

# **CITY OF CLARKSVILLE, TENNESSEE**

## **PURCHASING POLICY**

JULY 1, 2004

Last Revision November 1, 2013

# PURCHASING POLICY

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## **POLICY STATEMENT**

Recognizing its obligations to the public, to the services rendered by the City government, to the business community, and specifically to the overall efficiency and value for the taxpayer, it is hereby declared the policy of the City of Clarksville to provide an effective central purchasing program through which, by means of competition based on fair and equal opportunity extended to qualified persons and firms interested in doing business with the City and City departments, the using departments may obtain needed goods and services at competitive costs consistent with suitable performance standards, quality and time of completion.

The policies and procedures described herein shall apply to the expenditure of all federal, state, and local appropriated funds.

## **ENABLING LEGISLATION**

ORDINANCE 58-2003-04

*NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CLARKSVILLE, TENNESSEE:*

That a centralized purchasing department is hereby established to handle all purchasing and contracting for all departments of City government. Plans and operating procedures for the new department shall be developed under the oversight of the Finance & Administration Committee, by the Director of Human Resources, and other appropriate City employees with technical assistance from the Municipal Technical Advisory Service. The department shall begin functioning on or before July 1, 2004.

*FIRST READING:* January 5, 2004  
*SECOND READING:* February 5, 2004  
*PUBLICATION DATE:* February 8, 2004

TCA 6-56-301, Municipal Purchasing Law of 1983, 6-56-302(1) provides that the Municipal Purchasing Law of 1983 shall not apply to purchases by authorized officials in municipalities having charter provisions or private act requirements governing competitive bidding and purchases.

## COMPETITIVE PROCUREMENT PROCESS

### Purchases of \$10,000.00 or more

All purchases, leases, and lease-purchases of \$10,000.00 or more purchased either singly or in the aggregate, for like items purchased in lots of two (2) or more, shall be formally bid or sealed proposals solicited prior to the purchase. All such purchases competitively bid shall be awarded to the lowest and best bidder unless provided for within the provisions of this document. All such bids or proposals shall be reported to the Finance and Administration Committee. The City Purchasing Agent or his authorized designee prior to purchase shall approve all purchases awarded. All specifications drafted shall provide for the competitive procurement of goods and services. All bids solicited under this paragraph must be sealed. Bids received after the stated opening time shall be rejected with time and date of receipt recorded and filed in the bid folder.

### Advertising

All purchases of more than \$14,000 shall be publicly advertised no less than five (5) days prior to the bid or proposal opening. "Publicly advertised" or "public advertising" shall mean every kind of conveyance to the public the notice of the City's intention to purchase, whether conveyance of intention is by word of mouth, newspaper advertising, magazine advertisement, handbill, written notice, printed notice, printed display, billboard display, poster, radio announcement, internal listing and any and all means including oral, written, or printed notice of intent to purchase.

(City Ordinance 26-2007-08)

### **Purchase orders shall be issued by the Purchasing Department.**

### Purchases of \$5,000.00 to \$9,999.99

All purchases from \$5,000.00 but less than \$10,000.00 purchased either singly or in the aggregate, for like items purchased in lots of two (2) or more shall require solicitation, whenever possible, of at least three (3) competitive written quotes prior to purchase. All such purchases for which quotes are received shall be awarded for the lowest and best quotation unless provided for within the provisions of this document. Quotations may be by letter, fax, or email stating:

1. The company's name, address, and phone number,
2. The person's name giving the quote,
3. The price including delivery, and
4. The complete description of the product or service provided.

On-line quotations may be used provided the above information is included.

After the information is obtained by the using department and sent to the Purchasing Department, the information will be confirmed and a **purchase order issued by the Purchasing Department.**

### Purchases of \$1,000 to \$4,999.99

All purchases from \$1,000.00 but less than \$5,000.00 purchased either singly or in the aggregate, for like items purchased in lots of two (2) or more shall require solicitation, whenever possible,

of at least three (3) competitive written quotes prior to purchase. All such purchases for which quotes are received shall be awarded for the lowest and best quotation.

