

ORDINANCE 22-02

AN ORDINANCE OF THE NORTH LOGAN CITY COUNCIL AMENDING PROCUREMENT PROCEDURES

WHEREAS, the City Council of the City of North Logan, Utah, adopted and passed the Code of Revised Ordinances of the City of North Logan on March 16, 1989, which Code was published and effective on March 20, 1989; and

WHEREAS, said Code included Title 6 which is the Finances And Taxation Ordinance; and

WHEREAS the City Council has determined there is need and good cause to amend the Finances And Taxation Ordinance to modify the Procurement Procedures;

NOW, THEREFORE, the North Logan City Council hereby adopts, passes and publishes the following:

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BE IT ORDAINED by the City Council of the City of North Logan, Utah as follows:

SECTION I: Amend TITLE 6 Finances And Taxation, amending section 6-504 as follows (highlighted portions added, crossed through items deleted):

6-504 Procurement Procedures

A) General

- 1) The underlying purposes of the procurement procedures are:
 - a) To ensure fair and equitable treatment of all persons who wish to, or do, conduct business with North Logan City.
 - b) To provide for the greatest possible economy in North Logan procurement activities.
 - c) To foster effective, broad-based competition within the free enterprise system to ensure that North Logan City will receive the best possible service or product at the lowest possible price.
- 2) Compliance with / Exemption from this policy.
 - a) This policy shall not prevent North Logan City from complying with the terms and conditions of any grant, gift, or bequest that is otherwise consistent with law.
 - b) When procurement involves the expenditure of federal assistance funds, North Logan City shall, as required, comply with applicable federal law regulations.
- 3) Definitions.
 - a) "Business" means any corporation, partnership, individual, sole proprietorship, joint stock company, joint venture, or any other private legal entity.
 - b) "Change order" means a written order signed by the Financial Officer, directing the contractor to suspend work or make changes, which the appropriate clauses of the contract authorize the Financial Officer to order, without the consent of the contractor or any written alteration in specifications, delivery point, rate of delivery, period of performance, price, quantity, or other provisions of any contract accomplished by mutual action of the parties to the contract.
 - c) "City" shall mean North Logan City.

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- d) "Contract" means any City agreement for the procurement or disposal of supplies, services, real estate, or construction.
- e) "Invitation for bids" means all documents, whether attached or incorporated by reference, used for soliciting bids.
- f) "Person" means any business, individual, union, committee, club, other organization, or group of individuals.
- g) "Procurement" means buying, purchasing, renting, leasing, leasing with an option to purchase, or otherwise acquiring any supplies, services, real estate, or construction.
- h) "Financial Officer" means the person duly authorized by the governing body of the City to enter into and administer contracts, make written determinations with respect thereto, and to perform the other duties stated in this chapter 6-500.
- i) "Purchase description" means the words used in a solicitation to describe the supplies, services, real estate, or construction to be purchased, and includes specifications or other appropriate descriptions attached to or made a part of the solicitation or agreement.
- j) "~~City Auditor~~ **City Recorder**" means the person duly authorized by the governing body to maintain the general books and subsidiary records for each fund of the city, to pre-audit all claims, and to prepare checks in payment of those claims.

B) Source Selection and Contract Formation

- 1) No appropriation may be encumbered and no expenditure may be made against any work area appropriation unless there is a sufficient unencumbered balance in the department's appropriation, except in cases of emergency as provided by this ordinance, **or by special approval by the Mayor, Chief Financial Officer, or City Administrator.**
- 2) All encumbrances designated as outstanding as of the end of the fiscal year shall be evidenced by a purchase order issued on or before the last day of the fiscal year and approved by the Mayor and City Council.
- 3) All purchases or encumbrances of such purchases by the City shall be made or incurred according to the purchasing procedures established by this ordinance and applicable state law.
- 4) No expenditures or encumbrances shall be made in excess of the total appropriations for any work area in the budget as adopted or subsequently amended, **except in cases of emergency as provided by this ordinance, or by special approval by the Mayor, Chief Financial Officer, or City Administrator.**
- 5) Purchases less than ~~\$5,000.00~~ **\$25,000.00**.
 - a) For purchases of less than ~~\$1,000.00~~ **\$10,000.00**, authorized city personnel desiring to make purchases within the department's budget, do not need to obtain bids and may purchase the items and submit a sales receipt or invoice therefor to the City Auditor **Recorder** without any formal approval procedure.
 - b) For purchases of more than ~~\$1,000.00~~ **\$10,000.00** but less than ~~\$5,000.00~~ **\$25,000.00**, the Department Head, before making the purchase, shall submit a purchase order to the City Auditor **Recorder** for determination that the purchase would be within the department's budget. Upon the approval of the purchase order by the City Auditor **Recorder**, the purchase order and the City Auditor's **Recorder's** statement of approval

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shall be submitted to the Financial Officer who may then approve or disapprove the purchase.

