

Chapter 1

PURCHASING POLICY

Section 1-1 Introduction

The Purchasing Policy shall provide full information concerning the purchasing administration and purchasing rules and regulations applicable to the City of Clayton. The Policy ensures standardized procedures that provide fiscal control and allow the City to obtain quality goods and services at the lowest possible costs.

Each department head is responsible for the procurement of goods and services necessary for the operations of his department, subject to approval by the City Manager and may need contract approval from the Board of Aldermen before order placement.

It is the responsibility of each department head to ensure that all purchases are made in a cost effective manner, and that no funds are expended above appropriated amounts without authorized approval.

Section 1-2 Goals

The basic goals of the City of Clayton purchasing policy are:

1. Coordinate purchasing activities between the departments and City administration,
2. Comply with legal requirements of public purchasing,
3. Ensure the integrity of public procurement,
4. Ensure consistent use of purchasing procedures,
5. Assure vendors that equal and impartial treatment will be afforded to all who wish to do business with the City,
6. Receive maximum value for each public dollar spent,
7. Optimize the City's fiscal controls and cash flow,
8. Provide City departments required goods and services at the time and place needed in the proper quantity and quality.

Section 1-3 General Guidelines

- A. Local Vendors. It is the objective of the City of Clayton to purchase products and/or services at the best prices. Whenever possible, Clayton vendors should be contacted. Clayton vendors are those businesses

possessing a Clayton business license, or if a license is not required, located within the city limits of Clayton.

- B. American Products. It is the desire of the City to encourage the purchase of products manufactured, assembled, or produced in the United States, if the quality and price are comparable with other goods, in accordance with Missouri State Statutes (RSMo 34.353).
- C. Recycled Products. It is the desire of the City to encourage the purchase and use of products manufactured from recycled materials, if the quality and price are comparable with other goods. Consistent with purchasing and using recycled goods, the City will observe the recycling requirements listed in Chapter 34 of the Missouri statutes.
- D. Budgetary Limits. Budgetary limits are to be strictly observed. Written authorization must be obtained from the Director of Finance and the City Manager as prescribed in the City's budget administration policy if the purchase exceeds the approved budget for that line item.
- E. Best Price. Purchases shall be awarded to the vendor or provider that is deemed to be in the best interest of the City, not necessarily the lowest price. The following criteria will determine what is in the best interests of the City:
 - price,
 - the level or quality of the service or product offered, including green considerations,
 - the demonstrated ability to provide the service or product,
 - timeliness of delivery,
 - level of fit.

When the purchase is to be made from a vendor other than the low bidder, the reasons shall be documented by the originating department. Approval shall be received from the City Manager or designee before order placement.

- F. Quality Buying. Vendor selection shall also include consideration of the service quality. Quality is just as important as price and it is the responsibility of the originating department to secure the best quality for the purpose intended. The purchase of goods or services that will meet but not exceed the requirements for which they are intended defines quality buying. Although not necessarily a deciding factor, consideration will also be given to Clayton businesses, American made products, and availability of recycled or green products. Quality buying considerations include, but are not limited to, durability, availability, ease of installation, frequency of repair, efficiency, and life cycle costs. For example, in vehicle purchases part of the price consideration is to consider mileage

ratings and life cycle costs to determine best price, not only the lowest purchase price. It is the responsibility of each department to become familiar enough with the available equipment to determine the appropriate quality required to develop specifications and bid analysis.

- G. Ethics. All employees of the City of Clayton have chosen to serve the public and therefore shall not accept, grant, or be influenced in their duties by any offer of payment, gift or favor from any source other than their compensation from the City.

No endorsements of products or services shall be permitted using an employee's name, position, or the City's name where it might be construed as evidence of favoritism relative to any supplier or vendor.

Purchases by the City for the personal or private use of employees are not allowed. City employees are also prohibited from using their position or the City's name to obtain special consideration in personal purchases.

Purchases from employees or vendors related to employees are inappropriate unless the vendor would naturally be sought for competitive pricing. Employees shall make known their financial interests in any company doing business with the City. Failure to do so could result in disciplinary action up to and including termination.

Purchases from any company in which an employee with decision making authority has a financial interest are prohibited.

- H. Equal Opportunity Employer Requirements. The City requires that every supplier of materials and services and all contractors doing business with the City in excess of \$1,000 per year shall be an equal opportunity employer. It is the responsibility of the Department Head to obtain certification from the vendor or contractor that he is an equal opportunity employer before awarding the contract or issuing the purchase order.
- I. Sales Tax. The City is exempt from paying all local and state sales tax. The Purchasing Agent or the Finance Department can provide the exemption document to any vendor upon request.

The City's Missouri sales tax exemption number is 12487627, and has no expiration

- J. Shipping. Shipping, delivery, transportation, installation and similar costs are to be included in determining the best price. Specifications should specify FOB Clayton, Missouri. It is important for shipping to be "FOB Clayton", for if there is damage during shipment or the goods are defective, the vendor is obligated to rectify the situation.

- K. Planning. Planning of purchases should be completed by each department on a short term and long term basis. Small orders and last minute purchases should be minimized, thereby increasing the capability of each department to purchase its goods and services in larger quantities. Large quantities typically encourage the maximum discount possible and therefore improve pricing. Planning will also reduce the time expended on pickups, documenting purchases, and will allow the City to improve its fiscal control and optimize cash flow.
- L. Vendor Selection. Vendors and suppliers of the City shall be carefully selected. City departments should assure themselves that the vendor has a proper license, is an authorized dealer for the given product or is a qualified provider of the services sought.
- M. Public Review. All specifications, bid documents, quotation sheets, purchase orders, and other supporting documents are public records that are available to the public upon reasonable request. Public records will be available for public review during normal operating hours, and may require advance notice per the Missouri State Statutes regarding Freedom of Information.

