

## **11-1-6. Exceptions.**

The competitive purchasing requirements of this chapter need not be followed in the following circumstances. In such cases, written documentation should be made demonstrating that a procurement falls within one of the following provisions of this section.

(a) *Grant, Gift, Bequest.* In complying with the terms and conditions of any grant, gift, or bequest to the City, or to one of the City's departments or subdivisions, committees, or a community organization which functions under City auspices if such action is approved by the City Council and is otherwise consistent with law.

(b) *Federal or State Assistance.* When a procurement involves the expenditure of federal or State assistance funds, and to the extent that doing so requires that federal or State law or regulations be followed rather than City ordinances.

(1) *Suspension and Debarment Certification.* For subrecipients and contractors receiving \$40,000 or more in federal funds from the City, request-for-bid or proposal documents will contain language notifying bidders or proponents of federal or State suspension and debarment requirements, which shall be provided in forms by which bidders or proponents can certify their status. At time of bid, bidders or proponents will be required to certify their suspension and debarment status as a mandatory element of their bids or proposals.

(2) *System for Award Management ([sam.gov](http://sam.gov)).* Purchases in excess of \$40,000 in federal funds where bidding is not required (i.e., in State contracts, or where disbursements exceed \$40,000 on existing contracts) the Purchasing Agent or the Department Buyer shall not award contracts or orders to persons suspended or debarred by the United States government, which shall be determined by checking the federal suspension and debarment website (currently, [sam.gov](http://sam.gov)) for a favorable suspension and debarment status for such persons before a bid or proposal is awarded, an order is placed, or a contract for goods or services with such person is signed.

(3) *Supporting Documentation.* Supporting documentation relating to suspension and debarment status shall be kept by the Purchasing Agent and/or the Department Buyer pursuant to federal, State and City laws and regulations.

(c) *Emergency Procurements.* Notwithstanding any other provision of this chapter, procurements may be made in emergencies by the Purchasing Agent, a department head, or a designee of either in instances in which the procurement could not reasonably have been made pursuant to this chapter, provided that procurements shall be made with as much competition as practicable under the circumstances. Promptly thereafter the department head of the department

which made the procurement shall provide a signed written statement to the City Purchasing Agent setting out in reasonable detail the item procurement, the price, and cause and basis for the emergency and why the procedures set out in this chapter were not followed. A copy of the statement shall be included in the contract file.

(d) *Single-Source Provider.* Procurements of products, services or construction items available only from a single provider. The Mayor, City Administrator, Department head or the Purchasing Agent shall find in writing that there is only one source for the item or service.

(e) *Compatibility, Parts, Training.* Procurements of equipment which, by reason of the training of City personnel who service such equipment, or which is an addition to or for the repair or maintenance of equipment owned by the City which may be more efficiently added to, repaired or maintained by a certain brand, person or firm.

(f) *Additional or Replacement Parts.* Equipment which, due to an inventory of replacement parts maintained by the City is compatible only with existing equipment owned, leased or used by the City, need not, where the department head or the Purchasing Agent finds in a signed writing that the City's interest is better served by so purchasing, procurement a different brand of such equipment.

(g) *Professional Services.* Contracts for professional services reasonably expected to cost more than \$7,500 for the services specifically set out in the contract shall be awarded at the discretion of the Mayor, or a person designated by the Mayor.

(1) *Criteria for Award.* Contracts for professional services shall be based on the evaluation of professional qualifications, service ability, cost of service, and other service-related criteria.

(2) *Manner of Selection.* Criteria for award of professional service contracts costing more than \$7,500 may be determined through one or more of the following methods:

- (A) Competitive bid;
- (B) Request for Proposals (RFP); or
- (C) Informal Survey.

(3) Where criteria for award of professional service contracts costing more than **\$7,500 \$500.00** are determined through informal survey or through some lesser review, then award of the contract or its proposed award shall be disclosed in writing to the City Council by the department head or a person designated by the department head along with a reasonably detailed written summary of the findings of that survey.

(h) *Insufficient Bids.* Where fewer than three responses are made to a bid solicitation or request for proposals after reasonable efforts to obtain three or more bids or proposals, the Purchasing Agent or Department Buyer responsible for the purchase may, after making a signed writing setting out the circumstances thereof, a copy of which shall be placed in the contract file, make a purchase which in his or her reasonable discretion meets the purposes of this ordinance by purchasing in a manner which does not conform to the formal bidding or RFP process set out in this chapter.

(i) *City Council Determinations.* The City Council may authorize the procurement of supplies, equipment and services without complying with the provisions of this chapter when it determines that compliance with the procedure is not in the best interests of the City. A memo shall be placed in the file for the purchase setting out the reasons for doing not following the purchasing provisions which otherwise would apply.

(j) *Special Opportunity Purchases.* Where a substantial savings will be realized thereby in the purchase of goods or non-professional services costing more than \$40,000, and provided that sufficient money has been appropriated for the purchase, a Department may avoid competitive bidding or the RFP requirements set out in Section 11-1-8, by the following streamlined procedures, provided other applicable provisions of this Chapter are met before the purchase is made:

- (1) It shall, in its reasonable discretion, obtain offers from competing sources in a manner most likely to meet the purposes of this Chapter; and

- (2) The Department Head shall disclose the proposed purchase in a signed written memorandum to the Mayor and City Administrator, setting out in reasonable detail the reason the purchase is recommended, the reason normal purchasing procedures are not recommended, and the proposed savings, and what efforts have been made to obtain competitive offers; and

- (3) The Mayor and City Administrator each agrees in a signed memorandum that he or she believes that the purchase is justified, and that the purposes of this Chapter will be met thereby.