



DRAFT

PURCHASING POLICY AND MANUAL

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CITY OF BEREA
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POLICY SCOPE

The policy of the City of Berea is to provide fair and equitable treatment of all persons involved in public purchasing with the City, to maximize the purchasing value of public funds in procurement, and to provide safeguards for maintaining a procurement system of quality and integrity.

These policies and procedures are designed to ensure that all City funds are expended in accordance with sound business practices, recorded in compliance with acceptable accounting procedures, and meet the requirements of federal and state agencies that may assist in the financing activities of the City of Berea (City).

This purchasing policy will apply to all City departments and to other agencies, authorities, commissions, and joint ventures as the governing authority may deem appropriate.

GENERAL POLICIES

A. FULL AND OPEN COMPETITION

The City will make every effort to obtain high quality goods and services at the best possible price. All procurement procedures will be conducted in a fair and impartial manner with the avoidance of any impropriety. All purchasing transactions are subject to Kentucky's Open Records Act.

B. GRATUITIES AND GIFTS

To reduce the potential for conflicts of interest, abuse of position, or even the appearance of impropriety, the City limits gifts employees or officials may receive from organizations, business concerns, or individuals with which they have (or may have in the future) official relationships concerning the business of City government. Employees may receive an occasional meal, promotional items routinely distributed by vendors, and de-minimis holiday gifts. Refer to City's Code of Ethics ordinance (Article II, Section 27.014) in Exhibit A.

C. INTEREST OF OFFICIALS OR EMPLOYEES IN EXPENDITURE OF PUBLIC FUNDS

All transactions of the City that involve the use of public funds will be in compliance with the requirements of the City's Code of Ethics ordinance Article II, and applicable state law. Refer to City's Code of Ethics ordinance (Article II, Sections 27.010-0.11) in Exhibit A.

D. DISCLAIMER OF RESPONSIBILITY

The City will not be responsible or liable for any expenditure or agreement for expenditure made by a City employee, City official, or an employee of any department utilizing public funds who fails to follow this purchasing policy and procedures or other provisions of Kentucky law. It is considered a "breach of duty" on the part of any employee who procures goods or services not consistent with the purchasing policy. Any breach will be reported to the City Administrator in writing.

The Mayor and Council may disclaim responsibility and liability for any expenditure or agreement for expenditure arising from a procurement of goods or services made in its name, in the name of any governmental department under its fiscal authority, by an unauthorized person acting outside these policies or other provisions of Kentucky law. The cost of any such disclaimed transaction may become the personal liability of the individual who acted improperly.

SPECIFIC POLICIES

A. DECENTRALIZED PROCUREMENT CONTROL

1. Each department head is responsible for the enforcement of these policies and procedures within their respective department(s). The department head may delegate the purchasing responsibility to employees within their department.
2. Unless budgeted funds are available, no procurement will occur which obligates the City to pay for goods or services. Each respective department head or designee has the responsibility of reviewing the budget availability prior to the ordering of goods or services. An individual budgeted line item can be overridden by the City Administrator in the event that it would not cause the entire department to be over budget. Budget Procedures Ordinance (Exhibit B) requires that individual line items exceeding the greater of 5 percent of the budgeted amount or \$5,000 obtain Council approval, prior to expenditure.
3. Department heads are responsible for obtaining a W-9 for all new vendors. It is preferred that a W-9 be obtained prior to making purchases or contracting services. The city is required to withhold and submit to the IRS 28% of the invoice total of any payments made to vendors who refuse to supply a W-9 if requested.
4. Departments are responsible for completing a Payment Request form in a timely manner once an invoice has been issued from the vendor. The city will not pay invoices for products and services until they have been received unless required in the contract or agreement. Payment authorization forms must include proper documentation, proper budget coding, and accuracy. Any discrepancies will be reported to the person signing the purchase order before payment is made to the vendor.
5. The Finance Director, or his/her designee, will be responsible for periodic review of purchases on behalf of the City for compliance with the purchasing policy. Non-compliance will be reported to the City Administrator and/or the Audit & Finance Committee.

