the \$75,000 bid threshold.

When previous experience indicated a reasonable expectation that combined requirements from all Departments for a commodity or service will exceed the bid threshold within a fiscal year, the Purchasing Department may solicit requirements from all users of this commodity or service, arrange for specifications and bid documents to be developed and arrange for competitive sealed bidding.

7. THE PURCHASING CYCLE

The purchasing cycle establishes the proper steps for City of Fort Smith staff to follow when requisitioning supplies, materials, and equipment, public works projects, and/or professional service contracts.

7.1. Step One: The Budget

Approval of the City's annual budget: The budget, as approved by the Board of Directors, authorizes the City Administrator and designees to purchase the materials, supplies, services, and equipment as outlined in the Operating section of the budget document (Budget Supplement). Purchases for certain dollar amounts are subject to further rules, such as for department head level approvals, City Administrator approvals, Board of Directors approvals, and/or bidding requirements.

7.2. Step Two: Methods of Purchase

Departments choose the method of purchase according to the type and dollar value of purchase.

7.3. Step Three: Contract Review

When necessary, the City Attorney and/or the Contract Specialist will review and evaluate the contract language and determine the appropriate steps and/or requirements.

7.4. Step Four: Receiving and Acceptance

Once the product or service has been received or accepted, payment authorization can proceed. All goods shall be shipped to a city facility to ensure receipt by city staff, unless approved by the Purchasing Department before the purchase is made.

7.5. Step Five: Payment

All invoices are entered and processed by the Accounts Payable Department. For a payment to be processed in Munis, a “3 Way Match” is required:

- Every payment requires a Purchase Order (generated by Purchasing)
- A receiving record must be entered in Munis (posted by Department)
- An invoice forwarded to Accounts Payable (submitted by Department)

8. BIDS / PROPOSALS & CONTRACTS

Except for purchases exempt from competitive bids or proposals, as detailed in Section 9, all purchases that exceed \$75,000 (Category 4) require the opportunity for competition to be given by formal bid or proposal solicitation from vendors.

8.1. Formal Bids (Sealed)

Formal bids such as Invitations To Bid (ITB) and Requests For Proposal (RFP) are the most effective procedures for soliciting competitive prices or services from vendors in the public (governmental) purchasing sector. Each method has advantages and disadvantages. In this section, the procedures for preparing and processing bids and proposals are addressed.

- 8.1.1 Purpose: Before proceeding with any bid, Purchasing must determine the purpose that is to be served. Will the bid result in procuring goods, services, or a combination of both? Is there a necessity for special protection for the City through bonds and insurance? Will the contract provide a one-time purchase or an annual blanket agreement? All these questions and more must be answered before preparing the bid for issuance.
- 8.1.2 Vendor Selection: A vendor list sufficient to generate at least three responses is required for all purchases that equal or exceed \$75,000. Potential suppliers may be located by using the following resources:
- 8.1.2.1 City of Fort Smith vendor registry
 - 8.1.2.2 State purchasing contracts
 - 8.1.2.3 Product catalogs
 - 8.1.2.4 Purchasing records
 - 8.1.2.5 Department Director recommendation
 - 8.1.2.6 Trade journals
 - 8.1.2.7 Salesperson
 - 8.1.2.8 Internet
- 8.1.3 Advertisement of Bids: Adequate public notice of the bid solicitation shall be given.
- 8.1.4 Newspaper: The city will advertise a minimum of one time in newspaper(s) of general circulation in Fort Smith and if necessary, the State and the Region. The first advertisement should be at least fourteen (14) calendar days before the bid opening date. The newspaper advertisement shall include at a minimum, the bid title and general description of the solicitation, bid opening date and time, the

department requesting the bids, information of how to obtain a copy of the bid specifications and if necessary, advise of any bonding requirements and pre-bid meeting.

- 8.1.5 City Website: Purchasing will post bid notices on the City of Fort Smith website at www.fortsmithar.gov.
- 8.1.6 Distribution of Bids: Bids will be posted on the City's website for downloading by prospective bidders. Registered bidders may be directly contacted by the City of Fort Smith through mail, Email, or telephone regarding outstanding bidding opportunities. Placement on the bidders list does not guarantee receipt of a bid document. It is the vendor's responsibility to check for bid notices posted by the city.
- 8.1.7 Pre-Bid Meeting: A mandatory or non-mandatory pre-bid meeting may be held with prospective bidders and concerned City staff on complex procurement projects. The primary objective of such a meeting is to provide a clear understanding of instructions to bidders relative to drawings, specifications, local conditions, location of the work, and basic methods or work requirements. If needed and when necessary, a site visit may be scheduled following the meeting if the project personnel feel it would be beneficial for clarification of specifications. In addition to avoiding quality assurance problems and contingency items in quotations, other benefits that may be derived from such meetings are:
 - 8.1.7.1 The number of changes and addendums in specifications can be reduced.
 - 8.1.7.2 Competition may be stimulated by interesting more prospective suppliers.
 - 8.1.7.3 Pre-bid meetings have a tendency to ensure that qualified suppliers will submit quotations and will discourage submission by suppliers who are not qualified to perform the work or supply the goods.
 - 8.1.7.4 An opportunity is given to discuss schedules. This is particularly valuable when hard to get or special materials and equipment is involved.
 - 8.1.7.5 An opportunity is given to explain policies and requirements with respect to procurement methods, competitive bidding and negotiation, quotation qualifications and conditions, price provisions in solicitations and any resulting contractual agreements, and the determining factors in making awards.

The pre-bid meeting should be a formally announced meeting with bidders. An announcement of the meeting shall be included with the bid solicitation. The announcement will state when and where the meeting will be held. In order to derive the greatest benefit from such a meeting, adequate time should be provided for the prospective suppliers to review the plans and specifications prior to the meeting. The meeting should be attended by personnel qualified to answer completely and accurately all questions relating to matters such as contract provisions, design and specifications, and production techniques that are

expected to be discussed. A formal record shall be made of the people attending and the organizations represented using a sign in sheet.

It is important that persons attending be clearly informed that no oral statement from any person which modifies plans and specifications will in any manner or degree, be considered official until covered in a written addendum to the bid solicitation document.

- 8.1.8 Issuing Addenda: Once a bid solicitation has been issued, no changes in the specifications can be made unless an addendum is issued, clearly pointing out such changes. All addenda shall be issued at least 48 hours prior to the bid opening date, unless waived by the Department Head or Purchasing Manager. If there is not sufficient time, the bid date will be changed.
- 8.1.9 Bid Format: To avoid duplication of effort in bid preparation, the Purchasing Department has created a bid format, which provides the “boilerplate” or general terms and conditions of the bid. Care is taken that appropriate protection is afforded the City through requirements for bid bonds, insurance, and/or performance and payment bonds. Deletion of these items may result in loss of any meaningful protection for the city in the event of a vendor default or noncompliance.
- 8.1.10 Bid Conditions: In addition to the general conditions or “boilerplate,” most bids require special conditions, which pertain specifically to the bid in question. Conditions differ from specifications in that conditions refer to requirements, which must be met by the bidder before specifications of his/her bid item are even considered. For example, a supplier of furniture who cannot meet the required condition of a 30-day delivery will be eliminated, even though their furniture may meet all physical specifications. Conditions allow the city a high level of protection by the inclusion of various clauses relative to renewal of contract, cancellation, settlement of disputes, payment terms, delivery schedules, etc.
- 8.1.11 Bid Specifications: Except for some City-wide contracts, specifications for all departmental bids should be provided by the requesting department, preferably in Word format. Reasons for this policy are as follows:
 - 8.1.11.1 As the primary user, a department is best aware of any special characteristics or issues.
 - 8.1.11.2 Because they probably utilize the item daily to be bid on, the department is best aware of any new developments in that product field.
 - 8.1.11.3 Scientific, engineering, or other technical descriptions must be provided by department staff that are qualified to do so. Purchasing staff may assist in writing technical specifications. However, technical specifications must be reviewed and approved by the using department. Specifications are the basis for a vendor’s bid. Realizing that a bid will be compared primarily based on price, a vendor will seek to offer an item that only meets the specifications. Consequently, it is vital that

specifications make no assumptions, but rather detail every important facet of the item in question. To do so invites delivery of items which meet specifications but fail to meet the department's expectations.

A specification is defined as "a concise statement of a set of requirements to be satisfied by a product, material, or a process". An objective of the Purchasing Department is to arrive at "performance specifications" which satisfy the need while allowing the greatest number of competing firms to bid. Therefore, it is more desirable to describe an item by the job it is intended to do and the physical characteristics it must exhibit than merely to specify a given brand and model with no substitutions.

Specifications may be by performance description, or brand name; or a combination of both. In some cases, descriptions by noting the brand name of an acceptable unit may be the preferred method. Purchasing staff recommends the use of more than one brand name as a reference. To assure competition when using brand names, the phrase "or equal" should, in most instances, follow the brand description. This allows vendors of comparable products to bid thus promoting maximum competition and the best value for the city. Should proof of equivalency arise, the burden is on the substituting vendor to provide it. Final judgment of equivalency shall reside with the Department Director or their designee.

8.1.12 Bonds and Insurance: Bonds offer tangible protection in the form of monetary assurances that the bidder will meet their obligations. Bonds must be secured by the bidder at their expense and is typically required to safeguard the City from any claims resulting from damage to property and/or injury to persons caused by the vendor or their actions. The vendor, at their expense, must secure insurance policies that name the City of Fort Smith as an "additional insured" party. (*See Section 17*)

8.1.13 Bid Response: Aside from any attachments such as plans or drawings, a separate document titled Bid Form shall be prepared by the Purchasing. This page provides blank spaces labeled for the vendor's company name, address, phone number, signature, title, date, and email address. Vendors will be advised in the bid document to use only the provided Bid Form. The Bid Form also provides a Bidder's Certification statement that the vendor, by submitting their bid, acknowledges that they will meet all bid terms, conditions, and specifications contained in the bid. The purpose of requiring the Bid Form is to control the bid submittal documents so that vendors do not submit bids which include verbiage negating or modifying the terms of the bid. Any vendor that attempts to do so will be rejected. Additionally, the bid sheet will include the bidder's price by unit and/or total, delivery data, freight charges, warranty data, and any other special information required by a specific bid.

8.1.14 Receipt of Bids: Control of the bid document is essential. Bidders will submit their bid in a sealed envelope (or by email if so designated in the bid document) with the following information clearly marked on the outside:

- 8.1.14.1 Vendor Name
- 8.1.14.2 Due Date (month, day, year)
- 8.1.14.3 Time Due (hour/ AM or PM)
- 8.1.14.4 Bid Solicitation Number (if applicable)
- 8.1.14.5 Bid Title

Each bid received will be date and time stamped by the Purchasing and/or requesting department. On occasion an envelope will be received without proper information on the outside identifying it as a bid reply. On such occasions, after an actual bid envelope has been opened, the appropriate bid information will be written on the outside of the envelope, time stamped, reason it was opened prematurely, and resealed for reopening on bid closing date.

All sealed bids shall be received at the City Purchasing Department, 623 Garrison Avenue, Suite 512, Fort Smith, AR 72901. The Purchasing Department is located in City Hall (Stephens Building). Sealed bids will be received by Purchasing until the closing date and time. It is the sole responsibility of the bidder to ensure that their bid reaches the Purchasing Division before the closing date and hour stated on the bid document.

8.1.15 Late Bids: Any and all bids received in the Purchasing Department or other specified receiving location after the scheduled date and time for opening will be considered a late bid and will be rejected, unless it is determined by the Purchasing Manager that the late receipt was due primarily to City mishandling of the bid after receipt. A late bid will be identified as a “Late Bid” on the outside of the envelope or container and remain unopened in the applied bid file. The bidder will be notified of their late bid status and given an opportunity to pick up the bid or make arrangements for return, at their expense.

8.1.16 Bid Opening: A sealed bid opening is a formal, official event and should be carried out in a professional, businesslike manner. Purchasing and/or city staff shall avoid making any frivolous or preferential statements, which might compromise the city’s position and the reputation of the Purchasing Division of the City. Unless conditions demand another site, bids are opened in the Purchasing Office or nearby conference room. Bid openings are open to the public (unless otherwise noted). The bid opening time must be strictly adhered to.

As the bid opening starts, the Purchasing Manager or designated official opening the bid will introduce his/her staff and any city employees present. An announcement that “no award will be made at this time” will precede the opening of the first bid. Bids will be opened by the Purchasing Manager or his/her designee and recorded. As each bid is read aloud, the dollar amount will be repeated clearly twice.

After the last bid is opened, attending vendors are advised that an award decision will be made after review of the submitted proposals, and thanked for attending the bid opening. To avoid possible tampering, bids are not to be distributed for

general investigation by the bidders present. Under no circumstances will vendors or the general public be allowed to privately review bids.

Only after all bids have been fully analyzed and a recommendation has been made, will the bids be considered public record and available to access by the public.

8.1.17 Preliminary Screening of Bids: Unsigned bids shall not be considered. After a bid has been opened, no changes in bid prices or other provisions shall be permitted. Under no condition will a facsimile (fax) response be acceptable. Prior to opening of bids, a vendor may correct or withdraw their bid. Following the bid opening, when a mistake is either detected by city staff or alleged by the bidder, the bidder should be asked to verify their bid and produce supporting evidence of the mistake. If the bidder responds supporting the mistake, city staff may correct the bid if the mistake was an obvious or apparent clerical error. Examples are:

8.1.17.1 Obvious errors in placing decimal points.

8.1.17.2 Obvious discount errors.

8.1.17.3 Error in extension of unit prices, however, unit prices always prevail.

If the mistake is not an obvious or apparent mistake of a clerical nature, it must be referred to the City Attorney for action.

8.1.18 Waiver of Informalities: Bids may be defective in that they fail to give certain information requested by the invitation. For example, a bid may fail to furnish required catalogs or descriptive data. These “minor” informalities may be corrected by allowing the bidder to furnish the information prior to award, or by waiving them if time does not permit their correction. The difference between a minor informality and a failure to conform to the essential requirements of the invitation may be difficult to determine without legal advice.

Nevertheless, the decision to allow the defect to be corrected will be judged according to the fundamental principle: is it in the best interest of the city to do so and/or will it be prejudicial to the interests of the other bidders and/or will it affect the intended use for which the purchase is being made? The city reserves the right to waive any bid informalities when deemed in its best interest.

8.1.19 Alternate Bids, Approved Equivalents: The bidder may offer any brand for which they are an authorized representative that meets or exceeds the specifications as written. If the bid is based on an “approved equivalent or equal” item, supportive information in the form of the manufacturer’s printed literature or brochures, sketches, diagrams, and/or complete specifications must accompany the bid. The bidder must explain in detail the reasons why the proposed equivalent or equal will meet specifications and not be considered an exception thereto. The City of Fort Smith reserves the right to determine acceptance of proposed equivalent or equal items. If a bid solicitation does not expressly permit the submission of alternate bids, a bid which qualifies the specifications should be rejected as unresponsive. However, if a bidder submits a bid conforming to the specification

and offers an alternate, the alternate may be accepted if the bidder is the best value on both bids. Therefore, no prejudice results to the other bidders.

- 8.1.20 **Tabulation of Bids:** The requirement for recording bids involves the preparation of a Bid Tabulation Sheet. The information which normally is transcribed on the bid tabulation includes the invitation number, opening time and date, item number, description of items and services, quantity, unit, unit price, bidder's name and location, deliveries, remarks or any other information which will be helpful in making the evaluation.
- 8.1.21 **Bid Review:** After the bid opening, copies of the Tabulation Sheet, Bidder Response Sheets, bid submittals, and all pertinent documents such as warranties, brochures etc. are available to the requesting department. The requesting department will be asked to promptly and thoroughly review each bid for compliance with specifications. Bid items not meeting minimum specifications should be rejected. In general, the lowest responsible, responsive bid meeting specifications should be awarded the contract. The Purchasing Manager shall also review the bids and become familiar with the bids in order to advise and/or assist the department in its recommendation for award. Except for the tabulated bid prices, all other bid information is not available for public review until a recommendation to award has been forwarded to the Board of Directors for final approval.
- 8.1.22 **No Bid:** On occasion, the Bid Solicitation will receive no responses. In this instance, the following options should be evaluated:
- 8.1.22.1 Contact vendors on the bid list to determine the reason for the lack of response.
 - 8.1.22.2 Contact the user department to determine if a rebid is desired, using information obtained from vendor response.
 - 8.1.22.3 Review specifications if decision is made to rebid.
 - 8.1.22.4 Revise bid documents where appropriate.
 - 8.1.22.5 File the closed bid in the Purchasing Department if a decision is made not to rebid.
- 8.1.23 **Only One Bid Received:** When only one bid is received, the following options should be evaluated:
- 8.1.23.1 Inquire of those who did not bid to determine the reason for lack of response.
 - 8.1.23.2 Accept or reject the bid based on information received and taking into consideration the City's position favoring competition.
 - 8.1.23.3 Accept the bid if time is crucial and cost is reasonable, as the opportunity for competition was afforded by initial competition.
 - 8.1.23.4 Reject the bid if time permits for re-solicitation.
 - 8.1.23.5 Review specifications, revise if necessary and rebid.
 - 8.1.23.6 The City Administrator may negotiate with the one bidder if the price is over the approved budget or if the Purchasing Manager feels it would be advantageous to the city.

