

RESOLUTION 2011-013

A RESOLUTION ADOPTING THE CITY OF PAOLA PURCHASING POLICY

WHEREAS, the Governing Body of the City of Paola has discussed the need for adopting a written policy regarding the procedures for maximize the purchasing power and value of public funds and ensure the purchasing process is conducted in an ethical, fair, and open manner, and

WHEREAS, the guidelines in this policy promote efficiency, effectiveness, equity, and fairness in public purchasing.

NOW THEREFORE BE IT RESOLVED by the governing Body of the City of Paola, Kansas that the proposed City of Paola Purchasing Policy, attached as “Exhibit A”, be hereby amended and adopted as official policy of the City of Paola, Kansas effective November 22, 2011.

BE IT FURTHER RESOLVED that this City of Paola Purchasing Policy shall be available in the office of the City Clerk.

PASSED, APPROVED AND ADOPTED this 22nd day of November, 2011.

Artie Stuteville, Mayor

ATTEST: [seal]

Daniel G. Droste, City Clerk



CITY OF PAOLA, KANSAS PURCHASING POLICY

Sections:

1. **OBJECTIVES.**
2. **SCOPE.**
3. **DEFINITIONS.**
4. **PROVISIONS.**
5. **PROCEDURES.**
6. **RESPONSIBILITY FOR ENFORCEMENT.**

Section 1. **OBJECTIVES.**

The City of Paola (i.e., "the City") has established this policy to maximize the purchasing power and value of public funds and ensure the purchasing process is conducted in an ethical, fair, and open manner. The guidelines in this policy promote efficiency, effectiveness, equity, and fairness in public purchasing.

Section 2. **SCOPE.**

This policy applies to all City employees. This policy is established under the authority of the City Council and is under the general direction of the City Manager. Requirements of this policy may be waived at the discretion of the City Council and/or the City Manager, if such waiver is in the best interest of the City and not in violation of federal, state or local law.

Section 3. **DEFINITIONS.**

The following words when used in connection with this policy shall have the meanings respectively ascribed to them herein.

BID BOND: A financial guarantee required of a bidder which protects the City in the event the bidder refuses to enter into a contract after contract award to the bidder or withdraws a bid prior to the award.

CITY, COUNTY, METRO, STATEWIDE, REGIONAL, OR NATIONAL COOPERATIVE CONTRACT: A contract that establishes a source of supply for a particular item for a definite period of time at a set price. Such contracts are characteristically established through competitive sealed bids or competitive negotiations and items may be ordered on an "as needed" basis against the contract. Based on the large quantities, prices are generally more favorable.

CONTRACT: A legally binding agreement that creates a legal obligation that includes an offer and acceptance with a clear intent to bind the parties. Generally speaking, in addition to the obligation to pay for goods or services, a contract binds the City to additional duties and conditions. For purposes of this policy, the terms "contract" and "lease" may be used interchangeably.

DOMICILE: A person's legal place of residence. That place where a person has his true, fixed, and permanent home and principal establishment, and to which whenever he is absent he has the intention of returning. The legal domicile of a person is important since it, rather than the actual

residence, often controls the jurisdiction of the taxing authorities and determines where a person may exercise the privilege of voting and other legal rights and privileges.

F.O.B. (SPECIFIC DESTINATION): The term "F.O.B." is an abbreviation for "free on board" and means that seller will deliver subject matter contracted for, on certain conveyance, without expense to buyer. In sales price quotations, it generally means that the seller assumes all responsibilities and costs up to the point of delivery, including insurance, transportation, etc. "Specific destination" means that the seller retains ownership to the point of specific destination.

LEASE: A contract by which one owning personal property grants to another the right to possess, use, and enjoy it for a specified period of time in exchange for periodic payment at a stipulated price, generally referred to as rent. For purposes of this policy, the terms "contract" and "lease" may be used interchangeably.

OBsolescence: Condition or process of falling into disuse. The diminution in value of property caused by changes in technology, public taste, and new inventions rendered the property less desirable on the market. A decline in market value of an asset caused by improved alternatives becoming available that will be more cost-effective; such decline in market value is unrelated to physical changes in the asset itself. The process whereby property, because of causes other than physical deterioration, loses its economic usefulness to taxpayer.

PRICE AGREEMENT: Contract outlining specific price for goods and services for a specified period of time.

