

Ordinance # 2006-08-28(A)

REPEALING ORDINANCE #90-06-26(A) IN ITS ENTIRETY AND PLACING A REVISED PURCHASING RULES AND REGULATIONS FOR THE CITY OF CONWAY, SOUTH CAROLINA IN ITS STEAD.

WHEREAS, an Ordinance known as the Purchasing Rules and Regulations for the City of Conway was adopted on September 26, 1983 and revised on June 11th, 1990.

WHEREAS, Conway City Council has determined it is in the best interest of the City that Revised Purchasing Rules and Regulations be adopted.

NOW, THEREFORE, BE IT ORDAINED by the City Council of Conway, State of South Carolina, in Council duly assembled, that the Purchasing Rules and Regulations adopted on September 26, 1983 and revised on June 11, 1990 be struck in their entirety and the **Purchasing Rules and Regulations for the City of Conway, Revised**, be adopted in their stead:

There is hereby adopted the responsibility, procedures, Rules and administration of the City purchasing system as outlined in Purchasing Rules and Regulations for the City of Conway, Revised, its adoption, and is to Be kept permanently on file in the Office as past and parcel of the general ordinances of the City of Conway, same being incorporated herein by reference, and without the necessity of setting out and copying in its entirety the said Purchasing Rules and Regulations for the City of Conway, as a part of the permanent record of ordinances of the municipality.

BE IT FURTHER ORDAINED that all former ordinances or parts thereof conflicting or inconsistent with the provisions of this Ordinance are hereby repealed.

City of Conway
Purchasing Rules and Regulations
Adopted by City Council On:

PURPOSE

The purpose of this regulation is to prescribe the responsibilities, rules, and regulations for the administration of the purchasing system for the City of Conway, to define procedures and to be used in carrying out these responsibilities, rules, and regulations.

Activities considered to be purchasing include the processing of all requisitions, the determination of the process of these requests, and obtaining requested goods and services from private vendors.

The prime objectives of these regulations are to establish a standardized purchasing system and to implement purchasing that spends tax payer money in a consistent, fair, and impartial manner.

Any revisions to this manual shall be authorized only by the City Council. In the event that such revisions are made, departments using this manual are responsible for making necessary revisions in their copies.

Section 1. Purchasing Agent, specified duties.

The Grants/Procurement Officer or an officer of the city designated by the City Administrator shall be the Purchasing Agent for the City. He/She shall be responsible for:

(A) The purchase of supplies, materials and equipment and contractual services required by any office, department or agency of the city government.

(B) The storage and distribution of all supplies, materials and equipment required by any office, department or agency of the city government.

(C) Establishing written specifications, whenever practicable, for supplies, materials and equipment required by any office, department or agency of the city government. Such specifications shall be definite and certain to allow for competitive bidding. All written specifications shall be conducted with input and consultations with the appropriate Department Head requiring said specifications.

(D) Maintaining, whenever practicable, a perpetual inventory record of all materials, supplies or equipment stored in storerooms or warehouses.

(E) Soliciting and maintaining an up-to-date list of qualified suppliers who have requested their names to be added to a "bidders list". The purchasing agent shall have authority to remove temporarily the names of vendors who have defaulted on their quotations, attempted to defraud the city or who have failed to meet established specifications or delivery dates.

(F) Obtaining as full and open competition as possible on all purchases, contracts and sales.

(H) Review all Purchase orders and compare them with the department's budget. Any overage of a particular line item will be discussed with the City Administrator before any purchase order is signed.

(I) Review on a monthly basis all purchases paid out by the city for compliance with the Cities Purchasing Rules and Regulations.

(J) Review all purchase orders to insure that all required signatures of approval are on the document. Each Large Purchase Order shall have the Department Head or the Department Heads Designee's signature.

(K) Report to the appropriate Department Head of any violations of purchasing rules involving his/her designee. All violations of purchasing rules by a Department Head will be reported to the City Administrator.

Section 2. Purchasing Rules and Regulations

The Purchasing Agent will conduct consultations with Department Heads on all negotiations affecting the purchase of supplies and contractual services. All items shall be purchased from the lowest responsible bidder, after due notice inviting proposals. The exception to this rule is when an item is under State Contract where no bidding for an item is required. The Purchasing Agent will have a list of all Departments' designees who have purchase order approval during a Department Heads absence.