Purchase orders will be issued by the using department. **Purchase orders shall be issued prior to confirming a purchase and receipt of an invoice.**

#### Purchases of less than \$1000

Purchases under \$1000.00 are considered small dollar purchases. A Request for Payment or the City Purchasing Card program may be used for such purchases.

#### Records Retention

Reference City Code Section 6-102 (d)

#### Funding

Reference City Code Section 6-102 (e)

## **PROCUREMENT INVOLVING USE OF FEDERAL FUNDS**

### **1.0 PROCUREMENT INVOLVING TRANSIT DEPARTMENT**

When using federal assistance awarded by the Federal Transit Administration (FTA), the City will follow Federal Transit Administration Circular 4220 (as amended).

### **2.0 PROCUREMENT INVOLVING HOUSING AND COMMUNITY DEVELOPMENT DEPARTMENT**

Procurement involving the use of any **federal funds** requires that the jurisdiction follow all guidelines referenced at 24CFR 85.36.

#### Procurement procedures

A. The director or supervisor of the Office of Housing and Community Development or other departments of the City responsible for procurement of services, supplies, equipment, or construction obtained with federal funds including but not limited to CDBG or HOME funds shall review all proposed procurement actions to avoid the purchase of unnecessary or duplicative items. Such reviews shall consider consolidation or breaking out to obtain a more economical purchase. When determined appropriate by the director or supervisor, an analysis to determine which approach would be the most economical shall be undertaken.

B. The City shall take affirmative steps to assure that small and minority firms and women-owned business enterprises are solicited whenever there are potential qualified sources. The City shall also consider the feasibility of dividing total requirements into smaller tasks or quantities so as to permit maximum participation by small and minority firms and women's business enterprises. Where permitted by regulations, delivery schedules will be developed which will include participation by such businesses. Where possible, evaluation criteria will include a factor with an appropriate weight for these firms. In identifying small and minority business firms, the City may request the assistance of the Division of Minority/Women's Business Enterprise within the Department of Economic Development.

C. All prime contractors shall be required to take the affirmative steps described in the preceding subsection if subcontractors are let. The City may assist the prime contractor whenever possible by providing copies of lists which identify qualified small and minority firms, women's business enterprises, and labor surplus area firms.

#### Selection procedures

A. All procurement carried out with federal funds including but not limited to CDBG or HOME funds, where the City is a direct party, shall be carried out in a manner that provides maximum free and open competition. Procurement procedures will not restrict or eliminate competition. The City shall not place unreasonable requirements on firms in order for them to qualify to do business. Nor will the City encourage or participate in noncompetitive practices among firms. The City is alert to organizational conflicts that would jeopardize the negotiation process and limit competition. The City will not require unnecessary experience or other requirements such as excessive bonding.

B. Pursuant to state law, all solicitations of offers shall incorporate a clear accurate description of the technical requirements for the material, service, or product to be procured. In competitive procurement, these descriptions shall not contain features that unduly limit competition. The description may include a statement of the qualitative nature of the material, product, or service and the minimum essential characteristics and standards to which it must conform if it is to satisfy its intended use. Detailed product specifications shall be avoided whenever possible. A "brand name or equal" description may be used to define the performance or other salient requirements of procurement. The specific features of the named brand that must be met by offerors shall be clearly stated.

C. All solicitations of offers shall clearly set forth all requirements which offerors must fulfill and all other factors to be used in evaluating bids, proposals, or statements of qualifications.

D. Contracts shall be awarded only to responsible contractors/firms that possess the potential ability to perform successfully under the terms and conditions of the proposed procurement. Consideration shall be given to such factors as the contractor's/firm's capacity, integrity, compliance with public policy, record of past performance, and financial and technical resources.

Solicitation procedures and procurement are conducted in full compliance with Federal standards stated in 24 CFR 85.36, or State and local laws that are more stringent, provided they are consistent with 24 CFR 85.36.