If the lowest responsive bid is considered to be too high, the Purchasing Manager and/or City Administrator shall have the authority to negotiate a lower price.

8.1.24 Tie Bids: In the event two or more bids are received which are equal with respect to price with no evidence of collusive bidding, preference shall be given in the award in the following order:

8.1.24.1 The local bidder's business office is located within the incorporated limits of the City of Fort Smith.

8.1.24.2 Bidder's business office is located within Sebastian County.

8.1.24.3 The Purchasing Manager will draw lots or flip a coin in public.

8.1.25 General Criteria for Award: Recommendations for award of bids are made and/or approved by the requesting Department Director to the lowest, responsive and responsible bidder. In determining the lowest responsive and responsible bidder, the following, in addition to price, shall be considered as a basis for award:

8.1.25.1 The ability, capacity, and skill of the bidder to perform under the terms of the bid documents.

8.1.25.2 Whether the bidder can fulfil the contract or provide the materials or service promptly, or within the time specified, without delay or interference.

8.1.25.3 The character, integrity, reputation, judgment, experience, and efficiency of the bidder

8.1.25.4 The quality of performance of previous contracts and the providing of materials and/or services

8.1.25.5 The previous and existing compliance by the bidder with laws and ordinances relating to the contract, or the providing of materials or services.

8.1.25.6 The sufficiency of the financial resources and ability of the bidder to perform the contract or provide the materials or services.

8.1.25.7 The quality, availability, and adaptability of the supplies, equipment, or contractual services to the particular use required.

8.1.25.8 The ability of the bidder to provide future maintenance and service for the use of the subject of the contract.

8.1.25.9 The number and scope of conditions attached to the bid.

Should there be reason not to recommend an award to the lowest bidder, the decision must be fully explained in a memo from the requesting department for formal evaluation.

8.1.26 Responsiveness vs. Responsibility

8.1.26.1 Responsiveness:

8.1.26.1.1 A responsive bid conforms substantially to all *material* elements of a Bid Solicitation.

8.1.26.1.2 A nonresponsive bid is not valid and must be rejected – it cannot be cured after bids are opened.

8.1.26.1.3 The determination of responsiveness is not discretionary (although it does require interpretation of the standard).

8.1.26.1.4 A contract awarded to a nonresponsive bidder is void.

8.1.26.2 Responsibility:

8.1.26.2.1 Relates to the bidder's qualifications

8.1.26.2.2 Evidence of responsibility is sometimes obtained after the bid opening

8.1.26.2.3 Determining responsibility sometimes involves discretion and judgment by the awarding staff.

8.1.27 Rejection of Bids

The following reasons may be considered causes for rejection of a bid:

8.1.27.1 All prices too high or unbalanced

8.1.27.2 Sufficient funds not budgeted or available

8.1.27.3 An error in the specifications sufficient to have caused confusion and misunderstanding among bidders

8.1.27.4 The item on which bids were requested is no longer needed

8.1.27.5 Lack of adequate competition

8.1.27.6 Noncompliance of specifications

8.1.27.7 Submission of more than one bid in response to a single invitation

8.1.27.8 Lack of adequate work history and/or work experience

8.1.27.9 Debarment of bidder/vendor (*See Section 40*)

A bid must be rejected for any of the following reasons:

1. Does not comply with applicable law.
2. Does not provide what the city seeks to acquire (either too much, or too little).
3. Contains a material defect (waiver would give the bidder a competitive advantage over the other bidders.)

Framework for analyzing responsiveness:

1. Does the bid comply with legal requirements? If not, then reject.
2. Does the bid provide what the city seeks to acquire? If not, then reject.
3. Does the bid contain an error or defect? (Analyze whether the error or defect is material or is waivable).

In the event all bids have been rejected for one or more of the reasons above, Purchasing will notify all of the participants and the city staff involved of the official reason(s) for the ruling and the next step the city may take to fulfill the bid requirement. The bid specifications should be reviewed, and any changes made to reissue the bid solicitation.

8.1.28 Bid Award: It shall be the responsibility of Purchasing, in conjunction with the requesting department, to determine the bid that is the best value for the City. If a recommendation is made to accept a bid other than the apparent low bidder meeting specifications, adequate documentation to justify the rejection of the low bid must be submitted to the Board. After the review and analysis, provided there is no disagreement, an agenda item will be presented to the Board of Directors for their consideration depending upon the approval threshold. Following either Board of Directors approval or award, Purchasing and/or department will prepare a requisition for the award.

9. WAIVER OF COMPETITIVE BIDS

The following types of purchases and contracts are exempt from competitive quotes or bids:

- 9.1. Architectural, engineering, legal, financial and other Professional Services as described in Fort Smith Municipal Code [Section 2-182 \(d\). The procurement provisions of Section 182\(d\) shall be followed.](#)
- 9.2. **Cooperative Contracts:** State, Government Agency, and Organization contracts have already been competitively bid; therefore, the need to bid is satisfied for purchases of this nature. This method of purchase is commonly known as piggybacking and is particularly desirable if time is a constraint or if the chances of obtaining better prices from other sources are poor. Utilization of these sources waives the requirement for a formal competitive bid.
- 9.3. **Sole/Single Source:** Sole Source may be used as a procurement method for the purchase of products or services when available from only one source. Single Source (*non-competitive*) may be used (*when approved by the Board of Directors – [Fort Smith Municipal Code Sec. 2-185](#)*) when there is only one practicable and reasonable source wherein competitive bidding is not feasible or not advantageous to the city. A Sole Source purchase exists when research has determined there is only one potential provider for an item. A Single Source purchase exists when it is advantageous to the City to declare a purchase non-competitive because it will result in verifiable financial savings to the City; is a trial program; or utilizing a competitive process will be detrimental to timely securing the goods or services. More than one potential supplier may exist for a good or service. The Purchasing Manager, in conjunction with the requesting department, will document the advantages of declaring the purchase non-competitive. A Sole/Single Source Request Form must be completed and submitted with each request for sole or single source procurement. (*See Section 5.14*)
- 9.4. **Exempt Items:** These items are exempt from competitive bidding and/or quotes:
 - 9.4.1 Dues and memberships in trades or professional organizations
 - 9.4.2 Subscriptions for periodicals
 - 9.4.3 Legal advertisements
 - 9.4.4 Postage
 - 9.4.5 Expert witnesses
 - 9.4.6 Abstracts of titles for real property
 - 9.4.7 Title insurance for real property
 - 9.4.8 Court reporter services
 - 9.4.9 Water, sewer, electrical, telephone, and other utility services where competition is not feasible
 - 9.4.10 Copyrighted materials not available from multiple sources
 - 9.4.11 Seasonal and recreational service providers
 - 9.4.12 Hospitality services and expenses
 - 9.4.13 Fees and costs of job related to seminars and training
 - 9.4.14 Travel
 - 9.4.15 Artists, music ensembles (bands) and other entertainment providers

10. REQUEST FOR PROPOSALS / QUALIFICATIONS

When selecting firms to provide professional services, and in negotiating contracts for professional services, the following procedures are recommended.

10.1. Request for Qualifications (RFQ): A document issued by the City in order to obtain statements of the qualifications from potential firms or individuals. This is often but not necessarily used prior to the issuance of a Request for Proposal. Proponents that successfully respond are then deemed to be qualified for participating in the RFP process. RFQs may be used to determine interest in a specific identified project or potential future projects.

10.2. Request for Proposals (RFP): The document used to solicit proposals from potential providers for goods and services (Offerors). Price is usually not a primary evaluation factor. Provides for the negotiation of all terms, including price prior to contract award. May include a provision for the negotiation of Best and Final Offers; may be a single step or multi-step process. RFPs are used when desired outcome is known but the approach to be used is uncertain, unclear or needs to be determined.

10.3. Professional Services: Services are procured based upon demonstrated competence and qualification for the type of service required and at a fair and reasonable cost and as further described by [*Fort Smith Municipal Code Sec. 2-182\(d\)*](#).

10.4. Emergencies

In the event of bonafide public emergencies declared by the Board of Directors, compliance with some or all the provisions may be waived.

11. LOCAL VENDOR PREFERENCE

Preference Policy: Vendor preference is the practice of awarding bids to local firms that are not the lowest responsive bidder if their price does not exceed the lowest responsive bidder by an agreed upon percentage.

As stated in [*Fort Smith Municipal Code Sec. 2-188*](#), the City of Fort Smith does support a local vendor policy.

12. INSURANCE, BONDS, LETTERS OF CREDIT

As in the case of bids, the City may require letters of credit, insurance, and/or bonds to protect its interests. Generally, proposals do not require bid bonds.

13. PUBLIC DISCLOSURE

Under the Arkansas Freedom of Information Act citizens have the right to review most documents which are kept by the City in the course of regular business; however with regard to bids, the City does not allow interested parties to examine sealed bids or proposals as

follows: Sealed bids, proposals, or replies received pursuant to a competitive solicitation are sealed from the public or other bidders until such time as the City provides notice of a decision or intended decision or within thirty (30) days after bid or proposal opening, whichever is earlier. If the City rejects all bids, proposals, or replies submitted in response to a competitive solicitation and the City concurrently provides notice of its intent to reissue the invitation to bid or request for proposals, the rejected bids or proposals remain sealed from the public or other bidders until such time as the City provides notice of a decision or intended decision concerning the reissued invitation to bid or request for proposals or until the City withdraws the reissued invitation to bid or request for proposals. A bid, proposal, or reply is not exempt for longer than 12 months after the initial City notice rejecting all bids, proposals, or replies. *Bid tabulation sheets, written communications among City staff members, or City staff analysis of a project are not exempt from public review.*

Purchasing will accommodate vendor telephone and internet requests for bid results to the maximum extent feasible.

14. BIDDER PROTEST

Right to Protest: Any actual or prospective bidder or proposer, who is dissatisfied in connection with a solicitation or award of a bid or contract may protest in accordance with procedures stated herein, as authorized by [Resolution 95-99](#) adopted by the Board of Directors on April 20, 1999, and as otherwise provided by law.

14.1. Types of Protest

There are three basic types of protests:

1. Pre-bid Solicitation: Protest is received prior to the bid opening or proposal due date. Pre-bid protests are those based on the content of the initial solicitation published by the City requesting bids from vendors or other interested parties.
2. Pre-award Protest: Protest following recommendation for award and is received after receipt of bids or proposals, but prior to award of a contract.
3. Post-award Protest: Protest received after award of a contract. A post- award generally alleges a violation of applicable federal or State law and/or City policy or procedures relative to the seeking, evaluating, and/or awarding of the contract.

14.2. Protest of Specifications (Prior to Bid Opening)

Any protestor (actual or prospective bidder, or contractor), who is aggrieved in connection with the solicitation of a contract or bid, may protest on the grounds of irregularities in specifications or bid procedure. Such protest must be filed within three (3) business days (excluding weekends and holidays) from the time the facts become known and, in any case, at least five (5) business days prior to the opening of the bid.

The protest must be made in writing to the Purchasing Manager and shall state the particular grounds on which it is based and shall include all pertinent documents and evidence. No bid protest shall be accepted unless it complies with the requirements of this section. Failure to timely protest bid specifications, requirements; and/or terms is a waiver of the ability to protest.

In the event of a timely protest prior to bid opening, the City may proceed further with

the solicitation or with the award of the contract unless the Purchasing Manager makes a written determination that the protest should be sustained.

14.3. Protest of Award Recommendation (After Bid Opening)

Any protest after the bid opening, including challenges to actions of any evaluation of the selection committee shall be submitted in writing to the Purchasing Manager.

The Notice of Intent to File a protest must be received by the Purchasing Manager no later than 4:00 PM local time on the third business day (excluding weekends and holidays) following the day of the protestor's receipt of the City's notice of award recommendation.

The Notice of Intent to File a protest document shall state all grounds being claimed for the protest and clearly indicate, in their document, that they are intending to file a formal written protest.

The affected party must then file a Formal Written Protest within ten calendar days after the time for the filing of the Notice of Intent to File a Protest has expired. The Formal Written Protest shall contain the following:

1. City bid/proposal identification number and title
2. Name and address of the affected party and the title or position of the person submitting the protest
3. A statement of all claimed disputed issues of material fact. If there are not disputed facts, the formal protest must so indicate
4. A concise statement of the facts alleged and the rules, regulations, statutes, or constitutional provisions which entitle the affected party to relief
5. All information, documents, other materials, calculations, and any statutory or case law authority in support of the grounds for the protest
6. A statement indicating the relief sought by the affected protesting party
7. Any other relevant information that the affected party deems to be material to the protest

14.4. Upon receipt of timely filed Notice of Intent to File a Protest, the Purchasing Manager will abate the award process of the formal bid/proposal, as appropriate, until the protest is heard pursuant to the informal hearing process as outlined below, unless the City Administrator shall find and set forth in writing particular facts and circumstances that would require an immediate award of the formal bid/proposal for the purpose of avoiding a danger to the public's health, safety, or welfare. Upon such written finding by the City Administrator, an expedited protest hearing may be authorized.

14.5. Protest of Award (After Bid Award)

A post-award protest must be received within five (5) business days (excluding weekends and holidays) of the award date. Depending on the Purchasing category and/or the awarding authority, the Purchasing Manager, City Administrator, or Board of Directors shall have the authority to settle and resolve a post-award protest concerning the award of a bid.

If the bid protest is not resolved by mutual agreement, the City Administrator and the

City Attorney shall promptly issue a decision in writing. The decision shall specifically state the reasons for the action taken and inform the protestor of his/her right to challenge the decision. Their decision is final.

14.6. Filing For Protest: All protests must be filed in writing to: City of Fort Smith, Purchasing Manager, 623 Garrison Avenue, Ste. 512, Fort Smith, Arkansas 72901 or by submitting an email to purchasing@fortsmithar.gov.

14.7. Prevention of Bid Protests

There are four (4) opportunities for the prevention of Bid Protests:

14.7.1 While developing solicitation document:

14.7.1.1 Ensure specification quality

14.7.1.2 Communicate with bidders (RFI and Q&A)

14.7.1.3 Develop fair, non-restrictive specifications

14.7.1.4 Translate subjective evaluation criteria into measurable, objective criteria; determine evaluation criteria; state the criteria and award standard in the solicitation document

14.7.2 While bidders are developing their bids:

14.7.2.1 Allow written questions (due by a specific date)

14.7.2.2 Carefully consider the questions to determine if a change is needed

14.7.2.3 Respond to the questions through addenda, and change the specifications if necessary

14.7.2.4 Postpone the bid deadline if required

14.7.3 While bids are being evaluated:

14.7.3.1 Evaluate bids based solely on the criteria in the solicitation document

14.7.3.2 If a key criterion is not expressed in the solicitation document, start over

14.7.3.3 Document and support all considerations not related to price

14.7.4 After determination of award:

14.7.4.1 Post notice of award

14.7.4.2 Debrief unsuccessful bidders regarding the evaluation process

14.7.4.3 Once a contract is in place, monitor contract performance & document any concerns.

15. SPECIFICATIONS

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

Use of Standardization

Standardization takes advantage of lower prices from buying in bulk. It also lowers the administrative cost of purchasing by reducing the total number of purchases made. Standardization consists of consolidating similar requirements into a single specification, whenever possible and shall be the responsibility of the department head or designee.