Section 1-4 Green Procurement

Preference in procurement will be given to green products and services, however all factors including, but not limited to, quality, level of service, price, and budget should be considered.

Definitions:

Green procurement is the procurement of products and services that have a lesser or reduced effect on human health and the environment when compared with competing products or services that serve the same purpose. This comparison may consider raw material acquisition, production, manufacturing, packaging, distribution, operation, maintenance, disposal and re-use of the product or service. Green procurement encompasses the concept of the procurement of goods and services that provide for basic human needs and bring a better quality of life, while minimizing the use of non-renewable natural resources and toxic materials and the emission of wastes and pollutants over the life cycle, so as not to jeopardize the ability of future generations to meet their own needs.

A green product is one that is less harmful than the alternative, having characteristics including, but not limited to, the following:

- Recyclable - local facilities exist that are capable of recycling the product at the end of its useful life.
- Biodegradable - will not take a long time to decompose in landfill.

- Contain recycled material (post-consumer recycled content).
- Minimal packaging and/or for which there will be take-back by the manufacturer/supplier of packaging.
- Reusable or contain reusable parts.
- Minimal content and use of toxic substances in production.
- Produce fewer and/or less polluting by-products during manufacture, distribution, use and/or disposal.
- Produce the minimal amount of toxic substances during use or at disposal.
- Make efficient use of resources - a product that uses energy, fuel or water more efficiently or that uses less paper, ink or other resources.
- Durable - have a long economically useful life and/or can be economically repaired or upgraded.

Sustainable (green) service - A service acquired from a supplier who has a green operational policy and whose internal practices promote sustainability.

Threshold - the dollar value of contracts, above which a formal record is kept on file showing that environmental criteria were considered when requirements were defined.

Procedures:

Where available and cost effective, green products and services that are of equal or better performance and quality, should be considered. In determining cost effectiveness, a department should give consideration to the costs and benefits that accrue, in the shorter and longer term, to the City of Clayton.

For all bid solicitations (e.g. requests for proposal, requests for quote, and requests for qualifications, invitations for bid), environmental factors or impact will be considered when requirements are defined. In addition, all solicitations will include instructions asking vendors to identify any environmental benefits over the life cycle of their products and/or services.

A formal record is kept on file showing that environmental criteria were considered when requirements were defined. In determining their threshold, departments may wish to consider contracting volumes, training requirements and budgetary constraints.

Each department will be responsible for ensuring that its personnel have sufficient training about the environment and green procurement to carry out the directives in this policy.

Guidelines:

The life cycle approach and the environment

Applying the four R's (Reduce, Reuse, Recycle and Recover) at each phase of

the material management life cycle helps protect the environment and reduce costs.

Planning:

During the planning process, managers will assess the need for a given purchase and, whenever possible:

- Reduce consumption.
- Consider acquiring second-hand or used material.
- Consider products that are less damaging to the environment, such as those made with resource-saving materials or processes.
- Consider the environmental cost of purchases during each phase of the life cycle.

Acquisition:

As much as practical, products selected should:

- Be reusable and contain reusable parts.
- Be recyclable and contain recycled materials (e.g. recycled paper, reconditioned printer cartridges).
- Include second-hand or used material.
- Use resources and energy efficiently.
- Have a long service life or be economical to repair.
- Contain minimal packaging, or use returnable or reusable shipping containers.
- Be non-toxic and non-polluting.

Maintenance and Operations:

- Ensure that products are properly maintained and used. This will extend the service life of a product. When economically feasible, equipment should be repaired, refinished and reused.
- Hazardous material must be shipped, stored and handled in accordance with applicable federal and provincial law, and regulations.

Disposal:

- Consider alternatives to disposing of material, such as reusing, recycling or recovering it. Try to minimize the amount of waste generated.
- Combine environmental actions with fiscal responsibility
- Government interest in economy of operations is fully compatible with environmental interests. Many sound environmental practices have resulted in savings.

- Most environmental actions can be phased in gradually without additional cost. When these actions may entail additional costs for the government, managers should accommodate them within existing budgets.
- Government should lead by example. In light of the volume of government procurement, the government can play a significant role in promoting the development and marketing of green products and services. As demand for these products and services increase their prices will drop and become more affordable to all consumers.

PURCHASING PROCEDURES

Section 1-5 Purchasing Procedures

The City has established policies listed below regarding the method to be used in purchasing goods and services, depending upon the cost of the item to be purchased. Subdividing purchases to avoid these requirements is strictly prohibited.

Section 1-6 Purchase Orders

Purchase orders will be secured prior to purchasing all goods and services and will require the appropriate account number and available funds (or otherwise authorized funds). Correct account numbers are the responsibility of the requesting department, to ensure appropriate accounting. Overspending appropriations will not be allowed without the written approval of the City Manager and/or the Finance Director.

Purchase orders will be completed on an electronic purchase order form, showing the following items:

- date
- vendor (including address, as required)
- complete description of the goods or services requisitioned including quantities, item/model numbers, prices, discounts, shipping, delivery dates and points
- account number
- electronic authorization of the department

The purchase order shall be accompanied by the consolidated quotation sheet which may be emailed to the Assistant Finance Director along with other appropriate supporting documentation, such as a contract copy.

The purchase order shall then be forwarded through the electronic system to the Purchasing Office for approval routing. After encumbrance of funds, purchase order approval by appropriate supervisors, and printing, the Purchasing Department will return a copy to the department for order placement with the vendor. It is the responsibility of the originating department to provide vendors a purchase order copy if needed.

When an account is over budget in the object account group (i.e., contractual services, commodities, or capital) for a requested purchase(s), the purchase order may be processed, but will require electronic approval of the purchase order by the Director of Finance.

