

Ordinance 152 – Amended
Town of Elgin Purchasing Ordinance
State Law Reference 11-35-50

Section 1: SPECIFIC DUTIES OF THE PURCHASING AGENT

The Mayor, or an officer of the town designated by the Town Council, shall be the purchasing agent for the Town of Elgin. He shall be responsible for:

- (1) The purchase of supplies, materials and equipment and contractual services required by any office, department or agency of the Town of Elgin.
- (2) The distribution of all supplies, materials and equipment required by any office, department of agency of the Town of Elgin.
- (3) Establishing written specifications, whenever practicable, for supplies, materials and equipment required by an office, department or agency of the Town of Elgin.
- (4) Maintaining, whenever practicable a perpetual inventory record of all materials, supplies or equipment stored in storerooms or warehouses.
- (5) Soliciting and maintaining an up-to-date list of qualified suppliers who have requested their names to be added to a "bidders list." The purchasing agent shall have authority to remove temporarily the names of vendors who have defaulted on their quotations, attempted to defraud the town or who have failed to meet established specifications of delivery dates.
- (6) Obtaining competition or purchases, contracts and sales in accordance with this ordinance.

Section 2: FORMAL CONTRACT PROCEDURES.

All supplies and contractual services, except as otherwise provided in this ordinance, when estimated cost shall exceed five thousand dollars (\$5,000), shall be purchased by formal, written contract from the lowest responsible bidder, after publication in a newspaper in the county at least five days before the last date set for receipt of proposals. No contract or purchase shall be subdivided to avoid the requirements of this section. All sales of personal property which has become obsolete or unusable, when the estimated value shall exceed five thousand dollars (\$5,000), shall be sold by formal written contract or at a public auction to the highest responsible bidder, after publication in a newspaper in the county at least five days before the last date set for receipt of proposals or bidders.

| Section 3: INVITATION TO BID

An invitation to bid must be issued in an efficient and economical manner and include specifications and contractual terms and conditions applicable to the procurement.

Section 4: COMPETITIVE BIDDING REQUIRED, EXCEPTION.

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Before any purchase or contract for supplies, materials, equipment or services exceeding two hundred fifty dollars (\$250) are made, the purchasing agent shall give ample opportunity for competitive bidding. For purchases or contracts not exceeding five thousand dollars (\$5,000) oral bids may be accepted from a minimum of three qualified sources. All other bids shall be sealed bids in writing. Competitive bidding shall be encouraged for all such contracts, purchases or sales. However, in the event of an emergency affecting the public health, welfare, critical economy and efficiency, or safety the provisions of this section may be waived. Should an emergency arise, a full report detailing the circumstances of an emergency purchase will be filed by the purchasing agent with the town council and entered into the minutes.

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Section 5: AWARD OF BID

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All contracts for town improvements, material, equipment, or services costing more than five thousand dollars (\$5,000) shall be awarded to the lowest responsible bidder after publication in a newspaper in the county at least five days before the last day set for receipt of proposals; provided, however, that in case of professional services, this section shall not apply. The newspaper notice required herein shall include a general description of the articles or services to be purchased, shall state where bid blanks and specifications may be secured and the time and place for opening bids.

Section 6: BID DEPOSITS

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When deemed necessary by the purchasing agent, bid deposits shall be prescribed in the public notices inviting bids. Upon entering into a contract, bidders shall be entitled to return of bid deposit where the purchasing agent upon failure on his part to enter into a contract within ten days after the award; provided, however, that the town, in its uncontrolled discretion, may waive this forfeiture.

Section 7: SEALED BID PROCEDURES

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The procedure for sealed bids under this ordinance shall be as follows:

- (1) SEALING. Bids shall be submitted to the purchasing agent securely sealed in an envelope and shall be identified on the envelope in accordance with bid instructions.