Use of Specifications

Specifications are a clear and complete description of the essential requirements that items should meet. Well-written specifications ensure that maximum value is being obtained for the public funds spent; and, all qualified vendors, large and/or small, are able to compete on an equal basis.

15.1 Types of Specifications

City staff will usually prepare their own specifications, although professional assistance may be necessary for items of a highly specialized or technical nature from time to time. It must be emphasized that specifications must be clear and accurate, updated regularly to reflect technological or market changes, and most of all, avoid the use of restrictive or unfair details that preclude or reduce competition.

15.1.1 Open Specification: An open specification describes all physical and functional features, may incorporate words or phrases from widely accepted industry or governmental standards and approved in accordance with the procedures outlined in this section.

15.1.2 Design Specification: Design specifications describe in detail precise configuration measurement, tolerance, material, standard or a method of testing or inspection.

15.1.3 Performance Specification: Performance specifications describe a result or capability that must be achieved by an item such as speed, output maintainability, or reliability.

15.1.4 Brand Name or Equal Specification Conditions for Use: Brand name or equal specifications may be used with the approval of the Purchasing Manager subject to the following factors:

15.1.4.1 No other design or performance specification or qualified products list is available;

15.1.4.2 The nature of the product or the nature of the City's requirements makes use of a brand name or equal specification suitable for the procurement, and;

15.1.4.3 Use of a brand name or equal specification is in the City's best interests.

15.1.5 Designation of Several Brand Names: Brand name or equal specifications shall seek to designate three, or as many different brands as are practicable, as "or equal" references and shall further state that substantially equivalent products to those designated will be considered for award.

15.1.5.1 Required Characteristics: Unless the Purchasing Manager determines in writing that the essential characteristics of the brand names included in the specifications are commonly known in the industry or trade, brand name or equal specifications shall include a description of the particular design, functional, or performance characteristics which are required.

15.1.5.2 Nonrestrictive Use of Brand Name or Equal Specifications: Where a brand name or equal specification is used in a solicitation, the

solicitation shall contain explanatory language that the use of a brand name is for the purpose of describing the standard of quality, performance, and characteristics desired and is not intended to limit or restrict competition.

15.2 Brand Name Specifications

Since use of a brand name specification is restrictive of product competition, it may be used only when the Purchasing Manager determines that:

15.2.1 Only the identified brand name item or items will satisfy the city's needs.

15.2.2 The Purchasing Manager shall seek to identify sources from which the designated brand name item or items can be obtained and shall solicit such sources to achieve whatever degree of price competition is practicable. If only one source can supply the requirement, the procurement shall be made under Section 5.14.

16. SPECIFICATION DEVELOPMENT AND APPROVAL

16.1. Research

The user department – Shall determine its needs, research available and alternative products by means of manufacturer product brochures or contacts with salespersons and prepare and compile a detailed description that can be incorporated into a specification format.

16.2. Approval Procedure

16.2.1 Initiating Specification Development: The user department shall prepare specifications.

16.2.2 Specification Development: The requisitioning departments shall be responsible for the completeness and accuracy of the specifications. Such specifications shall be submitted to the Purchasing Manager with the source of specifications when submitted.

16.2.3 Approval of Specifications: All specifications and revisions to specifications shall be approved by the Department Head and the Purchasing Manager.

16.3. Specification Content

Specifications must be clear, detailed, accurate, well organized and uniformly consistent in format. Specifications constitute a reflection of the city and its staff due to their nature of contact with many vendors. Instructions to Bidders and General Conditions shall be a part of every specification but may be modified as necessary.

17. BONDS AND INSURANCE

17.1. Bonds

Bonds offer tangible protection in the form of monetary assurances that the bidder will meet his/her obligations. Bonds must be secured by the bidder at his/her own cost, and generally may be classified as follows:

- 17.1.1 Bid Bond: This is a document, usually in an amount of 5% of the bid, which guarantees that the bidder will enter into a contract with the City if he/she wins the award. Bid bonds protect the city from erroneous or deliberate low bids which the vendor has no intention of honoring. Should he/she fail to enter into a contract, the bid bond is forfeited. Bid bonds must be submitted with the bid. Bid Bonds may be required where the contract price exceeds \$50,000.
- 17.1.2 Performance Bond: This bond is a surety instrument guaranteeing that the vendor will perform according to the terms of the contract and is generally in an amount of 100% of the bid. This bond affords protection from nonperformance and/ or non-completion of major contracts, the efforts of which could result in considerable injury to the City. Should the vendor default, the bond is cashed, and the City may then utilize the funds to complete the contract with another vendor. Performance bonds are submitted upon award of the contract.
- 17.1.3 Payment Bond: This bond guarantees payment from subcontractors and suppliers providing goods and services to the general contractor, who is under contract to the City. The payment bond relieves the City of financial liens against a project should the general contractor fail to pay his/her suppliers and subcontractors. These creditors will look to the bond for payment. Payment bonds are submitted upon award of the contract.
- 17.1.4 Labor & Material Bond: Same requirements as the Payment Bond. The bond guaranty may, at the discretion of the City, be in the form of a cashier's check, bank money order, bank draft of any national or State bank, certified check, or surety bond, payable to the City. The surety on any bid bond shall be a company recognized to execute bid bonds for contracts of the Federal Government.
- 17.1.5 Letter of Credit: Preferred in the case of certain construction projects or multiyear contracts. Must be irrevocable.

18. INSURANCE TERMS AND CONDITIONS

Insurance is required to safeguard the city from any claims resulting from damage to property and/or injury to persons caused by the vendor or his actions. The vendor, at their own expense, must secure insurance policies that name the City of Fort Smith as an “additional insured” party. The insurance guidelines in this section are applicable to all agreements, contracts, and leases. Incorporation of the provisions of this section shall be adhered to as closely as possible and as practical to the specific commodity, repair, service, or construction. Insurance guidelines include basic coverage requirements, one or more of which should be chosen for individual agreements, or contracts on an as-needed basis. Agreements, contracts, and leases shall contain risk management/insurance terms to protect the City’s interests.

18.1 City Defined - The term City (wherever it may appear) is defined to mean the City of Fort Smith, its Board, officers, employees, volunteers, representatives, and agents.

18.2 Other Party Defined - The term Other Party (wherever it may appear) is defined to mean the other person or entity which is party to an agreement or contract, any

subsidiaries or affiliates, officers, employees, volunteers, representatives, agents, or contractors and subcontractors.

18.3 Hold Harmless - The Other Party agrees to hold the city harmless against all claims for bodily injury, sickness, disease, death, or personal injury or damage to property or loss of use resulting there from, arising out of an agreement, contract, or lease unless such claims are a result of the City's sole negligence. The City shall also be held harmless against all claims for financial loss with respect to the provision of or failure to provide professional or other services resulting in professional, malpractice, or errors or omissions liability arising out of performance of an agreement or contract, unless such claims are a result of the City's sole negligence.

18.4 Payment on Behalf of the City - The Other Party agrees to pay on behalf of the city, and to pay the cost of the city's legal defense, as may be selected by the city, for all claims described in the Hold Harmless paragraph. Such payment on behalf of the City shall be in addition to any and all other legal remedies available to the city and shall not be considered to be the city's exclusive remedy.

18.5 Loss Control/Safety - Precaution shall be exercised at all times by the Other Party for the protection of all persons, including employees and property. The Other Party shall be expected to comply with all laws, regulations, or ordinances related to safety and health, shall make special effort to detect hazardous conditions, and shall take prompt action where loss control/safety measures should reasonably be expected. The city may order work to be stopped if conditions exist that present immediate danger to persons or property. The Other Party acknowledges that such stoppage will not shift responsibility for any damages from the Other Party to the city.

19. GENERAL INSURANCE REQUIREMENTS

The Other Party shall procure and maintain the described insurance, except for coverages specifically waived by the City, on policies and with insurers acceptable to the City. These insurance requirements shall not limit the liability of the Other Party. The City does not represent these types or amounts of insurance to be sufficient or adequate to protect the Other Party's interests or liabilities but are merely minimums. Except for workers' compensation and professional liability, the Other Party's insurance policies shall be endorsed to name the City as an additional insured to the extent of the City's interests arising from this agreement or contract. Except for workers' compensation, the Other Party waives its right of recovery against the City, to the extent permitted by its insurance policies. The Other Party's deductibles/self-insured retentions shall be disclosed to the City and may be disapproved by the City. They shall be reduced or eliminated at the option of the City. The Other Party is responsible for the amount of any deductible or self-insured retention. Insurance required of the Other Party or any other insurance of the Other Party shall be considered primary, and insurance of the City shall be considered excess, as may be applicable to claims which arise out of the Hold Harmless, Payment on Behalf of City, Insurance, Certificates of Insurance and any Additional Insurance provisions of this agreement, contract or lease. If requested by the City, the Other Party shall furnish complete copies of the Other Party's insurance policies, forms and endorsements. For Commercial General Liability coverage, the Other Party shall, at the option of the City, provide an indication of the amount of claims payments or reserves

chargeable to the aggregate amount of liability coverage.

20. CERTIFICATES OF INSURANCE

The Contractor shall procure and maintain required insurance coverages documented on Certificates of Insurance. Such policies shall be from insurers with a minimum financial size of VIII according to the latest edition of the AM Best Rating Guide. An “A” or better Best Rating is “preferred;” however, other ratings if “Secure Best Ratings” may be considered. Required insurance shall be documented in Certificates of Insurance which provide that the City shall be notified at least 30 days in advance of cancellation, nonrenewal or adverse change. New Certificates of Insurance are to be provided to the City at least 15 days prior to coverage renewals. The City shall be named as certificate holder; and, except for workers compensation and professional liability, the Certificates of Insurance shall document the City as additional insured to the extent of the City’s interests arising from the agreement, contract, or lease. Receipt of certificates or other documentation of insurance or policies or copies of policies by the City, or by any of its representatives, which indicate less coverage than required does not constitute a waiver of the Other Party’s obligation to fulfill the insurance requirements herein.

21. Basic Insurance Coverages Required

21.1. Commercial General Liability - Commercial General Liability for public liability during the lifetime of a contract shall have minimum limits of \$1,000,000 per claim, \$1,000,000 per occurrence for Personal Injury Bodily Injury, and Property Damage Liability. Coverage shall include Premises and/or Operations, Independent Contractors, Products and/or Complete Operations, Contractual Liability and Broad Form Property Damage Endorsements. Coverage shall not contain an exclusion or limitation endorsement for Contractual Liability or Cross Liability. Coverage for the hazards of explosion, collapse and underground property damage (XCU) must also be included when applicable to the work to be performed. All insurance policies shall be issued by a company or companies with a Best’s rating of no less than A. All policies shall be on an occurrence made basis. The City shall not accept claims made policies. Specific endorsements will be requested depending upon the type and scope of work to be performed.

21.2. Professional Liability - The Other Party shall agree to maintain Professional Liability or equivalent Errors & Omissions Liability at a limit of liability not less than \$1,000,000 Per Occurrence. When a Self-insured Retention (SIR) or deductible exceeds \$10,000, the City reserves the right, but not the obligation to review and request a copy of the Other Party’s most recent annual report or audited financial statement. For policies written on a “Claims Made” basis, the Other Party warrants the retroactive date equals or precedes the effective date of this contract. In the event the policy is canceled, non-renewed, switched to an Occurrence Form, retroactive date advanced; or any other event triggering the right to purchase a Supplemental Extended Reporting Period (SERP) during the life of a Contract, the Other Party shall agree to purchase a SERP with a minimum reporting period not less than three (3) years. Use with consultants or engineers only.

21.3. Business Auto Policy - The Other Party shall agree to maintain Business Automobile

Liability at a limit of liability not less than \$500,000 each occurrence for all owned, non-owned and hired automobiles. In the event the Other Party does not own any automobiles, the Business Auto Liability requirement shall be amended allowing the Other Party to agree to maintain only Hired & Non-Owned Auto Liability. This amended requirement may be satisfied by way of endorsement to the Commercial General Liability, or separate Business Auto Coverage form.

21.4. Workers Compensation Coverage - The Other Party shall purchase and maintain workers compensation insurance for all workers compensation obligations imposed by state law and employers' liability coverage with limits of at least \$100,000 each accident, \$100,000 each disease/employee and \$500,000 per disease/policy limit. The Other Party shall also purchase any other coverage required by law for the benefit of employees.

21.5. Additional Insured Requirements - Except as to Workers' Compensation and Employers' Liability, said Certificate(s) shall clearly state that coverage required by the contract has been endorsed to include the City of Fort Smith, a political subdivision of the State of Arkansas, its officers, agents and employees as Additional Insured with a CG 2026 Designated Person or Organization endorsement, or similar endorsement, to its' Commercial General Liability. The name for the Additional Insured endorsement issued by the insured shall read "City of Fort Smith," political subdivision of the State of Arkansas, its officers, employees and agents along with the Contract and Bid number. The Certificate of Insurance shall unequivocally provide thirty (30) days written notice to the City prior to any adverse changes, cancellation, or nonrenewal of coverage there under. Said liability insurance must be acceptable by and approved by the City as to form and types of coverage. In the event that the statutory liability of the City is amended during the term of this agreement to exceed the above City, to provide coverage at least equal to the amended statutory limit of liability of the City.

21.6. Indemnification - The Other Party shall indemnify, defend and hold harmless the City, its representatives, employees and elected and appointed officials, from and against all claims, costs, demands, legal fees, costs of action, losses, damages or other expenses arising as a result of any negligent act, conduct, error or omission by the City, its agents, employees in the performance of this contract or occasioned wholly or in part by any negligent act, conduct, error or omission by the Other Party, or its agents, employees or subcontractors, in the performance of this contract.

22. SELECTION OF INSURANCE REQUIREMENTS

Although the city enters into a wide variety of agreements or contracts each year, the majority of these are grouped into three general types for risk management purposes.

22.1 Repair, Service, Supply: Equipment repair, janitorial services, electrical, plumbing, roofing, services, chemical supply, etc.

22.2 Construction Projects: Building construction or renovation, road, sewers, etc.

22.3 Professional Services: Architects, engineers, or other consultants providing professional services.

23. INSURANCE SELECTION PROCEDURE

- 23.1 The Purchasing Manager shall assist the user department in determining the verbiage and insurance coverages to include in agreements, contracts and leases. Such concerns are usually launched in the solicitation process.
- 23.2 The user department shall supply to the Purchasing Department a brief narrative of the project scope, general work activities and any special/possible risk concerns peculiar to the project.
- 23.3 The Purchasing Manager shall determine what the final verbiage, insurance types and coverages should be for the project.
- 23.4 The Purchasing Manager will ensure the inclusion of these project specific guidelines from them in the solicitation and/or in preparation of agreements, or contracts.
- 23.5 Post-award Compliance will be provided by the Purchasing Manager. The awardee will be notified of the award and the compliance requirements to manifest itself in Certificate(s) of Insurance. Any deficiencies are to be discussed with the contractor by the Purchasing Manager and the contractor shall take measures to have such deficiencies corrected; and new Certificate(s) of Insurance will be sent to the Purchasing Division who will provide final sign-off when fully compliant.

24. PROCUREMENT INVOLVING STATE OR FEDERAL FUNDS

All goods and services obtained using State or Federal funds shall be in compliance with applicable state and federal laws and regulations. Whenever this policy is more restrictive than the state or federal laws or regulations, the provisions of this City policy shall be followed.

25. FEDERAL PURCHASING PROCEDURES

When procuring property or services under a federal award, the City must use its own documented procurement procedures which reflect applicable State, local, and tribal laws and regulations, provided that the procurements conform to applicable Federal law and standards found in [*ECFR 200.318 General procurement standards through ECFR 200.327 Contract provisions.*](#)

Procurement Standards

Federal related purchases will follow the same procedures and policies for all purchases except when they conflict with federal procurement standards. In those instances, purchases made involving Federal Funding including FEMA disaster relief will comply with the more restrictive of the two standards.

