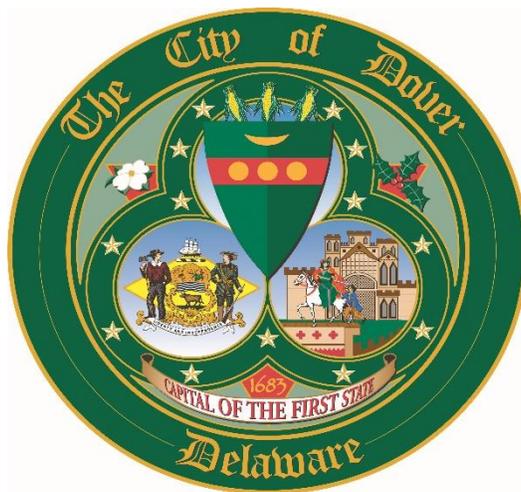


**CITY OF DOVER**

**PURCHASING POLICY & PROCEDURES**



**ISSUED BY: FINANCE & CENTRAL SERVICES**

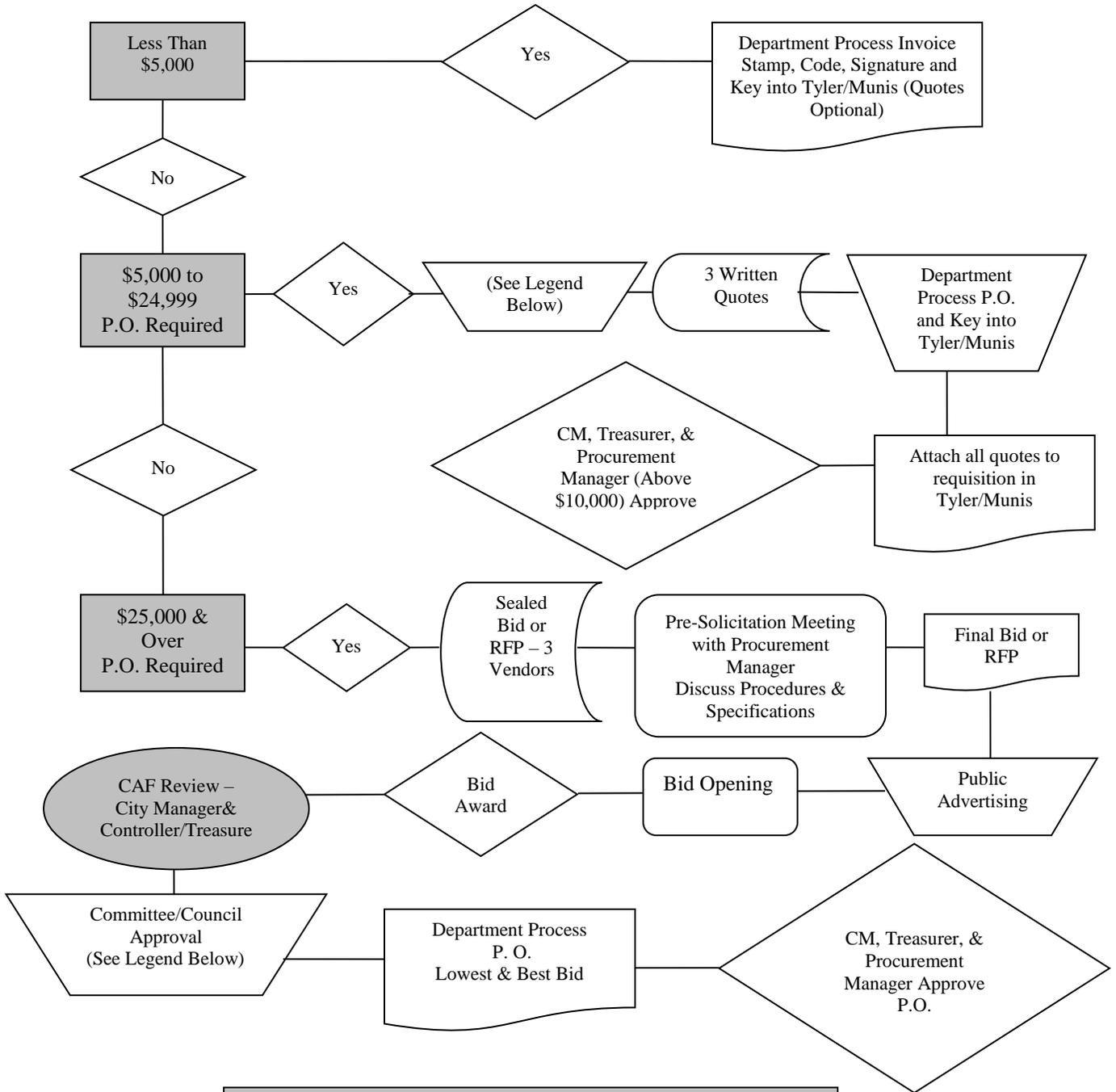
**AMENDED SEPTEMBER 28, 2020**

# Purchasing Policy & Procedures

## Table of Contents

<u>Section</u>	<u>Title</u>	<u>Page #</u>
	Purchasing Flow Chart .....	3
1	The Purpose .....	4
2	Ethics in Purchasing .....	4
3	Purchasing Limits & Authority .....	4
3.1	General Guidelines.....	4
3.2	Subdividing Purchases .....	5
3.3	Fleet Vehicles & Associated Equipment .....	5
3.4.1	Equipment Purchases \$25,000 - \$199,999 .....	5
3.4.2	Equipment Purchases over \$200,000 .....	5
3.5	Purchasing Threshold Table for Anything not Covered Under Section 4 or Section 5 .....	6
3.6	Cooperative Purchasing .....	7
3.7	Standard Forms .....	7
3.8	Inspection and Full Payment .....	7
3.9	Warranties .....	7
3.10	Authorized Personnel .....	7
3.11	Change Orders .....	7
4	Professional Services Guidelines .....	8
4.1	Request for Proposals .....	8
4.2	Total Cost Less than \$50,000 .....	8
4.3	Total Cost \$50,000 and Over .....	9
4.4	Subdividing the Purchases of Services .....	9
4.5	Documentation .....	9
4.6	Change Orders .....	9
5	Public Works & Utility Type Contracts & Certain Professional Services.	9
6	Exceptions .....	11
6.1	Sole Source Procurement .....	11
6.2	Warehouse Stock .....	11
6.3	Negotiations .....	11
6.4	Used Materials and Equipment .....	11
6.5	Continuity of Service .....	11
6.6	Emergency .....	11
6.7	Minority Owned Vendor Preference .....	12
6.8	Local Vendor Preference .....	12
7	Receiving .....	12
8	Credit Card Purchases .....	13
9	Invoices and Payments .....	13
10	Green Procurement .....	14
11	Debarment of Vendors for Consideration of Awards .....	15
12	Committees/Commissions .....	16
Appendix A	Standards of Ethical Conduct and Ethics Commission .....	17
Appendix B	Invitation to Bid and Request for Proposal Procedures .....	28
Appendix C	Sample Bid Bond .....	31
Appendix D	Sample Performance Bond .....	32
Appendix E	Glossary .....	34
Appendix F	Quotation Worksheet (for Purchases between \$5,000 and \$24,999).....	40

## Purchasing Flow Chart



**LEGEND:**  
**Requires Council Approval if:**  
 Sole Source Procurement  
 Not low bid  
 Bids that exceed amount budgeted  
 Projects \$100,000 and greater  
 Vehicles/Equipment \$200,000 and greater  
 Professional Services \$50,000 and greater (non-Public Works & Utilities)  
 Professional Services \$50,000 and greater (Public Works & Utilities)

# **CITY OF DOVER** **PURCHASING POLICY**

## **SECTION 1 - THE PURPOSE**

The purpose of the adoption of a purchasing policy is to establish the authority, limits and procedures relating to the purchasing of materials, supplies, equipment, construction, Public Works type contracts, and professional services.