### **EXEMPTION FROM COMPETITIVE PROCUREMENT PROCESS**

Reference City Code Section 6-102 (g) (1) through (15)

When using federal assistance awarded by the Federal Transit Administration (FTA), the City will follow Federal Transit Administration Circular 4220 (as amended).

## **APPROVAL AUTHORITY DESCRIBED**

The City Purchasing Agent or his designee has the authority to issue contracts for bids within the following conditional guidelines:

1. Purchases over \$10,000 shall be obtained through the approved competitive procurement methods. Bids will be advertised at least five (5) working days to bid opening date. Bid requests and specifications shall be mailed to prospective bidders.
2. Award shall be made to the lowest responsible and responsive bidder meeting quality and performance specifications;
3. Items that have been previously identified and approved for purchase by the City Council during the budget process for that fiscal year (appropriated funds);
4. The award does not exceed the budgeted amount approved;
5. There is no apparent controversy surrounding the bid process or any question about selection of the low bidder meeting specifications; and
6. A Bid Summary Report containing a recap of activity shall be presented to the Finance and Administration Committee at each meeting. This report shall state the bid number, department, bid description, successful vendor, and amount of each purchase made within these guidelines. In addition, the Purchasing Department will include a listing of all unsuccessful bidders and the amount of their bid.
7. The Purchasing Department shall approve and issue all purchase orders over \$5,000.00 after receiving quotations along with request forms from the using department.

## **GRANT OF AUTHORITY**

Reference City Code Section 6-102 (k)

## **VIOLATION OF PURCHASING POLICIES**

Reference City Code Section 6-102 (l)

Department Heads will be responsible for explaining any such violations in writing to the Mayor, Finance and Administration Committee, City Purchasing Agent and/or the City Council.

## **CONSTRUCTION PROJECTS**

Reference City Code Section 6-102 (m)

**AUTHORITY OF PROPRIETARY FUND CHIEF FINANCIAL OFFICERS**  
Reference City Code Section 6-102 (n)

**METHODS OF PURCHASE**

Unless otherwise authorized by law, all City contracts above the sealed bid limit shall be obtained by Competitive Sealed Bid with the award made to the lowest responsible and responsive bidder whose bid or proposal is the most economical and efficient for the purpose intended according to the criteria set forth in the solicitation.

Other methods of award may be used following the determination by the Purchasing Agent or his designee that the Competitive Sealed Bid is not practicable or advantageous to the City. These methods are Multi-Step Bidding, Request for Proposal, and Competitive Negotiation. Purchase methods are defined as follows:

**1. COMPETITIVE SEALED BID/PROPOSALS**

All purchases, leases, and lease-purchases of ten thousand dollars (\$10,000.00) or more purchased either singly or in the aggregate, for like items purchased in lots of two (2) or more shall be formally bid or sealed proposals solicited prior to the purchase. All such purchases competitively bid shall be awarded to the lowest and best bidder unless provided for within the provisions of this chapter. All such bids or proposals shall be reported to the Finance and Administration Committee. The City Purchasing Agent or his designee prior to purchase shall approve all purchases awarded. All specifications drafted shall provide for the competitive procurement of goods and services. All bids solicited under this paragraph must be sealed. Bids received after the stated opening time shall be rejected with the time and date of receipt recorded and filed in the bid folder.

**2. MULTI-STEP BIDDING PROCESS**

The multi-step sealed bidding process is a two phase process consisting of a technical first phase composed of one or more steps in which bidders submit unpriced technical offers to be evaluated by the City, and a second phase in which those bidders whose technical offers are determined to be acceptable during the first phase have their price bids considered.

This method is designed to obtain the benefit of Competitive Sealed Bidding by award of a contract to the lowest responsive and responsible bidder, and at the same time obtain the benefits of the competitive sealed proposals procedure through the solicitation of technical offers and to conduct discussions to evaluate and determine their acceptability.