B. PROCUREMENT THRESHOLDS

Policy pertaining to the amount of a purchase determines how the purchase will be handled. Listed are general minimums for quotes, bids, and proposal guidelines for supplies and capital expenditures.

These thresholds apply to **aggregate purchases**. For example, the purchase of 10,000 screws for \$1 each results in the aggregate price of \$10,000, not the individual price of \$1. Purchase orders may not be split to avoid following these threshold requirements. The City Administrator has the authority to question all purchases including the vendor selection.

Please note that any federal or state grant-contract procurement requirements preempt local policy. It is the responsibility of the department administering the grant or contract to follow stated contractual procurement. Non-compliance can result in the City paying back funds to the federal-state agency.

PROCUREMENT THRESHOLDS

	Purchase Approval	Competitive Pricing	Post Purchase Review
Petty Cash (\$0-\$50)	Purchase approval may occur at the department level. City Administrator approval is not required.	Price comparison is encouraged, but not required.	Receipts presented to petty cash custodian. Petty cash funds are maintained in the Finance Department. City Administrator review is not required.
Up to \$1,000	Purchase approval may occur at the department level. City Administrator approval is not required.	Price comparison is encouraged, but not required.	Payment Request Form with invoices and/or receipts may be forwarded directly to Finance Department for payment. City Administrator review is not required.
\$1,000 to \$4,999.99	Purchase approval may occur at the department level. City Administrator approval is not required.	Price comparison is requested when possible, but documentation is not required to be maintained.	Payment Request Form with invoices and/or receipts must be forwarded to the City Administrator for review. The City Administrator will forward the Finance Department for payment.
\$5,000 to \$19,999.99	Written City Administrator approval is required prior to purchase or contract. Emails, texts or other forms of approval are acceptable but must be maintained within the department to document that approval was obtained. The Finance Department and/or independent auditors may request copies of documented approvals at any time.	Price comparison and vendor quotes are requested when possible, but documentation is not required to be maintained.	Payment Request Form with invoices and/or receipts must be forwarded to the City Administrator for review. The City Administrator will forward the Finance Department for payment.

(continued)

<p>\$20,000 to \$29,999.99</p>	<p>Written City Administrator approval is required prior to purchase or contract. Emails, texts or other forms of approval are acceptable but must be maintained within the department to document that approval was obtained.</p>	<p>These purchases and contracts require at least three quotes provided in writing from the vendor/contractor. When possible, quotes should be solicited from appropriate local vendors. The written quotes must be forwarded to the City Administrator for review and approval prior to purchase. Quotes and written approval must be maintained within the department as documentation.</p>	<p>Payment Request Form with invoices and/or receipts must be forwarded to the City Administrator for review. The City Administrator will forward the Finance Department for payment.</p>
<p>\$30,000 or above</p>	<p>All purchases over of \$30,000 or more requires written approval from the City Administrator prior to issuing bid documents. Emails, texts or other forms of approval are acceptable but must be maintained within the department to document that approval was obtained.</p>	<p>A competitive bid process pursuant is required and must be advertised in accordance with KRS 424.130. Documentation of the bid process will be maintained with the city clerk. Purchases and contracts made under state contract or similar cooperative purchasing agreements would qualify as having already been through the competitive purchase process and would be exempt from the advertising requirements.</p>	<p>Payment Request Form with invoices and/or receipts must be forwarded to the City Administrator for review. The City Administrator will forward the Finance Department for payment.</p>

Documentation

The Finance Department and/or external auditors may request copies of documented approvals and quotes at any time. It is the department head’s responsibility to ensure this documentation is maintained and easily accessible.

Seized Funds

This policy does not apply to reimbursement of seized money. Seized money is governed by Federal and/or State regulation. “Seized money” will be designated on the Payment Request form.