25.1 Federal standards are broken down into the following categories:

- 25.1.1 General procurement standards (CFR § 200.318)
- 25.1.2 Competition (CFR § 200.319)
- 25.1.3 Methods of procurement (CFR § 200.320)
- 25.1.4 Contracting with small and minority businesses, women's business enterprises, and labor surplus area firms (CFR § 200.321)

- 25.1.5 Domestic preferences for procurements (CFR § 200.322)
- 25.1.6 Procurement of recovered materials (CFR § 200.323)
- 25.1.7 Contract cost and price (CFR § 200.324)
- 25.1.8 Federal awarding agency and pass-through entity review (CFR § 200.325)
- 25.1.9 Bonding requirements (CFR § 200.326)
- 25.1.10 Contract provisions (CFR § 200.327 and Appendix II)

25.2 Federal standards require the city to:

- 25.2.1 Maintain oversight of contractors to ensure that contractors perform in accordance with the terms, conditions, and specific contract administration system ensuring that contractors perform as required
- 25.2.2 Maintain a written code of standards of conduct covering conflicts of interest and governing the performance of employees engaged in the selection, award, and administration of contracts, and avoid conflicts of interest
- 25.2.3 Maintain procedures that provide for a review to avoid purchase of unnecessary or duplicative items; make lease versus purchase determinations
- 25.2.4 Award only to responsible contractors
- 25.2.5 Maintain sufficient records to detail the significant history of a procurement
- 25.2.6 Be responsible for the settlement of all contractual and administrative issues

25.3 Open Competition

- 25.3.1 All responsible sources shall be permitted to compete for purchases involving Federal funding.
- 25.3.2 Contractors that develop or draft specifications, requirements, statements of work, or invitations for bids or proposals must be excluded from participating in such procurements.
- 25.3.3 Federal procurement does not allow for:
 - 25.3.3.1 Unreasonable qualification requirements
 - 25.3.3.2 Requiring unnecessary experience and bonding
 - 25.3.3.3 Noncompetitive pricing practices between firms
 - 25.3.3.4 Noncompetitive awards to consultants on retainer
 - 25.3.3.5 Organizational conflicts of interest
 - 25.3.3.6 Specifying a “brand name” product only instead of allowing an “equal” product
 - 25.3.3.7 Any arbitrary action in the procurement process

26. ARKANSAS FREEDOM OF INFORMATION ACT

Procurement information shall be public record to the extent required by the [Arkansas Freedom of Information Act \(FOIA\)](#). Commercial or financial information obtained which is determined to be privileged and confidential shall not be disclosed.

27. SAFETY DATA SHEETS (SDS)

Whenever procurement involves chemicals requiring Material Safety Data Sheets (MSDS), all procedures within the [KHA Online SDS](#) shall be followed.

28. CITY BUSINESS LICENCE

Any company or person conducting business with, or on behalf of the City of Fort Smith shall obtain a [City Business License](#) in compliance with the City of Fort Smith's Code of Ordinances.

29. FACILITATING PROCUREMENT OPPORTUNITIES FOR SMALL AND MINORITY AND WOMEN OWNED PROGRAM (M/WBE)

Based on "good faith efforts", it is the policy of the City of Fort Smith to provide small businesses, minorities, and women equal opportunity for participating in all aspects of the City's contracting and procurement programs, including but not limited to, construction projects, supplies and materials purchase, and professional and personal service contracts.

It is in the best interest of the city to maximize participation in city procurement processes and to provide opportunities for participation by diverse vendors. The Purchasing Department will encourage and facilitate the participation of small businesses and businesses owned by women, minorities and service-disabled veterans in procurement transactions with the city.

The Purchasing Department will focus on continued identification of and create awareness of the benefits of working with small businesses and businesses owned by women, minorities and service-disabled veterans through outreach, marketing, education and training.

30. ENVIRONMENTAL PURCHASING

The purpose of this policy is to ensure that environmental consideration is included in the decision-making process when procuring materials, products, or contracted services, and to provide city staff with the necessary tools, information and procedures to make environmentally preferable purchases.

Environmental purchasing is defined as the procurement of goods and services that have less environmental and social impacts than competing products and services. The Purchasing Manager shall encourage, wherever possible, specifications which provide for expanded use of durable goods and reusable goods containing the maximum post-consumer waste and recyclable content without affecting the intended use. Environmental factors to be considered may include recycled content, pollutant releases, waste generation, energy consumption, depletion of natural resources and potential impact on human health and the environment.

City staff shall support the purchase and use of recycled/recyclable supplies and materials and other environmentally preferable products as a City-wide priority. Staff is encouraged to adhere to these policies and procedures whenever feasible, including:

- Support waste prevention, recycling, and the use of recycled/recyclables materials.
- Strive to generate less waste by reviewing how supplies, materials, and equipment are manufactured, purchased, packaged, delivered, used, and disposed.
- Identify and purchase environmentally preferable higher valued products and durable goods that are replaced infrequently.
- Support the purchase and use of materials and supplies, including janitorial cleaning

- products, which reduce resource consumption and waste, promote human health and well-being, and have the least damaging and most beneficial environmental impact, while performing adequately; all in a fiscally responsible manner.
- Replace conventional incandescent lighting with environmentally preferable alternatives such as compact fluorescent light bulbs (CFL) or Light Emitting Diode (LED) lighting.

31. UNAUTHORIZED PURCHASES

No purchase of supplies, services, or equipment shall be made without authorization as described within this manual. No representative of the city shall enter into a verbal agreement or make any arrangements until final approval is granted. In the event that an unauthorized purchase is made, the following may apply: (1) such purchases are void and not considered an obligation of the City; and (2) the person ordering the unauthorized purchase may be held personally liable for the costs of the purchase or contract.

32. NONCOMPLIANCE CONSEQUENCES

Attempts to circumvent competitive bidding practices provide severe penalties for anyone who intentionally or knowingly makes or authorizes separate, sequential or component purchases. A formal Purchasing violation notice may be issued and kept on record for noncompliance or city policy violations. These terms are defined as follows:

- **Separate Purchases:** Purchases made separately of items that, in normal practice, would be bought in one purchase.
- **Sequential Purchases:** Purchases made over a period of time that, in normal purchasing practice, would be bought in one purchase.
- **Component Purchases:** Purchases of parts of an item that, in normal purchasing practice, would be bought in one purchase.

33. PROHIBITION AGAINST SUBDIVISION

No contract or purchase shall be subdivided to avoid the requirements of the Purchasing Manual. Delegated procurement authority is based on the total cost of goods and/or service. Splitting an order so that the total cost is within one's spending authority is prohibited.

34. TAX EXEMPT STATUS

34.1. FEDERAL EXCISE TAX

The City of Fort Smith is exempt from Federal Excise Tax. The Purchasing Manager or other authorized personnel signs exemption certificates when applicable.

34.2. SALES AND USE TAX

The city pays City, County, and State taxes at the rates established at the time of purchase on non-exempt commodities and services purchased within the city, county, and state. See [Fort Smith Tax Rate](#) for more information.

Items bought from out of state vendors are subject to a Use Tax.

The city is exempt from Sales and Use Taxes on many items and investigation with tax authorities should be pursued for an exemption verification, especially as to (but not limited to):

- Professional dues
- Professional and trade publications purchased through regular subscription
- Motor vehicles & motorized equipment
- Pollution control devices
- Newspapers, Publications, & Billboards
- Advertising

The City does not have a “Tax Exempt Number” or “Sales and Use Tax Exemption Number”; such numbers do not exist since the City is not tax exempt. We are exempt by law on certain items because we are a municipality. Purchasing can provide a letter to the vendor with reference to the Arkansas tax exemption rule(s) when necessary.

Use Tax will only be paid to the State of Arkansas for out-of-state vendors that do not have nexus with the state. Sales tax is paid directly to vendors that charge the city sales tax on their invoices.

35. FREIGHT

Most purchases require shipping materials to the city. The cost of shipping is either paid directly by invoice, or indirectly when shipping is included in the quoted price of the goods. Once shipping terms are established, they are specified on the purchase order. Please note that freight is a taxable expense.

The following terms are designated shipping arrangements:

- **Title and Control of Goods**
FOB Destination (FOB FORT SMITH)
The seller retains the title and control of the goods, and the invoice covering them does not become payable until they are delivered. The seller selects the carrier and is responsible for the risk of transportation, including the filing for loss or damages. *This is the preferred method of delivery.*
- *FOB Shipping Point*
The purchaser assumes title the moment the carrier signs the bill of lading. The purchaser assumes risk of transportation, is entitled to route the shipment, is responsible for getting the goods to the destination, and for filing claims for loss or damage – regardless of who pays freight charges.

36. CONTRACT TERMS

Unless otherwise provided by law or Board authorization, a contract or bid award may be entered into for a period not to exceed three (3) years provided that the term of the contract / award is included in the solicitation and subject to the following:

- Funds are available for the first fiscal period of the contract /award.
- Extensions of the contract /award for subsequent fiscal years are subject to availability and appropriation of funds. Solicitation for a multi-year contract / award shall include a non-appropriation clause.

Unless otherwise provided by law, the Board of Directors may enter into a contract or bid award for a period exceeding three (3) years when the Board of Directors deems the contract or award is in the City's best financial interest to approve a longer term.

37. VENDOR RELATIONS

The City of Fort Smith strives to develop effective relationships with vendors and encourages full and open competition wherever possible. The City also endeavors to maintain strong enduring relationships with vendors of proven ability and desire to meet our needs. To accomplish this, our purchasing activities will be conducted so that vendors will value our business and make every effort to furnish our requirements on the basis of quality, service and price. The relationship between the purchaser and seller is one of mutuality.

If the user department/division experiences problems with a vendor pertaining to delinquent delivery, quality of product or service, invoicing problems, etc., notify the Purchasing Department as soon as possible. These issues should be handled professionally, and persistent problems should be documented in writing for future vendor evaluation.

The City will purchase only from suppliers who have adequate financial strength, high ethical standards, and a record of adhering to specifications, maintaining shipping promises and giving full measure of services. New sources of supply will be given due consideration as multiple sources of supply are necessary to ensure availability of materials and promote competition.

It is essential to develop and maintain goodwill between the City of Fort Smith and its suppliers. The reputation of the city can be promoted by:

1. Giving all salespersons a full, fair, prompt, and courteous hearing.
2. Keeping competition open and fair.
3. Keeping specifications fair and clear.
4. Cooperating with the seller and considering their difficulties in providing the service or products.
5. Having consistent buying policies and principles.
6. Observing strict truthfulness in all transactions and in correspondence.
7. Respecting the confidence of the salespersons or their company as to confidential information.
8. Keeping free from obligation to any vendor.

Department Contact with Vendors - In the day-to-day conduct of their duties, department employees are often in contact with potential vendors and suppliers. While it is sometimes desirable for employees to be in a position to recommend certain products, no department shall attempt to place orders with vendors, except as described in this manual.

Initial Vendor Contact – If a vendor is not already registered with the City, they will need to do so using the [Vendor Self-Service \(VSS\) Portal](#).

38. COMPLAINTS BY VENDORS

A vendor shall have the right to present a complaint, dispute or grievance concerning unfair treatment, contracts, deliveries, payments, restrictions, and other incidents. The following steps are intended to provide uniform procedures for a vendor to express their concern and obtain remedy.

Step One - Vendor must file a grievance with the Purchasing Manager no later than seven (7) calendar days after the occurrence of the dispute or incident. The complaint must be in writing and include all supporting data and desired solution or remedy. The Purchasing Manager shall forward a copy of the complaint to the user department who shall provide a written reply within ten (10) days to the Purchasing Manager who will review and if in agreement, forward on to the vendor.

Vendor Protest – The process for handling a protest related to a bid or the award thereof is included in Section 14 of this manual.

39. LOBBYING

Lobbying is the act of influencing or attempting to influence action or non-action or attempting to obtain the goodwill of persons specified herein relating to the selection, ranking, or contract award in connection with any City solicitation including Request for Bid, Request for Proposal, Request for Qualification, Request for Information or Quote Request through direct or indirect oral or written communication. Any evaluation committee member, City employee or elected official who has been lobbied shall immediately report the lobbying activity to the Purchasing Manager.

Lobbying is prohibited on all City competitive selection process and contract awards in order to protect the integrity of the procurement process by shielding it from undue influences prior to contract award, resolved protest, or the competitive selection process has concluded. The prospective bidder or respondent may contact the Purchasing Department to address situations such as clarification and questions related to the procurement process or protest.

Lobbying of evaluation committee members, City employees, or elected officials regarding a city solicitation by the prospective bidder or respondent is strictly prohibited from the date of the advertisement until an award is final, any protest is finally resolved, or the competitive selection process has concluded. Any lobbying activities in violation of this section on behalf of the prospective bidder or respondent shall result in the disqualification or rejection of the solicitation.

40. DEBARMENT OF VENDORS

Debarment may occur by the federal government, the state or the city, when there is evidence of improper conduct, including, but not limited to, fraud, collusion, and attempts to improperly influence a bid process or indictment by the bidder/contractor.

- 40.1 **Debarment Procedure** - After reasonable notice to a vendor of continued performance issues or other uncorrected problem areas, the Purchasing Manager, after consulting with the City Attorney, is authorized to debar a vendor for cause from consideration for award of contracts, for a period of not more than three (3) years. Causes for debarment include:
- 40.1.1 Conviction of a criminal offense as an incident to obtaining or attempting to obtain a public or private contract.
 - 40.1.2 Conviction under State or federal statutes of any offense indicating a lack of business integrity or business honesty. Examples include embezzlement, theft, forgery, bribery, collusion, and other public entity crimes.
 - 40.1.3 Conviction under State or federal antitrust statutes arising out of the submission of bids or proposals.
 - 40.1.4 Violation of contract provision of sufficient seriousness that the Purchasing Manager, with approval of the City Attorney, considers debarment appropriate. This would include failure to perform or unsatisfactory performance of a contract or bid.
 - 40.1.5 Any other cause that the Purchasing Manager determines to be so serious as to affect responsibility as a contractor to the city. Any vendor being debarred will be notified in writing by the Purchasing Manager. All reasons for the action being taken will be explained. The decision to debar the vendor is final unless otherwise overridden by the City Administrator.

- 40.2 **Reinstatement** - A person or corporation may be reinstated to do business with the City under the following conditions:
- 40.2.1 Discovery of new and material evidence not previously available
 - 40.2.2 Dismissal of indictment or reversal of conviction, or
 - 40.2.3 Bonafide change in ownership or management sufficient to justify a finding of present responsibility.

The request for reinstatement shall be forwarded in writing to the Purchasing Manager. The City Administrator shall determine whether to reinstate based on written submission of evidence of one or more of the above conditions.

41. ANNUAL CONTRACTS

Annual contracts are awarded to vendors for supplies, equipment and services routinely required by one or more departments/divisions. Contracts protect pricing for a one-year period and allow a user department to place orders directly to the vendor. This eliminates requisitions and processing time.

42. LEASE PURCHASES

It is the policy of the City of Fort Smith to limit the leasing of assets. The City of Fort Smith will permit leases if the justification shows the total lease cost and benefits of leasing will meet or exceed the cost to purchase and the majority of the lease end purchase price, including inherent liabilities, for the lease term. Lease financing due solely to budget constraints requires City Administrator and Chief Financial Officer approval prior to bid.

All lease purchases or capital leases shall be coordinated with the Finance Department. This type of purchase and financing is unique and is accounted for through debt service funds, not the customary departmental expenditure accounts.

Lease agreements, if they extend beyond one (1) fiscal year, must contain a non-appropriation clause and assurances that there is no recourse against the City for failure to renew the lease.

43. DISPOSAL OF SURPLUS ITEMS

All tangible and intangible City property must be declared surplus by the City Board of Directors prior to being disposed of. The Purchasing Manager is responsible for the disposition of surplus items that have been declared surplus by the Board of Directors. The Purchasing Manager shall have the authority to sell by auction or advertised bid, trade, donate, or sell to another government entity, destroy, scrap, classify as waste, or dispose of excess surplus and obsolete supplies or personal property, regardless of the dollar amount. Records of such disposition shall be maintained in the Purchasing Department.

Purchasing facilitates the final disposition of City-owned surplus property, ranging from rolling stock (automobiles, trucks, tractors, backhoes, etc.) to antiquated equipment, furniture, or fixtures. Disposal of this surplus property may be sold online and can be listed and viewed at GovDeals.com or when necessary, by public auction.

Surplus Property is to be maintained by each department. It is suggested that as surplus properties become available, notice of the items should be circulated to all departments/divisions to determine whether any items could be used in other areas of the City prior to going to auction.

Due to limited storage space, department/divisions are requested to retain the item(s) and provide pictures to enable placement of the item(s) for redistribution or for an online auction.