### **3. COMPETITIVE NEGOTIATION PROCESS (RFP)**

Selection shall be made of two or more proposers deemed to be fully qualified and best suited among those submitting proposals based on the factors involved in the request, including price, if so stated. Negotiations shall then be conducted with the top rated proposer and a contract offered if both parties agree. If a contract cannot be negotiated with the top rated proposer, then negotiations shall be conducted with a second rated proposer and a contract offered if both parties agree, and so on.

Offeror shall be accorded fair and equal treatment regarding any opportunity for discussions and revision of proposals, and such revisions may be permitted after submission and before award to obtain the best and final offer. In conducting discussions, there shall be no disclosure of any information derived from proposals submitted by competing proposers.

The proposals are not required to be read aloud, however the names of the proposers are publicly announced.

### **4. PROFESSIONAL SERVICES**

#### **12-4-107 (as amended by 2013 Public Chapter 403. Formerly 12-4-106 (a)(2) (A-D)).**

(a) All contracts for architectural, engineering and construction services procured by any municipal corporation, county, state, development district, utility district, human resource agency, or other political subdivision created by statute shall meet the following requirements:

(1) In the procurement of architectural and engineering services, the selection committee or procurement official may seek qualifications and experience data from any firm or firms licensed in this state and interview such firm or firms. The selection committee or procurement official shall evaluate statements of qualifications and experience data regarding the procurement of architectural and engineering services, and shall conduct discussions with such firm or firms regarding the furnishing of required services and then shall select the firm deemed to be qualified to provide the services required.

(2) The selection committee or procurement official shall negotiate a contract with the qualified firm for architectural and engineering services at compensation which the selection committee or procurement official determines to be fair and reasonable to the government. In making such determination, the selection committee or procurement official shall take into account the estimated value of the services to be rendered, the scope of work, complexity and professional nature thereof.

(3) Should the selection committee or procurement official be unable to negotiate a satisfactory contract with the firm considered to be qualified, at a

price determined to be fair and reasonable, negotiations will continue with other qualified firms until an agreement is reached.

(4) A city, county or utility district having a satisfactory existing working relationship for architectural or engineering services may expand the scope of the services; provided, that they are within the technical competency of the existing firm, without exercising this section.

**12-3-1209 (as amended by PC 403. Formerly 12-4-106 (a)(1) and (b-e) )**

(a)(1) Contracts by counties, cities, metropolitan governments, towns, utility districts and other municipal and public corporations of the state, for legal services, fiscal agent, financial advisor or advisory services, educational consultant services, and similar services by professional persons or groups of high ethical standards, shall not be based upon competitive solicitations, but shall be awarded on the basis of recognized competence and integrity. The prohibition against competitive soliciting in this section shall not prohibit any entity enumerated from interviewing eligible persons or entities to determine the capabilities of such persons or entities.

(b) Any person providing fiscal agent, financial advisor or advisory services to any county, city, metropolitan government, town, utility district or other municipal or public corporation shall perform such services only pursuant to a written contract, specifying the services to be rendered, the costs therefore, and the expenses to be covered under such contract.

(c) Any person providing fiscal agent, financial advisor or advisory services to any county, city, metropolitan government, town, utility district or other municipal or public corporation of this state who desires to bid, directly or indirectly, on any bonds, notes or other obligations of such entity sold pursuant to public, competitive sale shall receive in writing prior to the sale the permission of such entity to respond either directly or indirectly on the obligations.

(d) For the purposes of this section, "providing fiscal agent, financial advisor or advisory services" means a relationship that exists when a person renders or enters into an agreement to render financial advisory or consultant services to or on behalf of an issuer with respect to a new issue or issues of municipal securities, including advice with respect to the structure, timing, terms and other similar matters concerning such issue or issues, for a fee or other compensation or in expectation of such compensation for the rendering of such services. Notwithstanding the foregoing provisions of this subsection (d), a financial advisory relationship shall not be deemed to exist when, in the course of acting as an underwriter, a municipal securities dealer renders advice to an issuer, including advice with respect to the structure, timing, terms and other similar matters concerning a new issue of municipal securities.