The procedure and documentation required for purchases will be governed by the amount of the purchase.

Section 1-7 Purchasing Requirements

Any exception to the purchasing level policy requires City Manager approval. Staff may benefit from discussing their solicitations with the Finance Department.

- A. Budgeted purchases for less than \$5,000 may be obtained in the most expedient way possible with due regard for competitive prices and quality. This does not preclude obtaining quotes for purchases.

Budgeted purchases \$5,000 - \$9,999 require a minimum of three quotes which may be by email, regular mail, telephone or fax. A consolidated quotation sheet shall be prepared and maintained in the requesting department for public review. Once a department makes and documents a decision, a purchase order will be issued to the vendor with the “best” price. Any purchase exceeding \$5,000 will require an electronic signature from the Director of Finance on the purchase order.

- B. Budgeted purchases \$10,000 - \$25,000 require a minimum of three **written** quotes. A consolidated quotation sheet shall be prepared and maintained in the originating department for public review. Once a department makes and documents a decision, a purchase order will be issued to the vendor with the “best” price. It is at this level and above, that the City’s Sweatfree policy applies. Please see Appendix A for the ordinance and Affidavit of Compliance.

A written quote is minimally defined as a written statement detailing goods or services that will be provided to the City at a particular price and signed by an authorized individual of the vendor/company. Any purchase exceeding \$10,000 will require an electronic signature from the City Manager on the purchase order.

- C. Budgeted purchases exceeding \$25,000 requires a formal bid or request for proposal to be solicited. See formal competitive bid requirements in sections 1-9 through 1-12.
- D. Unbudgeted purchases and/or changes in the intent of the budgeted line item require City Manager approval.

Section 1-8 Special Procurement Procedures

Periodically, the City may need to purchase goods or services under circumstances that do not clearly fit the patterns of normal public procurement and for which normal competitive shopping procedures do not apply. The following guidelines are provided for making such purchases.

A. Sole Source Purchases

In the event that there is only one vendor that can provide a particular good or service, then the competitive shopping procedures outlined in this policy may only be waived by the City Manager.

If a Department Director decides that goods or services must be purchased from a "sole source vendor", the reasons only one company or individual is capable of providing the goods or services must be documented. The documentation must be retained as part of the department purchasing records and attached to the purchase order requisition on the consolidated quotation form.

B. Cooperative Procurement Programs

Cooperative purchasing programs, such as those available through the State of Missouri or St. Louis County, should be used whenever the desired products or services are comparable. Purchases made through these programs have met the requirements of competitive shopping and will not require further documentation. The cooperative program and contract number should simply be noted on the purchase order. This may be entered in the "remarks" section.

C. Professional Services

Professional services include services such as attorneys, engineers, certified public accountants, planners, and other professionals who, in keeping with the standards of their discipline, will not enter a competitive bidding process. A Request for Proposal (RFP) or a Request for Qualifications (RFQ) can be prepared much the same way as specifications, including requirements and minimum standards for the services to be provided. An RFQ should request information regarding the background and experience of the submitting party for the specialty task to allow the City to determine which party is best qualified to provide the services requested. Requests for Proposals or Qualifications should be submitted to the Purchasing Agent for review and approval a minimum of 5 business days prior to distribution. When an RFP or RFQ for professional services is approved, a notice shall be published in at least one general distribution publication a minimum of ten business days in advance of the RFP or RFQ submission deadline and a limited number of qualified professionals known to the City may be invited to submit a proposal or qualifications, delineating their interest, qualifications, and how they can meet the City's needs. In securing professional services, it is the primary goal of the City to obtain the services of a professional who has a proven record or documented capability of providing, in a professional way, those services required. A contract will be negotiated with the professional deemed to best meet the City's needs.

D. Emergency Purchases

The bid procedures outlined in this manual may be waived under emergency conditions when a delay may threaten the basic mission of a department or situation. Emergency purchases are rare. Occasionally, equipment will require emergency repairs or other circumstances will necessitate emergency purchasing that cannot await compliance with these regulations. Department Directors faced with an emergency purchase are to notify the City Manager as quickly as possible.

If the emergency purchase exceeds \$1,000, a report of such action shall be filed with the Purchasing Agent accompanied by the purchase order, approved by the originating Department Director within five working days of the purchase.

E. Purchasing or Charge Card Purchases

All charge accounts will be coordinated through the Finance Department. Charges, lines of credit, or accounts are not to be opened except as approved by the Finance Department

F. Designated Vendors

On occasion, the City will select a primary vendor for specific products (i.e. office supplies). In those cases, processing of purchases will be arranged on an individual case basis and coordinated through the Purchasing Department.

G. Blanket Purchase Orders

Blanket purchase orders are discouraged. However, if these are necessary, such a purchase order format must be approved by the Purchasing Agent in writing **in advance**. This is to be used only when absolutely necessary and should not be used to circumvent the purchasing system.

H. Purchase of Used Equipment

New equipment is generally preferred to used equipment. However, there are situations where the purchase of used equipment should be considered. These situations include:

- Price is of prime importance and the difference in cost between new and used goods is significant.
- Equipment will be used infrequently, for a limited time, for training or auxiliary operation.
- Better delivery is essential.
- Compliance with green guidelines.

The purchase of used equipment requires careful shopping. Input from the appropriate maintenance supervisor should be sought. For example, when purchasing motor vehicles, the Public Works Department should be consulted. The requisitioning department should make every effort to secure a minimum warranty or guarantee that the equipment will perform as needed and that service or replacement parts are available.

Section 1-9 Formal Competitive Bidding

When goods or services are bought under the formal competitive bidding process, written specifications must be prepared. Specifications, whatever the type, should accomplish four objectives:

1. Identify minimum requirements,
2. Allow for a competitive bid,
3. Provide data for an objective review,
4. Provide for an equitable award at the "best" possible cost, and
5. Provide for indemnification of the City, as appropriate.