## **SECTION 2 - ETHICS IN PURCHASING**

Public employees and elected officials must discharge their duties impartially to assure competitive access to governmental procurement by responsible contractors. Moreover, they should conduct themselves in such a manner as to foster public confidence in the integrity of City procurement. Dover Code Article II Section 30 (Appendix A), establishes standards of ethical conduct among public officials and employees. Vendors participating in the City procurement will be disqualified from the procurement if the employee, official or vendor is found to be in violation of the City's ethical standards and a referral of the matter will be presented to the Ethics Commission. Failure to familiarize oneself with the provisions of this policy and appendices will not be accepted.

## **SECTION 3 - PURCHASING LIMITS & AUTHORITY**

### **3.1 GENERAL GUIDELINES:**

This section outlines the purchasing limits and guidelines for materials and supplies based on the purchase amount. No department or employee shall obligate City funds until the procedures of this section have been complied with. No employee or official shall have purchases shipped directly to their home.

For this policy, the purchase amount is considered the purchase order total. Warehouse stock must be reduced to the item's reorder level prior to using open market purchases as authorized by this policy.

While purchasing goods and services for the City, the procedures and guidelines which are described in this purchasing policy are to be strictly followed. All purchasing related records must be kept for the period prescribed in the State Bureau of Archives Retention Schedule. These records may include, but are not limited to, request for proposals, vendor proposals, analysis of proposals, change orders and a copy of the purchase order(s).

The Information Technology Department is to provide a technical review of all specifications for computer software and hardware purchases regardless of cost. The applicable Information Technology personnel should be consulted on all bid evaluations for computer hardware, software, or other related equipment.

No agreement or contract shall be entered into, nor expense incurred by any division, which will result in an obligation more than the appropriation made to the division. It is the division's responsibility to see that funds are in the proper accounts before obligating or expending funds. If the funds are not in the proper account, the transaction will not be

processed. The department must request a transfer of funds through Tyler/Munis. Override of funds availability must be approved by the Controller/Treasurer and the City Manager.