RFP: The term "RFP" is an abbreviation for "Request for Proposal" and is a written invitation prepared by the City inviting formal offers for the procurement of goods and services.

RFQ: The term "RFQ" is an abbreviation for "Request for Qualifications and Interest" and is a submittal of appropriate experience, references, and financial information sufficient to provide the City with a basis for selection.

SHORT LIST: A list of those firms determined to be "best qualified" to provide the desired professional service which may be based on a review of the written submission of firms responding to a Request for Qualifications and Interest (RFQ). This list will normally include three firms, but may be more or less, depending on the type of services requested, the number of firms responding to an RFQ, and the quality of their responses.

Section 4. PROVISIONS.

A. Uniform Procurement Principles:

1. There are fundamental principles which should be observed when purchases of goods and services are made on behalf of the City. Generally, a good or service should be obtained at the lowest cost, consistent with the quality required to maintain efficient operations of City departments. The quantity of goods purchased is determined through an examination of factors such as the number of units to be used, the period of use, space available, acquisition price, volume discounts, shipping time, obsolescence, and present and expected future availability of an item.
2. The acquisition of goods and services by or on behalf of the City of Paola, its departments, officials, and authorized agents should be made in a manner and

method which provides for the prudent expenditure of City funds; provides for maximum protection of the taxpayer; prevents waste, conflict, and corruption; provides for equal access and opportunity in an open and competitive environment to all suppliers with regard to factors related to quality, cost, and availability of the goods and services; and which comply with all applicable federal, state, and local laws, rule, and regulations.

3. For the purchase of any good or service, the City reserves the right to accept or reject any or all bids or proposals and to waive any provisions or technicalities.
4. Pursuant to K.S.A. 75-374(a), to the extent permitted by federal law and regulations, when letting contracts for bids, the bidder domiciled outside the state of Kansas, to be successful, shall submit a bid the same percent less than the lowest bid submitted by a responsible Kansas bidder, as would be required of such Kansas domiciled contractor to succeed over the bidder domiciled outside Kansas on a like contract let in such domiciled state. All bidders domiciled outside the state of Kansas shall furnish the City with a copy of their state's preferential bidding statutes.
5. The City reserves the right to award bids on a preferential basis to companies/contractors located within city limits, or, in the case no bids are received from companies/contractors located within city limits, then within Miami County limits, if such bids are not the lowest responsible bid but are within 3% of the lowest responsible bid for total cost of providing materials, supplies, services or equipment, if the project is not federally or state funded.
6. Even though the Governing Body approves a level of expenditures for any given department, that approval, in and of itself is neither a permit nor a directive to expend funds unless the need exists at the time of purchase and the good or service to be purchased is within the budget limits.
7. All personnel of the City responsible for purchases shall use care and judgment when obtaining or purchasing a commodity or service, and shall become familiar with and follow the City's policies and procedures as they relate to purchasing. Supervisors shall be cognizant of their respective budget limitations and initiate purchases accordingly. It is the responsibility of the individual departments to anticipate requirements and initiate action to purchase goods and services in advance of the time that they are needed, and to allow sufficient time to follow purchasing procedures, including contract preparation.
8. No purchase or contract shall be subdivided for the purpose of circumventing the dollar level limits imposed by this policy.
9. When appropriate and available, City employees may purchase products that are manufactured from recycled materials.
10. The City may pre-qualify contractors.

B. Code of Ethics:

All employees and officers of the City shall be governed by the Municipal Code of the City of Paola, Kansas and the City of Paola Personnel Manual in all applications of this policy.

C. Budgetary Control Requirements:

The adopted annual budget establishes limits for the maximum amount of dollars to be expended on a certain activity or project. Budgetary control is exercised at the departmental level for each activity in each fund. No purchase order will be issued, and no invoice will be paid, if budget limits will be exceeded within the applicable department level.

Levels for operating budget transfers are authorized by the Governing Body in the annual budget adoption process. Any operating budget transfers not authorized in the budget adoption process must be approved by the City Manager. The Governing Body will be notified of any such transfers that exceed \$10,000.