It is advised that all bid specifications be reviewed by the Finance Department prior to release. This is not required, however it is suggested in order to ensure consistency and compliance with the City's purchasing policy. If review is desired, a minimum of 5 business days should be allowed.

Section 1-10 Competitive Bidding Guidelines

- A. Keep specifications as simple as possible while maintaining the accuracy required to keep bidders from using a loophole to avoid providing the quality or services required or to, in some manner, take advantage of their competitors.
- B. All specifications must contain language allowing the City to reserve the right to accept, reject, or modify any and /or all bids.
- C. Whenever possible, identify the equipment or material required by an accepted standard specification or a name brand on the market. All specifications that utilize a brand name must include the term "or equivalent" to avoid being restrictive and eliminating fair competition from the bidding process.
- D. Specifications should promote competition. Specifications drafted in this manner will allow several bidders to provide the City with alternatives and ensure that the City obtains the best price for the goods or services required.

- E. Flexibility in the specifications is desirable, especially in instances where new technologies are being sought. Specifications should be specific enough to guarantee the quality required but sufficiently flexible to allow vendors to be creative in their proposals. If a proposal does not meet the City's needs, it can be rejected and the bid that closely follows the specifications accepted.
- F. Specifications should be reasonable in their tolerance. Unnecessary precision can frequently escalate the bid price.
- G. Specifications should be written with clear simple language, free of vague terms or those subject to a variety of interpretations.
- H. Consideration for green purchasing should be incorporated in the bidding specifications.
- I. The Vendor/Contractor questionnaire (included in Appendix A) which gathers information about the type of business the vendor is should be included in all competitive bids.
- J. Formal bids should be advertised in at least two general distribution publications a minimum of ten business days in advance of the bid submission deadline.
- K. Specifications should include proper indemnification notices, when appropriate.

Section 1-11 Types of Specifications

- A. Specifications by Performance, Purpose, or Use. Specifications that include a set of performance criteria for the goods or services required will provide flexibility for vendors to design products or programs specifically aimed at meeting the purpose or performance standards the City has established. Generally, specifications, which center on performance standards, generate competition since they allow vendors to exercise some creativity in the types of services or goods included in their bids. Department Directors are cautioned to exercise care by including some specific technical specifications that will provide a floor or bottom line quality determination. The use of performance specifications without minimum standards could result in items being installed, paid for, and later determined not to meet City expectation. It can be very difficult to go back to a vendor and argue that the item did not meet the performance criteria established. At that point, the determination of satisfactory performance can become extremely subjective with the vendor insisting that his item is acceptable although actual experience indicates otherwise.

- B. Specifications by Samples. Whenever appropriate, a sample is always a good way to make your requirements perfectly clear. A good example would be printing bids for which artwork or an existing form would be attached. Whenever samples are utilized, Department Directors should provide an adequate supply so that originals can be included with all bid invitations and some maintained in the file for vendors who request bidding documents.
- C. Specifications by Identification with Industry Standards. Specifications will often refer to industry-wide standards or to standards met by other public jurisdictions. Some examples of these would be lumber grading, standards set by the asphalt or concrete industries or by referencing standard specifications of Missouri or Federal agencies.
- D. Specification by Drawings or Dimension Sheet. Specifications of construction projects for everything from buildings and streets to custom-built cabinets, furniture or other equipment should be written to reference the drawings or dimension sheets prepared and sealed by an architect or engineer, when appropriate. Such specifications provide an appropriate method of evaluating all bids, and later of verifying the quality of the construction work or the equipment of fixtures delivered.
- E. Qualified Products or Acceptable Brands List. These lists are developed only where it is not possible to write specifications adequately to identify the quality and performance required of the goods or services to be purchased. Acceptable brand lists are also used when tests necessary to determine compliance with technical specifications are lengthy, costly or require complicated technical equipment.
- F. Specification by Brand or Trade Name. Brand or trade names should be used **only** where brand name products have been found superior to others for the purpose intended, or when their composition is secret, unknown, or patented. The use of brand names establishes a quality standard but is not intended to limit or eliminate competition. Whenever this method of establishing specifications is used, the specifications should specifically provide for bidding of competitive or equal grades. It is incumbent on a vendor who bids on goods of supposed equal quality to those specified to document that the goods or services that he is bidding are, in fact, of equal quality.
- G. Specification by Chemical Analysis or Physical Properties. Specifications that include the chemical analysis or physical properties of the goods requested clearly place responsibility on the supplier to provide exactly those items requested. Again, care must be taken in preparing specifications using this method to ensure that competition remains a part of the bidding process. If the specifications are drawn too narrowly and only one bidder is qualified to meet the technical specifications the cost of

obtaining these items may be higher than necessary due to the lack of competition.

Section 1-12 Request for Bid/Request for Proposal

A legal notice inviting bids and/or proposals, shall be published in at least one local newspaper for at least one day. The legal notice must appear a minimum of ten (10) business days preceding the deadline for the receipt of bids or proposals.

In order to be accepted, bids and/or proposals must be received by the requesting department prior to the specified deadline. Bids shall be opened in public beginning promptly after the deadline. Proposals are not required to be publicly opened but should not be opened before the specified deadline. Telephone, fax, or email submission of bids is strictly prohibited.

If required and as specified in the individual Request for Bid (RFB), a bid security in the form of a certified check, a bank draft made payable to the City of Clayton, or a bid bond for a specified amount shall accompany each and every bid/proposal accepted and read. A performance bond, if required, is submitted after the award of the contract and may be in any of the forms identified for the bid security.

