Part 3. Bidding Requirements

3.12.301: COMPETITIVE BID REQUIRED FOR BUILDING IMPROVEMENTS:

(1) Bid Requirements: All purchases and contracts, whether by sealed bid, quotation or negotiation, shall be made on a competitive basis to the maximum practical extent, except as noted below:

Amount Of Purchase	Bid Required
Up to $1,000.00	No bid required; competitive quotes recommended
$1,001.00 to $40,000.00	Informal bids required (2 if possible)
Over $40,000.00	Formal bid required

(2) Amounts In Excess Of Forty Thousand Dollars:

(a) If the improvement is a building improvement and the estimated cost of the improvement is in excess of forty thousand dollars ($40,000.00), the city shall, if it determines to do the work, only do so by contract let to the lowest responsible bidder after publication of notice at least twice in a newspaper of general circulation printed and published in the city at least five (5) days prior to the opening of bids.

(b) The term "lowest responsible bidder" means any prime contractor who has bid in compliance with the invitation to bid and within the requirements of the plans and specifications for a construction project, who is the lowest bidder, who has furnished a bid bond or equivalent in money as a condition to the award of a prime contract and who furnishes a payment and performance bond as required by law.

(c) When the cost of a contemplated improvement exceeds the bid requirement sum, the job cannot be divided into smaller jobs to avoid having to bid the job.

(d) The purchasing agent shall send out all bids based on the information provided by the department head and shall keep a list of the date the bids were mailed and a list of the vendors to whom the bids were mailed. The purchasing agent shall also receive all bids and keep a list of the date and time they were received. Whenever practical, the opening of the bids shall be made in the presence of the department head and the city recorder.

(3) Amounts Up To Forty Thousand Dollars But In Excess Of One Thousand Dollars: If the improvement is a building improvement and the estimated cost of the improvement is forty thousand dollars ($40,000.00) or less, but in excess of one thousand dollars ($1,000.00), the city may make the improvement without calling for bid, except as otherwise provided within this chapter.

(4) Purchases Up To One Thousand Dollars; Competitive Bid Not Required: These purchases shall be obtained by using purchase orders issued by the department head to obtain supplies and services, which have been approved as part of the budget.

(a) Written competitive bids are not required, but the department head or his/her designee is encouraged to obtain competitive quotations.

(b) The employee receiving the supplies shall sign the delivery ticket to designate that he/she obtained the supplies or services in good condition. (Ord. 2006-27, 2006)

3.12.302: COMPETITIVE BID REQUIRED FOR PUBLIC WORKS PROJECTS:

(1) Requirements: All public works projects, whether by sealed bid, quotation or negotiation, shall be made on a competitive basis to the maximum practical extent except as noted below:

Amount Of Purchase		Bid Requirement
Up to $1,000.00		No bid required - competitive quotes required
$1,001.00 to $125,000.00		Informal bids required (2 if possible)
Over $125,000.00		Formal bid required

(2) Amounts In Excess Of One Hundred Twenty Five Thousand Dollars:

(a) If the improvement is a public works project and the estimated cost of the improvement or maintenance of existing facilities is in excess of one hundred twenty five thousand dollars ($125,000.00), the city shall, if it determines to do the work, only do so by contract let to the lowest responsible bidder after publication of notice at least twice in a newspaper of general circulation printed and published in the city at least five (5) days prior to the opening of bids. The cost shall be estimated by the city engineer.

(b) The term "lowest responsible bidder" means any prime contractor who has bid in compliance with the invitation to bid and within the requirements of the plans and specifications for a construction project, who is the low bidder, who has furnished a bid bond or equivalent in money as a condition to the award of a prime contract and who furnishes a payment and performance bond as required by law.

(c) When the cost of a contemplated improvement exceeds the bid requirement sum, the job cannot be divided into smaller jobs to avoid having to bid the job.

(d) The purchasing agent shall send out all bids based on the information provided by the department head and shall keep a list of the date the bids were mailed and a list of the vendors to whom the bids were mailed. The purchasing agent shall also receive all bids and keep a list of the date and time they were received. Whenever practical, the opening of the bids shall be made in the presence of the department head and the city recorder.