- (2) OPENING. Bids shall be opened in public at the time and place stated in the public notices.
- (3) TABULATION. A tabulation of all bids received shall be available for public inspection.
- (4) REJECTION OF BIDS. The purchasing agent 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 public interest will be served thereby.
- (5) BIDDERS ON DEFAULT TO THE TOWN. The purchasing agent shall not accept the bid of a vendor or contractor who is delinquent in the payment of taxes, license fees or other moneys due to the town.
- (6) AWARD OF CONTRACT BY AGENT. The purchasing agent shall have the authority to award contracts within the purview of this ordinance; provided, however, that contracts in excess of five thousand ~~hundred (\$500)~~ shall not be awarded without prior approval of the Town Council.
- (7) LOWEST RESPONSIBLE BIDDER. Contracts shall be awarded to the lowest responsible bidder. In determining the lowest responsible bidder, in addition to price, consideration may be given to:
 - a. The ability, capacity and skill to perform the contract or provide the service required.
 - b. Whether the bidder can perform the contract or provide the service promptly, or within the time specified, without delay or interference.
 - c. The character, integrity, reputation, judgment, experience and efficiency of the bidder.
 - d. The quality of performance of previous contracts or services.
 - e. The previous and existing compliance by the bidder with laws and ordinances relating to the contract or services.
 - f. The sufficiency of the financial resources and ability of the bidder to perform the contract or provide services.
 - g. The quality, availability of the supplies or contractual services to the particular use required.
 - h. The ability of the bidder to provide future maintenance and service for the use of the subject of the contract.
 - i. The number and scope of conditions attached to the bid.

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If consideration is given to other criteria besides price, in determining the winning bidder, the purchasing agent shall identify which other criteria is being used in evaluating which bidder is to be the lowest responsible bidder. The lowest price gets the highest score in the price category. Other categories upon which bidders will be evaluated should be defined and weighted according to the relative importance of the category or

bidder attribute to the desired procurement outcome. The highest scored bidder in total will be determined the lowest responsible bidder.

(8) Negotiations.

Whether price was an evaluation factor or not, the procurement officer, in his sole discretion may proceed in any of the manners indicated below, except that in no case may confidential information derived from proposals and negotiations submitted by competing offerors be disclosed:

(a) negotiate with the highest ranking offeror on price, on matters affecting the scope of the contract, so long as the changes are within the general scope of the request for proposals, or on both. If a satisfactory contract cannot be negotiated with the highest ranking offeror, negotiations may be conducted, in the sole discretion of the procurement officer, with the second, and then the third, and so on, ranked offerors to the level of ranking determined by the procurement officer in his sole discretion;

(b) during the negotiation process as outlined in item (a) above, if the procurement officer is unsuccessful in his first round of negotiations, he may reopen negotiations with any offeror with whom he previously negotiated; or

(c) the procurement officer may make changes within the general scope of the request for proposals and may provide all responsive offerors an opportunity to submit their best and final offers.

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- (8) RETENTION OF BIDS. Bids will be kept for a period of no less than twelve months from date of awarding.
- (9) AWARD TO OTHER THAN LOWEST RESPONSIBLE BIDDER. When the award is not given to the lowest bidder, a full and complete statement of the reasons for placing the order elsewhere shall be prepared by the purchasing agent and filed with the papers relating to the transaction and held for a period of no less than twelve months.
- (10) TIE BIDS. If all bids received are for the same total amount or unit price, quality and service being equal, the contract shall be awarded to the local bidder. If two or more of such bids are submitted by local bidders, the purchasing agent shall award the contract to one of the local tie bidders by drawing lots in public. If local bidders are not involved in the tie bids, the purchasing agent shall award the contract to one of the outside tie bidders by drawing lots in public.
- (11) PERFORMANCE BONDS. The purchasing agent shall have the authority to require a performance bond, before entering into a contract, in such form and account as he shall find reasonably necessary to protect the best interest of the town.
- (12) PAYMENT BOND/LABOR AND MATERIAL BOND. The purchasing agent may require a payment bond and a labor and material bond, before entering into a contract, in such form and amount as he shall deem necessary to protect the best interest of the town.

Section 8: SOLE SOURCE PROCUREMENT

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A contract may be awarded for a supply, service, or construction item without competition when, under regulations promulgated by Town Council or the purchasing agent, determines in writing that there is only one source for the required supply, service, or construction item.

Section 9: MATERIALS TESTING

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The purchasing agent shall have the authority to require chemical and physical tests of samples submitted with bids and samples of deliveries which are necessary to determine their quality and conformance with the specifications. In the performance of such tests, the purchasing agent shall have the authority to make use of laboratory facilities of any agency of the town government or any outside laboratory.