Authority levels for CIP project budget transfers (transfers between the project budget categories of a CIP project) are outlined in the following table:

<u>Authority Level</u>	<u>Procedures – CIP Project Budget Transfers</u>
Any transfer greater than \$10,000.	Transfer must be authorized by the City Council.
Transfers greater than 5% of the total project budget, but less than or equal to \$10,000.	Transfers may be authorized by the City Manager after notification of the City Council.
Transfers less than or equal to 5% of the total project budget <u>and</u> less than or equal to \$10,000.	Transfer must be authorized by the City Manager.

Any transfers of funds between CIP projects must be authorized by the City Manager after consultation with the City Clerk/ Finance Officer.

D. Contract Review and Execution:

All contracts, rental or lease agreements (regardless of the amount) for goods and services must be reviewed and approved as to form by the City Manager or designee.

1. All contracts, rental or lease agreements in amounts exceeding \$10,000 must be approved by the City Council and executed by the Mayor.
2. Contracts not exceeding \$10,000 may be approved and executed by the City Manager or by the Acting City Manager in the City Manager’s absence or incapacity.
3. It shall be the responsibility of the department making the purchase to secure the contract and/or work with the City Clerk or City Attorney to ensure proper documentation, as necessary.

E. Taxes:

The City is tax-exempt as a political subdivision under Section 4221(b) of the Internal Revenue Code and K.S.A. 79-3606, except for personal property used in business.

When applicable, the City shall furnish a sales tax exemption certificate number as supplied by the Kansas Department of Revenue. Application for the sales tax exemption certificate shall be made by the City Clerk's office. When sealed bids are not taken, it is the responsibility of the applicable department to coordinate the sales tax exemption process with the City Clerk. The successful bidder (contractor) shall be required to comply with K.S.A. 79-3606, as amended.

Section 5. PROCEDURES.

The following procedures shall be followed in the requisition/purchase of all goods and services:

A. Responsibility:

1. Governing Body: The Governing Body determines expenditure levels through the formulation and approval of the annual budget. In performing this policy-making function, the Governing Body establishes a set of goals, priorities, and performance standards to which the City organization directs its collective effort toward accomplishing.

The adoption of the annual budget is the approval of a level of expenditures necessary to accomplish the goals and objectives that have been established for each City program.

2. City Manager: The City Manager is delegated the responsibility by the Governing Body to carry out a program of services to the community. It is the City Manager's responsibility to manage the annual budget in such a way that the goals and priorities of the Governing Body are accomplished. All regulations, as well as recommendations for changes in general procurement policy, will only be made with the approval of the City Manager.
3. Department Heads: Department Heads are responsible for meeting the goals and objectives established by the Governing Body and are provided budgeted funds to attain those goals. Each Department Head has the responsibility and authority to make certain that purchases are within the scope of the adopted budget.

B. Procedures for the Purchase of Goods and Services (Excluding Professional Services):

1. Purchasing Cards (Credit Cards): The use of purchasing cards is encouraged for purchases less than or equal to \$2,500 in order to streamline the purchasing and payment process. Standard dollar limits for purchasing cards are a maximum of \$2,500 per transaction and a maximum of \$5,000 for total monthly transactions. These maximum limits may be increased or decreased for individual purchasing cards if approved by the City Clerk/Finance Director and the City Manager (or their designees). Purchasing card receipts shall be obtained and retained for purchases made with purchasing cards in accordance with the purchasing card procedures manual.
2. Procedures and dollar levels matrix: Procedures and dollar levels for purchasing are outlined in the matrix on the following page. These procedures do not apply to professional services (procedures for professional services are outlined in Section 5).