(e) (1) Contracts by counties, cities, metropolitan governments, towns, utility districts and other municipal and public corporations of the state for

information management services, including, but not limited to, computer program analyst services shall, upon approval by a two-thirds (2/3) vote of the governing body, be procured through a request for proposals process. The request for proposals process will invite prospective respondents to participate and will indicate the service requirements and the factors used for evaluating the proposals. Such factors shall include cost, the vendor's qualifications and any additional factor or factors deemed relevant by the procuring entity for the procurement of the service. Cost shall not be the sole criterion for evaluation. The contract for such services will be awarded to the best evaluated, responsive respondent.

**12-4-110 (as amended by PC 403)**

Contracts by counties, cities, metropolitan governments, towns, utility districts and other municipal and public corporations of this state for energy-related services that include both engineering services and equipment, and have as their purpose the reduction of energy costs in public facilities, shall be awarded on the same basis as contracts for professional services.

**NOTE: A REQUEST TO SELECT A FIRM AS A PROFESSIONAL SERVICE MUST BE DOCUMENTED. THE DEPARTMENT HEAD/MANAGER ALONG WITH THE PURCHASING AGENT MUST AFFIX A SIGNATURE TO THE "REQUEST FOR PROFESSIONAL SERVICE" FORM. THIS SIGNED FORM IS KEPT ON FILE IN THE PURCHASING DEPARTMENT. ALL PROFESSIONAL SERVICES ARE REPORTED TO THE FINANCE AND ADMINISTRATION COMMITTEE.**

**EMERGENCY PROCUREMENT POLICY**

Emergency purchases are exempt from the competitive purchase process. Emergency purchases where there exists a threat to public health, welfare, or safety are provided with the subsequent approval of the City Purchasing Agent or his designee. All such emergency purchases shall be reported in writing to the Finance and Administration Committee at their next regularly scheduled meeting. If the financial resources of the City or the public welfare of the City's citizens is jeopardized by the continued existence of the emergency and the continued delay in obtaining the appropriate approval, the program supervisor or department head involved in the emergency may complete the emergency purchase prior to reporting the purchase to, and obtaining the approval of, the City Purchasing Agent or his designee. A written report must be filed with the City Purchasing Agent or his designee within three (3) workdays after the emergency detailing the emergency and explaining why the normal competitive purchasing procedures could not be followed. Any employee, supervisor, department head, or official abusing the emergency procedures shall be subject to disciplinary action, to include termination.

The above policy statement shall not apply to the procurements that were caused from poor planning or scheduling by the using department as determined by the Mayor or his designee.

## **SOLE SOURCE PROCUREMENT POLICY**

When using federal assistance awarded by the Federal Transit Administration (FTA), the City will follow Federal Transit Administration Circular 4220 (as amended).

Sole source procurement is exempted from the competitive process. A contract may be awarded for a commodity, service, or proprietary item to the only known capable supplier where no competition exists, due to the unique nature of the requirement, the supplier, or market conditions. Sole source procurement shall not be used unless there is clear and convincing evidence that there is only one source. The department requesting sole source procurement shall provide written evidence and report of research to support the request to the Purchasing Agent or his designee.

## **COOPERATIVE PURCHASING AGREEMENTS**

Pursuant to TCA 12-3-1009, the City is authorized to use cooperative purchasing agreements and contracts.

### **TCA (12-3-1009)**

**(a)** Any municipality, county, utility district, or other local government of the state may participate in, sponsor, conduct or administer a **cooperative purchasing** agreement for the procurement of any supplies, services or construction with one (1) or more other local governments in accordance with an agreement entered into between the participants. Such **cooperative purchasing** may include, but is not limited to, joint or multi-party contracts between local governments. Where the participants in a joint or multi-party contract are required to advertise and receive bids, it shall be sufficient for those purposes that the purchasing entity comply only with its own purchasing requirements.