Property that has no monetary value and use to the City may be disposed of by the Purchasing Manager at the City Landfill or other authorized disposal site upon the determination and certifications of the Purchasing Manager and the Department Director, certifying that the property has no monetary value and use. In the event the above conditions have been satisfied, the Purchasing Manager may donate the property to a charity, church, or nonprofit organization. Any organization to which items are donated pursuant to this section shall agree in writing to waive any liability of the City of Fort Smith and shall further agree not to sell or use as trade-in against the purchase of other items.

A department may elect to trade in obsolete or surplus items for credit against the purchase price of replacement items. If a department elects to trade-in rather than dispose of items as provided above, the Purchasing Manager shall determine the actual methods to obtain the best value or credit for such items.

The Purchasing Manager shall establish and maintain records of all donations made under this section. Such records shall include item description, acquisition cost, book cost if available, and recipient organization.

See [*Division 3.1. - Sale, Lease or Exchange of Personal Properties*](#) for more information.

Appendix A – Definitions

The following words, terms, and phrases, when used in this manual and the Purchasing Department, shall have meanings ascribed to them, except where the context clearly indicates a different meaning.

Addendum/Addenda	A written change, addition, alteration, correction, or revision to a bid, proposal, or contract document. Addendum/addenda may be issued following a pre-bid/pre-proposal conference or as a result of changes to specifications or work scope of a project. All contents of the addendum are incorporated into the original document.
Aggrieved Bidder/Proposer	The bidder/proposer who is adversely affected by the award of a contract to another bidder/proposer and protests or appeals the decision.
Agreement	An understanding, usually in writing, between the City and contractor, under which the contractor agrees to certain performances as defined in the agreement and the City agrees to compensation for the performance rendered in accordance with the conditions of the agreement.
Amendment	An agreed addition to, deletion from, correction, or modification of a document or contract.
Annual Contract	Contracts protect pricing for a period of one year or more and are awarded to vendors for supplies, equipment and services routinely required by one or more departments.
Appropriation	An authorization granted by the Board of Directors to make expenditures and to incur obligations for specific purposes.
Award	An award on a Quote, Quotation, Bid or Proposal for which funds have lawfully been appropriated by the Board of Directors.
Best Interest	A judgmental assessment of what will result in the most advantageous action on behalf of the City in the absence of policy, ordinance, law or regulation.
Best Value	A procurement method that emphasizes value over price. The best value might not be the lowest cost and is generally achieved through RFPs and RFQs.
Bid	A document submitted in response to a solicitation to provide goods at a certain price, quantity, timeframe and under specific terms and conditions requested in the solicitation.
Bid Bond	An insurance agreement, accompanied by a monetary commitment, by which a third party (the surety) accepts liability and guarantees that the bidder will not withdraw the bid. The bidder will furnish bonds in the required amount and if the contract is awarded to the bonded bidder, the bidder will accept the contract as bid, or else the surety will pay a specific amount.
Bid Solicitation	A document requesting submittal of bids for goods or services specified in the solicitation.
Bidder	Any person, firm, partnership, corporation, association, or joint venture seeking award of a public contract or subcontract with the City of Fort Smith.

Blanket Purchase Order	An agreement to purchase goods from a specific supplier over a defined period of time, up to a maximum dollar amount. A blanket Purchase Order generally includes established prices and other terms for a defined period of time, although no quantities are specified. Shipments are to be made when and as required by the purchaser, which, in certain cases, may be the end user.
Brand Name or Equal Specifications	A specification limited to one or more items by manufacturers' names or catalog numbers to describe the standard of quality, performance, and other salient characteristics needed to meet the City's requirements and which provides for the submission of equivalent products.
Business Entity	Any corporation, partnership, individual, sole proprietorship, joint stock company, joint venture or any other private legal entity.
Change Order	A written order that is issued by the City directing the Contractor to change contract amounts or time within the scope of the contract and in accordance with the contract's terms allowing changes by the City to be made with the consent of the Contractor or, when authorized by the contract, to issue such change order unilaterally without the consent of the Contractor.
City Attorney	The City Attorney and authorized designee in that office shall serve as legal counsel and provide legal services to the City staff as requested.
Commodity	All supplies, goods, materials, equipment, machinery, facilities, personal property, and professional services purchased for, or on behalf of the City.
Commodity Code	A system of words, numbers, or both, commonly used by the city designed to identify and list goods and services by classes and subclasses.
Competitive Solicitation Process	A formal process providing an equal and open opportunity to qualified parties and culminating in a selection based on submitted documentation and established criteria. The Competitive Solicitation Process may be achieved through the issuance of an Invitation to Bid or a Request for Proposal.
Construction	The process of building, altering, repairing, improving, or demolishing any public structure or building, road, or other public improvements of any kind to any public real property.
Consultant Services	Any narrow discipline wherein a known practitioner has, through education and experience, developed expert advisory and performance skills as a vocation; any service performed primarily by vocational personnel which requires the analysis or certification of a professional before the services are acceptable to the user of the service or any other advisory, study or programming activity.
Contract	The same as Agreement, as defined herein.
Contract Specialist	A designated individual assigned to assume all duties and responsibilities to monitor the performance and completion of the scope of work and assure compliance with contract documents and specifications.
Contractor	The person, firm, partnership, joint venture, corporation, or

	association, who performs a trade or service agreement at any level with the City.
Contractual Services	The services provided by a contractor of its time and effort rather than the furnishing of specific commodities, supplies, materials, goods and equipment.
Cooperative Purchasing	A procurement activity, in which the city participates either as a lead or participating agency, to purchase commodities and services in cooperation with other governmental agencies.
Data	Recorded information regardless of form or characteristic.
Debarment	The exclusion for cause of a vendor or contractor from bidding, submitting proposals or receiving a contract to do business with the City.
Designee	A duly authorized representative of a person.
Discrimination	An action or series of activities which sets apart or causes separate and unequal treatment of a person or group of persons. As a condition for doing business with the City of Fort Smith, no employee or vendor shall discriminate on the basis of race, color, creed, religion, sex, national origin, age, disability, marital status, sexual orientation, gender identity, genetic information, political opinions or affiliation, military status, or other status protected by applicable law. Acts of discrimination are illegal in the performance of services for the city.
Durable Good	Goods that have a useful life of two years or more and are replaced infrequently and/or may require capital program outlays. Examples include furniture, office equipment, appliances, external power adapters, televisions, and audiovisual equipment.
Electronic	Means electrical, digital, magnetic, optical, electromagnetic, or any other similar technology.
Electronic Procurement (e-Procurement)	Electronic procurement, also known as e-procurement, is the business-to-business (B2B) requisitioning, ordering and purchasing of goods and services over the internet
Emergency Purchases	Procurement that is made in response to a requirement when the delay incident for complying with all governing rules, regulations, and procedures would be detrimental to the health, safety, and welfare of the City and/or its citizens and includes immediate repairs that are needed to prevent further damage to public property. Departments should make every effort to anticipate needs, allowing sufficient time to follow the proper and most cost-effective method of purchasing.
Employee	An individual employed by the City of Fort Smith and drawing a salary or wages directly from the city.
Encumbrance	Expenditure commitments created by purchase orders that have been issued, but for which no goods or services have been received
Entity	Term used when referring to a public sector organization.
Environmentally Preferable Products (EPPs)	Products that have a lesser impact on human health and the environment when compared with competing products that serve the same purpose. Characteristics of environmentally preferable products include alternative energy sources, bio-based, biodegradable, compostable, high recycled content, low toxicity, low volatile organic

	compounds, pollution and waste reduction, recyclable, repairable, resource efficient, and reusable. Environmentally preferable products or services minimize the consumption of resources, energy and water; prevent or minimize the creation of solid waste, air pollution or water pollution; minimize the use of materials or processes which compromise the environment; avoid toxic materials or processes; and/or promote the use of less or non-toxic substances.
Evaluation Committee	A group of persons appointed to evaluate, rank in preferential order, those firms or individuals interested in providing services in response to a Request for Proposals (RFP) or Request for Qualifications (RFQ).
FISCAL YEAR	The 12-month period used for accounting and budgeting purposes. The City’s fiscal year is from January 1 through December 31.
Formal Bid Solicitation	Procedure required for awarding contracts for equipment, supplies, materials, and equipment by the sealed competitive bid process (valued \$75,000 or more). They must be advertised, opened in public, and recorded. Award is made to the lowest responsible bidder(s) taking into consideration quality, performance, and the time specified for the performance of the contract.
General Services	Support services performed by an independent contractor requiring specialized knowledge, experience, or expertise. The service rendered does not consist primarily of acquisition of equipment or materials. A general service provides a measured outcome of work completed. Examples of general services are pest control, janitorial, catering, security, and maintenance of equipment. General services are normally procured through Request for Bid (RFB) or Requests for Proposals (RFP). Purchasing of general services may include subjective evaluation factors of the submitting firms.
Goods	Any tangible property other than real property.
Good Faith	“Good Faith” means all activities (negotiation, performance, and enforcement) are conducted honestly and ethically and with the observance of reasonable commercial standards of fair dealing.
Grant	The furnishing by the Federal Government, State Government, or Municipality of assistance, whether financial or otherwise, to any person to support a program authorized by law.
Intangible	Something which a person cannot see, feel or touch; has no physical existence.
Interested Party	A party that is an actual or prospective bidder or offeror or whose direct economic interest would be affected by the award or failure to award the third-party contract at issue. Note: A subcontractor does not qualify as an “interested party”
Invitation to Bid (ITB)	The solicitation for competitive sealed bids for goods and/or services for which the scope of work, specifications or contractual terms and conditions can be reasonable and closely defined.
Lobbying	The influencing or attempting to influence action or non-action or attempting to obtain the goodwill of person(s) relating to the selection, ranking, or contract award in connection with any City solicitation through direct or indirect oral or written communication.

Local Vendor Preference	Procurement laws mandating that bid prices for a preferred class of bidders be given special consideration when comparing their bid prices with those of other bidders not in the preferred class, i.e., “local” suppliers may be given a bid preference over suppliers that are not defined as “local.” The practice of awarding bids to local firms that are not the lowest responsive bidder, and their price does not exceed the lowest responsive bidder by 5%. See Ord. 50-15 .
May	Means the procedure is optional.
Munis System	The Financial ERP (Enterprise Resource Planning) System developed by Tyler Technologies and used by the City of Fort Smith. Munis is an ERP solution designed to handle public sector needs. This solution is completely integrated and is best used by government agencies and schools. The ERP system manages financials, procurement, human resources, payroll, and revenues.
National Institute of Governmental Purchasing, Inc.	Also known as “NIGP”; it is a non-profit, educational, and technical assistance corporation of public purchasing agencies and activities at the Federal, state and local levels of government.
Nexus/Sales Tax Nexus	Sales tax nexus is the connection between a seller and a state that requires the seller to register then collect and remit sales tax in the state. Certain business activities, including having a physical presence or reaching a certain sales threshold, may establish a nexus with the state.
Ongoing Consumables	Items that the city uses on a regular basis will need to be replaced in a sustainable way. Ongoing consumables include but are not limited to office paper and envelopes, desk accessories, notebooks, ink toner and cartridges, and batteries.
Person	Any business, individual, group of individuals, union, committee, club, organization, or entity private or governmental.
Petty Cash	A small amount of money kept on hand for small purchases or expenses.
Piggyback	Form of intergovernmental cooperative purchasing in which an entity will be extended the pricing and other terms of a contract entered with another entity. Generally, a larger entity will competitively award a contract that will include language allowing for other entities to utilize the contract which may be to their advantage in terms of pricing, thereby gaining economies of scale that they normally would not receive if they competed on their own.
Policy	A governing set of principles which establishes the general parameters for an organization to follow in carrying out its responsibilities. It communicates the organization’s values, philosophy, and culture; it shows the “why” behind an action.
Practicable	Sufficient in performance and available at a reasonably competitive price relative to market and other conditions.
Procedure	Step-by-step instructions for specific routine tasks; it explains the “how” behind an action and typically includes a checklist or process steps to follow.
Procurement	Buying, purchasing, renting, leasing or otherwise acquiring any goods

	or services for public purposes in accordance with the laws, rules, regulations, and procedures intended to provide for the economic expenditure of public funds. It includes, but is not limited to, all functions that pertain to obtaining any supplies, materials, equipment and/or services required by any department regardless of the source of funds.
Professional Services	Services, the value of which is substantially measured by the professional competence of the person performing them, are not susceptible to realistic competition by cost of services alone. Professional services shall include, but not be limited to: services customarily rendered by architects, attorneys, engineers, surveyors, certified public accountants and financial personnel systems, planning, and management consultants; computer programmers; and designing a building. A professional service generates solutions with very little direction from the government.
Proposals	An executed formal document submitted by an offeror to the City stating the good(s) and/or service(s) offered to satisfy the need requested in the bid document.
Proposer	Refers to each firm that submits a proposal for consideration by the city in compliance with the requirements stated in the Request for Bids and Proposals or Request for Quotation.
Proprietary Item or Service	Any item or service essential to the day-to-day operation of the City is not readily available from more than one supplier, manufacturer, or person. Proprietary may, when so determined by the City Administrator, be applied to any other material and services that are in their nature unique and/or not readily subject to competition or whereby specifications cannot clearly be drawn or when time is of the essence.
Protest	A formal declaration of disapproval or objection issued by a concerned person, group, or organization that arises during the procurement process. A protest is a potential bidder’s or contractor’s remedy for correcting a perceived wrong in the procurement process.
Protestor	A person, group, or organization that files a formal declaration of disapproval or objection. A protestor must qualify as an “interested party”.
Public Notice	The distribution or dissemination of information to interested parties using methods that are reasonably available. Such methods will often include publication in newspapers of general circulation, electronic or paper mailings lists, and web site(s) designated by the Purchasing Department and maintained for that purpose.
Purchase Order (PO)	The City’s document used to authorize a purchase transaction with a vendor. It should contain provisions for construction, goods and/or services ordered, applicable terms as to payments, discounts, date of performance and transportation, and other terms relating to the transaction. Acceptance of a Purchase Order by a vendor shall constitute a contract.
Purchasing	Buying, renting, leasing, or otherwise acquiring any supplies, services, or construction. It also includes all 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 contracts and all phases of contract administration.
Purchasing Card (P-Card)	A Purchasing Card (P-Card) is a type of commercial card that allows organizations to take advantage of the existing credit card infrastructure to make electronic payments for a variety of business expenses (e.g., goods and services). In the simplest terms, a P-Card is a charge card, similar to a consumer credit card, but with restrictions. P-Cards are also known as Procurement Cards (ProCards), Payment Cards, Purchase Cards or similar terms.
Purchasing System	The online program (Tyler Munis) used by departments to enter requisitions and create purchase orders.
Quotation	A statement of price, terms of sale, and description of goods or services offered by a supplier.
Quote/Request for Quote	An offer by a vendor for the sale of a good or service. An informal quote for expenditures less than \$7,500 can be verbal (received by phone and documented in the requisition) or written. A formal quote for expenditures less than \$75,000 must be received in writing from the vendor.
Recycled Products	Products manufactured with waste material that has been recovered from the waste stream. Recycled material may be derived from post-consumer waste (material that has served its intended end-use and been discarded by a final consumer), industrial scrap, manufacturing waste, and/or other waste that otherwise would not have been utilized.
Recycling	The process of collecting, sorting, treating, cleansing, and reconstituting materials that would otherwise become solid waste; and returning them to the economic mainstream in the form of raw material for new, reused, or reconstituted products which meet the quality standards necessary to be used in the marketplace.
Request for Bid (RFB)	A written solicitation prepared and issued to procure products or services with easily definable characteristics. It is normally used when the “what” and “how” is known. The respondent with the lowest price is awarded provided the minimum criteria for the bid is met.
Request for Information (RFI)	A general invitation to firms with knowledge of the scope of services required requesting information on the subject matter of the solicitation document. This method is used as a research and information gathering tool.
Request for Proposal (RFP)	Also known as an “RFP”, it is a solicitation document requesting submittal of proposals in response to the parameters and scope of services required but does not specify in detail every aspect of how to accomplish or perform the required services. Price is usually not a primary evaluation factor when an RFP is used; it provides for the negotiation of all terms.
Request for Qualifications (RFQ)	Also known as an “RFQ”, it is a solicitation document requesting submittal of qualifications or specialized expertise in response to the parameters and scope of services required.

