

ORDINANCE NO. 560

AN ORDINANCE AMENDING CHAPTER I, ARTICLE 9, OF THE CODE OF THE CITY OF BASEHOR, KANSAS TO INCORPORATE A CITY PURCHASING POLICY

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF BASEHOR, KANSAS:

Section 1. Section 1-901 of the Code of the City of Basehor is hereby amended to read as follows:

14-101 INCORPORATING PURCHASING POLICY. There is hereby incorporated by reference for the purpose of regulating purchase of goods and services and setting procedures for bidding and procurements by the City of Basehor, Kansas, that certain policy known as the "Purchasing Policy", which may be amended by Resolution of the City Council.

Section 2. That all ordinances found to be in conflict with the said "Purchasing Policy" be and the same are hereby repealed.

Section 3. This ordinance shall be in full force and effective from and after its passage, and publication in the official city newspaper.

Approved by the City Council this 21st day of September, 2009.

Approved by the Mayor this 21st day of September, 2009.

Terry L. Hill, Mayor

Approved For Content:

Attest:

Patrick G. Reavey, City Attorney

Mary A. Mogle, CMC City Clerk

City of Basehor	
Standard Operations and Procedures	
SUBJECT: Goods and Services Purchase Procedures	Effective Date: September 21, 2009

GENERAL PROVISIONS

PURPOSE

The City of Basehor, on a daily basis, finds it necessary to make purchases for goods and services to operate various departments within the city limits. In order to achieve this goal it is necessary to establish standard procedures for purchasing goods and services. The purpose of this document is to communicate to city employees the proper policies and procedures regarding making purchases as an employee of the City of Basehor.

DISCLOSURE OF INFORMATION

To maintain public confidence and trust, the city will provide purchasing information such as bid documents, purchase orders, and other supporting purchasing documentation to the public in accordance with the Kansas Open Records Act.

POLICY

GENERAL PURCHASING POLICY

It is the practice of the City of Basehor to exercise sound business judgment and demonstrate fiscal responsibility by engaging in economical expenditures in order to improve the level and quality of city services while reducing overall costs whenever possible. City employees should make every effort to obtain goods and services at the lowest possible cost as consistent with the quality of product necessary to maintain standard department operations. With that understanding, the following policies are in effect in order to create a standard operating process for purchases.

All purchases must be consistent with the City’s approved budget unless prior approval is obtained from the governing body. Purchases are not to be made simply because funds are available. Personal purchases are prohibited, as is using the City’s name or an employee’s position with the city as a means for special consideration, pricing, or other offers for personal benefit. Purchase orders are to be completed prior to making actual purchases, not after a purchase has already been made. Each purchase order shall be kept on file for three (3) years after the fiscal year in which it was submitted, in accordance with K.A.R. 53-2-116.

PREFERRED PURCHASING

Preference will be given to local vendors; the City staff shall make every reasonable effort to purchase goods and services from suppliers located within the City of Basehor unless the product is not available at a competitive price or is not at the level of quality expected by the City.

BRAND SPECIFICATION

Employees will strive to obtain the best price by achieving a practical level of price competition when appropriate. Brand name specification will only be allowed when determined to be in the best interest of the city or when no other brand is available. Employees are not permitted to limit or suppress competition.

F.O.B.

All prices should be quoted F.O.B., Basehor, Kansas.

PURCHASE ORDER SYSTEM

The City of Basehor utilizes a formal purchase order system. The department head will complete a purchase order and submit it to the City Administrator for approval and signature. Once an item is received, the department head that purchased the item verifies that the city is being invoiced for the correct item. The department head submits the purchase order and the invoice to the city treasurer. The City Administrator signs off on the invoice, and the city treasurer mails payment. Once paid, the City Council will be notified of the payment in the next regular meeting.

PAYMENT

It is not necessary for purchases within the authority of the City Administrator to be presented to the Council for authorization. Also, purchases previously authorized by the Council are not required to be presented again for check authorization. Payments to vendors are made bi-weekly. Normally, vendors are paid 30 days from the invoice date. When available, discounts for earlier payment will be taken provided that the invoice has been approved. All invoices should be submitted to:

Accounts Payable
City of Basehor
P.O. Box 406
Basehor, KS 66007

AUTHORIZED SPENDING LEVELS

Amount of Purchase	\$1 - \$1,500	\$1 - \$15,000	\$15,001 or more
Authorized Persons	Department heads	City Administrator	City Administrator (with approval of City Council); City Council

PROCEDURES

QUOTES

Goods and services costing less than \$15,000 do not require bids to be gathered. However, purchases of goods or services totaling between \$500 and \$1,500 should be preceded by a minimum of three verbal quotes, and those totaling between \$1,501 and \$15,000 should be preceded by a minimum of three written quotes. Preparation and signing of a contract formalizing a scope of work and the terms of compensation is required for all contracts over \$15,000, and must be reviewed by the City Attorney.