**(b) (1)** Any municipality or municipal agency may participate in, sponsor, conduct, or administer a **cooperative purchasing** agreement for the procurement of any supplies or any services other than construction, engineering or architectural services or construction materials with one (1) or more other local governments outside this state, to the extent the laws of the other state permit the joint exercise of purchasing authority, in accordance with an agreement entered into between or among the participants. A municipality may participate in a master agreement by adopting a resolution accepting the terms of the master agreement. If a participant in a joint or multi-party agreement is required to advertise and receive bids, then it will be deemed sufficient for those purposes that the purchasing entity or the entity that procured the bid complied with its own purchasing requirements. When any general law, charter or private act requires that a municipality or municipal agency purchase an item or a service by competitive bidding, either formal or informal, the municipality or municipal agency may consider the price for the same item or service under any contract or agreement pursuant to this section in the same manner as one of the formal bids or informal quotations required under such general law, charter or private act.

(2) The powers conferred by this subsection (b) are in addition and supplemental to the powers conferred by any other law and without regard to the provisions, requirements or restrictions of any other law, and the limitations imposed by this subdivision (b)(2) shall not affect powers conferred by any other law.

## **RIGHT TO AUDIT**

Contractors shall establish a reasonable invoice accounting system which enables ready identification of contractor costs of goods and use of funds. The City or its representative may audit the contractor's records anytime before four (4) years after final payment (or until all disputed claims have been settled, whichever is longer) to verify the City's payment obligation and the use of City's funds. This right to audit shall include subcontractors from whom goods or services are subcontracted by the contractor. Contractor shall ensure the City has these rights with subcontractors. Any disputed claims will be verified by an independent auditor at the cost of the City unless the contractor is found to have overcharged the City in which case the contractor will pay the cost of the audit as well as repay all overcharges.

## **DURATION OF CONTRACTS**

The City of Clarksville may enter into annual contracts for goods or services that contain a one-year renewable option not to exceed three years. Lease or lease/purchase agreements may be for more than three years with the decision for time determination being based on that which will best serve the interest of the City. Special contract conditions will be approved by the Finance and Administration Committee.

## **BIDDER'S LISTS**

Purchasing shall maintain current information relative to vendors who have requested to be placed on the bid list. Every effort shall be made to identify potential vendors for each solicitation to foster competition and ensure a fair and equitable environment. Requests for removal from the active bid file shall be in writing delivered to the City Purchasing Office.

It is necessary, periodically, to delete from our bidders list the names of those person, firms or corporations who fail to respond after having been invited to bid on a commodity or commodities for three (3) successive bid openings.

Vendor Applications may be obtained by accessing the City of Clarksville official website at [www.cityofclarksville.com](http://www.cityofclarksville.com). Applications may also be picked up at the Purchasing Offices located at 1 Public Square.

## **SURETY REQUIREMENTS**

### **BID BOND**

A bid bond issued by a surety company licensed to do business in the State of Tennessee may be required for a specified solicitation. The amount of the bid bond shall be stated as a set amount or as a percentage of the bid price. In no event may it exceed five percent (5%) of the total contract price. Bid bonds submitted by unsuccessful vendors will be returned upon award of a contract. Personal checks are not acceptable in the place of bid bonds; however, bank cashier's checks, a certified check or any other direct obligation drawn on a bank doing business in the United States are acceptable.

### **PERFORMANCE BOND**

A performance bond issued by a surety company licensed to do business in the State of Tennessee and acceptable to the City of Clarkville may be required for a specified solicitation. The amount of the performance bond shall be stated as a percentage of the contract price but may not exceed one hundred percent (100%) of the total contract price. Personal checks are not acceptable in the place of performance bonds; however, bank cashier's checks are acceptable. An irrevocable letter of credit from a state or national bank or a state or federal savings and loan association having its principal office in Tennessee may be accepted instead of a performance bond, subject to approval of the terms and conditions of said irrevocable letter of credit.