Requisition	An electronic request in Munis from a City department to the Purchasing Department to obtain goods or services. The city requires the submission of a Requisition for the purchase of ALL goods and services. The purchase requisition is used to inform Purchasing of the needs of individual departments.
Respondent	An actual or potential supplier of an item, service, or construction, who submits a response to a solicitation.
Responses	The offer received by a potential supplier in response to a solicitation.
Responsible	A person who has the capability, in all respects, to perform fully the contract requirements, and the experience, integrity, perseverance, reliability, capacity, and credit which will assure good faith performance.
Responsible Bidder, Proposer, or Respondent	A vendor that has submitted a Quotation, Bid, Proposal or response, which has the capability, as determined by the City, in all respects, to perform fully the contract requirements with the integrity and reliability that give reasonable assurance of good faith and performance.
Responsive	A person who has submitted a response, which conforms in all material respects to the requirements stated in the solicitation.
Scope of Work (SOW)	This is a written description of the contractual requirements for the materials and services contained within a Request for Proposal. The SOW can be compared to the specifications required for an Invitation to Bid. A scope of work should not be confused with a “Statement of Work” which is a formal document that details the work, deliverables, locations, timelines, pricing, and other requirements of a contractor in performing specific work.
Services	The furnishing of labor, time and/or effort by professionals or Contractors, wherein the submission of goods or other specific end products other than reports, studies, plans, advisories, contractual documents or other documents relating to the required performance is incidental or secondary. This term shall not include employment agreements or collective bargaining agreements.
Shall, Must and Will	Means the procedure is mandatory.
Should	Means the procedure is recommended.
Signature	A manual or electronic identifier or the electronic result of an authentication technique attached to or logically associated with a record that is intended by the person using it to have the same force and effect as a manual signature.
Single Source	A procurement decision whereby purchases are directed to one source because of standardization, warranty, or other factors, even though other competitive sources may be available.
Sole Brand	The only known brand or the only reasonable brand capable of fulfilling the needs of the city.
Sole Source	Selection of one supplier to the exclusion of all others. This decision may be based on lack of competition, proprietary technology, copyright, or a supplier’s unique capability. A sole source justification may be required from the requestor.

Solicitation	Any document which requires public notice requesting responses to provide supplies, services, or construction items.
Specifications	The parameters, requirements, and instructions that define the exact item or service that is desired and provide the basis for comparing bids. Specifications are generally incorporated into a contract, by reference, to become the successful bidder's legal obligations under the contract. It is the user department's responsibility to prepare the specifications. If they do not have the expertise to prepare the specifications, they should consult with someone with technical knowledge of the goods or services requested.
Split Purchases	The act of knowingly parceling, or splitting purchases, with the intent of circumventing the competitive bidding requirements. Such actions are strictly prohibited. The Purchasing Department may make written exceptions to this requirement in unusual circumstances.
Subcontractor	Any person(s) named by a general contractor and approved by the City to perform work or provide services for a public contract.
Supplier	A person or entity that provides goods and/or services
Supplies	All property, including but not limited to equipment, materials, printing, insurance, and leases or real property, excluding land or a permanent interest in land.
Surplus Property	Any personal property belonging to the City, which is capable of being used but is in excess of the normal operating requirements of the City as determined by the department director and approved by the City Administrator.
Suspension	Prohibiting a supplier from submitting bids and proposals for a definite or indefinite period of time. A temporary determination to exclude a supplier from obtaining any contracts for a period of time, usually before initiating debarment. Reasons for this action may include poor performance, late deliveries, violations of previous contract terms, etc.
Tangible	Something that can be seen, weighed, measured, felt, touched, or is perceptible to the senses.
Termination for Convenience	An action by which the City terminates all or part of a contract for its convenience. This type of termination protects the City's interests by allowing cancellation of contracts for products that become obsolete or unneeded. The termination does not arise from any fault on the part of the contractor.
Termination for Default	An action by which the City, in accordance with contract provisions, unilaterally cancels all or part of the contract work due to the contractor's failure to perform in accordance with the terms and conditions of the contract.
User Department/Division	The department/division within the city, which requests and utilizes goods and/or services that are procured according to the Purchasing Manual.
Vendor	A person or business that provides goods and/or services.
Vendor Database	The compilation in Munis of the names and addresses of those appropriate providers of goods and/or services who have indicated an

	interest in doing business with the city.
Waste Prevention	The action taken by an individual or organization to eliminate or reduce the amount or toxicity of materials before they enter the municipal solid waste stream. This action is intended to conserve resources, promote efficiency, and reduce pollution.
Woman or Minority Owned Business Enterprise (W/MBE)	<p>A for-profit small business located in the United States that:</p> <ol style="list-style-type: none"> 1. has been open for at least six (6) months; and 2. that, in the case of a WBE, is at least 51 percent owned, operated, and controlled by one or more women, each of whom is a U.S. Citizen or legal resident alien; or, 3. that, in the case of a MBE, is at least 51 percent owned, operated, and controlled by minority group members, each of whom is a U.S. Citizen or legal resident alien being at least 25% Asian Indian, Asian-Pacific, African American, Hispanic, or Native American. <p>The Purchasing Department affirmatively encourages the use of small, minority, and women owned businesses in all purchases.</p>
Written or In Writing	The product of any method of forming characters on paper, other materials, or viewable screens, which can be read, retrieved, and reproduced, including information that is electronically transmitted and stored.

Appendix B – General Guide to Contracts

What is the purpose of this Guide?

This Guide is intended to inform City employees of the appropriate procedures for creating, reviewing, and signing contracts. The failure to follow this guidance may result in a contract binding the City on unfavorable terms. Once a contract is signed, the City's options for addressing difficult or unfavorable terms in the contract are limited. In addition, if an employee signs a contract without authority, that person could be held personally responsible for the contractual obligations.

What is a contract?

A "contract" is any agreement (whether in writing or oral) between the City (on behalf of any of its offices, divisions, departments, etc.) and one or more external parties (usually these are contractors of goods or services or entities with which the City seeks to affiliate) that is intended to create an obligation. There must be an exchange of something of value between the parties or an obligation to take some affirmative action, such as to pay money, perform services, or provide goods.

Occasionally, a contract obliges a party not to do something, such as not to disclose information. A contract may also bind a party even if the party is receiving something of value at no charge, such as a license, data use agreement or a release from liability.

A document need not be called a "contract" to be considered a legally binding instrument. A "contract" may be called an "agreement," "terms and conditions," "purchase order," "letter agreement," "subcontract," "sub-award," "sub-grant," "memorandum of understanding," "letter of intent," "letter of understanding," or "waiver." It is also possible the document may not even have a specific title.

Where do contracts come from?

Many contract documents originate from an outside party seeking a business relationship or affiliation with the City. Sometimes the City seeks out a business relationship or an affiliation and has a template created by the city that is ready to be used. Occasionally, a completely new contract needs to be created to fit a particular purpose.

Should a contract be in writing?

Yes, a contract should be in writing. A well-drafted contract will protect the City's interest and reduce the possibility of misunderstandings between the City and the other party. It can also manage expected costs and allocate risks. At a minimum, a contract should always contain the fundamental information necessary to understand the intent of the parties. Such basic information includes the names of the parties, the responsibilities and obligations of each party, the duration of the contract (when it starts and when it ends), the terms of payment, the procedures necessary to terminate, and signature lines for execution of the contract by authorized representatives of each of the parties. Also, if there is additional information that needs to be added to the contract such as maps, price lists, listing of deadlines, etc. those should be added as Exhibits and attached to the main contract.

Verbal Agreements: Can I just “shake on it”?

Verbal agreements (a statement of commitment by a city employee who has or appears to have authority to bind the City) should be avoided. Although a verbal contract may in certain instances be valid and enforceable, a written contract will help define expectations and prevent misunderstandings. In fact, some contracts must be in writing to be legal and enforceable.

What about an agreement by Email Exchange?

Along the same lines, when engaging in e-mail communications regarding a proposed arrangement, individuals should be careful to avoid language that could be read as an immediate commitment. Even casual conversation can be used to form an unintentional contract so be careful.

Whether communicating orally or via email, City employees should be clear with the other party that the communications are only negotiations and any resulting agreement between the parties is dependent on the execution of a written contract that satisfies the City’s contracting requirements.

Do I have authority to sign a contract and bind the City? Who can sign a contract (or an agreement, memorandum of understanding or other document that will bind the City to obligations or commitments)?

No employee of the City, including Department Heads, Supervisors, and staff, is authorized to bind the City unless he or she has been delegated authority to do so. Such authorization must be evidenced in writing. The City Administrator and the Mayor are the only individuals that have the authority to bind the City and are authorized to sign contracts.

Do “click-through” contracts need to be reviewed? How are they “clicked” by an authorized signatory of the city?

Yes, online click-through (or “click-wrap”) contracts should be properly reviewed prior to acceptance. A click-through contract is a form of agreement mostly found on the internet, where the end-user manifests acceptance of the terms and conditions of the contract by clicking an “ok” or “agree” button. Often the terms and conditions of the contract are available through a web link. Prior to accepting the contract terms and conditions, send the link or a scan of the complete terms and conditions of the click-through contract to Legal, via purchasing@fortsmithar.gov. The legal staff will review the contract and follow-up with the responsible individual and/or office regarding the proper procedure for approving (signing) the contract. The responsible City office is required to keep copies of all click-through contracts on file.

What is an electronic signature? Is it OK to use one? What about a copy of a signature?

An *electronic signature* can be one of many things – an image of a handwritten signature, a symbol, a voice print – anything used to identify the author of an electronic message or signatory of an electronic document. Many forms of electronic signatures are vulnerable to copying, tampering, and forgery.

A *digital signature* is a secure form of an electronic signature that can be thought of as an equivalent of a handwritten notarized signature. A digital signature is created with software

that uses technology that binds a signature to a document and provides proof of signatory and is designed to resist tampering or alteration.

The City does not endorse the use of electronic signatures with external parties because of vulnerabilities. This does not, however, include a prohibition of scanned copies of manually signed contracts. Although the use of an image of a signature is discouraged (i.e., copy and pasting an image or picture of a signature into a document), it is permissible to keep a signed scanned copy of a contract. In this situation, an entire document is printed out, signed by hand, and then scanned or copied for distribution purposes.

Who do I contact for help with contracts?

The Contract Specialist is responsible for research proposals and agreements and should be able to answer your questions or point you in the right direction. The Purchasing Department is responsible for most purchases of goods and services and may also be helpful.

Are there any City approved standard contracts that I can use?

The Contract Specialist, working with various offices, has created standard contract templates to address certain routine contractual transactions. These contract templates are generally prepared for certain user groups that have demonstrated a recurrent need and are limited to use by that group. If you think you have a need for a standard contract template, please contact the Contract Specialist for assistance by emailing purchasing@fortsmithar.gov.

I have been using a form contract for many years that has worked well for me. May I continue to use it?

If your form contract has been reviewed by the Contract Specialist within the past year, it may still be acceptable. However, please consult with the Contract Specialist before proceeding. They will review the form contract and let you know whether any changes or updates may be required.

What if the contractor says they do not need or want a contract?

The city will opt to use another vendor that will adhere to our contract policies.

What is the proper name to use for the City in a contract? Can my department or division be a party to a contract?

All contracts should be in the full legal corporate name of the City (i.e., not the name of the department). The name is “*The City of Fort Smith*”.

If you find that identifying the responsible department or division is necessary, the contracting party may be identified as “The City of Fort Smith on behalf of its _____ Department”. A contract *should never* be made in the name of just an office, division, or department; the full legal corporate name of the City should always be used.

A contractor sent me a statement of work instead of a contract. What should I do?

A Statement of Work is only valid if there is a current Master Service Agreement between the City and the contractor. If you are unsure whether there is a current Master Service Agreement with the contractor, you can ask the Contract Specialist if they have a copy of an active agreement. If they do not, you should ask the contractor for a copy of the signed master

agreement. If you contact the contractor directly, be sure to ask for the name of the contractor's primary contact for that master agreement.

You should then send the statement of work, the name of the primary contact (if provided), and any other information you have to the Contract Specialist by sending an email to purchasing@fortsmithar.gov. The Contract Specialist will review the statement of work and assist in making sure that it is processed correctly.

What is “indemnification”?

Generally speaking, an indemnification clause requires that one party take on the obligation to pay the other in the event of a loss or damage. Indemnity is the act of making someone “whole” (equal to what they have lost) or protecting them from identified losses.

Depending on the subject matter of the contract, different types of indemnification clauses might be appropriate based on the types of loss or damage that could possibly be incurred under the circumstances. Indemnifications often are related to insurance requirements or insurance coverage and thus should generally be reviewed the Legal Staff.

A contractor has requested a Form W-9 from the city. What is the Form W-9, and how do I obtain a copy?

The Form W-9 is the Internal Revenue Service form used to provide the City's taxpayer identification number (TIN). The Form W-9 can be obtained from the Finance and/or Purchasing Departments.

What if a problem arises after a contract is signed?

If a responsible City office enters into a contract on behalf of the City, it is the office's duty to ensure that the City fulfills the obligations under the contract. In addition, in the event that the other party fails to fulfill its contractual obligations to the City, or if other problems arise, it is the responsible City office's duty to bring this to the attention of the appropriate City officials immediately, including the Contract Specialist, to ensure that the City's rights are enforced. If any questions or concerns arise regarding the performance of a contract or the enforcement of the City's rights, please contact the Contract Specialist by emailing purchasing@fortsmithar.gov.

If I am purchasing a good or service with a P-Card and a contract is part of the transaction, does it need to be reviewed? Who signs it?

Any time you engage with a contractor and the contractor requires a contract to be signed (regardless of how the financial obligations will be met), the contract must go through the appropriate review process and be signed by an authorized signatory. Once a contract has been reviewed and signed by both parties, the payment to the contractor can be made through an online requisition with Procurement or by P-Card. If by P-Card, both the invoice and a properly executed copy of the contract are required as supporting documentation when submitting an expense report through the P-Card Expense Reporting process.

What if I want to Terminate a Contract Early?

If you need to terminate a contract early (for any reason other than a problem with performance or payment), please contact the Contract Specialist for guidance regarding the proper procedure. Many contracts have a process that MUST be followed for early termination including time deadlines. If these are not met exactly, your contract may continue.

What contracts must be presented to the Board of Directors?

Those contracts as defined in the City and State Code. Service contracts under \$75,000 will not usually be brought to the Board and on occasion, service contracts between \$75,001 and \$300,000 may not be brought to the Board but only with prior notification to the Board of Directors by the City Administrator.

Common Types of Contract Documents

While many types of contracts exist, below is a brief list of the types that may be used in the City. This is by no means an exhaustive list. If you do not find the type of contract you have questions about listed below, contact the Contract Specialist.

- Addendum
An addendum is a document attached to and executed with the original contract, making it a part of the original contract from the start. It usually contains information or requirements of the parties that are not fully spelled out in the contract. An addendum should not be confused with an *amendment (or modification)*, which is a document that modifies an already signed contract or an exhibit which is attached to the original contract.
- Amendment or Modification
An amendment is a modification made to the terms of an already accepted (signed) contract. It is a formal written statement made to add information to or change information in an existing contract. When an amendment is properly signed by representatives of each party to the original contract, it will have the same legal power as, become a part of, or may, in part, supersede terms in, the original contract.
- Confidentiality Agreement
See Non-Disclosure Agreement.
- Gift Agreement or Gift Memorandum of Understanding
A formal contract documenting a charitable contribution to the City by a donor. The contract will specify the gift, promise, commitment, and/or undertaking of a donor, and will set forth what restrictions, if any, are placed on the gift.
- Independent Contractor Agreement
Independent contractor agreements (sometimes also known as a Professional Services Agreement) are used when contracting for services with an individual who offers services to the general public. It is important to determine an individual's worker classification prior to the commencement of the services and to distinguish between those who will be considered independent contractors and those who will legally be considered an employee. If the City's relationship with the individual satisfies the Internal Revenue Service's and related common law standards for independent contractor status, the services may be contracted using an independent contractor agreement. City offices that engage individuals to provide services must submit the required worker classification documentation for determination of each contractor's

status before any services are performed or payment requests are processed.