Amount of Purchase	\$500 - \$1,500	\$1,501 - \$15,000	\$15,001 or more
Quotes Required	At least 3 verbal quotes	At least 3 written quotes	Sealed bids

TAX CLEARANCE CERTIFICATE

A tax clearance certificate will be required from all vendors doing \$15,000 or more in business with the City. Tax clearance certificates are generated by the Kansas Department of Revenue, and tax clearance request forms are available online or in paper form. For more information visit <http://www.ksrevenue.org/taxclearance.htm>.

METHODS OF PROCUREMENT

- a. Competitive Sealed bids – Competitive sealed bids are initiated by publishing an Invitation for Bids (IFB) when the cost of supplies or equipment or for construction is estimated to be over \$15,000. Invitation to bid notices will be published twice as a minimum in the local newspaper at a minimum 30 days prior to bid date except with approval of the City Council. All notices must include a description of the equipment or services to be purchased, where bid blanks and specifications can be obtained, and the time and place for bid openings. Bids are to be submitted to the City Clerk and shall be identified as bids on the envelope. The City Council is the approving authority for all competitive sealed bids. All specifications shall be approved by the governing body prior to advertising for bids.
 - (1) Detailed specifications for the goods or services to be procured are prepared. The primary basis for award is cost.
 - (2) All bids received are tabulated and reviewed.
 - (3) The contract awarded must be a firm, fixed-price contract (lump sum or unit price).

- (4) Preparation and signing of a contract formalizing a scope of work and the terms of compensation is required (after confirming the contractor is not on the Federal debarred list).
 - (5) A bid guarantee equal to at least five percent of the proposed contract amount should be secured through a bid loan or a certified check. A 100 percent “performance bond” on the part of the contractor to secure fulfillment of all the contractor’s obligations under the contract; and a 100 percent “payment bond” on the part of the contractor to assure payment, as required by law, of all persons supplying labor and materials as part of work provided under the contract.
- b. Competitive Negotiations – initiated by publishing a Request for Proposals (RFP) or Request for Qualifications (RFQ). The RFP is used when price is a factor in selection; the RFQ is used when price is considered after selection (this is usually applicable only for architectural and engineering services). Adequate time is allowed for preparation of RFP or RFQ for at least 30 days.
- (1) In both the RFP and RFQ, the services to be procured should be clearly defined, along with the factors to be used in evaluation and selection. A written basis of selection must be prepared.
 - (2) All proposals received are to be reviewed and the basis of selection must be documented in writing.
 - (3) For RFQ’s, an invitation is made to one or more respondents to negotiate a price or fee.
 - (4) Preparation and signing of a contract formalizing a scope of work and the terms of compensation is required.
- c. Non-Competitive Negotiations – Non-competitive negotiations are used only when: (1) the use of competitive negotiations is not feasible, such as only one supplier, (2) there is some public emergency, or (3) the results of the competitive negotiations are inadequate.
- (1) Negotiations are conducted with the selected company regarding a scope of work and price.
 - (2) Preparation and signing of a contract formalizing a scope of work and the terms of compensation is required.
 - (3) Sole source purchases must be approved by the City Administrator or City Council.

BID REVIEW PROCESS

- a. Bids shall be opened and announced in public at the time and place stated in the public notice. A written tabulation of all bids received shall be provided

upon request. On the day of the deadline for submittal, the City Administrator or his designee will collect all submitted bids and open them in front of the public and those bidders who wish to be present. The department heads in conjunction with the City Administrator will review all bids, determine compliance with the bid specifications, and make a recommendation to the governing body, which will then vote to accept or reject the bid.

The City Council, at its discretion, may reject any and all bids.

EXCEPTIONS TO BID PROCESS

Heavy Equipment Exceptions – Formal Bids will not be required for repair of heavy equipment or vehicles, provided that:

- a.) The extent of the repair cannot be determined;
- b.) Preparation of specifications are not practical; or
- c.) Repairs are of an emergency nature.

Professional Service Exceptions – The Governing Body may retain architects, engineers, attorneys, accountants, auditors, appraisers or other services of a professional who, in keeping with the standards of their discipline, will not enter into a competitive bidding process. The City Administrator may negotiate contracts for professional services with the approval of the Governing Body.

CONFLICT OF INTEREST

An employee shall not participate in the selection or awarding of a contract if a conflict, real or apparent, arises involving 1) the employee; 2) a member of the employee's immediate family; 3) a partner of the employee; or 4) an organization which employs, or is about to employ any of the above, or anyone who has a financial or other interest in the firm selected for the award.

CONTRACTS

FORMATION

Once a firm is chosen, preparation of a contract with the successful bidder may be carried out. A contract must be prepared and signed that formalizes the scope of work and enumerates the terms of the partnership for all contracts over \$15,000.

CONTENT

All contracts must include the following:

1. Signatures of the company representative, the Mayor, the City Attorney, and the City Clerk.

2. Adequate release of future liens for all work performed under contract.

RECORDS

All determinations and other written records pertaining to the solicitation, award, or performance of a contract shall be maintained for the City in a contract file by the City Clerk. All purchasing records shall be retained and disposed of by the City in accordance with records retention guidelines and schedules as required by the State of Kansas.

