

Ordinance No. 2021-16

**AN ORDINANCE ADOPTING PURCHASING POLICY
IN COMPLIANCE WITH STATE STATUTE**

WHEREAS, Indiana Code sets forth the procedures and requirements for Public Purchasing in Indiana Code Title 5 Article 22; and

WHEREAS, the Common Council of the City of Delphi, Indiana, desires to adopt a purchasing policy that is in line with the statutory requirements set forth in Indiana Code Title 5 Article 22; and

WHEREAS, after research and discussion, the Common Council has determined that Chapter 32, Section 32.11 "*Purchasing Policy*," of the Code of Ordinances of the City of Delphi, Indiana, should be amended.

WHEREFORE, IT IS HEREBY ORDAINED THAT Chapter 32, Section 32.11 "*Purchasing Policy*," of the Code of Ordinances of the City of Delphi, Indiana, shall be amended and read as follows:

§ 32.11 PURCHASING POLICY.

(A) Purchasing Agency and Purchasing Agent.

- (1) The Board of Public Works and Safety shall serve as the Purchasing Agency for the city, including but not limited to, every agency, board, office, branch, bureau, commission, council, department or other establishment.
- (2) In the performance of its duties as Purchasing Agency, the Board of Public Works and Safety hereby designates the following job positions as Purchasing Agents of the City of Delphi:

- (a) Mayor;
 - (b) Clerk-Treasurer;
 - (c) Police Chief;
 - (d) Fire Chief;
 - (e) Superintendent of Streets and Parks;
 - (f) Superintendent of Water;
 - (g) Superintendent of Wastewater;
 - (h) President Board of Aviation Commissioners;
 - (i) Community Development Director.
- (3) (a) The Purchasing Agency is authorized to prepare and/or direct the preparation of any such specifications. This vendor's invoice and Purchasing Agency's claim form shall serve as an index of specifications. Alternatively, the Purchasing Agency may utilize specifications prepared by others as specifications to be utilized by the city. Specifications prepared by others shall include, but shall not be limited to, descriptions of property contained in catalogs or other publications. A specification shall be appropriate and acceptable as long as the item can be readily identified from a review of the description or any material or document referenced in such description.

(b) Additional considerations for purchasing supplies shall be:

1. Purchasing at a fair market value;
2. Furnished in a timely manner;
3. Minimum standards of quality;
4. Reasonably available quantities;
5. Purchasing thru local vendors.

(B) Small purchases. If the Purchasing Agent expects the purchase to be less than \$50,000, the Purchasing Agent may make a purchase on the open market under the following small purchases policy:

(1) Purchases from \$ 0 to \$ 50,000.

(a) Purchased without Purchasing Agency review or approval.
(b) Purchased with review of the City Clerk-Treasurer to certify availability of funds.

(c) Purchased without inviting or receiving quotes.

(2) Purchases from \$50,001 to \$ 150,000.

(a) Purchased with review and approval of the Purchasing Agency.

(b) Purchasing Agency shall approve specifications for purchase.

(c) Purchased with review by City Clerk-Treasurer to certify availability of funds.

(d) Purchased by solicitation of quotes from at least three persons known to deal in the lines or classes of supplies to be purchased.

1. Purchasing Agent shall provide an invitation to quote at least seven days before the time fixed for receiving the quotes.

(e) Purchasing Agent shall open quotes at the time designated before at least one witness.

1. Quotes may be received by fax or email in response to an invitation to quote.

(f) Purchasing Agent shall present all quotes, as received, to the Purchasing Agency for award of a contract.

1. The Purchasing Agency shall award a contract to the lowest responsible and responsive vendor for each line or class of supplies required.

2. The Purchasing Agency may reject all quotes.

3. If the Purchasing Agency does not receive a quote from a responsible or responsive vendor, the Purchasing Agency may authorize the Purchasing Agent to make a special purchase pursuant to division (F)(1)(g) below.

(3) Administrative requirements. The Purchasing Agent shall maintain all claims vouchers and invoices for a minimum of five years.

(a) Claim vouchers shall state the vendor or contractor's name.

(b) Claim vouchers shall state the amount and type of each contract.

(c) Claim vouchers shall describe or specify the supplies purchased under each contract.

(4) Improper purchases. Any purchase made in violation of this section shall be null and void.

(C) Competitive bidding.

(1) Purchases over **\$150,000**.

- (a) Purchasing Agent shall be authorized to prepare specifications by Purchasing Agency.
- (b) Purchasing Agency approves specifications and authorizes Purchasing Agent to advertise an invitation for bids.
 1. All notices of invitation for bids shall be published in accordance with I.C. 5-3-1 in a local newspaper.
 2. The Purchasing Agent shall schedule the publication of notice to provide a reasonable amount of time for preparation and submission of bids. The notice shall be published two times, at least one week apart. The second publication must occur at least ten days prior to the date the bids will be opened.
 - (c) Bids received in response to an invitation for bids must be opened publicly in the presence of at least one or more witnesses at the time and place designated in the invitation for bids.
 1. Unless determined in writing, by the Purchasing Agency, all bids shall be opened before the Purchasing Agency during a public meeting.
 2. No electronic facsimile transmittal bids will be accepted.
 3. A vendor may correct inadvertent errors in a bid up to the time at which bids will be opened by supplementing the erroneous bid and submitting a revised bid. A bidder may not supplement an inadvertently erroneous bid after the time at which the bids were opened.
 4. A bidder may withdraw a bid containing inadvertent errors up to the time at which bids will be opened and for a period of not more than 24 hours after the time at which the bids were opened.
 - (d) The Purchasing Agency shall unconditionally accept all bids and turn them over to the Purchasing Agent for evaluation and recommendation for award of contract.
 - (e) The Purchasing Agency shall award a contract with reasonable promptness by written notice to the lowest responsible and responsive bidder.
 - (f) The Purchasing Agency may reject all bids.
 - (g) The Purchasing Agency shall maintain the following information:
 1. The name of each bidder;
 2. The amount of each bid;
 3. Any other pertinent information;
 4. After contract award this information is subject to public inspection.
 - (D) Requests for proposals. The Purchasing Agent must present a written determination to the Purchasing Agency, for their review and approval, stating the reasons that the use of competitive sealed bidding is either not practicable or not advantageous to the governmental body.

