

Sec. 6-148. - Exclusions and exceptions to bid and proposal requirements.

(a) *Exclusions.* This article shall not apply to:

- (1) The procurement of dues and memberships in trade or professional organizations; registration fees for trade and career fairs, subscriptions for periodicals and newspapers; advertisements; postage; expert witness; legal and mediation services; lobbying services; abstracts of title for real property; title searches and certificates; title insurance for real property; real estate appraisal services; water, sewer, telecommunications and electric utility services; copyrighted materials or patented materials including, but not limited to, technical pamphlets, published books, maps, testing or instructional materials; fees and costs of job-related seminars and training;
- (2) Goods purchased with petty cash or city procurement cards in accordance with the city's petty cash and procurement card procedures;
- (3) Items purchased for resale to the general public; for example, supplies for a city-owned concession area.
- (4) Purchase of groceries;
- (5) Artistic services or works of art;
- (6) Travel expenses, hotel accommodations and hotel services;
- (7) City-sponsored events held at venues not owned by the city;
- (8) Entertainment and entertainment-related services for city-sponsored events;
- (9) Purchase of motor vehicle license plates from a governmental agency;
- (10) Persons or entities retained as "expert consultants" to assist the city in litigation, or in threatened or anticipated litigation;
- (11) Educational or academic programs;
- (12) Health services involving examination, diagnosis, treatment, prevention, medical consultation, or administration;
- (13) Auditing services that are not subject to the requirements of F.S. Chapter 218, Part III;
- (14) The purchase of items critical to the security of city facilities; and
- (15) Any services identified in F.S. § 287.057, as may be amended from time to time, as being exempt from competitive bid/request for proposal requirements.

(b) *Sole and single source procurements.*

- (1) A contract may be awarded for a supply, service, or construction item without competition when the purchasing and contracts manager or a designee determines in writing that there is only one (1) economically feasible source for the required supply, service, or construction item, or when requirements for standardization, warranty, geographic and territorial restrictions, or other factors create a situation where competition is either not feasible or practicable.
- (2) The purchasing and contracts manager or designee shall conduct negotiations, as appropriate, regarding price, delivery and terms. The city department requesting a single, or sole source procurement must submit a written request to the purchasing and contracts manager for approval, which must be accompanied by a written justification signed by the department head. The justification must document the purpose of the purchase, the reason(s) for the single or sole source purchase, and a summary of attempts to obtain competition.
- (3) Sole source purchase requests in excess of the purchasing Category Three threshold as defined in F.S. § 287.017, as amended, may be approved by the city commission. A record of sole source purchases shall be maintained by the city and shall list each vendor's name, the amount and type of each contract and a listing of the item(s) procured under each contract.

(c) *Emergency procurements.*

- (1) Notwithstanding any other provision of this Code, the city manager or designee may make or authorize others to make emergency procurements when there exists a threat to public health, welfare, or safety under emergency conditions, provided that such emergency procurements shall be made with such 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 provided by the city manager to the city commission and included in the contract file.
 - (2) The city manager is authorized to determine if an emergency exists for purposes of emergency purchases and procurements. If an emergency does exist, the city manager shall authorize emergency expenditures for the procurement or temporary acquisition of supplies, equipment and services necessary to meet the city's needs as a result of the emergency, and may delegate authority for a department head or other designee to secure emergency proposals. The city manager, the purchasing and contracts manager, or the designee shall endeavor to secure proposals from at least two (2) separate sources.
 - (3) Any emergency procurement exceeding the award authority of the purchasing and contracts manager or the city manager shall be reported to the city commission in writing or at a city commission meeting, no later than ten (10) working days after the determination that the emergency situation has been stabilized and that no further emergency expenditures are required. The city manager shall make a full disclosure of all emergency expenditures made pursuant to this section to the city commission at the next regular meeting of the city commission.
- (d) *Cooperative purchasing.* When deemed to be in the best interests of the city, the purchasing and contracts manager may participate in, sponsor, conduct or administer contracts under a cooperative purchasing program with one (1) or more governmental units for the procurement of any supplies, services, or construction. Such cooperative purchasing programs may include, but not be limited to, joint or multiparty contracts between public procurement units and open ended public procurement term contracts that are made available to other governmental units.
- (e) *Purchases from other governmental entities.* Purchases of goods or services from the federal government, any state or political subdivision thereof, or any municipality are exempt from the requirements of this section.
- (f) *Purchases of goods or services from contracts awarded by other governmental or not-for-profit entities by a formal competitive selection process.* The purchase of goods or services under a contract awarded by the United States Government or another governmental or not-for-profit entity by a formal competitive process is authorized provided the purchasing and contracts manager makes a determination that time, expense and marketplace factors make it financially advantageous for the city to do so.
- (g) *Professional services.* Contracts for the service of professionals, including but not limited to the practice of law, management consulting, medicine, real estate appraisal, or other area of expertise as determined by the city manager or designee to be in the best interest of the city, and not otherwise subject to the requirements of F.S. § 287.055, as amended, may be entered into without competitive bidding, however, qualifications, work history and other relevant data shall be reviewed before entering into such contracts. Professional services contracts that exceed the threshold established in subsection 6-146(a) of this Code, ("Methods of Source Selection"), will require approval by the city commission.
- (h) *Owner direct purchase.* A contract may be awarded for supplies or materials without competition where such supplies or materials are being procured by the city as an owner direct purchase for incorporation into a public works project, the contract for which was previously awarded by the city, which prior award included the cost of such supplies and materials. In such event, the city shall procure the supplies or materials in accordance with Florida Statutes and regulations related to owner direct purchases by governmental entities.

- (i) *Waiver of procurement procedures.* The city commission may authorize the waiver of procurement procedures upon the recommendation of the city manager that it is in the city's best interest to do so to obtain goods and services which cannot be acquired through the normal purchasing process due to insufficient time, the nature of the goods or services, or other factors. Purchases authorized by the waiver process shall be acquired with such competition as is practicable under the circumstances and only after a good faith review of all available sources and negotiation as to price, delivery and terms. There shall be no waiver of procurement procedures for procurements that are subject to the provisions of F.S. § 287.055 or § 255.20, as amended.

(Ord. No. O-2012-07, § 2, 3-14-12)