(3) Amounts Up To One Hundred Twenty Five Thousand Dollars, But In Excess Of One Thousand Dollars: If the improvement is a public works project and the estimated cost of the project is one hundred twenty five thousand dollars ($125,000.00) or less, but in excess of one thousand dollars ($1,000.00), the city may make the improvement without calling for bid, except as otherwise provided within this chapter.

(4) Purchases Up To One Thousand Dollars; Competitive Bid Not Required: These purchases shall be obtained by using purchase orders issued by the department head to obtain supplies and services, which have been approved as part of the budget.

(a) Written competitive bids are not required, but the department head or his/her designee is encouraged to obtain competitive quotations.

(b) The employee receiving the supplies shall sign the delivery ticket to designate that he/she obtained the supplies or services in good condition. (Ord. 2006-27, 2006)

3.12.303: PROCUREMENT OF PROFESSIONAL SERVICES:

The procurement of professional services shall be based upon qualifications and shall be secured on a competitive basis to the maximum practical extent except as noted below:

Amount Of Contract	Request For Proposals
Up to $50,000.00 per fiscal year (Utah procurement code defines anything less than $100,000.00 as a small contract not requiring formal RFP procedures)	No RFP required; competitive quotes recommended

Over $50,000.00 in 1 fiscal year	Formal request for proposals

The city council shall approve the award of contracts for professional services exceeding ten thousand dollars ($10,000.00) in any single fiscal year. The award of contracts for professional services less than ten thousand dollars ($10,000.00) may be approved jointly by the applicable department head and the city manager. Awards shall be made to the individual or firm whose proposal is determined to be the most advantageous to the city, taking into consideration price and the evaluation factors set forth in the request for proposals. (Ord. 2013-15, 2013)

3.12.304: PURCHASE ORDERS AND CONTRACTS NOT REQUIRING BIDS:

(1) Sole Source: The restrictions contained above shall not apply in cases where purchases or contracts are for items which can only be purchased from a single or sole source manufacturer or distributor and no reasonable similar alternative exists. The purchase order shall justify the sole source exemption and shall be signed by the appropriate department head and the city manager.

(2) Contracts Not Suited To Competitive Bidding: Contracts which by their nature are not suited to award by competitive bidding shall not be subject to the competitive bidding requirements of this chapter. These contracts include:

(a) Contracts for items that can only be purchased from a single or sole source provider.

(b) Contracts for additions to and repairs and maintenance of equipment owned by the city which may be efficiently added to, repaired or maintained by only a particular person or firm.

(c) Contracts for equipment which, by reason of the training of city personnel or the inventory of replacement parts maintained by the city, is more compatible with the existing equipment owned by the city.

(3) Utilities Purchase: Utility services such as water, electric power, natural gas and telephone, except when alternative supplies or services are available.

(4) Court Fees: Witness and jury fees and other payments as may be ordered by the court.

(5) Return Of Deposits: Water deposits and other deposits collected for specific purposes may be returned upon the requirements of the deposit being met.

(6) Emergency: When a public emergency will not tolerate the delay incident to the advertising for a solicitation of bids, the department head shall determine the emergency and then file a report with the city manager. The city manager shall determine and approve the payment of emergency purchases under the following conditions:

(a) Purchases under this subsection shall be based on a need that is compelling and of unusual urgency, such as when the city would be seriously injured financially or otherwise if the personal property or services were not furnished by a certain time, and when they could not be procured by that time by means of advertising, bidding and/or solicitations of quotations as previously defined.

(b) The department for whom the emergency purchases are made shall, as soon as practical, file a written report with the city manager, which shall contain the following information:

(i) The conditions which created the emergency, and a description of the threat to the health, welfare or safety of the public pursuant to finding that an emergency existed;

(ii) The basis for the selection of the particular contractor or supplier and a description of what efforts were utilized to identify and contact alternative suppliers or contractors;

(iii) The contractor's or supplier's name and address, along with a list of the supplies, materials, services or construction procured under the contract;

(iv) Completed and signed purchase orders with attached invoices requesting payment for the emergency purchases.