Section 10: FINANCIAL INTEREST OF TOWN OFFICIALS, EMPLOYEES PROHIBITED

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No member of the town council or any official employee of the town shall have a financial interest in any contract or in the sale to the town or to a contractor supplying the town any right or interests in any such land, material, land supplies or services; except when a majority of the town council determines such exception is in the best interest of the town, provided that no councilman whose interest is involved shall vote on the question. Any willful violation of this section shall constitute malfeasance in office, and any appointed official or employee of the town willfully violating this section may be terminated. Any violation of this section with the knowledge expressed or implied of the person contracting with the town shall render the contract voidable by the town council.

Section 11: OPEN MARKET ORDER RECORDS:

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The purchasing agent shall keep a record of all open market orders and the bids submitted in competition thereon, and such records shall also be open to public inspection.

Section 12: STOCK REPORTS

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All offices, department or agencies of the town government shall submit to the purchasing agent, at such times and in such form as he prescribe, reports showing

stocks of all supplies which are no longer used or which have become obsolete, worn-out or scrapped.

Section 13: SURPLUS STOCK

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The purchasing agent shall have the authority to transfer surplus stock to other offices, departments or agencies of the town government.

Section 14: SUPPLIES UNSUITABLE FOR PUBLIC USE, SALE OR EXCHANGE

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The purchasing agent shall have the authority to sell all supplies which have become unsuitable for public use, or to exchange the same for, or trade-in the same on, new supplies. Such sales shall be made to the highest bidder, and in conformance with this ordinance. All moneys received from such sales shall be paid into the appropriate fund of the town.

Section 15: COOPERATIVE PURCHASING

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The purchasing agent shall have the authority to join with other units of government in cooperative purchasing plans when the best interest of the town would be served thereby, provided that the purchasing agent of the town is given authority to make purchases of supplies and equipment through the property division of the state budget and control board, without the formality of publication and receiving competitive bids.

Section 16: GIFTS AND REBATES

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The purchasing agent and every officer and employee of the town are expressly prohibited from accepting, directly or indirectly, from any person, company, firm or corporation to which any purchase order or contract is, or might be awarded, any rebate, gift, money, or anything of value whatsoever, except where given for the use and benefit of the town.

Purchasing Matrix: Ordinance 152
Amended May, 2009

	Formal Contract Required?	Council approval Required?	Competitive bidding Required?	Three bids Required	Sealed proposal Required?	Newspaper publication Required?
<u>Purchase Amount</u>						
\$0-250	no	no	no	no	no	no
\$251-500	no	no	yes	yes	no	no

\$501-5000	no**	<u>no</u>	yes	yes	no	no
\$5001-						
999,999+	yes	yes	yes	yes	yes***	yes***

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* Invitation to bid requests for proposal may on occasion result in less than 3 bidders.
 ** The 3 bids should be in writing and kept in the town procurement files.
 *** Professional services are exempt – see Ordinance 152, Section 4

J. Buchanan

Judy Darby-Buchanan, Town Clerk

Brad Hanley

The Honorable Brad Hanley, Mayor

Melissa Emmons

Melissa Emmons, Mayor Pro Tem

Bubba Ernst

Councilman Bubba Ernst

Larry Risvold

Councilman Larry Risvold

Councilman Roger Ross

Approved Oct 4, 2011

Adopted Nov 1, 2011

Deleted: Pete James

Deleted: Brad Hanley

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Deleted: Jerry Jeffers

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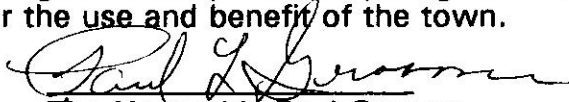
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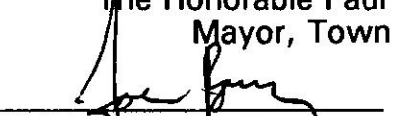
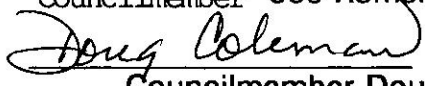
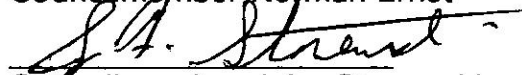


The Honorable Paul Grooms
Mayor, Town of Elgin


Judy Mitchell, Town Clerk

Approved 9-18-95

Adopted 10-10-95


Councilmember Joe Romer
Councilmember Doug Coleman
Councilmember Norman Ernst
Councilmember John Storemski