- Lease
A lease is a contract by which an owner of real estate, facilities, or equipment conveys to another the exclusive use of such assets for a specified amount of time in return for a specific amount of rent. The city commonly uses leases for the rental of office space, the rental of copying machines, the rental of heavy equipment, etc.
- Letter Agreement: A letter agreement (or “letter of agreement”) is a type of contract in the format of a letter. While a letter agreement may be shorter and less formal than other contracts, it generally includes the same kinds of terms as a traditional contract (e.g., description of the goods, services or purpose of the relationship, time of performance, financial terms, etc.). A letter agreement is legally no different than a traditional contract; the two only differ in the format of the document itself. A letter agreement may be accomplished by obtaining the countersignature of the receiving party in a single letter or through an exchange of letters between two parties, which together set forth and confirm the terms of the contract.
- Letter of Intent
While a letter agreement is a legally binding contract, a letter of intent, if drafted properly, is not binding. A letter of intent is used to summarize the general plan of a proposed transaction before a binding agreement is finalized. It is seen as an expression of interest on behalf of each party prior to reaching a final agreement.
- License
A license is a contract by which an owner gives permission to another to use something or to allow an activity that would otherwise be forbidden. A common license used by the City is a Software License: A software license is a type of license made by the owner of a computer program (“licensor”) to another (“licensee”) for the use of that computer program. A software license grants the licensee the ability to use one or more copies of the software in ways that without such permission, would be considered infringement.
- License for the Use of Space
A license for the use of space conveys a different set of rights than what is conveyed by a lease.
- Master (Services) Agreement
This is a contract between the City and a contractor that specifies most of the legal and business terms of the City’s purchase of a set of goods or services from that contractor. The contract is designed to be used repeatedly for the procurement of goods or services over a period of time using the same legal and business terms. A separate “*statement of work*” may be executed for each order under the master services agreement and would include the quantity/type of work as well as the pricing.
- Memorandum of Understanding
A memorandum of understanding (sometimes known as an “MOU”) may or may not actually be a legally binding contract. Similar to a letter of intent, an MOU may operate as a statement of intent that is used to set forth the basic and general principles and guidelines under which the parties involved will work together to accomplish a shared goal, but that does not involve the exchange of money or a reliance of one party on the actions of the other that could result in a loss if not performed. It might simply be a statement that the parties will move forward with forming towards the goal of creating

a contract. It is important to note, however, that if an MOU includes definite terms (such as the exchange of money or obligations) that meet the description of a “contract,” it will be treated as a legally binding document no matter what it is called and must follow the review process.

- Modification: See Amendment.

- Non-Disclosure Agreement

A non-disclosure agreement (sometimes also known as an “NDA” or confidentiality agreement) requires the parties to the agreement to keep certain information disclosed between them confidential. Such agreements are commonly used by parties in conjunction with other types of contracts.

- Purchase Order

A Purchase Order (sometimes known as a “PO”) is **one of the simplest and most common forms of a contract**. It is formed through the acts of offer and acceptance. The PO is a written authorization from the city requesting a contractor to provide goods or services. It contains terms and conditions that will govern the purchase and acts as an offer from the City to purchase the requested items. When a PO is accepted by a contractor, a contract is created. Generally, a contractor accepts the PO by delivering the requested items. Once received by the city, the contractor can expect payment by the city in return for the delivered items.

- Statement of Work

A statement of work is a formal document that details the work, deliverables, locations, timelines, pricing, and other requirements of a contractor in performing specific work. In most cases, a statement of work is accompanied by a separate (master) agreement or other governing document that contains the legal terms as well as other business terms that will govern the transaction. A statement of work should not be confused with a *Scope of Work*, which is only a description of work to be done without timelines, pricing, or other details of a statement of work.

- Term Contract

A formal agreement between the City and a designated vendor(s) to provide an identified commodity upon request at an established price, and for a specified term.



PURCHASING CARD POLICY & PROCEDURES HANDBOOK

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1. INTRODUCTION

The City of Fort Smith has entered into an agreement with CentreSuite (Arvest Bank) to provide qualified employees with a Visa Purchasing Card.

- A Purchasing Card (PCard) is a credit card that enables employees to purchase authorized goods and services on behalf of the city. The Purchasing Card works like any other credit card. However, the differences are as follows:
 1. Cardholders may have online access to real-time transaction information.
 2. The Coordinator of the Program can make real-time changes such as increase limits, cancel or inactivate cards, as well as review authorizations and declines.
 3. Additional information about the transaction may be available. For example, what was actually purchased, who made the purchase, and date and time of the transaction.
- Purchasing cards can be used anywhere VISA is accepted, except for unauthorized vendors that have been specifically blocked from use by the city. Any vendor from whom you currently purchase goods should be considered a potential vendor of the Purchasing Card.
- Managers with the appropriate approving authority may request cards for employees responsible for providing goods and services by completing a Purchasing Card Request Form (Appendix A). Dollar limits for purchases will be set on this form. Cardholder's will be required to sign the Cardholder Agreement (Appendix B)
- Automatic restrictions may be set up on individual cards.
 1. For instance: Sam Smith is only allowed to purchase Office Supplies. Therefore, if Sam tries to use his card at a gas pump, it will be declined by Visa and the City will be able to view the decline online.
- The purchasing cards are NOT for personal use or unauthorized purchases.
- All purchasing cards are issued through the Purchasing Department.
- Card usage will be audited and may be rescinded at any time. The authorized cardholder is the only person who may use the Purchasing Card. After completion of a training session with the Purchasing Card Coordinator, you will receive your card.
- Recordkeeping is essential to ensure the success of this program. Standard payment policies require retention of receipts, and other documentation. As with any credit card, you must retain original, itemized sales slips, cash register receipts, invoices or any other pertinent documentation.
- The Purchasing Card is to be used in accordance with the guidelines established within this Handbook. You are to treat this program with the same sense of responsibility and security you would use with your personal credit cards.

2. CARD PROCEDURES

How to Obtain a Card

- Your supervisor must indicate approval by completing and signing the Purchasing Card Request Form (Appendix A) and submitting the form to the Purchasing Card Coordinator in the Purchasing Department.

- The Purchasing Card Coordinator will order the card, arrange for cardholder training, and will notify you when it is available to be picked up. Prior to receipt of the card, you must read the Purchasing Card Procedures Handbook and sign the Purchasing Card-Cardholder Agreement Form (Appendix B).
- When you receive the card, you must sign the back of the card immediately and always keep it in a secure place. Although the card is issued in your name, it is the property of the City of Fort Smith and is only to be used for City purchases as defined in this Handbook.

How to Cancel a Card

- Contact your supervisor or the Program Administrator for instructions.

Card Renewal

- A renewal card will automatically be mailed to the Purchasing Card Coordinator. You will be notified when the card is available.

Reporting a Lost or Stolen Card

- The cardholder must notify his or her immediate supervisor of the lost or stolen card within one (1) business day after discovering the card missing.
- Should a lost or stolen card be subsequently discovered by the cardholder, the card shall be cut in half and sent to the Purchasing Card Coordinator.

Cardholder Separation from Service

- Prior to separation from the City, the cardholder shall surrender the purchasing card with the proper receipts and expense report documenting each transaction.
- The supervisor shall return the card to the Purchasing Card Coordinator.

Purchasing Card Security

- Always keep the card in a safe place. The Purchasing Card will have the employee's name embossed on the card and shall only be used by the authorized cardholder. **NO OTHER PERSON IS AUTHORIZED TO USE THE CARD.**
- The cardholder is responsible for all transactions procured with their card. Cards and card numbers must be safeguarded against use by unauthorized individuals in the same manner that a cardholder safeguards his or her personal banking information. Although the card is issued in the individual's name, it is the property of the City of Fort Smith.

Card Cancellation

- The City reserves the right to cancel any card at any time. Cardholders who misuse the Purchasing Card may be subject to disciplinary action up to and including legal action, and/or termination.

Misuse of the purchasing card includes (but not limited to):

1. Purchase of unauthorized item(s).
2. Use of the purchasing card by someone other than the cardholder.
3. Fraudulent or inaccurate recordkeeping.
4. Failure to obtain original, itemized receipts.
5. Failure to reconcile the monthly statement by the 13th of the month.
6. Purchasing items for personal use, even if the cardholder intends to reimburse the city.
7. Purchases from vendors that create a conflict of interest (i.e. purchases from companies owned or operated by City employee(s) and/or their relatives).
8. Acceptance of cash in lieu of credit to the statement.

3. ACCEPTABLE VISA CARD PURCHASES

- The following information provides examples of purchases that are appropriate for the purchasing card:
 1. Travel, conference expenses
 2. Approved supplies for your building, department or program
 3. Conference and seminar registrations
 4. Parts and repairs
 5. Federal Express, United Parcel Service, United States Postal Services expenses
 6. Other miscellaneous items that apply to your budget
 7. Hardware stores and Discount stores
 8. Online and over-the-phone purchases

This list is not intended to be all inclusive. If you have specific questions, please call the Purchasing Card Coordinator for assistance.

4. UNACCEPTABLE VISA CARD PURCHASES

- The following items define where the purchasing card is NOT appropriately used:
 1. Alcoholic beverages
 2. Tobacco
 3. Lottery Tickets
 4. Cash Advances
 5. ATM withdrawals
 6. Gift certificates or gift cards
 7. Any personal purpose

This list is not intended to be all inclusive. If you have specific questions, please call the Purchasing Card Coordinator for assistance.

5. PROGRAM RESTRICTIONS

- Any item purchased greater than \$2,000 requires a purchase order number prior to using the card to purchase the item(s). Failure to follow this requirement will result in disciplinary action.
- Each VISA Purchasing Card has been assigned a transaction and/or monthly credit limit determined by the supervisor of the cardholder. All limit changes must be submitted to the Purchasing Card Coordinator using the form Appendix A.
- The Purchasing Card will be accepted for purchases of generally approved goods and services.
- Levels of credit authorization are in place to clearly define the individual purchasing limit controls. Each cardholder will have a transaction limit and/or monthly limit. Transaction limit options are listed on the Request for a Visa Purchasing Card form.
- Certain city-wide cards may have unlimited transaction amounts. Transactions falling outside the assigned level will be declined at the point of sale.

- If your card is declined by a merchant and you feel the decline should not have occurred, contact the Purchasing Card Coordinator. Do NOT ask the cashier to “try it again”. This is a fraud red-flag and could (after 3 times) lock your account from any other charges. If this occurs, the Purchasing Staff or CentreSuite must unlock the account.

6. RECOURSE FOR IMPROPER USE

- In the event that improper usage of the Purchasing Card is discovered, written notification will be sent from the Purchasing Card Coordinator with a copy given to the supervisor of the cardholder.
- Corrective action may occur up to and including legal action and/or termination.

7. CARDHOLDER RESPONSIBILITIES

- As the person whose name appears on the Purchasing Card, you are responsible for keeping track of how the card is used, and for keeping it safe. And just like any credit card, you should protect against fraudulent use of the card.
- You must keep the original receipts for ALL purchases made with your Purchasing Card. Specifically, be sure to keep original, itemized cash register tapes, invoices showing detail of items purchased, or other relevant documentation. Your receipts help you reconcile account activity to your monthly Cardholder Statement.
- Training will be provided prior to a Purchasing Card being issued to the cardholder. During the training session, cardholders must read and sign the Acknowledgement of Receipt of the VISA Purchasing Card and Terms of Revocation Form prior to cards being issued. When the card is received, the cardholder must immediately sign the back of the card.
- When utilizing the card to purchase supplies and materials, the cardholder will check as many approved vendors and/or state contracts and other sources of supply as reasonable to assure best price and delivery.
- If an item is not satisfactory, received in error, damaged, defective, duplicate order, etc., the following steps should be followed:
 1. The cardholder contacts the vendor to obtain authorization to return the item(s). Every vendor is different for return policies; make sure the return meets the vendor’s criteria without incurring a restocking fee or shipping and handling fees. If available, the item(s) to be returned should be re-packed in original manufacturer’s packaging.
 2. If a vendor has not replaced or corrected the item by the statement cutoff date, then the purchase of that item will be considered in dispute. Attach the completed Dispute form and send as instructed or go to [www](#). Click on ACCOUNT MANAGEMENT and select the “Report a Dispute” link. Complete the form and submit as requested. A copy of the dispute form should be sent to the Purchasing Card Coordinator.
 3. Standard auditing procedures require retention of receipts and other documentation. As with any transaction you must retain the original itemized sales slips, cash register receipts, invoices, order forms and receiving documents.
 4. Statement cut-off is the 6th of each month. Every cardholder must review their statement for all transactions made on the VISA Purchasing Card.

5. Reconciled, approved statements and appropriate documentation are due to the Purchasing Office by the 13th day of each month. This means the department should begin preparation of the final statement and documentation several days prior to the statement cutoff date.
6. If a transaction receipt is misplaced or not received, the cardholder shall be responsible for contacting the vendor and obtaining a duplicate copy of the receipt. In the event a replacement receipt is not available, a memo must be attached in lieu of the receipt with itemized identifying information and a signature of the cardholder.
7. Disputed billing can result from failure to receive goods or services, fraud or misuse, altered charges, defective merchandise, incorrect amounts, duplicated charges, credits not processed, etc.
8. The cardholder is responsible for contacting and following up with the vendor on any erroneous charges or disputed charges as soon as possible. Most issues can be resolved this way. Attach the completed Dispute form and send as instructed or go to www.fortsmithar.gov. Click on ACCOUNT MANAGEMENT and select the "Report a Dispute" link. Complete the form and submit as requested. A copy of the dispute form should be sent to the Purchasing Card Coordinator.

8. PURCHASING CARD CONTACT INFORMATION

Contact	Name	Email Address	Phone Number
Card Coordinator	Zack Shaver	zachary.shaver@fortsmithar.gov	479-784-2268
Program Director	Andrew Richards	purchasing@fortsmithar.gov	479-784-2490
CentreSuite	Customer Service		800-356-8085

Failure to comply with the Purchasing Card policies and procedures may result in employee removal from the Purchasing Card Program and other disciplinary action as necessary up to and including legal action and/or termination.



Instructions: Return completed form to P-Card administrator at purchasing@fortsmithar.gov.

New Card Request: Change Request: Effective Date of Change: _____

SECTION 1: CARDHOLDER INFORMATION (Please Print or Type)

Card Name: _____ CentreSuite User ID Needed: Yes No

Card Owner: _____
(List owner when it is a department card. Card Owner is the only person authorized to pick up the card.)

Email Address: _____

Office Phone: _____ Cell Phone: _____

Department Name (Required): _____ Default ORG (Required): _____

SECTION 2: PROXY & APPROVER INFORMATION (Please Print or Type)

Please list the person responsible for submitting expense reports on behalf of the card owner (Proxy), and the interim approver who will review and approve expense reports.

Proxy Name: _____ Email: _____

Backup Proxy Name/Email: _____

Interim Approver Name: _____ Email: _____

Backup Interim Approver Name/Email: _____

***Final Approver: Accounting at purchasing@fortsmithar.gov**

Limits for the purchase card are requested by the cardholder's supervisor and approved by the Purchasing & Finance Departments. Limits should be based upon the business needs of the cardholder.

Monthly Credit Limit (Required):	Single Purchase Limit (Default \$2,000):	Daily Purchase Limit (Optional):

I acknowledge and approve the Visa Purchase Card request as listed above:

(Supervisor Name) (Supervisor Signature) (Date)



**ACKNOWLEDGEMENT OF RECEIPT OF THE VISA PURCHASING CARD
AND TERMS OF REVOCATION FORM**

I agree to accept responsibility for the protection and proper use of the Purchasing Card in accordance with the terms and conditions below and in accordance with the Purchasing Card Procedures Handbook.