If the successful bidder fails to furnish a performance bond and execute a contract within the time allowed, the bid deposit of the bidder shall be retained by the City as liquidated damages and not as a penalty. In addition, the City shall remain free to pursue any other remedies it may have at law or in equity.

### **PAYMENT BOND**

A payment bond issued by a surety company licensed to do business in the State of Tennessee may be required for a specified solicitation. The bond shall be not less than 25% or more than 100% of the contract price. The bond is to ensure that the contractor will pay for all labor and materials used by the contractor or any immediate or remote subcontractor under the contractor.

## **QUALITY ASSURANCE, INSPECTION, AND TESTING**

The Purchasing Agent or a designee may take such steps as deemed desirable to ascertain or verify that supplies, services or construction items procured conform to specifications. This authority may be delegated to the using department if the best interest of the City operation is served.

## **FEDERAL AND STATE SURPLUS PROPERTY**

Authority is granted to the City Purchasing Agent or his designee to monitor both Federal and State surplus property programs and to allow using departments to purchase if (a) the price is reasonable; (b) the item is budgeted; (c) funds are available; and (d) justification of need is provided. An approved purchase order and request to purchase will be obtained from the Purchasing Department **before** making the purchase. The purchase shall be reported to the Finance and Administration Committee at their next regularly scheduled meeting.

## **SURPLUS PROPERTY**

The using departments shall identify in writing surplus, scrap, or obsolete property and report same to purchasing. Centralized Purchasing shall have the authority to dispose of surplus, scrap, excess or obsolete property and regulate its disposal in a manner deemed to be in the City's best interest. Equipment acquired by a department through federal or state grant funding which no longer serves the needs for which originally acquired shall be disposed of in accordance with the property management regulations of the funding agency.

T.C.A. 6-54-125 provides the following relating to purchase of city property by officials and employees:

- a) It is unlawful for any municipal official or employee to purchase from the municipality any property declared to be surplus by the municipality, **except by bid at public auction** during the tenure of such person's office or employment, or for six (6) months thereafter.
- b) A purchaser who violates this section commits a Class A misdemeanor.

Public auction includes on-line auctions open to the public.

Additionally no person involved in the seizure of property may purchase such property, including at public auction. Employees and officials purchasing or bidding on seized property shall attest in writing to the Purchasing Agent that they have not been involved in any way with the seizure of said property.

## **PURCHASE OF USED OR SECOND-HAND ITEMS**

Effective May 2007, T.C.A 12-3-1003 was amended to authorize any municipality to purchase used or second- hand articles, goods, equipment, materials, supplies or commodities from private individuals and entities without public advertisement and competitive bidding. Further stipulations now provide that the purchased item must be valued through a nationally recognized publication or by a licensed appraiser, AND the price is not more than 5% higher than the highest value of the documented price. (Updated October 25, 2010)

## **CONFLICT OF INTEREST**

No employee shall have any financial interest in the profits of any contract, service or other work performed for the City. He/she shall not personally profit directly or indirectly from any contract, purchase, sale or service between the City and any person or company. Any employee violating provisions of this rule shall be subject to appropriate disciplinary action including dismissal.

“Direct Interest,” means any contract with the employee himself or with any business in which the employee is the sole proprietor, a partner, or the person having at least 5% ownership interest in the business.

“Indirect Interest” means any contract in which the employee has no direct interest however a spouse or relative has an interest in the contract. A conflict of interest exists if the spouse or relative commingle their assets.

## **DEBT OWED TO THE CITY**

The City will not do business with anyone who owes a debt to the City of Clarksville or is a defaulter on surety to the City.

## **ANTITRUST LAWS**

All purchases shall be made according to applicable prevailing state and federal antitrust laws. Non-competitive practices will not be encouraged or approved. All methods of purchase shall be designed to promote open and fair competition.