(c) The city manager shall review the report submitted and, if appropriate, shall declare the condition an emergency and shall approve the report and purchase orders and authorize the payment for the emergency purchases.

(i) The city manager is empowered to declare a state of emergency, for the purposes of this chapter, when, in his/her opinion, such a condition exists, and, when the amount to be expended to meet such emergency does not exceed twenty five thousand dollars ($25,000.00).

(ii) When the city manager finds and declares an emergency, the city manager, in conjunction with the department for whom the emergency purchases are made, shall, as soon as practical, present a written report to the mayor and city council which shall contain the following information:

(A) The conditions which created the emergency, and a description of the threat to the health, welfare or safety of the public pursuant to finding that an emergency existed;

(B) The basis for the selection of the particular contractor or supplier and a description of what efforts were made to identify and contract alternative suppliers or contractors;

(C) The contractor's or supplier's name and address, along with a list of the supplies, materials, services or construction procured under the contract;

(D) Completed signed purchase orders with attached invoices requesting payment for the emergency purchases.

(iii) The city council shall review the report submitted, and if appropriate, shall ratify the city manager's declaration of the emergency condition, and shall approve the report and requisitions and authorize the payment of the emergency purchases.

(7) State Procurement Contracts:

(a) Purchases made from vendors who are under state procurement contract, when the price is that price established by the contract awarded by the state after competitive bidding pursuant to state code, or less.

(b) Purchases made from vendors who, within the past sixty (60) days, have been under state procurement contract, when the price offered is the price established by the former contract awarded by the state after competitive bidding pursuant to state code, or less.

(8) Government Goods And Services: Those goods and services made available by any federal, state or local unit of government, or association of government, and acquired in compliance with the provisions of this chapter or state code.

(9) Fringe Benefits: Purchases of services or benefits that are part of any personnel fringe benefit agreements are authorized by the city council and may be negotiated between the city manager and the service or benefit vendor.

(10) City Owned Concession Or Recreation Facility: Purchases or contracts for supplies, materials or inventory to be used for resale at any city owned and/or operated concession or recreation facility.

(11) Public Auction And Other Similar Circumstances: Supplies, materials or equipment that can be purchased at any public auction, closeout sale, bankruptcy sale or other similar sale, at a price below the market cost in the community.

(12) Exchange Of Supplies, Material Or Equipment: Exchanges of supplies, material or equipment between the city and any other entity.

(13) Utah Correctional Industries Division: Supplies, material or equipment produced by the Utah correctional industries division. (Ord. 2006-27, 2006)

3.12.305: ADVERTISEMENT, REJECTION AND EXTENSION OF BIDS:

(1) Advertisement Of Bid:

(a) The department head shall provide the purchasing agent with an appropriate advertisement or description of the item to be advertised so that the purchasing agent may formulate a bid advertisement. The purchasing agent shall then, with the concurrence of the city manager, place the advertisement in a newspaper of general circulation within the city. The request for bid shall include:

(i) A description of the material, supplies, services, personal property or construction in sufficient detail that prospective bidders should know what their obligations will be, which description may be made either in the advertisement itself or by reference to detailed plans and specifications on file with the purchasing agent;

(ii) Deadline for bids to be received;

(iii) Time and place for the opening of the bids;

(iv) Notification of the city's requirements for a bidder's good faith deposit, bid bond, or performance bond, as well as proof of liability insurance and workers' compensation insurance;

(v) An announcement that the city may reject all bids, or any part thereof;

(vi) Any other information upon which the bidder must rely in order to be a responsible bidder.

(b) Contracts shall be awarded based on competitive sealed bidding, except as otherwise provided herein.

(c) An invitation for bids shall be issued when a contract is to be awarded by competitive sealed bidding. The invitation shall include a purchase description and all contractual terms and conditions applicable to the procurement.

(d) Public notice of the invitation for bids shall be given within a reasonable time prior to the date set forth therein for the opening of bids. The notice may include publication in a newspaper of general circulation within the city within a reasonable time prior to bid opening.