Per the Freedom of Information Act, vendors have the right to request bid information. This information is usually available within forty-eight (48) hours after the bid opening. If negotiation is to take place, which is common with submitted proposals, the City has the right to consider any information, which is essential to the negotiating process, as confidential until the negotiation is concluded or the project abandoned. This is due to the consideration that disclosure would possibly result in a higher cost being sustained by the City.

During inclement weather, the City Manager may extend a deadline for up to twenty-four (24) hours without going to rebid. Bids or proposals received prior to the original deadline will remain sealed.

Where a change to a Request for Bid (RFB)/Request for Proposal (RFP) has been made through an addendum, the requesting department reserves the right to extend a deadline to allow all bidders adequate time to respond. The new deadline will be clearly indicated in the addendum. Addendums should be issued no later than three (3) business days prior to bid closing.

All contracts based on Requests for Bid (RFB) shall be awarded to the lowest and best responsive, responsible bidder. Multiple factors are used to determine the "lowest and best responsive, responsible bidder." In addition to price, the agent shall consider, among other factors, the following:

- A. Bidders meeting the specifications of the RFB/RFQ and following the protocol of the RFB/RFQ. Prior experience with the vendor may be used to determine the capability to do the work. (Note: When a hired vendor is not responsible, it should be documented by the using department and a copy forwarded to the Finance Department.)
- B. compliance to the specifications, Terms and Conditions and instructions established for a particular RFB/RFQ
- C. the ability and capacity of the bidder to perform the work or provide the services required
- D. the character, integrity, reputation and experience of the bidder
- E. the quality and satisfaction of any previous work or services performed for the City
- F. the financial resources available to promptly provide the insurance and bond requirements, if applicable
- G. the number and scope of any conditions or exceptions included in the bid or quote
- H. the sufficiency of the financial resources and ability of the bidder to perform the contract or provide the service
- I. the quality, availability and adaptability of the supplies or contractual services to the particular use required
- J. the ability of the bidder to provide future maintenance and service for the use of the subject of the contract
- K. consideration of green factors
- L. consideration of American made and/or recycled products

Section 1-13 Purchase Orders

The City's electronic purchase order form must be completed by the department with complete detail, including date, vendor name, address, item(s) or service(s) requested for purchase, costs, discounts, payment terms, delivery information and correct line item account number, with an electronic signature of the Department Director (or other authorized person). The completed purchase order requisition shall then be submitted with a copy of the consolidated quotation form and any other documentation such as contract copy, etc. to the Purchasing Agent for signature **prior to commitments being made or order**

placement. If required, the purchase order needs approval by the Finance Department or City Manager. A purchase order is a contract between the City and a vendor. The contract is not binding until it is accepted by the vendor.

The issuance of purchase orders by unauthorized individuals will not be recognized by the City and payment for these obligations will not be approved. **Unauthorized purchases may be classified as personal expenses to be paid by the employee.**

Section 1-14 Delivery and Performance

A purchase order and contract that is complete in all respects and is accepted by the parties concerned still must produce the intended results or objectives before it can be considered a successful or completed purchase. The terms and conditions must clearly define the delivery and performance requirements of the services, supplies, or equipment. The importance of the delivery schedule should be emphasized to the vendor and documented on the purchase order. The delivery requirements must be clearly written and fully understood by all contract participants. If several items are required by the purchase order or contract, there may be a different delivery schedule for each item. The delivery schedule will normally be shown in calendar days from a specific date or transaction, such as receipt of order by the vendor. However, if delivery is date specific, then that date should be specified rather than calendar days. It is important that the place of delivery be clearly shown along with any time schedule requirements (i.e.. Delivery accepted 7:30 a.m. - 11:30 a.m., Monday - Friday, 8300 Shaw Park Drive). If the delivery is to be to a second floor office only, for instance, that should be noted as well. If there are liquidated damages for failure to deliver or late delivery, call these terms to the attention of the vendor and stress their importance. All parties should know where the material will be accepted, FOB origin or destination. As previously stated (Section 2.g.), the standard practice will be to specify destination (FOB Clayton, Missouri).

A. **Follow-up and Expediting.** Follow-up normally applies to the monitoring of the delivery schedules to assure compliance. Expediting, in the purest sense, involves an attempt to improve or reduce the contractually stipulated delivery time for various reasons, and the vendor is not legally obligated to comply. The primary objectives of the follow-up are:

- To assure full compliance by the vendor, and
- To develop documentation for future evaluation of the vendor's performance.

The early identification of possible delivery delays will provide the City with a greater opportunity for resolving the problem and for developing satisfactory alternatives. The initial follow-up action would be to reaffirm the delivery schedule and to establish proper liaison with the seller's

representative. If delivery problems do develop, there are certain techniques that may be used to help solve them:

- Contact the salesperson for assistance;
- Initiate phone calls, letters or emails to the supplier/manufacturer;
- Escalate the concern to management levels with the vendor, or manufacturer;
- Visit the vendor's business or plant, which may help solve the problem and will help in verifying any reasons for the delay; and finally,
- Cancel the contract for nonperformance.

B. Delinquent Deliveries. When follow-up efforts have failed, and the delivery has become delinquent, one of two actions must be taken:

- Authorize a time extension for delivery, or
- Cancel the order and place with another source.

In considering the decision about which of this action should be taken, several factors must be considered:

- Needs and requirements of the City,
- Agreements with the vendors,
- Availability of the items from other sources, and
- The time required for delivery if reordered from another source.

In case of delivery default, Purchasing must be notified in writing. Default on deliveries will be part of the evaluation process for future bids. If the default is serious enough or habitual, the vendor may be removed from the vendor list.