A. Small purchases not exceeding \$1,500.00 may be accomplished without securing competitive quotations if the prices are considered to be reasonable. The Department Head shall annotate the purchase requisition: 'Price is fair and reasonable' and sign. Such purchases shall be distributed equitably among qualified suppliers. When practical, a quotation will be solicited from other than the previous supplier prior to placing a repeat order. The administrative cost of verifying the reasonableness of the price of purchase 'not in excess of' may more than offset potential savings in detecting instances of overpricing. Therefore, action to verify the reasonableness of the price need be taken only when the Procurement Agent suspects that the price may not be reasonable, e.g., comparison to previous price paid personal knowledge of the item involved.

B. All small purchases up to \$1,500.00 require the issuance of a "Small Purchase Order".

C. Large purchases of \$1,500.01 to \$10,000.00 require a solicitation of a minimum of three qualified sources of supply. Documentation of the quotes shall be attached to the purchase requisition. The award shall be awarded to the lowest responsive and responsible sources.

D. Large purchases of \$10,000.01 to \$25,000.00 require a written solicitation of written quotes, bids or proposals from a minimum of three qualified sources of supply. A copy of the written solicitation and written quotes shall be attached to the large purchase requisition. The award shall be made to the lowest responsive and responsible source, or when a request for proposal process is used, the highest ranking offeror.

E. All large purchases over \$25,000.01 may require an advertisement in the local newspaper, city access channel or by other means as deemed appropriate by the City Administrator. It also requires that a written solicitation of written quotes, bids or proposals from a minimum of three qualified sources of supply. All bids will be in a sealed bid process and will be publicly opened by the Procurement Agent at the date and hour specified in notices of bids or proposals. A copy of the written solicitation and written quotes shall be attached to the large purchase

requisition. The award shall be made to the lowest responsive and responsible source, or when a request for proposal process is used, the highest ranking offeror. **All large purchases that are \$10,000.01 and over shall require the approval of Conway City Council prior to any purchase orders being issued.** The Department head will submit an issue paper along with all attached bids to the Purchasing Agent for review prior to submitting documentation to the City Administrator for the council agenda.

Section 3. Exempt Items not requiring competitive bidding that have a value of \$2,500 or less.

1. Books and Publications
2. Dues and Memberships
3. Board and Lodging
4. Utilities and Water bills
5. Travel
6. Seminars and Conference Fees
7. Training
8. Advertising
9. Rent on land, buildings, and equipment
10. Casual Field Labor
11. Financial Services
12. Lecturer Fees
13. Maintenance Fees and Insurance
14. Vehicle Parts
15. State Surplus and Auctions

Whenever possible, the Department purchasing such items shall obtain the best possible price for goods and services.

Section 4. Sole Source Procurements

A contract may be awarded for a supply, service, consulting services, legal fees, or construction item without competition when, under regulations the Procurement Agent, determines in writing that there is only one source for the required supply, service, or construction item. These regulations must include the requirements contained in this paragraph. Written documentation must include the determination and basis for the proposed sole source procurement. In cases of reasonable doubt, competition must be solicited. Any decision by a City Department that procurement be restricted to one potential vendor must be accompanied by an explanation as to why no other will be suitable or acceptable to meet the need. This section does not apply to State Contract purchases.

Section 5. . Emergency Procurements.

Notwithstanding any other provision of these rules and regulations, the Procurement Agent, Department Head, or a designee of either officer may make or authorize others to make emergency procurements only when there exists an immediate threat to public health, welfare, critical economy and efficiency, or safety under emergency conditions and provided that such emergency procurements shall be made with as much competition as is practicable under the circumstances. A written determination of the basis for the emergency and for the selection of the particular contractor shall be included with all purchase requisitions and submitted to the City Administrator for review.

Section 6. Award of contract:

A. Authority in agent. The purchasing agent shall have the authority to award contracts within the purview of this article; provided, however, that contract is no more than \$10,000.00. Any contract that is in the amount of \$10,000.01 or above shall not be awarded without the approval of City Council.

B. Lowest responsible bidder. Contracts shall be awarded to the lowest responsible bidder. In determining "lowest responsible bidder", in addition to price, the purchasing agent shall consider:

1. The ability, capacity and skill of the bidder to perform the contract or provide the service required;
2. Whether the bidder can perform the contract or provide the service promptly, or within the time specified, without delay or interference;
3. The character, integrity, reputation, judgment, experience and efficiency of the bidder;
4. The quality of performance of previous contracts or services;
5. The previous and existing compliance by the bidder with laws and ordinances relating to the contract or services;
6. The sufficiency of the financial resources and ability of the bidder to perform the contract or provide the service;
7. The quality, availability and adaptability of the supplies or contractual services to the particular use required;
8. The ability of the bidder to provide future maintenance and service for the use of the subject: of the contract;
9. The number and scope of conditions attached to the bid.