"Reasonable time" for purposes of this chapter, means that a notice of an invitation for bids shall, prior to the acceptance of a bid, be published at least once a week for three (3) consecutive weeks in one or more newspapers of general circulation within the city.

(e) Bids shall be opened publicly at the time designated in the invitation in the presence of one or more witnesses (including the purchasing agent and the concerned department head when practical) at city hall, or other place designated in the invitation for bids if use of the city hall is not available or impracticable.

(f) The amount of each bid and any other relevant information specified in the bid notice, together with the name of each bidder, shall be recorded by the city recorder at the time the bids are opened. The record and each bid shall be open to public inspection.

(g) Bids shall be unconditionally accepted without alteration or correction, except as authorized in this chapter.

(h) Bids shall be evaluated based on the requirements set forth in the invitation for bids, which may include criteria to determine acceptability such as inspection, testing, quality, workmanship, delivery, and suitability for a particular purpose. Those criteria that will affect the bid price and will be considered in evaluation for award shall be objectively measurable. The criteria may include discounts, transportation costs, and total or life cycle cost. No criteria may be used in bid evaluations that are not set forth in the invitation for bids.

(i) Correction or withdrawal of inadvertently erroneous bids before or after award, or cancellation of awards or contracts based on such bid mistakes, shall be permitted in accordance with rules and regulations set out in the bid notice.

(j) After bid opening, no changes in bid prices or other provisions of bids prejudicial to the interest of the city or fair competition shall be permitted. Except as otherwise provided by this chapter or rules and regulations set out in the bid notice, all decisions to permit the correction or withdrawal of bids or to cancel awards or contracts based on bid mistakes shall be supported by a written determination made by the city manager or city council, depending on the value of the bid received, and in accordance with the provisions of this chapter.

(k) The contract shall be awarded with reasonable promptness by written notice to the lowest responsive and responsible bidder whose bid meets the requirements and criteria set forth in the invitation for bids. In the event all bids for a construction project exceed available budgeted funds as certified by the city recorder and the lowest responsive and responsible bid does not exceed such funds by more than five percent (5%), the city manager is authorized, in situations where time or economic considerations preclude resolicitation of bids of a reduced scope, to negotiate an adjustment of the bid price, including changes in the bid requirements, with the lowest

responsive and responsible bidder, in order to bring the bid within the amount of available funds.

(l) When it is considered impractical to initially prepare a purchase description to support an award based on price, an invitation for bids may be issued requesting the submission of unpriced offers to be followed by an invitation for bids limited to those bidders whose offers have been qualified under the criteria set forth in the first solicitation.

(2) Rejection Of Bids:

(a) An invitation for bids, a request for proposals, or other solicitation may be canceled, or any or all bids or proposals may be rejected, in whole or in part, specified in the solicitation, when it is in the best interests of the city in accordance with rules and regulations set out in the bid notice or invitation. The reasons for such rejections shall be made part of the contract or bid file. (Ord. 2006-27, 2006)

(b) The city council shall have the authority to reject all bids, parts of all bids or all bids for any one or more supplies or contractual services included in the proposed contract, when the lowest responsible bid exceeds available budgeted funds as certified by the city recorder, or when the public interest will be served thereby and when permitted by law to do so. When all bids exceed available budgeted funds and time or economic considerations preclude resolicitation of work or purchase of a reduced scope or quantity, the purchasing agent may negotiate an adjustment of the bid price, including changes in the bid requirements, with the lowest responsible bidder, in order to bring the low bid within the amount of available funds. (Ord. 2007-20, 2007)

(3) Extension Of Bids: The city manager may extend the time for opening of bids, if in his/her opinion it is in the public interest to do so. Notice of the extension shall be given to all prospective bidders by the purchasing agent in such manner as is most practical under the circumstances. Such extension shall not exceed ten (10) working days. No extension may be granted for the purpose of qualifying a bid that was delivered after the time advertised for the original opening.

(4) Late Bids: No bids shall be received or accepted at any time subsequent to the time indicated in the announcement. Any bids delivered by mail, or any other means, subsequent to the appointed time shall not be opened.