C. Partial Deliveries and Payments. Some Purchase Orders may list several items. In this event, it may be possible for the vendor to complete timely delivery on some items, which would be called "partial delivery" on the complete bid. If these items can be used separately, partial payments can be authorized. Partial payments would also be allowed for a phased delivery schedule. However, if the separate items are part of a system, then partial deliveries would be of little value to the City. In this case, partial payments should not be authorized.

When appropriate, partial payments and/or partial units can be authorized by indicating on the receiving portion of the purchase order "*partial only*" and the amount to be paid with the signature of the Department Director, accompanied by the receiving ticket (or other comparable documentation).

- D. Substitutions. To meet the contractual delivery schedule, it may be appropriate in some situations to consider substitute items. The specifications should cover this eventuality and would govern the legality of the transition. However, substitutions may be necessary, despite the specifications, if it is absolutely necessary for the City to have the material by a specified date. Other reasons for substitution may be design changes, raw material shortages, and health and safety priorities. **Whenever substitutions are necessary, due to shortcomings of the vendor, it is the responsibility of the originating department to seek and obtain an adjustment for lower prices on the substituted items.** Authorized substitutions should be documented in the bid file and/or the consolidated quotation sheet, on the purchase order and on the fixed asset record, if applicable. This action will serve to discourage future substitutions by the same vendor. In addition, this action will serve notice to the other bidders that no favoritism was shown and that compliance with specifications is expected from all vendors. If substitutions are negotiated, the purchase order will need to be adjusted by the Finance Department.
- E. Non-performance. Should the vendor fail to meet any requirement of the specifications, the vendor can be cited for nonperformance. The seriousness of nonperformance must be evaluated based on the circumstances surrounding each violation. However, there should always be some recourse to the City when a vendor fails to act according to the terms and conditions. Recourse would include:

- The City may exercise its right under a liquidated damages clause or under the terms of a performance bond.
- The City may obtain the needed items from another source and charge the delinquent vendor the excess difference in cost. (Note that obtaining the delinquent items from another source is not always an acceptable solution, since additional delivery time may be required. A revised delivery schedule with the vendor may be the best remedy.)
- The City may terminate the contract for default if it is in the best interest of the City, if the items can be obtained under more favorable conditions from other sources.

When a vendor does not perform at the expected and acceptable level, the Purchasing Department must be notified, in writing. Evaluation of vendor performance is critical to the ongoing procurement process and those vendors with whom the City has problems, depending on circumstances, may not be asked for further bids or quotes and removed from the vendor bid list.

Section 1-15 Inspection and Testing

Human lives as well as the success of expensive projects may depend upon how well the purchased items meet the design and performance specifications included in the bid package. Goods and materials should be checked at the time of receipt to detect any shortage, damage or defect. The inspection also includes assuring that the material meets the specifications. A variety of tests may be conducted as a necessity for determining if the merchandise meets specifications. Certain forms of inspection and testing may be conducted on only a few of the items, as the procedure followed may make the items unusable. Inspecting or testing every item received is neither economical nor practical. All requirements for inspection and testing must be clearly stated in the specifications. Both inspection and testing are costly; both the benefits far outweigh the expense when defects can be detected before they cause loss of life, injury or equipment failure. Inspection, testing, and acceptance are conclusive, except for latent defects or fraud.

- A. Reports, Rejection and Return Authorization. Whenever an inspection is performed, all reports to properly support claims or actions must be thoroughly documented. Sufficient time should be scheduled to allow for an inspection immediately upon arrival of the goods. Goods should be inspected for damage, quantity, quality, and for all other requirements listed in the specifications. The receiving copy of the purchase order with the inspection report, if any, will normally be used to substantiate payment for the goods and verification of receipt. In the event of rejection, for whatever purpose, certain steps must be taken to inform the vendor and to protect the rights of the City. Reasons for rejection must be documented and the reasons should reference specific requirements of the contract or bid.

- B. Damage during Shipment. One major reason for inspection at the time of receipt is to detect any visible damage. It is important that all damage be completely described on the receiving report. Any evidence of concealed damage should also be noted at this time. This notification is necessary to support the filing of damage claims against a carrier. The carrier should be notified immediately, and a joint inspection should be scheduled with the representatives of the carrier. When it is apparent that the extent of the damage renders the goods worthless, they should not be accepted. If the shipment is FOB Clayton, the vendor is responsible for assisting with the settlement of the claim and for full replacement of the damaged items. Payment will be withheld until the claims are settled.

If specific liability for a defect cannot be determined between the carrier, the vendor, or the manufacturer, the City may have to file a claim against all parties, seeking their cooperation in resolving the situation. The situation should be clearly documented and referred to Purchasing for possible referral to the City Attorney.

Section 1-16 Fixed Assets

All individual item capital expenditures of \$5,000 or more and all infrastructure additions in an amount of \$25,000 or greater are required to be recorded as a fixed asset of the City. At the time of final payment, the purchase order, invoice(s), check copy and receiving ticket will be submitted to the Finance Department. A completed Fixed Asset Form (addition) must be completed and sent with the documentation. In addition, if a capital asset is traded in, sold, auctioned or otherwise disposed of, a separate Fixed Asset Form removing the asset must be completed and sent to the Finance Department.

Infrastructure is defined as:

- Land
- Buildings
- Improvements other than buildings
- Roads
- Sidewalks
- Curbs & Gutters,
- Alleys
- Street Lights
- Traffic Lights

Section 1-17 Disposal of Surplus Goods

Goods become obsolete or they wear out. Occasionally, goods are overstocked. Changing technology, accumulation of "waste", and fulfillment of the useful life of goods make the activity of handling surplus inevitable. The City is interested in full realization of the value of goods it purchases or receives as a gift. The City wishes to ensure surplus is disposed of to the economic advantage of the City. Competitive bidding on surplus, obsolete, or usable goods is required unless the item is of nominal value and donated to a charity. This must be achieved through advertising, sealed bids, auction or open market sales. The City encourages cooperatively disposing of goods with other government entities which may strengthen the price received for surplus items. The disposal of all goods requires the prior written approval of the City Manager.