3.2 SUBDIVIDING PURCHASES:

Multiple purchase orders issued by a department for the same items during the same time frame in an attempt to negate the purchasing policy restrictions will be considered a clear violation of the purchasing policy; also considered subdividing purchases.

3.3 FLEET VEHICLES & ASSOCIATED EQUIPMENT:

Purchase of fleet vehicles and associated equipment shall not require Council approval when the purchases have been approved in the budget for the then current fiscal year. However, no vehicle designated as a replacement for any vehicle then currently owned by the City of Dover shall be purchased or ordered for purchase unless and until the then currently city-owned vehicle has been mechanically evaluated and determined by Fleet Maintenance to be no longer reliable for use in its then current capacity. All items within the amount budgeted must have a vehicle/equipment replacement request completed and forwarded to the City Manager for approval. Council approval is always required when the purchase is from sole source procurement, when the vendor is not the low bidder, or when the purchase price is higher than the budgeted amount for that vehicle and the overage cannot be made up through savings on other vehicles and equipment. To qualify as low bidder, the bid must meet the bid specifications. The City Purchasing Agent is authorized to purchase vehicles and equipment through the State of Delaware and other cooperative contracts when in the best interest of the City.

3.4.1 EQUIPMENT PURCHASES \$25,000 - \$199,999:

Budgeted equipment specifically identified in the Capital Improvement Plan does not need Council approval unless the purchase is sole vendor, sole source procurement, or not low bid. The purchase does not require construction or ancillary services. Equipment purchases \$200,000 or greater requires Council approval.

3.4.2 EQUIPMENT PURCHASES \$200,000 AND OVER:

Cooperative Purchasing will not be permitted for any vehicles or equipment valued \$200,000 and over. Sealed bids will be required.

3.5 PURCHASING THRESHOLD TABLE:

<b>PURCHASING THRESHOLDS</b>		
<b>Less than \$5,000</b>	<b>\$5,000 to \$24,999</b>	<b>\$25,000 &amp; Over</b>
Open market; Department Head discretion to obtain quotes	Department Head solicit no less than three (3) written quotations; if fewer than three (3) quotations, justification must be included within the requisition in Tyler/Munis	Formal Invitation to Bid (ITB) or Request for Proposal (RFP); no less than three (3) potential vendors email addresses supplied to Procurement/Inventory by requesting Department
Purchases will be made by designated personnel	Quotations and support documentation are to be attached to requisition in Tyler/Munis; use the quotation worksheet in Appendix F	Pre-Solicitation Meeting recommended of the respective Department & Procurement Manager to discuss appropriate procedures and specifications
Approved invoices are to be entered in Tyler/Munis for payment	Requires requisition and purchase order through Tyler/Munis	Public sealed bid or sealed proposal procedures as outlined in Appendix B
Purchases under existing City contracts shall be made in accordance with the terms of such contract	All purchases will be made by soliciting Department utilizing a Purchase Order	Public Advertising at least once a week for two (2) consecutive weeks in publication with circulation in each county of the State; additional advertising discretionary
Supplies available from warehouse stock should not be procured from third party vendors	Award shall be made to the lowest and the best quotation; vendor references may be checked	Public Bid/Proposal Opening; time and date of public bid opening shall be stated in the notice for bids; delivered to Procurement/Inventory, 710 William Street, Dover, DE 19904
Item numbers, quantities, unit cost, and extension must be completed on every purchase order for materials or paying for contracted labor at hourly rates	Item numbers, quantities, unit cost, and extension must be completed on every purchase order for materials or paying for contracted labor at hourly rates	Faxed bid is not acceptable for this category; sealed bids may be emailed to <a href="mailto:bids@dover.de.us">bids@dover.de.us</a> or as agreed to with the Department Head
Approval assigned at Department Head Level	Fax and email quotations are acceptable	Lowest and/or most responsive bid will be accepted; vendor references may be checked to verify ability to meet contract requirements
	Departmental approval assigned by Department Head; Electronic Approval – Asst. City Manager, City Manager & Controller/Treasurer	Bid Bond or certified check in the amount equivalent to ten percent (10%) of the bid amount for items/contracts over \$25,000; can be waived by Purchasing Agent and Department Head
	Purchase Order to include: Unit Cost \$; account number; project number if applicable; brief description of item or service when not identifiable; quotes from each vendor in comments	Performance Bond required for construction work
	<b>NOTE</b> – Changes to Purchase Orders are to be completed through the financial systems. Purchase Orders received with manual changes to amounts/unit cost will not be processed by the Finance Department	Purchases exceeding \$25,000 shall require Council approval for sole source procurement, greater than budget and not low bidder. Committee/Council Action Forms to include: budget \$, P. O. \$ or unit cost \$, account number, project number, page number in budget, bid/RFP number if applicable, if unit cost was bid include cost comparison, if blanket bid or proposal is for recurring services provide average annual cost for past three years for the service and description and recommended action

3.6 COOPERATIVE PURCHASING:

The City of Dover is permitted to use cooperative contracts to purchase material once it has been determined that the procedures outlined within this policy will not be violated. To use cooperative purchasing the quantities and timing of the materials must be coordinated with the partnering entity to insure cost savings through economies of scale. Any deviation from this policy for cooperative purchasing must be approved by the City Manager and Treasurer prior to entering into any purchase agreement.

