

MUNICIPAL ORDER NO. 2011 - 201

MUNICIPAL ORDER APPROVING AMENDMENTS
TO THE CITY OF BOWLING GREEN, KENTUCKY
MANUAL OF PURCHASING POLICIES AND
PROCEDURES RELATED TO A LOCAL BIDDER
PREFERENCE

WHEREAS, the City of Bowling Green, Kentucky (City) through Ordinance No. BG80-2 adopted for all phases of the City's procurement program, the provisions of the Kentucky Model Procurement Code, as set forth in Kentucky Revised Statutes (KRS), Chapter 45A; and,

WHEREAS, KRS requires the preparation of written purchasing policies and procedures with respect to procurements defined as small purchases under KRS 45A.385; and,

WHEREAS, a Manual of Purchasing Policies and Procedures (Manual) setting forth the principles and standard operating procedures to govern the City's procurement program was established and recently updated by Municipal Order No. 2011-184; and,

WHEREAS, it is proposed that the Manual be amended to include a local bidder preference pursuant to specified conditions; and,

WHEREAS, it is in the best interests of the City to amend the Manual of Purchasing Policies and Procedures to include a local bidder preference.

NOW, THEREFORE, BE IT ORDERED by the City of Bowling Green, Kentucky as follows:

1. The City of Bowling Green Manual of Purchasing Policies and Procedures is hereby amended as follow:

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2-8 Formal Bids – Purchases over \$20,000

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(B) Formal Bid Procedures: Formal bids are published by the Purchasing Agent with direct assistance from the using departments in the preparation of technical

specifications, plans, bid documents and drawings where required. The following steps are to be followed:

- (1) The using department forwards appropriate memorandum and supporting documentation, including technical specifications, to the Purchasing Agent. General Terms and conditions, special instructions, and other bid package inserts are to be compiled by the using department with oversight by the Purchasing Agent.
- (2) The final bid invitation is disbursed by the Purchasing Agent. The Purchasing Office shall also advertise for bids and oversee the distribution of the bid package provided by the requisitioning department.
- (3) Formal bids will be received and opened publicly at the specified date, time, and place set forth in the bid documents by the Purchasing Agent and then tabulated on forms provided by the using department.
- (4) All bids received and tabulated will be forwarded to the using department for review. The using department then prepares a written memorandum to the Purchasing Agent containing their recommendations for award to the lowest and best responsible bidder meeting the City's specifications.
- (5) Kentucky Preference Laws. KRS 45A.494 states that “prior to a contract being awarded to the lowest responsible and responsive bidder on a contract by a public agency, a resident bidder of the Commonwealth shall be given a preference against a nonresident bidder registered in any state that gives or requires a preference to bidders from that state. The preference shall be equal to the preference given or required by the state of the nonresident bidder.”

(6) Local Preference. The Model Procurement Code is supplemented to authorize a local preference in bidding as set out below:

(a) Definitions:

“Local Business Entity” shall mean any person, corporation, limited liability company, partnership or other business entity complying with the following:

- i. The business entity must be registered to do business in the City and have an established physical place of business within the city limits of Bowling Green; and,
- ii. The location of the business must be properly zoned and shall not be a post office address; and,
- iii. The business entity must not have any delinquent property taxes, net profit fees or occupational withholdings owed to the City or have any outstanding liens or fines due to the City; and,
- iv. The business entity must have paid property taxes, net profit fees or employee withholdings to the City during the previous fiscal year in a total amount not less than \$2,500.

(b) Certification of Local Business Entity Status:

It shall be the responsibility of the local business entity to claim that status in writing at the time any bid is submitted. No preference shall be granted if City staff is unable to confirm the local business entity status.

(c) Applicability of the Local Preference:

The Local Preference shall only be applicable to bids solicited and accepted by the City of Bowling Green that:

- i. Involve the purchase of goods such as office supplies, equipment,

vehicles, clothing, printed materials and similar items; and,

ii. The bid award amount is \$20,000 or greater.

(d) The Local Preference shall not be applicable to bids accepted by the City of Bowling Green that:

i. Involve federal funds or other funds that prohibit the use of local preferences; or,

ii. The bid is awarded pursuant to the State Pricing Contract or cooperative purchasing agreements; or,

iii. Emergency purchases; or,

iv. Bids in which a preference has already been applied pursuant to any Commonwealth of Kentucky bidding regulations.

(e) Local Preference:

The City of Bowling Green grants to local business entities, who are a responsive and responsible bidder for applicable bids, a local bidding preference of five (5%) percent of the local business entity's bid, not to exceed \$5,000 over the amount of the lowest responsible bidder. In situations in which the bid is an evaluated bid, any local business entity qualifying for the local bidding preference shall be granted three points to its total evaluation score due to a shorter delivery time and faster response time as long as the cost portion of its bid does not exceed five (5%) percent of the cost portion of the lowest evaluated bid, not to exceed \$5,000.

If all aspects of a responsible bid from a local business entity are equal to the responsible bid from a non-local business entity, the local business

entity shall be preferred. The local bidding preference is available only if the bid is awarded to the local business entity at the local address. The City's Procurement Office is authorized to develop appropriate procedures and forms to carry out the intent of this section with such procedures and forms approved by the City Manager. The local preference may be waived upon written justification and recommendation of the City Manager and approval of the Board of Commissioners.

(67) When the Purchasing Agent receives the written memorandum, a full review of the award recommendations will be made for compliance with these policies and procedures; the Purchasing Agent will resolve any award problems with the using department and secure appropriate authorization.

(78) The Purchasing Agent reserves the right to reject any and all bids and to waive any informalities and minor irregularities in the bids. The Purchasing Agent may establish conditions under which incomplete bids may be considered if it is determined that such waiver is in the best interest of the City. Bids may be withdrawn only pursuant to the terms of the Model Procurement Code.


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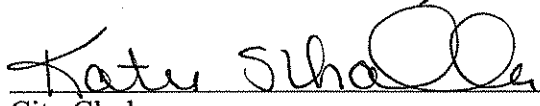
2. Any and all other written policies and procedures that are inconsistent with this Manual are hereby amended to reflect the appropriate changes approved herein.

3. This Municipal Order shall be in full force and effect upon signature and recordation, but shall remain in effect only for a two year period following its effective date and shall terminate at the end of the two year period unless extended by action of the Board of Commissioners.

(Municipal Order No. 2011 – 201)

ADOPTED: October 18, 2011

APPROVED: 
Mayor, Chairman of Board of Commissioners

ATTEST: 
City Clerk

SPONSORED BY: Brian "Slim" Nash, Commissioner, 10/12/2011, 10:30 a.m.