C. Award to other than low bidder. When the award is not given to the lowest bidder, a full and complete statement of the reasons for placing the order elsewhere shall be prepared by the purchasing agent and filed with the purchase order relating to the transaction. A report will be given to the City Administrator for review whenever an award is made to other than the low bidder.

D. Tie bids:

1. Local vendors. If all bids received are for the same total amount or unit price, quality and service being equal, the contract shall be awarded to the local bidder. If two or more of such bids are submitted by local bidders, the purchasing agent shall award the contract to one of the local tie bidders by drawing lots in public. If local bidders are not involved in the tie bids, the purchasing agent shall award the contract to one of the outside tie bidders by drawing lots in public.

Section 7. Construction Contract Bid Security

Bid security shall be required for all competitive sealed bidding for construction contracts when the price is estimated to exceed \$25,000.00. Security shall be a bond provided by a surety company authorized to do business in this state, or the equivalent in cash, or otherwise supplied in a form satisfactory to the city. Bid security shall be an amount equal to at least (5) percent of the amount of the bid. The City Administrator may waive the bond requirement upon written notification to the City Council when based upon his/her determination that such bond is unnecessary.

Section 8 Contract performance and payment of bonds

A. When a construction contract is awarded in the excess of \$50,000.00 the following bonds or security shall be delivered to the city and shall become binding on the parties upon the execution of the contract.

1. Performance bond in the amount of one hundred (100) percent of the price specified in the contract.
2. Payment bond in the amount of one hundred (100) percent of the price specified in the contract.

B. Either bond may be reduced by fifty (50) percent when determined in writing that a reduction is necessary or warranted. Bonds may be required on lesser amounts if the circumstances warrant the same.

C. The City Administrator may waive the bond requirement upon written notification to the City Council when based upon his/her determination that such bond is unnecessary.

Section 9. Right to Protest

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 Purchasing Agent. The protest shall be submitted in writing no later than fourteen (14) days after the awarding of the bid or contract. The Purchasing Agent will consult with the City Administrator to try and resolve the issue. If the protest is not resolved by mutual agreement, a decision will be issued in writing within ten (10) days after the last meeting to reach an agreement. If all attempts have failed to resolve the disagreement, the protestor has the right to bring the issue to City Council.

Section 10. Financial interest of city officials and employees prohibited

No member of the city council or 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, material, supplies or services; except when a majority of the city council determines such exception in the best interest of the city, provided, that no councilman 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 expressed or implied of the person or corporation contracting with the city shall render the contract voidable by the City Administrator or the City Council.

Section 11. Surplus stock

The purchasing agent shall have authority to transfer surplus stock to other offices, departments or agencies of the city government.

Section 12. Supplies unsuitable for public use, sale or exchange

The purchasing agent shall have the authority to sell all supplies which have become unsuitable for public use, or to exchange the same for, or trade-in the same on, new supplies. Such sales shall be made to the highest bidder, and in conformance with Section 2. All moneys received from such sales shall be paid into the appropriate Fund of the city.

Section 13. Gifts and Rebates

The purchasing agent and every officer and employee of the City 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, money, or anything of value whatsoever, except where given for the use and benefit of the City.

Section 14. Cooperative purchasing

The Purchasing Agent shall have authority to join with other units of government in cooperative purchasing plans when the best interests of the city would be served. The purchasing agent of the city is given the authority to make purchases of supplies and equipment through the property division of the state budget and control board. Cooperative purchasing can be done without the formality of publication and receiving competitive bids.

Section 15. Assistance to small and disadvantaged businesses

The Purchasing Agent shall take positive steps for the recruitment of, conduct educational and procedural training for and take action which will encourage small disadvantaged and minority businesses to do business with the City of Conway. It shall be the goal of these steps to fully implement the goals of the affirmative action program of the City.

Section 16. Compliance with state and federal regulations

When procurement involves the expenditure of state and federal assistance or contract funds, the affected Department Head shall inform the Purchasing Agent of all requirements. The Department Head shall comply with all state and federal rules and regulations in the procurement process.