Pre-Approval of Purchases

Under certain circumstances there are exemptions from obtaining pre-approval from the City Administrator for purchases exceeding \$5,000. Recurring purchases such as utilities, debt service,

employee benefit payments, and certain contracted services may be exempted from this policy. Additionally, at the beginning of each fiscal year, department heads may submit a list of ordinary operating expenses to the City Administrator to be considered for exemption. Examples of exemptions include:

- Printing
- Security Monitoring
- Cleaning Services
- Utility payments (electric, gas, phone)
- Payments to other governments
- Operating supplies and inventory
- Postage
- Fuel

Exemption lists should be provided to the Finance Department upon approval of the City Administrator.

Under no circumstances will the purchase of capital equipment be exempt from City Administrator approval. Exemption from City Administrator approval does not exempt the purchase or contract service from quotes or sealed bid requirements.

BIDDING PROCESS AND PROCUREMENT PROCESS

A. FEDERAL AND STATE CONTRACTS

Whenever goods or services are available to the City through a contract with the federal or state government, and when such items or services meet the requirements of the using department, such item or service will be deemed to have met the requirements of competitive bidding.

B. COOPERATIVE PURCHASING AGREEMENTS

The City is authorized to enter into cooperative purchasing agreements with other units of government when it is in the best interest of the City. The cooperative purchasing agreement must have been competitively bid by the issuing government entity to be used by the City. Departments desiring to enter into these agreements will send the information to the City Administrator for review.

C. PROFESSIONAL SERVICES

Professional services are not required to be competitively procured, but when determined to be in the best interest of the City, requests for proposals may be issued for professional services. Negotiated contracts for professional services are typically utilized when additional services are needed on an existing contract or when recurring services are needed and a relationship has been established with an existing vendor and the cost associated with changing vendors may be more than any savings realized through the procurement process.

A professional service is defined as any service performed by a person or firm that is registered with the Kentucky Secretary of State and required to maintain a valid state license to provide their respective service, including, but not limited to: engineering, architectural, surveying, testing and special studies, audit and accounting, insurance, financial advisor, court reporting, and legal.

Projects funded or partially funded with federal or state funds may require professional services to be procured according to procedures outlined in the funded activity. The City is required to follow federal

and state procurement procedures when funding dictates. The department receiving the funds or the grant administrator is responsible for proper procurement in relation to the contract or grant administered by the department.

D. INVITATION TO BID AND REQUEST FOR PROPOSAL PROCEDURES

1. The requesting department is responsible for:
 - a. Preparation of the bid document or request for proposal will include:
 1. Place, time, ability to meet City vendor requirements, and date when bid/RFP will be received, opened, and/or publicly read.
 2. Notice that bids be clearly marked with a departmental bid number on the outside of package and submitted to the City Clerk as custodian of all City bids/RFP's.
 3. Delivery requirements (responsibility for shipping, etc.).
 4. Person to contact for clarification of specifications.
 5. Special conditions not included in specifications.
 6. Contract conditions and terms.
 7. Any applicable federal or state requirements in regards to City grants or contracts.
 8. Statement that the City reserves the right to reject all bids.
 - b. Advertisement of bid in local newspaper and placement on City's website.
 - c. Copy of bid documents to City Clerk as bid custodian.
2. The City Clerk's Office will be responsible for:
 - a. Receipt of bid/RFP between 8:00 a.m. and 5:00 p.m. Monday through Friday at Berea City Hall during period of open bid.
 - b. Stamp the date and time bid/RFP received on the outside of the envelope/package submitted by bidder.
 - c. Maintain unopened bids in until retrieved for bid opening on the date and time as stated in bid/RFP advertisement package.
 - d. All bids received after the specified date and time in the bid advertisement will be rejected for consideration and returned to issuing department for return to vendor.