<u>Dollar Level</u>	<u>Procedures – Purchase of Goods & Services (excluding professional services)</u>
Purchases less than or equal to \$10,000	<p><u>Purchasing Cards:</u> Purchasing cards may be used for purchases equal to or less than \$2,500 (unless a purchasing card limit adjustment has been approved as described above).</p> <p><u>Accounts Payable:</u> When a purchasing card is not used or when a purchase in excess of \$2,500 is made, payment will be issued through the accounts payable system. For accounts payable transactions, an invoice or check request with supporting documentation (examples include contracts, invoices, statements for services rendered) signed by the appropriate Department Head or designee is required. Invoices and check requests should be coded for payment from the appropriate account and forwarded to the City Clerk/Finance Director’s office.</p>
Purchases of \$10,000.01 to \$50,000	<p><u>General:</u> Upon selection of a vendor, the Department Head shall forward the recommended purchase to the City Manager for approval. Upon approval by the City Manager, a purchase requisition is authorized by the appropriate Department Head. A purchase order is created by the City Clerk/ Finance Director’s office if sufficient budget authority is available.</p> <p><u>Cooperative Contracts:</u> Purchases may be made from a city, county, metro, statewide, regional, or national cooperative contract with no quotes (this should be noted in the supporting documentation).</p> <p><u>Sole Source Purchases:</u> In a sole source purchase, the goods or services to be purchased have only one vendor in the marketplace or have limited availability due to unique characteristics. Justification for sole source purchases shall be stated in the supporting documentation and maintained by the appropriate Department Head.</p> <p><u>All Other Purchases:</u> For all other purchases, 3 quotes are required, and the supporting documentation for the quotes shall be maintained by appropriate Department Head. If 3 quotes are not available, the justification shall be stated in the supporting documentation. When appropriate, RFPs and RFQs may be utilized at the discretion of the appropriate Department Head.</p>
Purchases greater than \$50,000	<p><u>General:</u> Purchases will be made through a sealed bid process as described below. If the goods or services involve construction of a public improvement, the Governing Body may waive the sealed bid process if the Governing Body determines the waiver is in the City’s best interest. Any waiver of the sealed bid process for construction of public improvements will occur at a City Council meeting. If the goods or services do not involve construction of a public improvement, the City Manager after notification of the Governing Body may waive the sealed process if the City Manager determines the waiver is in the City’s best interest.</p> <p>Upon Governing Body approval, a purchase requisition is authorized by the</p>

	<p>Appropriate Department Head. Supporting documentation should be forwarded to the City Clerk/Finance Officer. A purchase order will be created by the City Clerk/Finance Officer if sufficient budgetary authority is available.</p> <p><u>Sealed Bids:</u> When sealed bids are used, a Notice to Bidders shall be advertised one time in the official City newspaper. The Notice shall be prepared in a form approved by the City Manager, and shall be submitted to the City Clerk’s office in sufficient time to meet the required publication deadline.</p> <p>The City Manager, City Clerk, or other authorized City personnel, shall open all sealed bids and read them aloud in the presence of 2 witnesses (from a list of authorized City employees maintained by the Human Resources Department). A bid tabulation of all bids will be prepared and available for public inspection.</p> <p>The Department Head soliciting the bids shall report all bids to the City Manager, along with recommendation for award. The City Manager shall forward the recommendation for award to the Governing Body for consideration.</p>
--	---

C. Procedures for the Selection of Professional Services (“Consultants”):

1. Professional services are services where technical expertise or knowledge of a specialized field is critical to the performance of that service. Examples include, but are not limited to, accountants, appraisers, architects, auditors, engineers, financial advisors, information technology specialists, legal counsel, and planning consultants.
2. Procedures and dollar levels matrix: Procedures and dollar levels for purchasing professional services (“consultants”) are outlined in the matrix below. RFPs and RFQs are generally always acceptable when selecting professional services

Dollar Level	Procedures – Purchase of Professional Services (“Consultants”)
Professional services less than or equal to \$10,000	<p><u>General:</u> The appropriate City Manager, upon recommendation from the soliciting Department Head, may select a consultant based on the consultant’s expertise, previous performance, and readiness to provide the service to the City.</p> <p><u>Purchasing Cards:</u> Purchasing cards may not be used for professional services.</p> <p><u>Accounts Payable:</u> Payment will be issued through the accounts payable system. For accounts payable transactions, an invoice or check request with supporting documentation (including the contract, if applicable) signed by the appropriate Department Head and authorized by the City Manager is required. Invoices and check requests should be coded for payment from the appropriate account and forwarded to the City Clerk/Finance Officer.</p>