1. I understand that I will be making financial commitments on behalf of the City of Fort Smith and will seek to maximize the purchasing value.
2. I understand that personal purchases are not allowed on the Purchasing Card, and I agree to use the Purchasing Card for the purchase of items for use in official business only. All purchases must comply with the purchasing policies. I understand that examples of items not to be purchased with the Purchasing Card are included in the Purchasing Card Handbook; however, I also understand this list is not all inclusive and that if I have a question about a purchase I will go to my supervisor for approval.
3. I understand that I shall be personally liable for the inadvertent/improper use of the Purchasing Card, and I agree to pay the cost of such use, (other than improper use as the result of a **lost or stolen card** which was immediately reported as required in the Purchasing Card Procedures Handbook), including fees and interest assessed against the improper purchase.
4. I understand that improper use of the Purchasing Card may be cause for disciplinary action, including termination, and that improper use of the Purchasing Card may subject me to criminal prosecution.
5. I also understand that if there are amounts which are attributable to my improper use of the Purchasing Card, I agree to reimburse the city.
6. I agree to abide by the guidelines contained in the City of Fort Smith Purchasing Card Handbook.
7. I understand that failing to follow the Purchasing Card program guidelines may be deemed an improper use of the card and could result in revocation of the Purchasing Card and appropriate disciplinary action, which may include termination.
8. I agree to provide original, itemized receipts from the supplier for each transaction made on the Purchasing Card as required in the City's Purchasing Card Handbook. Failure to report or document any purchase may be deemed an improper use of the Purchasing Card.
9. I understand that should my employment with the city terminate for any reason, the Purchasing Card must immediately be returned to the Purchasing Card Coordinator.
10. I also understand that the city may withdraw authorization to use the Purchasing Card and require the return of the Purchasing Card at any time for any reason. If the Purchasing Card is lost or stolen, I agree to notify my immediate supervisor and the Purchasing Card Coordinator immediately.
11. I have been given a copy of the Purchasing Card Handbook, have read the handbook, have received training on the Purchasing Card Program and understand the requirements for Purchasing Card use.

By signing below, you are acknowledging you have read the Manual and will abide by the Policies and Procedures discussed herein.

Cardholder Name (Please Print) _____ Program # _____

Cardholder Signature _____

Date _____

Program Administrator Signature _____

Date _____

- I. Purpose, principles, and scope
 - A. Purpose
 1. The purpose of this policy is to establish procedures governing the eligibility for payment of expenses incurred while traveling on official business for the City of Fort Smith, hereinafter referred to as City. The following policies are set forth to improve control and minimize cost.
 2. The City defines official business as activities directly related to the necessary and required business functions of the City.
 3. All questions regarding the travel policies and procedures should be emailed to purchasing@fortsmithar.gov.
 - B. Principles
 1. Expenses must have a business connection and must benefit the City or have a public purpose.
 2. Traveler's must have paid or incurred expenses while performing services as an employee or representative of the City.
 3. The City's [Code of Business Conduct](#) shall be followed at all times. Questions related to the Code of Business Conduct should be directed to the City's Internal Audit department.
 - C. Scope
 1. The scope of this policy covers City officials including employees and elected or appointed officials, and volunteers, hereinafter referred to as Travelers.
 2. The final responsibility for defining the policy regulating official business travel rests with the city administrator.
 - a) *The department directors are responsible for dissemination and implementation of these policies and procedures to all employees.*
 - b) *The Finance department ensures conformity to the procedures prescribed herein. Normal audit guidelines will be applied to establish conformance among departments.*
 - D. Guidelines
 1. The City follows the guidelines and per diem rates for lodging and meals & incidentals (M&IE) established each fiscal year by the U. S. General Services Administration (GSA).
 - a) *Per diem rates can be found on the GSA website at www.gsa.gov/travel/plan-book/per-diem-rates.*
 - b) *In the event of a conflict between GSA guidelines and the City's travel policy, the City's policy shall prevail.*
 2. The City observes the Business mileage rates set annually by the Internal Revenue Service (IRS).

a) *Mileage rates can be found in the Business column on the IRS website at www.irs.gov/tax-professionals/standard-mileage-rates.*

3. Travelers must adequately account for expenses. [See the City of Fort Smith Travel Procedure](#) for detailed information on how to request a travel advance or reimbursement, as well as details on time requirements.

II. Authorization

- A. Travelers should provide the purpose of travel and a complete cost estimate to the approving supervisor. Estimates should include the cost of the conference/training to be attended, estimated lodging, M&IE costs, and estimated round trip transportation costs.
- B. The department director or deputy director must approve all requests for official travel prior to the employee's departure. The department director will evaluate the impact of travel requests against factors including budget availability, job-relatedness, and other program considerations.
- C. Allowable expenses for official City travel include transportation, lodging, and meals & incidentals as described below.

III. Transportation

- A. Airline Transportation
 1. Commercial airline tickets should be purchased **directly from the airline** at least 14 days prior to travel when possible. It is not permissible to use online air travel sites such as Expedia, Travelocity, Hotwire, etc. Airline ticket payment for domestic travel will be made for the most basic class, economy (also known as coach, standard, or main cabin). The city will not cover premium economy. Vendors will be paid directly, e.g., airlines, travel agents, etc. via City purchase card. Reimbursement to an employee due to use of a personal credit card will not be honored without the written consent of the city administrator or his or her designee. For international travel, an upgrade to a higher class of service may be charged to the City's purchase card but the price difference must be shown and reimbursed to the City and must be completed within three (3) business days.
 2. An airline voucher received by rescheduling a flight due to overbooking is the property of the City and must be submitted to the City for future travel arrangements. Transferring tickets is not allowed. FAA regulations state the tickets must be issued in the traveler's name.
 3. Air travel accommodation should be made to take advantage of savings offered by airline companies whenever feasible. The city participates in American Airlines AAdvantage Business program for individuals. When booking business travel being paid for by the city, Travelers should enter the City's AAdvantage Business account number VB585P4 in the appropriate field. Both AAdvantage program members and the city will earn rewards on qualifying flights.

B. Private Vehicle

1. The city will reimburse a traveler for use of a private vehicle when a city vehicle is not available. Mileage reimbursement will not exceed the lowest coach airfare available at the time of the travel request. Trip distances and reimbursement will be calculated on the following criteria:
 - a) *The city mileage rate will be paid based on the Business mileage rate set annually by the [IRS](#).*
 - b) *During scheduled workdays, mileage is based upon the distance from the traveler's residence or normal designated workstation to the destination, whichever is less.*
 - c) *During non-scheduled workdays, mileage is based upon the distance from the traveler's residence to the destination.*
 - d) *Mileage for necessary travel in and around the destination city is reimbursable.*
2. When two (2) or more people travel in the same vehicle, only one (1) vehicle reimbursement will be made. Sharing of the same vehicle is expected and exceptions must be made in advance of the travel date by the city administrator or his or her designee.
3. Mileage reimbursement will be considered payment of actual and necessary expenses incidental to the use of a privately owned vehicle, including gasoline, insurance, repairs, and all other transportation related costs except for required parking fees and tolls.

C. City Vehicle

1. The employee will be reimbursed for the actual cost of repairs, gas, oil, tolls, etc. when paid out of pocket. Original receipts must be provided.
2. If deemed necessary, the department director may authorize an employee to take a city vehicle home the night before a scheduled trip and/or return the city vehicle the day following the return date.

D. Rental Vehicle

1. If a rental vehicle is necessary, approval for such an expense must be made prior to the travel date by the department director or the city administrator as applicable. Written justification must be attached to the rental car receipt.
2. Vendors will be paid directly via City purchase card. Reimbursement to an employee due to use of a personal credit card will not be honored without the written consent of the city administrator or his or her designee.
3. Actual costs of mid-sized vehicles rented from recognized car rental agencies including fuel costs and insurance are reimbursable with original receipts. When more than four (4) people are traveling to the same destination, reimbursement for actual costs of renting an appropriate sized vehicle will be allowed.

- E. Ground Transportation & Parking Fees
 - 1. When required for business related travel taxis, shuttles, ride shares, etc., will be reimbursed at the actual cost incurred plus a tip of up to eighteen (18) percent, when original receipts are provided.
 - 2. Parking fees, including required valet parking, will be reimbursed at the actual cost incurred when original receipts are provided.

IV. Lodging

- A. The City follows the lodging rates established each fiscal year by [GSA](#). These are the single occupancy allowable room rates before taxes and hotel fees. Lodging rates in excess of the GSA posted amounts must be approved in writing by the city administrator prior to traveling.
- B. Lodging expenses will be paid to the vendor directly via City purchase card. Reimbursement to an employee due to use of a personal credit card will not be honored without the written consent of the city administrator or his or her designee.
- C. Personal expenses such as in-room movies, personal phone calls, laundry, snacks, etc., are not eligible for reimbursement.

V. Meals and Incidentals (M&IE)

- A. A per diem M&IE allowance, which includes taxes and tips will be provided in accordance with the current [GSA](#) per diem rates for the destination location when time worked plus transportation time is 10 hours or more, except as noted in section C below.
 - 1. Time worked is defined as time spent at the normal duty station, at meetings/conferences, or conducting other official business outside the normal duty station.
 - 2. Incidental expenses are defined as fees and tips given to porters, baggage carriers, and hotel staff. Incidental expenses are not expenses for laundry, cleaning and pressing of clothing, lodging taxes, costs of phone calls, or transportation between places of lodging or business and places where meals are taken.
- B. Allowances will be calculated based on the following criteria:
 - 1. When travel, including time worked, is more than 10 but less than 24 hours the allowance is 75% of the applicable rate.
 - 2. When travel is 24 hours or more:
 - a) *The day of departure allowance is 75% of the applicable rate.*
 - b) *Full days of travel allowance is 100% of the applicable rate.*
 - c) *The day of return allowance is 75% of the applicable rate.*
 - 3. Meals provided by a common carrier, or a complimentary meal provided by a hotel/motel does not affect your per diem.
 - 4. In cases where a meal is included in the cost of a registration fee, meal allowances must be adjusted except as noted below.

- a) *You are unable to consume the furnished meal(s) because of medical requirements or religious beliefs.*
 - b) *You have made a reasonable effort to make alternative meal arrangements, but were unable to do so; and*
 - c) *You requested and received specific approval to claim the full M&IE allowance prior to travel. This must be documented in the travel expense forms.*
 - C. Meal per diem may be provided for meals consumed during regular working hours as noted below. Reimbursement will be based upon the appropriate mealtime only and will exclude the incidental allowance.
 - 1. Attendance at a business meeting extends over mealtimes and the business of the meeting will be pursued during the meal.
 - 2. The travel occurs during the employee's regularly scheduled shift and extends over a meal period.
 - 3. An emergency situation has been declared by the city administrator or his or her designee.
 - D. Meals for other purposes, i.e., meetings, recruitment, etc., should be paid for via City issued purchase card. A detailed receipt must be attached to the purchase card expense report and include the names of guest(s) and the nature of business.
 - E. All meals, including those for travel or other purposes, over the GSA applicable rates must be approved in writing by the city administrator or his or her designee. Actual detailed receipts and justification must be provided in such cases.
- VI. **Spouse or other non-authorized representative expenses**
- A. It is the City's policy that all expenses incurred on behalf of a Traveler's spouse or other non-authorized representative of the city will not be provided by the city. All such expenses must be segregated from the Traveler's expenses. These costs include registration fees, transportation, M&IE, and the difference between a single occupancy lodging rate and the actual occupancy lodging rate.
 - B. If a Traveler combines business travel with personal travel on the same trip, only those expenses incurred by the Traveler for business purposes will be eligible for reimbursement.
- VII. **Non-Reimbursable Items**
- A. Except for those provisions enumerated in this policy, expenses for personal entertainment, tips (i.e. porters, housekeeping staff), flowers, valet service, laundry, alcoholic beverages, cleaning, movies or other similar services are not reimbursable. Communication expenses shall be allowed only when necessary for the transaction of official business and properly receipted. Petty cash funds cannot be used to make travel advances or reimbursements.

City of Fort Smith Travel Procedure

I. General Information

- A. All travel related requests must be submitted using the appropriate worksheets in the City of Fort Smith [Travel Workbook](#) as outlined in each section below. These forms have been created to increase consistency in travel expense reporting, reduce calculation errors, and to distinguish between the different requests being made.
- B. All questions regarding the travel policies and procedures should be emailed to purchasing@fortsmithar.gov.

II. Travel Advance Request

- A. Travelers are eligible for a travel advance for meals & incidentals when in a travel status for two or more consecutive days. Mileage and/or other business-related expenses will be reimbursed as outlined in the reconciliation and reimbursement sections below.
- B. Travel advances will be made payable to the traveler named on the travel advance worksheet. The traveler assumes responsibility for those funds once received.
- C. Travel advance requests must be submitted **no later than 14 days before the departure date** to allow adequate time for processing.
- D. Complete the Travel Advance worksheet in its entirety. The traveler and approving supervisor must sign and date the worksheet. Submit the worksheet and supporting documents via Tyler Munis.
 - 1. Supporting documents must include the following:
 - a) *A copy of the [GSA](#) Meals and Incidentals breakdown for the destination*
 - b) *A copy of the event registration confirmation and agenda listing the dates and location of the event*
 - c) *If a registration confirmation is not available, you must include a signed memo from the approving supervisor stating the reason for travel and the travel dates and location.*
- E. The Finance Department will not issue a travel advance more than 30 days before the departure date or to travelers with refunds due to the City or with outstanding post-travel reconciliations due.

III. Travel Advance Reconciliation

- A. The Finance Department monitors travel advance reconciliations. Failure to reconcile within 14 days of the return date may result in a payroll deduction and the loss of travel advance privileges.
- B. Complete the Advance Reconciliation worksheet in its entirety. The traveler and approving supervisor must sign and date the worksheet. Submit the worksheet and supporting documents as outlined below.
 - 1. If no money is due to the traveler or the City, submit the advance reconciliation worksheet and supporting documents to the Finance Department via email at finance@fortsmithar.gov.

City of Fort Smith Travel Procedure

2. If reimbursement is due to the City, the traveler must make a payment in the Collections Department. Submit the advance reconciliation worksheet, supporting documents, and receipt from Collections to the Finance Department via email at finance@fortsmithar.gov.
3. If reimbursement is due to the traveler, you must submit the advance reconciliation worksheet and supporting documents via Tyler Munis.
4. Supporting documents must include copies of the following as applicable:
 - a) *Training certificates received*
 - b) *Maps used to calculate mileage*
 - c) *Parking receipts and receipts for rideshare/taxi services*
 - d) *Itemized receipts for any other business-related expenses*
5. In the event of trip cancellation, advanced funds must be returned to the city within 14 days of the cancellation date. Exceptions may be made for emergencies. The approving supervisor must email the Finance Department in such cases.

IV. Reimbursement Request

- A. Reimbursable expenses include transportation, lodging, and M&IE as outlined in the City of Fort Smith Travel Policy. Exceptions to the policy must be approved in writing by the city administrator or his or her designee.
- B. To request a reimbursement travelers must submit the required information as outlined below **within 14 days of the return date or at least monthly for frequent travelers.**
- C. Complete the Reimbursement Request worksheet in its entirety. The traveler and approving supervisor must sign and date the worksheet. Submit the worksheet and supporting documents via Tyler Munis as outlined below.
 1. **Meals:** Reimbursement for meals must include a copy of the [GSA](#) Meals & Incidentals breakdown for the destination location. Meal receipts are not required.
 - a) *Exceptions to the GSA per diem rates will be paid at the actual expense incurred with written approval from the city administrator or his or her designee. Detailed receipts must be provided. The City will not reimburse for alcoholic beverages.*
 - b) *Reimbursements for meals consumed within the city limits or for travel during regular working hours will be based on the appropriate mealtime only. Incidental per diem will not be paid.*
 2. **Mileage:** Reimbursements for mileage must include a copy of the state highway or online map service used in determining the number of miles requested. Mileage will be reimbursed at the current Business mileage rate at the time of travel as stated by the [IRS](#).
 - a) *Additional mileage within the destination city is allowable for business related travel (e.g. mileage from the hotel to the meeting site or*

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restaurant and back) and must be listed separately on the reimbursement request.

3. **Other transportation:** Reimbursements for ground transportation business related expenses such as tolls, parking fees, subway, or taxi/rideshare services will be paid at the actual expense incurred, plus a tip of up to eighteen percent, when receipts are provided.
 - a) *Transportation expenses such as airfare or rental car should be paid for via City issued purchase card. Exceptions must be approved in writing by city administrator or his or her designee and will be reimbursed at the actual expense incurred when receipts are provided.*
4. **Lodging:** Lodging expenses should be paid for via City issued purchase card. Reimbursement for lodging paid out of pocket must be approved in writing by the city administrator or his or her designee.
 - a) *Lodging receipts must be provided, and the Traveler will be reimbursed at the [GSA](#) per diem rate for the destination. Rate exceptions must be approved in writing by the city administrator or his or her designee and will be reimbursed at the actual expense incurred.*