(5) Responsible Bidder: The city shall award contracts, which are required to be let by competitive bidding under this chapter to the lowest responsible bidder. The city may reject the lowest bid and accept the next lowest bid if the city determines that the lowest bid was made by a bidder who is not responsible.

(a) The city may consider any or all of the following when determining whether a bidder is responsible:

(i) Whether the bid fully complies with the invitation for bids;

(ii) The bidder's financial responsibility;

(iii) The bidder's honesty and integrity;

(iv) Whether the bidder has the skill and business judgment to complete the contract;

(v) The bidder's experience;

(vi) Whether the bidder has the facilities and equipment to complete the contract;

(vii) The bidder's conduct under other contracts, regardless of whether the contracts were with the city or with other parties;

(viii) The quality of the bidder's other work, regardless of whether the work was performed for the city or for other parties; and

(ix) Any other matter bearing on the likelihood that the bidder will promptly and efficiently perform the contract.

(b) If the city determines that the lowest bidder is not responsible, the city shall notify the bidder in writing that it is rejecting the bidder's bid. The notice shall also contain a short description of the reasons for the rejection. (Ord. 2006-27, 2006)

3.12.306: BONDS OF BIDDERS MAY BE REQUIRED:

(1) Bidders may be required to supply deposits of good faith, or bonds with sufficient sureties, in such amounts as shall be deemed adequate and approved by the city manager or city council, as set out in the bid notice, not only to ensure performance of the contract or purchase order in the time and manner prescribed, but also to save, indemnify, and hold the city harmless against losses, damages, claims, liabilities, judgments, costs, and expenses which may accrue in consequence of granting the contract or purchase order.

(2) Before any contract for the construction, alteration or repair of any public building, public work or public improvement of the city is awarded to any person, that person shall furnish to the city such bonds as are required by state code.

(3) Exceptions include repair and maintenance on city equipment and property. (Ord. 2006-27, 2006)

3.12.307: CONTRACTS REQUIRED:

(1) A contract signed by both parties is required when:

(a) Personal property is acquired by means of lease, rental or installment purchase;

(b) Personal or professional services are required by the city, except where the services are to be performed at the vendor's place of business, or where the services are for nonrepetitive repairs or maintenance, and where a purchase order has been bid or negotiated to cover said services;

(c) Consultant services are to be acquired;

(d) Real estate or any interest therein is to be acquired except:

(i) When acquired pursuant to the power of eminent domain and entry of a decree by a court of competent jurisdiction;

(ii) When acquired as a result of the filings and recording of a map or plat as required by the city subdivision ordinance;

(e) The requesting office, department, agency or city council shall so specify;

(f) The vendor requires that a contract other than a purchase order be signed by the city; and

(g) Intergovernmental, interagency and service provider agreements require participation by the city involving funding, performance or assumption of liability or risk in any form.

(2) The following procedure should be followed for all contracts for construction:

(a) Two (2) original copies of the contract document shall be prepared with all required supplemental information attached, signed by the contractor, and forwarded to the city recorder. Required attachments are:

(i) One hundred percent (100%) performance bond;

(ii) One hundred percent (100%) payment bond;

(iii) Certificate of liability insurance;

(iv) Certificate of workers' compensation insurance.

(b) The city recorder shall review the contract document and all attachments.

(c) Contracts over twenty thousand dollars ($20,000.00) shall be forwarded to the city attorney for review and approval.

(d) The city recorder shall submit the contract document with all required attachments to the mayor for signature, and attest the mayor's signature.

(e) Upon final contract approval, the city recorder shall return one original and one copy of the signed contract to the appropriate department head and retain the second original contract.

(f) The appropriate department head shall prepare the notice to proceed for the contractor and submit a copy of the notice to proceed to the city recorder for filing with the original contract.

(g) Upon completion of the project, the appropriate department head shall prepare a notice of completion and submit the notice of completion to the city recorder for filing with the original contract.

(h) No work may begin prior to final contract approval. (Ord. 2006-27, 2006)