

ARTICLE IV. – PURCHASING

DIVISION 1. – GENERAL PROVISIONS

Sec. 2-181. – Purpose

- a) The provisions of this article are adopted pursuant to S.C. Code 1976, § 11-35-50, and may be referred to as the city procurement code or purchasing rules and procedures.
- b) The purpose of this system is to assure that the city receives the best possible prices from vendors for quality goods and services.
- c) If for any reason any sentence, clause or provision of this ordinance shall be declared invalid, such shall not affect the remaining provisions thereof. All ordinances or parts of ordinances inconsistent or in conflict with the provisions of this ordinance are hereby repealed to the extent of conflict or inconsistency.

Section 2-182. – Ethics

All city contracting and purchasing shall be conducted with the highest level of ethics. No member of the city council nor any officer or employee of the city shall have a financial interest in any contract or in the sale to the city or to a contractor supplying the city of any land or rights or interests in any land, materials, supplies or services, except when a majority of the city council determines such exception in the best interest of the city, provided that no councilperson whose interest is involved shall vote on the question. Any willful violation of this section shall constitute malfeasance in office, and any officer or employee of the city found guilty thereof shall thereby forfeit his office or position. Any violation of this section with the knowledge express or implied of the person or corporation contracting with the city shall render the contract voidable by the city manager or the city council.

Sec. 2-183. – Adherence to policy

- a) All purchasing procedures set forth herein will be strictly adhered to by operating departments of the city.
- b) No bid shall be divided in order to circumvent the purchasing parameters.

Section 2-184. –Gratuities.

It shall be a violation of this article for an employee to accept cash, merchandise or any other item of value from any vendor or contractor and shall be cause for removal or other disciplinary action. The offer of cash, merchandise or any other thing of value to a city official or employee by any vendor or contractor or prospective vendor or contractor shall be reason for declaring such individual or firm to be irresponsible bidder, barring him from participation in the bid process.

Sec. 2-185. – Availability of funds.

Except as otherwise provided in this article, no award shall be issued until verification is made by the using department that the unexpended and unencumbered balance in the adopted budget is sufficient to cover the amount of such purchase to be awarded. No planned purchase shall be made except within the appropriations provided in the budget. If it becomes necessary to purchase an item not budgeted or over budget, a request shall be forwarded to the city administrator for approval.

Sec. 2-185. – Definitions.

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

Formal bid means a sealed, written quotation of price for such items conforming to city specifications.

Informal bid means any oral or written quotation of price for materials or services conforming to specifications required by the city. State purchasing contracts or other such contracts may be considered an informal bid.

Sec. 2-186. – Small purchases.

A small purchase is one where the items or services required do not exceed \$1,000.00. The items purchased must be within the budget appropriations (refer to monthly budget reports). The standard purchase order form shall be used for such purchases and the following procedure shall be used.

1. The department head prepares a requisition form, ensuring the form is properly filled out and the requisition does not exceed the budget. The department head then submits the requisition to the finance office well in advance of the time goods and services are required.
2. The finance office or city administrator either approves or denies the requisition.
3. If approved, the department head along with the city administrator or his designee will determine the vendor most advantageous for the city.
4. A purchase order for the vendor determined by the department head and city administrator) will be prepared and forwarded to the department head.

5. Upon receipt of the purchase order, the department head may procure the good or services from the vendor as authorized by the purchase order.
6. The department head delivers invoices / receipts to the finance office.
7. The finance office checks the invoices for pricing and mathematical errors and ensures the payment is not a duplicate; then stamps and initials the invoice signifying verification of the invoice details and accuracy of the departmental line item to which the invoices is coded.
8. The finance office issues a check and sends payment to the vendor along with a payment stub or copy of the invoices, and files appropriately.

Sec. 2-187 – Regular purchases.

A regular purchase is any item that exceeds \$1,000.00 or any item for which quotes must be secured. The standard purchase order form shall be used for such purchases and the following procedure shall be used:

1. The department head prepares a requisition form, ensuring the form is properly filled out and the requisition does not exceed the budget, then submits the requisition to the finance office well in advance of the time goods and services are required.
2. The finance office or city administrator either approves or denies the requisition.
3. If approved, the department head, in cooperation with the finance office checks to see if the items are covered by contract agreement (state purchasing, etc). If so, proceed to step 7 of this section. Otherwise, proceed to step 3.
4. The finance office determines if the expenditure is less than \$10,000.00. If so, the finance office then determines whether or not this is a situation where informal bid may be waived (see section 2-189(d)), and if so, then proceed to step 7 of this section; otherwise the finance office, in cooperation with the department head, seeks and obtains at least three informal bids if possible, selects the vendor most advantageous to the city and proceeds to step 7 of this section.
5. The finance office, having determined the expenditure exceeds \$10,000.00, then determines whether or not this is a situation where informal bid may be waived (see section 2-189(d)), and if so, the proceeds to step 7 of this section. Otherwise, the finance office, in cooperation with the department head, prepares a formal bid/proposal, drawing up detailed specifications and the bid/proposal notice, advertises the notice in a newspaper of general circulation at least ten days prior to receipt of bids/proposals, notifies suppliers that have indicated they wish to be notified, notifies applicable city business license holders, and secures a minimum of three bids/proposals where possible.
6. The city administrator, if the cost of the item is estimated to be over \$10,000 but less than \$35,000, opens the bids and awards the contract to the vendor most advantageous to the city. Except in an emergency situation, in the event that there is only one bidder the city administrator will bring the bid to Council for final approval or denial.

7. The city council, if the cost is over \$35,000.00 shall make the final decision as to which vendor will be awarded the contract.
8. The finance office files the requisition and prepares the purchase order when the vendor selection process is complete.
9. The finance office sends the original signed copy of the purchase order to the department head to be forwarded to the vendor when the order is placed and keeps one copy in the finance office.
10. The vendor fills the order and sends it to the ordering department and provides the invoice to the finance office.
11. The department of origin examines the received goods immediately upon delivery. The ordering department then provides notification to the finance office with proper signatures certifying the items were received in good condition. Payment for these goods will not be made until this certification is made.
12. The finance office, after receiving the signed certification that the goods were received in good condition, matches the invoice and purchase order and checks them for billing and mathematical errors and ensures the payment is not a duplicate, then stamps and initials in appropriate spaces signifying verification of order details and accuracy of the departmental line item to which the invoice is coded.
13. The city administrator approves the final payment.
14. The finance office issues the check and sends payment to the vendor, along with a payment stub or copy of the invoice and files appropriately.

Sec. 2-188. Emergency purchases.

An emergency purchase is authorized when the interruption of a project or service due to need of an item or service will directly affect and orderly completion of the project or providing the service, and when the use of normal purchasing procedures will cause an excessive delay in obtaining the needed item or service. In such cases the following procedure will be used:

1. The department head verbally explains the emergency situation to the city administrator, or mayor in the absence of the city administrator.
2. The city administrator or mayor, in the absence of the city administrator, after determining that funds are available for the purchase either from the budgeted account or contingency fund and the purchase is necessary to prevent interruption of a city project or service, gives verbal approval to the department head.
3. The department head, upon verbal approval, immediately obtains a purchase order number and refers this number to the vendor when placing the order.
4. The department head, by the end of the next working day, submits a requisition and one copy to the finance office. The requisition should list the items or services purchased.
5. The finance office processes in the same manner as the normal purchasing procedure, but eliminates the pricing and vendor selection functions.

6. The finance office marks "emergency purchase" on the assigned purchase order.
7. The city administrator reports any and all emergency purchases to city council by the next council meeting. This can be done via email or included in the administrator's next report at council meeting.

Sec. 2-189. Use of credit cards.

The following guidelines are for the use of the City's credit cards:

1. Credit cards will be issued only to the city administrator and department heads by the finance department. The employees responsible for the card (cardholders) will be held accountable for all purchases made with the card issued to him/her, along with documentation procedures discussed herein. Cardholders will not allow any other City employees to use his/her credit card.
2. The City, not the individual employee, will pay for the purchases made with the credit card. The city administrator and the finance director maintain the right to cancel any credit card which has been abused or deny cards to any employee that violates any part of the guidelines or procedures.
3. Spending limits for single purchases and 30-day limits will be set by the city administrator and the finance director based on the department that the employee is managing.
4. Before making a purchase with the credit card, the card holder must submit a requisition for approval of the purchase. If the finance director approves the purchase and issues a purchase order, the purchase can be made with the credit card.
5. If the credit card is used for emergency purchases, the procedures for an emergency purchase must also be followed.
6. Cardholders must maintain documents must be retained as proof of purchase. The documents, including the purchase order, must be attached to the cardholder's monthly statement, credit card reconciliation to verify the purchases. If the cardholder does not have documentation for a transaction to attach to the statement, he/she will be personally responsible for the charge.
7. If items purchased with the credit card are found to be defective or the repair or service is faulty, the cardholder has the responsibility to return item(s) to the merchant for replacement or to receive a credit on the purchase. If the merchant refuses to replace or correct the faulty item, then the purchase of this item will be considered in dispute. It is the responsibility of the cardholder to correct disputed items with the merchant if possible. When a cardholder is unable to correct a disputed item with the merchant, the cardholder shall contact the finance director and submit a written explanation concerning the disputed item.
8. The finance director will maintain a master list of all card holders and card numbers, including purchase limits.
9. It is the cardholder's responsibility to notify the card issuer immediately upon discovery of loss or theft of a card. In addition, the cardholder is also required to immediately notify the finance director via e-mail or phone. The finance director will request a replacement card for the cardholder.