3.7 STANDARD FORMS:

All purchasing related forms and bid documents are developed and standardized for the City of Dover by Procurement/Inventory. No substitutions of the City of Dover Purchase Order form or other standardized forms will be permitted. Where applicable, unit(s) of measure and unit cost must be included in the purchase order. Purchase orders with the quantity of one (1) will not be accepted unless the quantity is truly one (1).

3.8 INSPECTION AND FULL PAYMENT:

Upon receiving materials and equipment and upon completion of construction, the City of Dover shall cause a detailed inspection. Full payments for the purchases will be made only upon the Department Head's complete satisfaction as to the fulfillment of all the conditions of the contract. The department will authorize final payment for materials and equipment upon completion of construction.

3.9 WARRANTIES:

The department requesting the material or service shall monitor and maintain all warranties.

3.10 AUTHORIZED PERSONNEL:

Only authorized personnel can purchase goods for the City of Dover. The authorized signature must appear on the invoice(s). The original Authorized Signature Form must be kept in the Finance Office – Accounts Payable. This form must be updated if a new employee will be signing invoices and purchase orders. The form can be found in Public Docs.

3.11 CHANGE ORDERS:

If, after a purchase order is awarded, it becomes necessary to add items/work because of unforeseen findings or a scheduled change, a change order can be issued without Council approval as follows:

A) For purchases of \$5,000 - \$24,999 the Procurement Manager is authorized to sign purchase order changes up to and including 15% of the original purchase amount when the total dollar value of the purchase does not exceed \$25,000 and the amount of the item is still within the amount budgeted for that item.

B) For purchases of \$25,000 or greater, the City Manager and Controller/Treasurer are authorized to approve change orders as follows:

15% of the original purchase amount when the purchase is made on a unit cost basis, the purchase is within the approved (project) budget and/or the approved Council Action Form.

#### **SECTION 4 - PROFESSIONAL SERVICES GUIDELINES**

Professional Services are normally solicited by use of a Request for Proposal. This section provides the guidelines and procedures for the procurement of professional services that are not covered by Section 5 – Public Works & Utility Type Contracts and Certain Professional Services.

Examples of the professional services covered under this section are: consulting for rate studies, audit services, financial services, and computer related consulting. These are only examples, and the scope of the provisions of this section is not limited to these examples.

##### 4.1 REQUEST FOR PROPOSALS:

Evaluation of proposals must adhere to the following guidelines:

1. Determine what proposals are acceptable and unacceptable
2. A determination that a proposal is unacceptable shall be in writing, state the basis for the determination and be retained in the procurement file
3. The offeror shall not be afforded an opportunity to modify its offer

Negotiation with individual offerors:

1. The department can negotiate with individual offerors after their proposals are opened
2. The department shall develop formalized procedures to be consistently applied to each offer
3. Disclosure of one offerors price to another is prohibited
4. The department must send a written request for best and final offers setting forth the date, time, and place for submission of best and final offers
5. The department must inform the offerors that if they do not submit a notice of withdrawal or a best and final offer, their immediate previous offer will be construed as their best and final

Final Award:

1. The contract shall be awarded within 90 days of the closing date
2. The department shall award a contract to the offeror whose proposal is determined in writing to be most advantageous to the City
3. The determination shall explain the basis of the award
4. Procurement/Inventory shall notify each unsuccessful offeror in writing of the award

##### 4.2 TOTAL COST LESS THAN \$50,000:

Professional services covered under this section may be obtained using open market prices. It is the Department Head's discretion to require written proposals from the service providers. The decision to award the contract for professional service shall be based on performance track records, fees, time schedule and known quality of work. Fax and email proposals are acceptable for this category.

4.3 TOTAL COST \$50,000 AND GREATER:

For procuring professional services covered under this section, the department shall use the "Request for Proposal" method and in conjunction with the Procurement/Inventory Manager or authorized purchaser send requests for proposals to available service providers. The request for proposal will clearly include the following:

1. scope of work
2. schedule for work
3. request to provide fees, expenses, and payment schedules
4. last date for submitting the proposal
5. evaluation method
6. address, contact person, and phone number

The services procured under this provision must have the approval of the department head. A purchase order must be issued to include, but not limited to the above, the total amount, providing details and a reference of the professional services agreement number, if any, and the location. Email proposals are acceptable for this category. For professional services with fees and expenses totaling more than \$50,000, the City Council's approval is required.

4.4 SUBDIVIDING THE PURCHASES OF SERVICES:

The City of Dover departments shall NOT subdivide the purchase or the contract for professional services to avoid the requirements of this purchasing policy.

4.5 DOCUMENTATION:

If a firm/consultant under contract to the City of Dover issues a bid/proposal as part of their contract, the original documents must be provided to the City. The final determination for all awards shall rest with the City.

4.6 CHANGE ORDERS:

The same procedures as outlined in paragraph 3.10 will apply to professional services regarding change orders.