E. LOCAL VENDORS

In acknowledgment that local vendors contribute the City tax base and promote the local economy, under certain instances, such local vendors will be provided an additional concession when bidding against non-local vendors. If the local vendor's bid, meets all the bid specifications and is not more than 4% greater than the lowest bid submitted by the non-local vendor, then the lowest local vendor will be given the opportunity to notify the City Administrator or the department head of the bidding department in writing, one business day after the bid opening, that it agrees to match the lowest bid price. If that local vendor does not agree, then the next lowest local bidder will be given the same opportunity to match the low bid and so on until all local vendors have had the opportunity to match the low bid.

A local vendor must maintain a physical presence within City of Berea, including, but not limited to the maintenance of one or more offices and the employment of two or more persons prior to the submission of the bid. A post office box maintained within Berea does not qualify as a local vendor. The vendor must also be current on property taxes and occupation taxes.

These concessions do not ensure the acceptance of the local vendor's bid. It is still within the discretion of the City Council upon the recommendation of the awarding department to select the vendor who is

most capable of “fully” performing the contract by considering objective criteria such as the bidder’s financial resources, labor, facilities and equipment, skill, experience, and applicable licenses and permits.

F. CANCELLATION OR REJECTION OF BID OR PROPOSAL

The Mayor and Council reserves the right to cancel any outstanding formal sealed bid or proposal prior to the opening of the bid or proposal and also reserves the right, after the bid opening, but prior to the award of a bid, to reject, in whole or in part, any bid or proposal. Any cancellation or rejection will be consistent with the procurement policies and procedures.

G. SOLE SOURCE VENDOR

A sole source situation exists when there is only one vendor who can provide the product or service or a particular brand is required for compatibility or repair. Sole source procurement is permissible if a required good or service is available from only a single supplier. To determine that a sole source situation exists, research must be performed by the user department providing proof that vendor is truly a sole source. The documentation will be maintained by the department for recording keeping purposes.

Documentation files should contain department justification, research documentation, and manufacturer documentation.

H. EMERGENCY PURCHASE

An emergency purchase is one in which a situation exists where there is a threat to health, welfare, or safety that does not allow time for normal, competitive purchasing procedures. Examples are flooding, power outages, or other natural disasters including, but not limited to, unusual inclement weather. All emergency purchases will require a Certificate of Emergency signed by the Mayor and maintained by the City Clerk for recordkeeping purposes. Items that a department did not realize it would need to operate throughout the year is not deemed an emergency purchase.

I. COMPUTER HARDWARE AND SOFTWARE PURCHASES

Proposed purchases of computer hardware, software or other computer related equipment must be reviewed by the IT Department to ensure compatibility with the City’s equipment and network system, as failure to follow this policy could result in unsupported hardware and software. Requests to purchase computer hardware or software must follow the purchasing policy guidelines.

CONTRACTS, LEASES, AND CHANGE ORDERS

A. CONTRACTS AND LEASES

Any purchase requiring a signed contract (services, construction, etc.) must be reviewed by the City Attorney and signed by the Mayor. Leases and/or agreements including but not limited to equipment rental, routine maintenance agreements and service agreements, and license agreements for computer software, must also be reviewed by the City Attorney and signed by the Mayor. Once approved, the City Clerk will archive the contract in the official City records.

B. CHANGE ORDERS

The department head or City Administrator may make written changes to the plans, specifications, scheduling, and performance period of any contract and is responsible for the documentation of those changes to the original contract (purchase order). However, any changes that increase the total dollar amount of the original contract or makes a material change to the scope of the project must be approved by the Mayor and Council in a public meeting.

EXHIBIT A

BEREA CODE OF ETHICS ORDINANCE

https://codelibrary.amlegal.com/codes/bereaky/latest/berea_ky/0-0-0-35023

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EXHIBIT B

BEREA BUDGET PROCEDURES ORDINANCE

https://codelibrary.amlegal.com/codes/bereaky/latest/berea_ky/0-0-0-41881

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