- 6) Purchases of ~~\$5,000.00~~ **\$25,000.00** or more shall require a purchase order and bids prior to obligation of funds except as provided in paragraph D of this chapter.
 - a) At least three bids shall be **solicited** ~~required~~ for purchases of ~~\$5,000.00~~ **\$25,000.00** or more.
 - b) Purchases in response to bids for ~~\$25,000.00~~ **\$50,000.00** or less may be authorized and obligated when approved by the Department Head and the Financial Officer. Bids for purchases of less than ~~\$25,000.00~~ **\$50,000.00** need not be sealed/written bids, **and may be solicited, or obtained, online.**
 - c) Sealed bids shall be required for all purchases in excess of ~~\$25,000.00~~ **\$50,000.00**. Purchases from bids of more than ~~\$25,000.00~~ **\$50,000.00** must be authorized by the City Council.

C) **Scaled** Bidding Procedures

1) General

- a) Bids or proposals shall be submitted sealed unless specified otherwise.
 - b) A purchase may be awarded without competition or bidding when the Work Area Supervisor and Financial Officer, with the approval of the City Council, determine in writing that there is only one source for the required service or item and the use of the sole source is allowed under applicable law. In that event, bids will not be necessary but all other procedures, as set forth in this ordinance, shall be followed. (Reference Sec.63-56-23, U.C.A.1953 as amended.)
 - c) An invitation for bids shall be issued when a contract is to be awarded by competitive sealed bidding or sealed proposals. The invitation shall include a purchase description and all contractual terms and conditions applicable to the procurement. Public notice of the invitation for bids shall be given at least 14 days prior to the date set forth therein for the opening of bids. The notice may include ~~publication in a newspaper of general circulation and shall be so published when and~~ **the publication on the City's website, and other notification methods** as required by law.
 - d) When the Mayor and the City Council determine that the use of competitive sealed bidding is either not practicable, or is not advantageous to the City nor required by law or otherwise, a contract may be entered into by competitive sealed proposals in the manner as set forth in Section 63-56-21, Utah Code Annotated, 1953 as amended, as modified by the City Council in its discretion.
- 2) **Scaled** Bid Procedure. Bids shall be prepared in the following manner whenever purchases for equipment, supplies, or services are to be made by the city, unless specified otherwise in this ordinance. City personnel such as the Department Head, etc. shall:
- a) Determine the specifications of the items or services needed and prepare a written statement setting forth those specifications.
 - b) Prepare a written, **or digital**, request or notice for bids/ proposals.
 - c) ~~Submit the specifications and request or notice for bids/proposals, for City Council approval.~~ Bids/proposals as hereinafter specified, received directly by a Department Head, together with proposed agreements or other documents relating to the purchase

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shall be submitted to the approving authority for confirmation and award of bid as required by this ordinance.

- d) In all instances, the **solicitation** request for bids/proposals shall be issued to at least three separate vendor/sources, if reasonable and possible.
- e) Each request for notice of, or advertisement regarding, bids/proposals shall set forth specifications for the item or service to be purchased. A copy of such request, notice, or advertisement shall be maintained in the **City** office of the City Auditor as well as with the Department Head.
- f) Sealed bids/proposals shall be received and held by the City Auditor **Recorder** who shall indicate on the bids the date and the time of the receipt of such bids. Sealed bids/proposals shall be opened at the time and place as specified in the bid notice request and shall be opened in the presence of at least two of the following city officials - the City Auditor **Recorder**, Mayor, Department Head, City Treasurer, or the Financial Officer. ~~The amount of each bid and any other relevant information, together with the name of each bidder shall be recorded. The record and each bid shall be open to public inspection.~~
- g) All sealed bids for contracts shall be made in compliance with this ordinance.
- h) All notices of or requests for bidding on construction contracts shall specify requirements for **bonding, as deemed appropriate by the Chief Financial Officer**, a performance bond and payment bond in compliance with the provisions of Sections 14-1-18, 14-1-19, 63-56-38 and 63-56-39, Utah Code Annotated, 1953 as amended.
- i) A bid security in an amount equal to at least 5% of the amount bid shall **may** be required for all sealed bidding for construction contracts and shall be in the form of a bond provided by a surety company authorized to do business in the State of Utah, the equivalent in cash, or any other form satisfactory to the City.
- j) If a bidder fails to comply with the requirement for bid security, the bid may be rejected, unless it is determined that the failure to comply with the security requirement is non-substantial.
- k) After all bids are open, such bids shall be irrevocable for the period specified in the invitation or request for bids. However, if the bidder is permitted to withdraw a bid before the award, no action shall be taken against the bidder or the bid security.
- l) "Cost-plus-a-percentage-of-cost" contracts are prohibited. Subject to the limitations of this section, any type of contract that will promote the best interests of the City may be used, provided that the use of a cost-plus-a-percentage-of-cost contract is prohibited. A cost-reimbursement contract may be used only when a determination is made that such a contract is likely to be less costly to the City than any other type or that it is impracticable to obtain the supplies, services, or construction required except under such a contract.
- m) Required contract clauses:
 - (i) The unilateral right of the City to order, in writing, changes in the work within the scope of the contract and changes in the time of performance of the contract that do not alter the scope of the contract work.
 - (ii) How the contract resolves variations occurring between estimated quantities of work in a contract and actual quantities.