**SECTION 5 - PUBLIC WORKS & UTILITY TYPE CONTRACTS AND  
CERTAIN PROFESSIONAL SERVICES**

"Public Works Contract" means any contract for the construction, reconstruction, alteration or repair of any public building, road, street, highway, water utility, wastewater utility, electric utility or other public improvement, the cost of which will be paid with public funds. Any project materials and supplies purchased by the City, and not a Contractor or Service Provider, are to be procured under Section 3 of this policy.

"Certain Professional Services" means those services within the scope of the practice of architecture, professional engineering, professional land surveying, landscape architecture and geology.

All Public Works and Utility contracts entered for less than \$100,000 that are specifically identified in the Capital Improvement Plan do not need Council approval unless the purchase is sole vendor, sole source procurement, or not low bid. Procurement \$100,000 or greater requires Council approval.

<b>Public Works &amp; Utilities</b>		
<b>Less than \$50,000</b>	<b>\$50,000 - \$99,999</b>	<b>\$100,000 &amp; Over</b>
Open market	Solicit three (3) written quotations – MANDATORY	Formal Bidding – Purchaser
\$0 - \$24,999 quotations optional	Bids/Contract Admin. discretionary	Public Advertising
\$25,000-\$49,999; Solicit three (3) phone quotes (attach to requisition in Tyler/Munis)	Specifications and/or plans discretionary	Specifications and/or plans
Specifications and/or plans discretionary	Bid bond discretionary	Bid Bond discretionary
	Public Opening discretionary	Public Opening
	Formal Contract discretionary	Formal Contract
	Performance Bond discretionary	Performance Bond
Purchase Order to include: Unit Cost \$; Account number; project number if applicable; Brief description of item or service when not identifiable; Quotes from each vendor attached to requisition in Tyler/Munis		
Committee/Council Action Forms to include: Budget \$, or Unit Cost \$; Account number; project number; page number in budget; Bid/RFP number if applicable. If unit cost bid includes cost comparison. If blanket bid or proposal is for recurring services, provide average annual cost for past three years for the service. Description and recommended action.		
Footnote – When a project is partially or wholly funded by the State of Delaware: prevailing wage rates apply to projects over \$45,000 for repairs, alterations, rehabs, demolition, or reconstruction or \$500,000 for new construction.		
<b>Public Works &amp; Utilities – Certain Professional Services</b>		
<b>Less than \$50,000</b>		<b>\$50,000 &amp; Over</b>
Open Market		Formal RFP Process
Use same procedure as Section 4.2		Public Advertising; use same procedure as Section 4.3
Professional Services for Public Works & Utilities includes services within the scope of practice of architectural, professional engineering, professional land surveying, landscape architectural services and geology.		

### PRE-QUALIFICATION OF BIDDERS

Prequalification of Bidders is permitted to screen potential vendors in which such factors as financial capability, reputation and management are considered to develop a list of qualified vendors. The vendors should provide background information on their company, implementation methods, and references. Once the list of qualified vendors is established a Request for Proposal will be developed to include clear specifications, expectations and clearly outlined evaluation criteria. A price range may be requested but is not necessary. Detailed information will be provided during the RFP process.

## SECTION 6 – EXCEPTIONS

### 6.1 SOLE SOURCE PROCUREMENT:

Sole source procurement is not permissible unless a requirement is available from only a single supplier/manufacturer. A requirement for a propriety item does not justify sole source procurement if there is more than one potential bidder or offeror for that item. The following are examples of circumstances which could necessitate sole source procurement:

- Where the compatibility of equipment, accessories, or replacement parts is the paramount consideration; items of comparable quality and equal function are not to be considered under sole source procurement
- Where the sole supplier's item is needed for trial use or testing

If the purchase is over \$25,000 it must be presented to Council for approval. Sole suppliers/manufacturers must be justified in writing by the Department Director and be approved by the City Manager.

### 6.2 WAREHOUSE STOCK:

Items placed on annual or multi-year contracts for warehouse stock shall not be subject to Council approval as these items are purchased as individual units and not in blocks. Increases in unit prices greater than 15% shall be communicated to the respective Department.

### 6.3 NEGOTIATIONS:

Negotiations are authorized during the Request for Proposal evaluation process, when sole source has been pre-approved or when a material specification or scope of work change occurs after the award of a competitively bid contract.

### 6.4 USED MATERIALS AND EQUIPMENT:

For the purchase of used or surplus materials or equipment, the provisions of this policy may not apply. Purchases of \$25,000 or greater must be presented to Council for their approval.

### 6.5 CONTINUITY OF SERVICE:

When there is an abrupt discontinuation of service due to breakdown, accident, or other similar event and it is necessary to obtain materials or equipment to continue service to the citizens, the provisions of this policy may be waived by the City Manager. For no other reason should a purchase order be issued for this exception.