DEBARMENT

AUTHORITY TO DEBAR

After reasonable notice to the person involved and reasonable opportunity for that person to be heard, the City Administrator, after consultation with the City Attorney, may debar a person for cause from consideration for award of contracts. The causes for debarment include the following:

- (1) Conviction of a criminal offense as an incident to obtaining or attempting to obtain a public or private contract or subcontract, or in the performance of such contract or subcontract;
- (2) Conviction under state or federal statutes of embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, or any other offense indicating a lack of business integrity or business honesty which currently, seriously, and directly affects responsibility as a City contractor;
- (3) Conviction under state or federal antitrust statutes arising out of the submission of bids or proposals;
- (4) Violation of contract provisions, as set forth below, of a character which is regarded by the City Administrator to be so serious as to justify debarment action:
 - (a) deliberate failure without good cause to perform in accordance with the specifications or within the time limit provided in the contract; or
 - (b) a recent record of failure to perform or of unsatisfactory performance in accordance with the terms of one or more contracts; provided that failure to perform or unsatisfactory performance caused by acts beyond the control of the contractor shall not be considered to be a basis for debarment;
- (5) Any other cause the City Administrator determines to be so serious and compelling as to affect responsibility as a City contractor, including debarment by another governmental entity for any cause listed in this policy.

DECISION TO DEBAR

The City Administrator shall issue a written decision to debar a vendor. The decision shall state the reasons for the action taken.

NOTICE OF DECISION

A copy of the decision to debar shall be mailed or otherwise furnished immediately to the debarred person.

FINALITY OF DECISION

A decision to debar shall be final and conclusive, unless the debarred person within 10 days after receipt of the decision takes an appeal to the City Council. After reviewing any

appeal, the City Council can either revoke the decision or allow it to stand. Any person debarred can annually submit a request to the City Administrator asking for the debarment to be lifted.

EMERGENCY SPENDING

APPROPRIATE SITUATIONS

It is recognized that emergency situations occasionally arise in City operations, and it becomes necessary to make a responsible decision regarding obtaining goods and services. Purchasing in emergency situations is deemed appropriate when immediate action may preclude excessive costs at a later date, a hazardous situation exists or daily operations of the City are put on hold. Examples of emergency situations include but are not limited to: natural disasters, epidemics, riots, equipment failure, or threats to public health, safety, or welfare. However since every situation cannot be anticipated, decisions will be left to the professional judgment of the City Administrator.

SPENDING AUTHORITY

The City Administrator shall determine what purchasing action, if any, is necessary in an emergency situation. Any department may make an emergency purchase, but only after obtaining authorization from the City Administrator. Purchases shall be limited to only the quantity necessary to meet the emergency. In all cases of emergency spending, the City Administrator will provide full disclosure to the City Treasurer no later than the following working day, and to the governing body as soon as reasonably possible.

IN ABSENCE OF CITY ADMINISTRATOR

If the City Administrator is unavailable, the Mayor will determine what action is necessary and approve all emergency spending. Should the Mayor also be unavailable, the Council President will determine what action to take and approve or deny requests from City staff.

ETHICS

GENERAL STANDARDS

General Ethical Standards for Employees: Any attempt to realize personal gain through City employment by conduct inconsistent with the proper discharge of the employee's duties is a breach of public trust. In order to fulfill this general prescribed standard, employees must also abide by the specific standards set forth in this policy.

General Ethical Standards for Non-Employees: Any efforts to influence any City employees to breach the standards of ethical conduct set forth in the policy is also a breach of ethical standards.

MISCELLANEOUS

In order to preserve ethical standards and maintain the public trust, the following miscellaneous ethical guidelines will also apply to purchasing.

The City of Basehor and its employees will follow all federal, state, and municipal codes in addition to sanctions mentioned in this policy when purchasing goods and services.

Unless specifically authorized by the City Council, the City and its employees are prohibited from endorsing any specific product, brand, or vendor. Employees shall not solicit or accept gratuities, favors, kickbacks, or anything of monetary value from current or potential suppliers, contractors, or parties of sub-agreements.

It shall be a breach of ethical standards 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.

The City retains its right to recover any lost value from both employees and non-employees.

Purchasing requirements shall not be artificially divided so as to constitute a smaller purchase to avoid a more competitive method of vendor selection.

APPLICABLE FEDERAL AND STATE LAW

FEDERAL REQUIREMENTS

Purchases involving the use of federal assistance or contract funds are subject to compliance with all applicable federal law and regulations.

STATE STATUTES

Outside of exemption by charter ordinance, this policy is subordinate to state statutes regarding city purchasing practices.

TAX EXEMPTION

The City of Basehor is tax exempt as a political subdivision under Section 4221 (b) of the Internal Revenue Code and K.S.A. 79-3606(b). Exemption certificates will be provided upon request.

The Governing Body reserves the right to amend this policy at any time. All City employees shall adhere to this policy. Any officer, employee, or agent of the City who violates this policy is subject to disciplinary action including but not limited to reprimand, suspension, or termination. This Policy shall take effect upon passage of the City Council of the City of Basehor, Kansas and remain in effect until such a time as amendments are made.

Approved by the Governing Body of the City of Basehor on the _____ day of _____, 2009.

Mayor

City Clerk