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(iii) How suspension/~~termination~~ of work can be ordered by the City.

- n) All ~~successful~~ bids/proposals received, together with proof of advertisement by publication or otherwise, shall be maintained by the City Auditor for a period of at least three ~~four~~ years following the award of any contract pursuant to such bids/proposals and for three years following the date of first advertisement or publication of the notice for such bids/proposals in the event that all bids/proposals pursuant to that notice as advertised are rejected.
- ~~o) All bids/proposals shall be recorded as to the name of the bidder, the amount of the bid, compliance with the bid notice and request, and such record shall be submitted to the approving authority for confirmation and award of bid as required by this ordinance.~~
- p) ~~o) The City shall at all times and in all bidding circumstances reserve the right to accept any bid for the good of the City or~~ reject any and all bids/proposals with or without cause.

D) Awarding a Bid: The City shall make a good faith effort to evaluate the bids received and make a decision regarding awarding a bid to a company based on any of the following items: the bid amount, estimated timeline of completion or delivery of goods/services, past company projects, references, merits, communications, or the body of work of the company providing goods or services. The city reserves the right to award any bid, or reject any bid, for the good of the city, with or without cause.

- ~~D) E) Exemptions From Bidding Procedure.~~ All purchases which are exempt from bidding procedures may be authorized and funds obligated by the approving authority provided the expenditures are within the budget appropriation. The Financial Officer may approve individual purchases greater than \$8,000.00 **\$10,000.00** under these exempt-from-bidding provisions only when the purchase was approved as a specific line item in the budget, otherwise, authorization shall be obtained as required by this ordinance. The following purchases shall be exempt from bidding requirements:
- 1) Purchases from any federal or state agency including, but not limited to, Utah State Central stores, surplus sources, or state approved contract lists.
 - 2) Salaries and benefits for city employees.
 - 3) Utilities including gas, electric, water, sewer, solid waste, and telephone.
 - 4) Ongoing contracts which have been provided for in the city's budget such as, but not limited to, lease purchase agreements, land purchase agreements, **bulk product agreements**, and otherwise.
 - 5) Seminars, training and conferences for city employees, officers, or authorized representatives.
 - 6) Reimbursement for travel costs, and expenses incurred by city employees, officers, and authorized representatives.
 - 7) Fuel purchases, which may be bid on an annual basis rather than on a purchase-by-purchase basis.
 - 8) Items to be acquired from a sole source providing that there is written documentation that there is only one source for the required items.
 - 9) Inter-local agreements.