### 6.6 EMERGENCY:

An emergency condition is a situation which creates a threat to public health, welfare, or safety such as may arise. The existence of such condition creates an immediate and serious need for supplies, services, or construction that cannot be met through normal procurement methods and the lack of which would seriously threaten one or more of the following:

1. The functioning of the City government
2. The preservation or protection of property
3. The health or safety of any person

Emergency procurement shall be limited to those supplies, services, or construction items necessary to meet the emergency. The Mayor or City Manager will be responsible for deciding as to the existence of the emergency.

6.7 MINORITY OWNED VENDOR PREFERENCE:

Minority owned vendor preference shall be three percent (3%) of the value of the award. The vendor must identify qualification and claim to the preference on the submitted bid documents. The vendor must provide authoritative proof of minority ownership such as identification in the certification directory maintained by the State of Delaware, Office of Management and Budget, Office of Supplier Diversity, to qualify for this preference. This preference is to be considered as a stand-alone and cannot be added to any other preference that may be allowed. This preference shall not apply to sub-contractors.

6.8 LOCAL VENDOR PREFERENCE:

Local vendor preference shall be considered for materials, equipment, construction contracts, and utility contracts. Local vendor preference shall be three percent (3%) of the value of the award. A local vendor is a vendor with a "remit to" address or physical store location in the local area as identified below. The term local vendor is defined as a gradually increasing range with preference assigned as follows:

Rule 1: Vendor located within the city limits of the City of Dover

Rule 2: Vendor located within Kent County (if no vendor qualifies under Rule 1)

Rule 3: Vendor located within the State of Delaware (if no vendor qualifies under Rules 1 & 2)

If no vendor qualifies under rules 1, 2, or 3 no local vendor preference shall be awarded. The vendor must identify qualification and claim to the preference on the submitted bid documents. This preference shall not apply to sub-contractors.

**SECTION 7 - RECEIVING**

7.1 No employee shall pick up or receive goods without his or her supervisor's authorization. In the case of a special project, stock material deliveries may be made to the job site but should be coordinated through Procurement/Inventory. Procurement/Inventory will take charge of the delivery ticket for file and paying of the invoice for stock material only.

Packing slips (proof of receipt) when appropriate are to be attached to the invoice or payment will not be disbursed until these conditions are met. If only an invoice is provided by the vendor, then the employee receiving the item shall sign the invoice as proof of receipt. Proof of receipt must have who received the item and the date the item was received.

7.2 While taking delivery of items the individual accepting the item will sign any one of these documents: Receiving/payment copy of the purchase order, vendor's invoice, delivery slip or packing ticket. The person receiving the goods and signing the receipt document must verify the quantity and item description/part number with the purchase order or any other document and must check the condition of the items/packages to make reasonably sure that there are no problems with the delivery. If problems are observed, the notes must be made on the receiving documents or the delivery must be returned. Partial delivery is acceptable. The original receipt of all documents must be forwarded to Procurement/Inventory for stock material only.

7.3 No City employee will sign for any item or service, which is not received.

7.4 Payment for the goods will be made only to the extent the goods are received by the City.

## **SECTION 8 - CREDIT CARD PURCHASES**

- 8.1 The City does not encourage credit card purchases.
- 8.2 The City has a very limited number of credit cards for stores where the purchases are more easily made with a credit card or where vendors do not bill the City and credit cards are necessary.
- 8.3 The employee using a store credit card must make sure of the purchase price, quantity, quality and the necessity of the item. The person must sign as required and turn in the purchaser's copy of the credit card receipt to their department for processing and send to Accounts Payable upon receipt of credit card statement.
- 8.4 The credit card must be used only by authorized personnel and cannot be used for personal business.
- 8.5 All credit cards shall be handled through the Finance Department as outlined in Procedure F346.
- 8.6 The City does not encourage use of personal credit cards for business purchases. Where use of a personal credit card is necessary to complete City of Dover business in a timely and/or efficient manner, the employee is not authorized to approve their own reimbursement request. The reimbursement request must be approved by other authorized personnel.

## **SECTION 9 - INVOICES AND PAYMENTS**

- 9.1 For payment purposes, the original invoices must carry the following: approval stamp, authorized signature, G/L# and date. All employee travel expenditures are to be processed with a purchase order including other reimbursements. Purchases over \$5,000 must also include a purchase order. Each department will be entering their own invoices and requisitions into Tyler/Munis. Batches will be released and/or approved by departments before Accounts Payable will review and process payments to vendors. Delay in submission of invoices will result in delay of payment to vendors. All supporting documentation must be attached to invoice(s) in Tyler/Munis. Departments are responsible for ensuring invoice processing is completed, approved, and submitted for payment prior to forwarding vendors to Finance for payment inquiries.
- 9.2 Vendors must be registered in Tyler/Munis for invoices \$600.00 or more per calendar year. A completed new vendor form and IRS Form W-9, both available in public documents/forms/accounts payable, must be forwarded to Finance to have the vendor established in Tyler/Munis. All purchases less than \$600.00 per calendar year will be considered a one-time vendor and not require a W-9.
- 9.3 It is the City's policy to pay the invoices on time and, therefore, the payment documents must be process in Tyler/Munis as soon as possible.