Appendix A

City of Clayton, Missouri

Documentation Form for the Evaluation of Environmental Factors

Item/Project Bid _____

Fill in one of the two sections below:

A) Green Product/Service was purchased. (List all green criteria used in the bid solicitation.)

B) Green Product/Service was *not* purchased. (List reasons why green product/service was not purchased).

No green alternative.

Did not meet operational requirement. Specify in what way:

Upfront costs for green product were higher than for non-green ones and no additional funds were available.

Other. Provide details:

Approved _____ Date _____

Retain this completed form with procurement documents in the department.

CITY OF CLAYTON, MISSOURI
VENDOR/CONTRACTOR QUESTIONNAIRE
(please type or print neatly)

The City of Clayton collects demographic data on contractors and vendors in order to quantitatively measure its marketing efforts to identify and attract bids from minority and women-owned business enterprises.

The information you provide is used for statistical purposes only. It will not be used as a basis for the award of contracts or purchase orders.

1) Contractor/vendor name _____

2) Contract name or bid number _____

3) Choose the category below which best describes your business:

Abbreviations*	mbe	minority-owned business enterprise
	wbe	woman-owned business enterprise

- mbe
- wbe
- both of the above
- none of the above

4) If a mbe or wbe please indicate below those listing services with whom you are certified.

<u>Certifying Organization</u>	<u>Certification Number</u>
<input type="radio"/> St. Louis Minority Business Council	_____
<input type="radio"/> State of Missouri	_____
<input type="radio"/> Bi-State Development Agency	_____
<input type="radio"/> City of St. Louis	_____
<input type="radio"/> St. Louis Women's Yellow Pages	_____
<input type="radio"/> Other(s) _____	_____
_____	_____

5. _____

Signature

Date

*The business is at least 51 percent beneficially owned, operated and controlled by ethnic-minorities or women who are U.S. citizens. Beneficial ownership and control shall be indicated by at least the following, where applicable to the particular form of business organization: ownership of at least 51 percent of each class of stock; unrestricted voting rights; right to receive profits and all other benefits attached to ownership.

BILL NO. 6402

ORDINANCE NO. 6280

AN ORDINANCE ADOPTING A POLICY AGAINST SWEATSHOP PRACTICES

WHEREAS, the Board of Aldermen of the City of Clayton abhors sweatshop practices and the proliferation of such facilities around the world; and

WHEREAS, the recent tragedy and staggering loss of life in a Bangladesh sweatshop is but the latest reminder that these deplorable and inhumane circumstances are far from being a thing of the past; and

WHEREAS, the City of Clayton believes it is and should be the duty of all businesses to ensure that their endeavors do not support or promote sweatshops and thereby perpetuate the misery and deprivation they inflict on those most in need of protection.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF CLAYTON, MISSOURI, AS FOLLOWS:

Section 1.

It shall be the policy of the City of Clayton to expect all those with whom it does business and from whom it purchases apparel and textiles to be aware of the conditions in the production facilities where such items were produced and to not deal in goods from production facilities engaged in sweatshop practices.

Section 2.

The City may require those with whom it does business to certify that they have made due inquiry into the circumstances of production of the goods they propose to provide and that apparel and textiles provided to the City were not produced in facilities that engage in sweatshop practices. Vendors may, alternatively or in addition, provide a report from non-profit independent agency generally recognized as credible and having expertise in monitoring sweatshop practices attesting that such goods were not produced in facilities that engage in sweatshop practices.

Section 3.

As used in this Ordinance the following terms shall mean:

"Apparel" means clothes, shoes and garments and accessories thereto which are acquired by or provided to the City of Clayton;

"Production facility" means the facility that manufactures the finished apparel or textiles provided by a vendor with which the City has or intends to

contract for the provision of apparel or textiles. When the context so requires, "production facility" shall also mean the owners and managers thereof;

"Textiles" means all items of cloth that are produced by weaving, knitting, felting, sewing or similar production processes, including but not limited to cloth items such as sheets, pillows, pillowcases, towels, blankets and upholstery;

"Sweatshop practices" means engaging in a pattern of conduct including any one or more of the following and similar oppressive and unsafe practices:

- a.) a failure to comply with domestic labor laws in the country where the apparel or textiles were manufactured including those pertaining to wages, hours, forced and child labor, and freedom of association;
- b.) engaging in behavior that harasses or abuses a worker in a sexual, psychological or verbal manner; or subjects a worker to corporal punishment;
- c.) exposing workers to toxic chemicals and conditions which endanger health while failing to take appropriate measures to safeguard workers.

Section 4.

This Ordinance shall be in full force and effect both from and after its passage by the Board of Aldermen.

Passed by the Board of Aldermen this 9th day of July, 2013.

Mayor

Attest:

City Clerk

Affidavit of Compliance for Sweatfree Purchasing

Policy

The City of Clayton requires Apparel contractors to certify that they and their subcontractors, including production facilities, comply with core labor standards, acceptable conditions of work, and standards relating to wages and remuneration. The goal of the City of Clayton is to use government purchasing power to create a market for decent working conditions by working collaboratively with suppliers to improve working conditions when needed, and avoiding purchases of products from companies that fail to eliminate sweatshop conditions.