<u>Dollar Level</u>	<u>Procedures – Purchase of Professional Services (“Consultants”)</u>
Professional services greater than \$10,000 for Capital Project Activities	<p><u>General:</u> Award of a contract will be made after a selection process and approval of a contract by the Governing Body.</p> <p>Upon Governing Body approval, a purchase requisition is authorized by the appropriate Department Head. Supporting documentation (including the contract) should be forwarded to the City Manager for review with the City Attorney. Upon final review and approval of the contract by the City Manager a purchase order will be created by the City Clerk/Finance Officer if sufficient budget authority is available.</p> <p><u>Selection Process – Capital Project Activities:</u> The selection of a consultant will generally be based upon use and evaluation of a RFQ or RFP process. This process can either be done on an annual basis to address various capital projects for the year, or on a project-specific basis. As part of the process, the appropriate Department Head, with input from the City Manager, will assemble a selection committee. City staff will solicit general qualification proposals and letters of interest from consultants relative to the project. Upon review of the materials submitted by the responding consultants, and, if applicable, interviews, the selection committee will select a consultant. The appropriate Department Head shall submit the committee’s recommendation to the City Manager for approval to negotiate with the selected consultant. Upon the City Manager’s approval, City staff will negotiate contract scope and fees with the consultant. The contract, upon review by the City Attorney, will be submitted to the Governing Body for consideration.</p>

C. Contract Requirements:

Contracts are required whenever the City agrees to specific ongoing terms or desires to bind a vendor or consultant to specific terms in conjunction with the purchase of goods or services, regardless of the purchase amount (i.e., contracts are not necessary when a purchase is simply the payment of money in exchange for goods and there are no other obligations placed on either party).

All contracts, leases and rental agreements must be reviewed and approved as to form by the City Manager or designee before execution.

D. Change Orders:

1. Procedures for change orders apply to the purchase of all goods and services, including professional services.
2. The Governing Body must approve any Change Order that is more than \$1,000 or 5% of the original or amended contract.
3. Dollar levels for change orders: Dollar levels for the consideration of change orders are outlined in the matrix below.

<u>Dollar Level</u>	<u>Procedures – Change Orders</u>
Single change order/quantity adjustments more than \$1,000 or than more than 5% of original or amended contract	Change order must be approved by the Governing Body.
Single change order/quantity adjustments less than \$1,000 of the original or amended contract	Change order must be recommend by the Department Head and approved by the City Manager.
All other change orders not involving monetary considerations	Change order must be approved by the Department Head and City Manager

4. If City Manager deems it necessary, any change order may be referred to the Governing Body for consideration.

F. Vendor/Consultant List:

1. The City Clerk shall maintain a list of vendors/consultants for the purchase of goods and services. Vendors/consultants will be added to the list by City Clerk upon request from City departments. To request the addition of a vendor/consultant, the requester should provide the necessary information, including; complete name of business, physical and billing address with zip code, and phone numbers (also contact person if possible). In addition, no payments can be made to the vendor/consultant until an I.R.S. Form W-9 (Request for Taxpayer Identification Number and Certification) is received from the vendor/consultant. This form is available on Delphi (the City's internal website). All vendor/consultant information will be forwarded to City Clerk.
2. City Clerk, upon recommendation by a Department Head and approval by the City Manager, may place a vendor/consultant on hold status for late delivery, failure to meet specifications and/or not providing the necessary maintenance or service. The Department Head is responsible for notifying vendors/consultants that have been placed on hold status. The notification should occur in writing, and copies of the notification should be sent to the City Attorney, City Manager and City Clerk/Finance Officer. Vendors/consultants may be removed from hold status by the Department Head (after consulting with the City Manager and City Clerk/Finance Officer) upon assurance that previous problems have been corrected.

G. Inactive Purchase Orders:

Annually, during the last quarter of the fiscal year, the City Clerk/Finance Officer will notify the appropriate Department Head of any purchase orders that have no activity within the current fiscal year. These purchase orders will be closed unless it is necessary to extend the closing date of the purchase order to protect the financial interests of the City.

H. Emergency Purchases:

The appropriate Department Head or designee may make or authorize others to make emergency purchases. Emergency purchases are defined as circumstances in which either critical City operations will be severely affected in an adverse manner unless immediate action is taken to remediate the situation or in which a disaster creates a threat to public health, welfare, or safety. Emergency purchases should be made with competition as is practicable under the circumstances. An after-the-fact written determination for the basis of the emergency and for the selection of the particular vendor shall be submitted to the City Manager. In situations regarding the construction or substantial repair of public buildings in excess of \$50,000, an emergency must be declared by a majority vote of the elected City Council or the Council must otherwise waive the sealed bid process.

Section 6. RESPONSIBILITY FOR ENFORCEMENT.

The Governing Body determines the level of expenditure for each department by adoption of the annual budget. Department Heads shall be responsible for making purchases within the scope of their departmental budget. The City Manager has overall responsibility for the enforcement of this policy.