## **SECTION 10 – GREEN PROCUREMENT**

- 10.1 The City of Dover is committed to using and purchasing energy efficient/environmentally preferable products in the most cost effective and environmentally responsible manner possible. Purchasing energy efficient products reduces energy costs without compromising quality. Purchases should be based on:
1. Consideration on the impact to the environment, economy, and human health and well-being.
  2. Consideration of specification compliance, delivery time and price.
  3. Preference given to environmentally preferable materials when they perform satisfactorily and can be obtained at a reasonable price.
- 10.2 The US Government in Executive Order 12873 defined environmentally preferable products as “products or 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 should include items that are energy efficient, conserve water, reduce toxins, conserve natural resources, have recycled content, or minimize waste.
- 10.3 The Procurement Manager shall establish a price preference of up to ten percent (10%) for recycled and other environmentally preferable products. This price preference must be established in advance of any bid and must be included in the bid specifications, cover letter or evaluation criteria. This percentage may be modified from time to time at the discretion of the Procurement Manager with the objective of maximizing the City’s purchase of environmentally preferable products.
- 10.4 **LIFE CYCLE COST ANALYSIS:**
- The requesting department shall perform lifecycle costing analysis on equipment that has the potential to reduce operating, maintenance or energy costs over the useful life of the equipment. Based on said analysis, the contracting agency shall incorporate specifications in the contract for equipment that has the lowest total cost of ownership and operation over the useful life of the equipment. The use of lifecycle costing analysis may be waived by the department head, in writing, if the equipment is not appropriate for lifecycle costing analysis.
- 10.5 **ENERGY EFFICIENT PRODUCTS:**
- A) The City shall purchase Energy Star products, as designated by the federal Environmental Protection Agency, when such products are available. The department may include non-Energy Star rated equipment as an alternate in the bid documents to enable lifecycle costing analysis to be performed as part of the analysis of responsive bids. The department shall be required to award a contract that includes the procurement of Energy Star rated equipment unless they can demonstrate, in writing, to the satisfaction of the City Manager, that the interests of the city would be better served by procuring non-Energy Star rated equipment.
- B) Prior to initiating a request for procurement of any product, the department shall review the specifications for such product to determine whether an Energy Star product is available. If an Energy Star product is available, the department is required to include in its bid specifications the requirement that the product be an Energy Star product unless it can be demonstrated, in writing, to the satisfaction of the department head, that a product with an Energy Star rating meets at least 1 of the following criteria:

1. The product is not available competitively
2. The product is not available within a reasonable time frame
3. The product does not meet appropriate performance standards

## **SECTION 11 – DEBARMENT OF VENDORS FOR CONSIDERATION OF AWARDS**

11.1 Any vendor who fails to perform as outlined in the established contract may be subject to suspension or debarment. Once a problem with a vendor/contractor is discovered, the Department responsible for the contract will document the problem and all attempts at resolution. The vendor/contractor will be held in breach of contract. The responsible Department must submit a recommendation of debarment to the City Manager and the Procurement Manager. If enough cause is determined, the City Manager (with advice from the City Solicitor, if necessary) and/or the Procurement Manager will provide reasonable notice to the Vendor and allow a reasonable time for that vendor to be heard. The City Manager shall have the authority to debar a vendor/contractor for cause from consideration for award of contracts. The debarment shall not be for a period of more than three years.

11.2 The causes for debarment include:

- A) Conviction of or civil judgment for commission of a fraud or a criminal offense in connection with obtaining or attempting to obtain or performing a public or private contract or subcontract
- B) Conviction under state or federal statutes of embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, or any other offense indicating a lack of business integrity or business honesty
- C) Conviction under state or federal antitrust statutes arising out of the submission of bids or proposals
- D) Violation of contract provisions, as set forth below, of a character which is regarded by the City Manager to be so serious as to justify debarment action:
  - i. Deliberate failure without good cause to perform in accordance with the specifications or within the time limit provided in the contract
  - ii. A recent record of failure to perform or of unsatisfactory performance in accordance with the terms of one (1) or more contracts; if failure to perform or unsatisfactory performance caused by acts beyond the control of the contractor shall not be a basis for debarment
- E) Any other cause the City Manager determines to be as serious and compelling as to affect responsibility as a City contractor, including debarment by another governmental entity for any cause listed in this article
- F) For violation of the ethical standards set forth in Section 2 of this policy or Dover Code, Chapter 30

11.3 The City Manager is authorized to suspend a person from consideration for award of contracts pending his/her decision if there is probable cause to believe that the person has engaged in any activity which might lead to debarment. The suspension shall continue until the debarment decision has been made. The City Manager shall notify the person to be debarred in writing and set forth the basis for the action. A copy of the notification shall be sent to the Mayor and Council. The written notification shall be delivered to the person

to be suspended either in person or by certified mail. The decision shall state the basis for the action taken.

- 11.4 Before the award of any contracts utilizing federal funds, the department must exclude any vendors listed on the Federal Government's Excluded Parties Listing located at [www.sam.gov](http://www.sam.gov).