I. Definitions

For the purposes of this Affidavit:

“Apparel” means clothes, shoes and garments and accessories thereto which are acquired by or provided to the City of Clayton;

“Production facility” means the facility that manufactures the finished apparel or textiles provided by a vendor with which the City has or intends to contract for the provision of apparel or textiles. When the context so requires, “production facility” shall also mean the owners and managers thereof;

“Textiles” means all items of cloth that are produced by weaving, knitting, felting, sewing or similar production processes, including but not limited to cloth items such as sheets, pillows, pillowcases, towels, blankets and upholstery;

“Sweatshop practices” means engaging in a pattern of conduct including any one or more of the following and similar oppressive and unsafe practices:

- a) a failure to comply with domestic labor laws in the country where the apparel or textiles were manufactured including those pertaining to wages, hours, forced and child labor, and freedom of association;
- b) engaging in behavior that harasses or abuses a worker in a sexual, psychological or verbal manner; or subjects a worker to corporal punishment;
- c) exposing workers to toxic chemicals and conditions which endanger health while failing to take appropriate measures to safeguard workers.

II. Process

For all purchase contracts for Apparel, contractors shall comply with the following procedures:

1. The names, addresses, and telephone numbers of each subcontractor and physical address of each Production Facility to be utilized in the performance of the contract which shall be updated to show any changes in subcontractors or facilities during the term of the contract.
2. Description of the methods used to monitor and verify that Production Facilities comply with labor standards.
3. A copy of each Production Facility's standard payroll records, including the minimum base hourly wage of non-supervision production employees, percent of wage level paid as health benefits, other benefits, regular deductions from paychecks, normal working hours per day and week and overtime policy. Alternatively, a certification from the Sweatfree Purchasing Consortium verifying that the contractor's production facility or facilities does not engage in sweatshop practices may be submitted.
4. In the event that any information provided by the contractor changes during the contract period, the contractor shall notify the City of Clayton within 21 days of the change and submit sworn affidavits relating to the updated information.

III. Enforcement and Contractor Compliance

To ensure contractor compliance with labor standards, the City of Clayton may use an independent, third party monitoring agency and/or the Sweatfree Purchasing Consortium.

Independent monitors and/or the Sweatfree Purchasing Consortium may verify that the information disclosed in accordance with the requirements set forth above is accurate and complete and request evidence of production or planned production at the given locations.

IV. Code of Conduct

A Contractor who engages in or bids for the City contracts shall comply with the requirements in each subsection below and may not supply goods or services to fulfill a City contract except as provided below. These requirements shall be known as the "Code of Conduct".

1. Compliance with All Laws. A contractor shall comply with all federal, state, and local laws and workplace regulations in the jurisdictions where the work is to be performed, including those regarding wages and benefits, workplace health and environmental safety, freedom of association, and the fundamental conventions of the International Labor Organization, including those regarding forced and child labor and freedom of association.

2. Harassment and Abuse. A Contractor shall not engage in behavior that harasses or abuses a worker in a sexual, psychological or verbal manner. Nor shall a Contractor use corporal punishment in its employment practices.
3. Discrimination. A Contractor shall not engage in discriminatory employment practices on the basis of gender, race, religion, age, disability, sexual orientation, nationality, political opinion, or social or ethnic origin in hiring, salary, benefits, advancement, disciplinary action, termination, or retirement. A Contractor shall not require pregnancy tests as a condition of employment nor demand pregnancy tests of employees. Women workers shall receive equal treatment and remuneration, including pay, benefits, and the opportunity to fill a position that is open to a male worker.
4. Exposure to Toxins. A Contractor shall not expose a worker to toxic chemicals that may endanger a worker's health. A Contractor shall take appropriate measures to safeguard workers when any aspect of work requires exposure to any toxic chemical. If a federal, state, or local occupational safety or health law or regulation applies to the workplace condition, compliance with such a law or regulation is not a violation of this subsection.
5. Wages and Benefits. A Contractor shall pay wages that comply with federal and state law requirements in the jurisdiction where the work is being performed, as well as the requirements set forth in the City of Clayton standard contract terms and conditions.
6. Wage and Hour Records. A Contractor shall maintain verifiable wage and hour records for each production worker, employee or independent contractor.
7. Working Hours. A Contractor shall not require hourly and quota-based employees to work more than 48 hours per week or the limits on regular hours allowed by the law of the country of manufacture, whichever is lower. In addition, a Contractor shall provide a worker with days off, as provided by applicable labor law.
8. Overtime Compensation. A Contractor shall not require a worker to work overtime hours unless the worker is paid at a rate of at least one-and-one-half their regular hourly compensation rate as provided by the federal Fair Labor Standards Act.
9. Termination. A Contractor shall provide for a mediation or grievance process to resolve workplace disputes if required by federal law.
10. Closure to Avoid Compliance. A Contractor shall not close or reduce orders for a production facility:
 - a) as a punitive measure against workers for exercising their right to freedom of association; or
 - b) to avoid its responsibility to take corrective action after there has been a determination that a violation of the Code of Conduct.

Affidavit of Compliance with the Labor Standards Specified in the City of Clayton's Code of Conduct to be completed by each Bidder and submitted with the Bid.

Invitation for Bid (IFB)/Request for Proposal (RFP)/ Quotation title: _____

Response/Deadline Date: _____

Return to: City of Clayton
 Attn: (responsible Department)
 10 North Bemiston Avenue
 Clayton MO 63105

Certification

- The Apparel offered complies with the labor standards specified in the City of Clayton's Code of Conduct.
- The name and address of each subcontractor or Production Facility utilized or to be utilized is:

Name of Entity	Production Facility Physical Location	Production Volume (% of contract)	Complete Mailing Address of Entity	Contact Person and Title	Telephone Number, Fax and Email of Contact Person

NOTE: The contractor must also provide the following information for each entity listed above:

- Minimum base hourly wage
- Percentage of wage paid as health benefits or other benefits
- Average number of hours/week for the most recent calendar quarter
- Overtime policy

Date _____ Responsible Party Signature _____

Vendor name _____
 Responsible Party Name _____ E-mail _____