10. If a cardholder is terminated or resigns, his/her card must be delivered and turned over to the finance director immediately. The card will then be cancelled and destroyed.
11. The finance director is responsible for issuing, monitoring, and controlling the cards and for enforcing these procedures.
12. The department heads must keep their cards, credit card numbers and copies of credit card statements in secure locations.
13. The City's credit card will not affect the cardholder's personal credit; however, it is the cardholder's responsibility to ensure that the card is used within stated guidelines of the City's purchasing and procurement ordinance. Failure to comply with program guidelines may result in permanent revocation of the card, notification of the situation to the city administrator, and further disciplinary measures that may include termination.

Sec. 2-190. Other general rules.

- a) Inventory and quality checks may be made from time to time by the city administrator or someone designated by the administrator to make all items used by the city departments are satisfactory and up to required standards.
- b) The city administrator's office cannot accept requisitions or issue purchase orders except within the amount adopted in the budget.
- c) The various department heads should work with the city administrator in preparing specifications or standards expected of products to be purchased by the city. Further, it shall be the responsibility of the department heads to provide the city administrator with feedback as to quality of merchandise, dependability of the vendors, etc.
- d) Bidding procedures may be waived under the following circumstances:
 - a. When there exists no possibility of a competitive bid, as in the case of only one source of supply.
 - b. When it is to the city's advantage to acquire goods or services on the basis of a previously award bid or contract.
 - c. In the case of emergency purchases or purchases of used equipment.
 - d. For professional services where the person engaged is a customarily employed on a fee basis rather competitive bidding (including but not limited to appraiser, architect, auditor, consultant, engineer, legal services, physician).
 - e. Proposals invited on a competitive sealed basis.
 - f. Negotiations after unsuccessful competitive sealed bidding.
 - g. Small purchases under \$1,000.00.
 - h. Blanket purchase agreements for repetitive small purchases not requiring a purchase order for each purchase.
 - i. Procurement of information technology.
 - j. Leasing or purchasing of real property.
 - k. Purchasing on state or other government contracts.
 - l. "Piggybacking" on another properly executed procurement within one year of the original purchase.

Sec. 2-191. – Award of contracts.

- a) Contracts for goods or services shall be awarded to the lowest responsible bidder. In determining the lowest responsible bidder, in addition to price, the city council or city administrator shall consider:
 - a. The ability, capacity and skill of the bidder to perform the contract or provide the service required;
 - b. Whether the bidder can perform the contract or provide the service promptly, or within the time specified, without delay or interference;
 - c. The character, integrity, reputation, judgement, experience and efficiency of the bidder;
 - d. The quality of performance of previous contracts or services;
 - e. The previous and existing compliance by the bidder with the laws and ordinances relating to the contract or services;
 - f. The sufficiency of the financial resources and ability of the bidder to perform the contract or provide the services;
 - g. The quality, availability and adaptability of the supplies or contractual services to the particular use required;
 - h. The ability of the bidder to provide future maintenance and service for the use of the subject of the contract; and
 - i. The number and scope of conditions attached to the bid;
 - j. Tie bids:
 - i. If two or more bids received are for the same total amount or unit price, quality and services being equal, the contract shall be awarded to the local bidder (as defined in subsection 2-190(b)), if applicable.
 - ii. If two or more of such bids are submitted by local bidders, the city administrator shall award the contract to one of the local tie bidders by drawing lots on public.
 - iii. If local bidders are not involved in the tie bids, the city administrator shall award the contract to one of the bidders by drawing lots in public.
 - k. For construction projects, bids may only be considered from bidders with proper state licenses.
- b) It is the policy of the city to support businesses located within the city. To that end, the city supports a local vendor preference applied to the requested bids. To qualify for the local vendor preference, the vendor must meet all of the following requirements:
 - a. The vendor must maintain an office within the legally defined boundaries of the city and have a majority of full-time employees, chief officers and managers regularly conducting work and business from this office;
- c) Use of the local vendor preference during the bid evaluation process:

- a. For comparing bids, any vendor who meets all of the criteria in subsections (b)(1) – (b)(4) above will have their bid price reduced by three percent, not to exceed a maximum reduction of \$1,500. If after the application of the local vendor preference, the vendor is determined to be the low responsive and responsible bidder, they will be awarded the contract; and
- b. Final contract price will reflect the original bid amount before the local vendor preference was applied.
- d) Minority-owned and woman-owned businesses:
 - a. It is the policy of the city to provide minorities and women equal opportunity for participating in all aspects of the city’s contracting and procurement programs, including but not limited to employment, construction projects, and lease agreements consistent with the laws of the State of South Carolina.
 - b. It is further the policy of the city to prohibit discrimination against any person or business in pursuit of these opportunities on the basis of race, color, national origin, religion, sex, age, handicap or veteran status.
 - c. It is further the policy of the city to conduct its contracting and procurement programs so as to prevent such discrimination and to resolve any and all claims of discrimination.

Sec. 2-192. -Protests.

Any actual or prospective bidder, offeror, or contractor who is aggrieved in connection with the solicitation or award of a contract may protest to the city administrator. The protest shall be submitted in writing within ten (10) calendar days of the date of issuance of the invitation for bids, requests for proposals, or other solicitation documents, whichever is applicable, or any amendment thereto, if the amendment is at issue. Any actual bidder, offeror, contractor, or subcontractor who is aggrieved in connection with the award or intended award of a contract shall protest to the city manager in the manner stated under subsection (a) of this section within ten (10) calendar days of the date of award.

- a) *Protest procedure:* A protest shall be in writing, submitted to the city administrator as stated above, and shall set forth the grounds of protest and relief requested with enough particularity to give notice of the issues to be decided.
- b) *Authority to resolve protest:* The city administrator, with advisement of the city attorney as needed, shall have the authority, prior to the commencement of an action in court concerning the controversy, to settle and resolve a protest by an actual aggrieved bidder, offeror, or contractor concerning the award.
- c) *Decision:* If the protest is not resolved by mutual agreement, the city administrator, with advisement of the city attorney as needed, shall strive to issue a decision in writing within ten (10) calendar days after receipt of the protest. The decision shall state the reasons for the action taken.

- d) *Notice of decision:* A copy of the decision under subsection (c) of this section shall be mailed or otherwise furnished immediately to the protestant and any other intervening party.
- e) *Failure to render a decision within 10 calendar days:* If the city administrator does not issue the written decision within 10 calendar days, after written request for a final decision or within such longer period as may be agreed upon by the parties, then the bidder, offeror, or contractor shall precede as if an adverse decision has been received.

Sec. 2-193. –Debarment or suspension.

The city administrator may issue a notice of debarment or suspension to a person or firm upon a determination, after reasonable notice and an opportunity to be heard, that there is cause for doing so in the best interest of the city. The determination of the city administrator may be appealed to the council by written notice filed with the city administrator within 10 days after receipt of the determination. The causes for debarment or suspension shall include, but not be limited to:

- a) Conviction of a criminal offense incident to obtaining or attempting to obtain a public or private contract, or performance of such contract;
- b) Conviction for embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, or any other offense indicating a lack of business integrity or professional honesty which currently, seriously, and directly affects responsibility as a city contractor;
- c) Conviction under antitrust laws arising out of submission of bids or proposals;
- d) A recent deliberate failure without good cause to perform in accordance with the terms of a contract;
- e) Any other cause determined to be so serious and compelling as to affect responsibility as a city contractor, including debarment by another governmental entity.

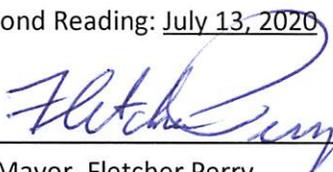
The city administrator and/or finance director shall enforce the purchasing ordinance of the City. Violation of the ordinance by City employees can result in suspension or termination of purchasing privileges and/or disciplinary action in accordance with the City of Pickens Employee Handbook.

DONE, RATIFIED, AND PASSED this 13th Day of July 2020.

Attested:

First Reading: July 6, 2020

Second Reading: July 13, 2020



Mayor, Fletcher Perry



Interim Clerk to Council, Kaycee Couch