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- 40) Professional services such as legal, auditing, accounting, engineering, consulting, and other similar services, provided however, that sealed proposals may be requested each three (3) years, or as conditions may warrant, on such services at the discretion of the City Council.
- ⇒ **F)** Financial Officer's Duties in the Procurement Process.
- 1) The Financial Officer is appointed by the City to control and expedite city purchasing. His/her duties and powers are set forth in this chapter.
 - 2) The Financial Officer shall provide any assistance requested by city personnel desiring to make purchases with respect to bid preparation, actual purchases, delivery, installation, and monitoring the performance of any purchase related agreements. The Financial Officer shall involve city personnel as may be reasonably necessary in the purchase process.
 - 3) The Financial Officer, upon receipt of the general specifications prepared by city personnel and the request for bid, together with other related information, will typically:
 - a) Review the documents as submitted.
 - b) Make comparisons to other sources for the same items or services.
 - c) Prepare the bid document.
 - d) Contact potential bidders for bids.
 - e) Determine if purchases could be made jointly with other work areas in order to obtain better prices and terms.
 - f) Receive bids and confirm adherence to the specifications of the bid request and clarify any questions concerning the bid.
 - g) Submit any proposed agreements or leases to an attorney for a legal opinion.
 - h) Make recommendations to the Department Head, the Mayor, and to the City Council.
 - i) Unless instructed otherwise by the City Council, the Financial Officer upon receipt and approval of all documents and examination of bids, shall submit a purchase order to the City Auditor Recorder together with the bid and other documents, including any legal opinion from the City Attorney, together with the Financial Officer's statement of approval. The City Auditor Recorder shall then approve the purchase if within the budget for that department and submit the purchase materials together with his indication of approval to the appropriate city official responsible for the purchase (Financial Officer, Department Head, or City Council) who shall then either approve or disapprove of the same.
- ⇒ **G)** Agreements. No agreement, lease purchase, or lease may be made or entered into without the approval of the City Council Recorder.
- ⇒ **H)** Emergency Purchases. Under emergency conditions, where there exists a threat to public health, welfare, safety, or property; the Financial Officer, or in his/her absence the Mayor or member of the City Council, or in the inability to contact any of those individuals, the Department Head in charge of the affected area, may make or authorize an emergency procurement, beyond his/her authority, with or without bids. However, any emergency procurement shall be made with as much competition as practical under the circumstances. A written determination of the basis for the emergency and for the selection of the particular vendor/contractor for the purchase shall be submitted thereafter by the individual authorizing procurement, to the Mayor and City Council to be reviewed and the emergency confirmed.

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⌘ **D** Appeals.

- 1) Any actual or prospective bidder or contract or who is aggrieved in connection with the solicitation or award of a contract may appeal to the Financial Officer. An appeal shall be submitted in writing within five (5) working days after the contract to which the grievance relates is awarded. No appeal may be taken in connection with purchases involving less than ~~\$3,000~~ **\$50,000**, nor in the event all bids are rejected by the City.
- 2) The Financial Officer shall promptly issue a written decision regarding any appeal, if it is not settled by a mutual agreement. The decision shall state the reasons for the action taken and inform the protestor, contractor, or prospective contractor of the right to appeal to the governing body, in writing, within five (5) working dates from the date the decision is issued.
- 3) The City Council's decision shall be final.

⌘ **J** Ethics in Public Contracting.

- 1) No person shall make procurement decisions that will create a substantial conflict between their private interests and their public duties. Compliance shall be in accordance with Sections 10-3-1301 through 10-3-1312, Utah Code Annotated, 1953 as amended, as it currently exists or as it hereafter may be modified.
- 2) No person involved in making procurement decisions for the city shall ask, receive, or offer to receive any emolument, gratuity, contribution, cash, gift, property, service, loan, or reward of any kind, or any promise thereof, either for the person's own use or the use or benefit of any other person or organization, from any person or organization interested in or attempting to sell property or services to or otherwise do business with the City. Any violation of this section shall be prosecuted under and punished as provided by the Utah Code.

SECTION II: CONFLICT. To the extent of any conflict between this ordinance and any other North Logan City ordinance(s) or regulation(s), the provisions of this Ordinance shall be controlling.

SECTION III: SEVERABILITY. The sections, paragraphs, sentences, clauses, and phrases of this Ordinance are severable. If any such section, paragraph, sentence, clause, or phrase shall be declared invalid or unconstitutional by the valid judgment or decree of a Court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any of the remaining sections, paragraphs, sentences, clauses, or phrases of this Ordinance.

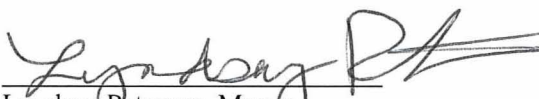
SECTION IV: EFFECTIVE DATE. In the opinion of the City Council of North Logan, it is necessary that this ordinance take effect immediately; therefore, this Ordinance shall take effect immediately upon its passage and first posting as provided by law.

ADOPTED AND PASSED by the City Council of the City of North Logan, Utah, this 2nd day of February, 2022

NORTH LOGAN CITY, A Utah Municipal Corporation

ATTEST:


Scott Bennett, City Recorder

By 
Lyndsay Peterson, Mayor

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AMENDING PROCUREMENT PROCEDURES**

CERTIFICATE OF DUE POSTING

I, SCOTT BENNETT, City Recorder of North Logan, Utah, hereby certify that I, on the 3rd day of February, 2022, in the City of North Logan, Cache County, State of Utah, posted the foregoing Ordinance No. 22- 02 in a likely manner, a copy of which is hereto attached, in each of three public places in the said City of North Logan, to-wit:

1. North Logan City Offices, 2076 North 1200 East
2. North Logan City Library, 475 East 2500 North
3. North Park Police Department, 575 East 2500 North

WITNESS my hand this 3rd day of February, 2022.



Scott Bennett, City Recorder