## **GIFTS AND REBATES**

Centralized Purchasing Staff are expressly prohibited from accepting, directly or indirectly, from any person, company, firm or corporation to which any purchase order or contract is, or might be, awarded, any rebate, gift, special consideration, money or anything of value whatsoever, except as it may be given for the use and benefit of the City.

## **CIVIL RIGHTS**

Nondiscrimination – In accordance with Title VI of the Civil Rights Act, as amended, 42 U.S.C. 2000d, section 303 of the Age Discrimination Act of 1975, as amended, 42 U.S.C. 6102, section 202 of the Americans with Disabilities Act of 1990, 42 U.S.C. 12132, and Federal transit law at 49 U.S.C. 5332, the Contractor agrees that it will not discriminate against any employee or applicant for employment because of race, color, natural origin, sex, age or disability. In addition, the Contractor agrees to comply with applicable Federal implementing regulations and other implementing requirements FTA/FHWA/DOT may issue.

## **ILLEGAL ALIENS**

Clarksville Ordinance 30-2006-07 provides as follows:

If any person who contracts to supply goods or services to the city or other city entities, or who submits a bid to contract to supply goods or services to the city or other city entities, is discovered to have knowingly utilized the services of illegal aliens in the performance of such a contract to supply goods or services to the city or other city entities, the purchasing agents shall declare that person to be prohibited from contracting for or submitting a bid for any contract to supply goods or services to the city or other city entities for a period of one (1) year from the date of discovery of the usage of illegal alien services in the performance of a contract to supply goods or services to the city or other city entities.

The foregoing provisions are a condition of the contract which is the subject of this solicitation for bids/proposals.

## PROCUREMENT PROTEST PROCEDURES

WHEN QUESTIONS OR PROTESTS REGARDING PROCUREMENTS ARE AT ISSUE, THE FOLLOWING PROCEDURES WILL BE ADHERED TO BY THE CITY OF CLARKSVILLE:

Any protest or objection to the Conditions and or Specifications in the Bid Documents or the Procurement Process must be submitted for resolution to the Purchasing Agent for the City of Clarksville. Each protest must be made in writing and supported by sufficient information to enable the protest to be considered. A protest or objection will not be considered by the City if it is insufficiently supported or if it is not received within the specified time limits. The City of Clarksville shall respond in detail to each substantive issue raised in protest.

A party wishing to protest must post a protest bond in the amount of \$500.00 at the time of filing a notice of protest with the City of Clarksville Purchasing Agent. Protest bonds must be in the form of a cashier's or certified check made payable to the City of Clarksville. If the Protest Review Board upholds the protest, the bond shall be returned to the filing party. If the protest is denied, the bond will be retained by the City of Clarksville to cover the costs associated with the protest.

If a pre-bid/proposal protest is not resolved to the protester's satisfaction, then the protest shall be referred to the Department Head who initiated the bid request for the City of Clarksville, or his designee, for resolution. If the protest is still unresolved, the protest shall be referred to the Protest Review Board for resolution. The decision of the Protest Review Board shall be final. The Protest Review Board will consist of the Department Head initiating the bid, the Purchasing Agent for the City, and the City Attorney.

Protest arising after the opening of bids or proposals and prior to award (pre-award) of the contract and based upon grounds that were known or should have been known will be submitted to the Purchasing Agent for the City within three (3) working days after notification of the apparent low responsive and responsible bidder. The Purchasing Agent will present the protest to the Protest Review Board for a decision and the decision of the Protest Review Board will be final.

The decision of the Protest Review Board shall be final for all pre-bid and pre-award protests and no further appeals will be considered by the City.

Protests after the award of a contract (post-award) must be filed with the Purchasing Agent within three (3) working days of the award of the contract. The protest will be brought before the Protest Review Board for resolution. The decision by the Protest Review Board will be final and no further appeals will be considered by the City.

In all protests-- pre-bid, pre-award, and post-award-- requests for reconsideration of final decisions will only be granted in the event that new information becomes available which was not previously known or there has been an error of law or regulation.