- (1) All notices for request for proposals shall be published in accordance with I.C. 5-3-1 in a local news paper.
- (2) The Purchasing Agent shall schedule the publication of notice to provide a reasonable amount of time for preparation and submission of proposals. The notice will be published two times, at least one week apart. The second publication must occur at least seven days prior to the date the proposals will be opened.
- (3) Proposals received in response to a request for proposals must be opened so as to avoid disclosure of the contents to competing vendor during the process of negotiation.
- (4) No electronic facsimile transmittal proposals will be accepted.
- (5) The Purchasing Agent may conduct discussions with and request best and final offers from responsible vendors who submit proposals determined to be reasonably susceptible of being selected for award.
- (6) The Purchasing Agent shall present his or her final offers to the Purchasing Agency for award to the responsible vendor whose proposal is determined in writing to be the most advantageous to the governmental body.
- (7) The Purchasing Agency may reject all proposals.
- (8) The Purchasing Agent shall maintain the following information:
 - (a) A copy of the request for proposals.
 - (b) A list of all persons to whom copies of the request for proposals were given.
 - (c) A list of all proposals received, which must include:
 1. Names and addresses of vendor;
 2. The dollar amount of each offer;
 3. The name of the successful vendor and the dollar amount of that vendor's offer;
 4. The basis on which the award was made;
 5. The entire contents of the contract file, except for proprietary and financial information included with an offer which is not required to be made available for public inspection.
- (E) Request for specifications. A request for specifications may be issued if the Purchasing Agent makes a written determination that the development of specifications by the governmental body is not feasible and the Purchasing Agency approves the use of a request for specifications.
 - (1) All notices of request for specifications shall be published in accordance with I.C. 5-3-1 in a local newspaper.
 - (2) The Purchasing Agent shall schedule the publication of notice to provide a reasonable amount of time for preparation and submission of proposals. The notice will be published two times, at least one week apart. The second publication must occur at least seven days prior to the date the proposals will be opened.
 - (3) The Purchasing Agent may discuss proposed specifications with persons proposing specifications to clarify specification requirements. Persons proposing specifications must be accorded fair and equal treatment with respect to any opportunity for discussion and revisions of proposed specifications.

- (4) The Purchasing Agent shall present the prepared specifications to the Purchasing Agency for their review and approval.
- (5) The Purchasing Agency may reject all specifications.

(F) Special purchases.

- (1) A Purchasing Agent may make a special purchase with the approval of the Purchasing Agency:

- (a) When there exists, under emergency conditions, a threat to public health, welfare, or safety;
- (b) When there exists a unique opportunity to obtain supplies or services at a substantial savings to the governmental body;
- (c) At an auction;
- (d) Of data process contracts or license agreement for software programs or supplies or services, when only one source meets the using agency's reasonable requirements;
- (e) When:
 - 1. The compatibility of equipment, accessories or replacement parts is a substantial consideration in the purchase; and
 - 2. Only one source meets the using agency's reasonable requirements;
 - (f) When purchase of the required supplies or services under another purchasing method provided under I.C. 5-22 would seriously impair the functioning of the using agency;
 - (g) When the purchasing agency has solicited for a purchase under other methods provided for in I.C. 5-22 and has not received a responsive offer;
 - (h) For the evaluation of supplies or a system containing supplies for any of the following reasons:
 - 1. To obtain functional information or comparative data; or
 - 2. For a purpose that in the judgment of the purchasing agent may advance the long term competitive position of the governmental body; or
 - (i) When the market structure is based on price but the governmental body is able to receive a dollar or percentage discount of the established price;
 - (j) From a public utility if the price is a negotiated price that considers the results of an independent appraisal obtained by the public utility and a separate independent appraisal obtained by the purchasing agency.
- (2) Administrative requirements.
 - (a) A Purchasing Agent shall maintain a record for a special purchase in a separate file.
 - (b) The Purchasing Agent shall include in the file a written determination of the basis for the special purchase and the selection of a particular contractor or vendor.

(G) Adoption of these policies by purchasing agency. The above described policy is hereby adopted by the Delphi Board of Public Works and Safety as the designated Purchasing Agency of the City of Delphi, as authorized by the City of Delphi Common Council.

(As added by Ord. 2012-8, passed 10-1-12) (As amended by Ord. 2021-16, passed 12-20-21).

Passed and adopted by the Common Council of the City of Delphi, Indiana this 20th day of December, 2021.

Passage by a Majority of the Common Council:


Attest: Leanne Aldrich, Clerk-Treasurer


Anita Werling, Presiding Officer

Approved / Vetoed by me, the Mayor, this 20th day of December, 2021.


Attest: Leanne Aldrich, Clerk-Treasurer


Anita Werling, Mayor