## **SECTION 12 - COMMITTEES/COMMISSIONS**

- 12.1 All City of Dover appointed Committees and Commissions are required to follow the City of Dover purchasing policy, unless otherwise directed by City Council.
- 12.2 The Committee Chair or designated City staff member is authorized to purchase materials.
- 12.3 A list of the names of the individuals authorized to make purchases along with each authorized individuals' signature are to be submitted to the Finance Department.
- 12.4 A proposed work plan or budget will be required prior to disbursement of funds.
- 12.5 The Finance Department will give each Committee Chairperson a purchasing orientation and provide a copy of the Purchasing Policy.

## **EFFECTIVE DATE**

Adopted by City Council December 8, 2008

Amended by City Council February 28, 2011

Amended by City Council October 22, 2018

Amended by City Council September 28, 2020

# APPENDIX A

## STANDARDS OF ETHICAL CONDUCT AND ETHICS COMMISSION

### ARTICLE II – STANDARDS OF ETHICAL CONDUCT

#### Chapter 30, Section 30-20. - Established.

High ethical standards among public officials and employees are essential to gain and maintain the confidence of the people, because such confidence is essential to the conduct of free government. Public officials and employees are agents of the people and hold office for the benefit of the public. They are bound to observe in their official acts the highest standards of morality and to discharge faithfully and impartially the duties of their offices, regardless of personal considerations, recognizing that the public interest must be their primary concern. Their conduct in both their official and private affairs should be above reproach. These standards of ethical conduct are adopted in order to secure this desired high level of public trust, ensure the impartiality of public officials and employees, and impose standards of accountability.

- (a) *General responsibilities of officials and employees.*
  - (1) Officials and employees have the common obligation of serving the public. In performing their duties, they shall treat the public and each other with respect, concern, and responsiveness, recognizing that their common goal of exceptional public service can only be achieved by working together. Disputes that arise among public servants shall be resolved at the lowest possible level; keeping in mind that public money spent on resolving these disputes is money not spent on important public needs.
  - (2) Officials and employees shall treat their position as a public trust, with a fiduciary duty to use the powers and resources of public office only to advance the public interest and not to obtain personal benefits or pursue private interests.
  - (3) Officials and employees shall conduct themselves in a manner that justifies the confidence placed in them by the people, at all times maintaining the integrity and discharging ethically the high responsibilities of public service.
  - (4) Full disclosure of real or potential conflicts of interest shall be a guiding principle for determining appropriate conduct. At all times, reasonable efforts shall be made to avoid undue influence and abuse of office in public service.
  - (5) No official or employee may request or receive, and no person may offer any money, thing of value or promise thereof, other than any city pay received, that is conditioned upon or given in exchange for promised performance of an official act.
- (b) *Appearance of violation.* Each city employee and official shall endeavor to pursue a course of conduct which will not raise suspicion among the public that he is engaging in acts which are in violation of his public trust and which will not reflect unfavorably upon the city and its government.
- (c) *Private interest; gifts.* No city employee or official shall have any interest in any private enterprise, nor shall he incur any obligation of any nature which is in substantial conflict with the proper performance of his duties in the public interest. No city employee or

official shall accept other employment, any compensation, gift, payment of expenses or any other thing of monetary value under circumstances in which such acceptance may result in any of the following:

- (1) Impairment of independence of judgment in the exercise of official duties;
  - (2) An undertaking to give preferential treatment to any person;
  - (3) The making of a governmental decision outside official channels; or
  - (4) Any adverse effect on the confidence of the public in the integrity of the government of the city.
- (d) *Interest in private enterprise.* No city employee or official shall acquire a financial interest in any private enterprise which he has reason to believe may be directly involved in decisions to be made by him in an official capacity on behalf of the city.
- (e) *Prohibitions relating to conflicts of interest.* No councilman or other official or employee, whether paid or unpaid, shall engage in any business or transaction or shall have a financial or other personal interest, direct or indirect, which is incompatible with the proper discharge of his official duties in the public interest or would tend to impair his independence of judgment or action in the performance of his official duties. Personal as distinguished from financial interest includes an interest arising from blood or marriage relationships or close business or political association provided, that upon request from any person with official responsibility with respect to the matter, any such person who has such a personal or private interest may nevertheless respond to questions concerning any such matter.
- (1) *Restrictions on exercise of official authority.*
    - a. Prohibited participation. No city employee or official may participate on behalf of the city in the review or disposition of any matter pending before the city in which he has a personal or private interest, provided that, upon request from any person with official responsibility with respect to the matter, any such person who has such a personal or private interest may nevertheless respond to questions concerning any such matter. A personal or private interest in a matter is an interest which tends to impair a person's independence of judgment in the performance of his duties with respect to that matter.
    - b. *Impairment of judgment.* A person has an interest which tends to impair his independence of judgment in the performance of his duties with respect to any matter when:
      - i. Any action or inaction with respect to the matter would result in a financial benefit or detriment to accrue to the person or a close relative to a greater extent than such benefit or detriment would accrue to others who are members of the same class or group of persons; or
      - ii. The person or a close relative has a financial interest in a private enterprise which enterprise or interest would be affected by any action or inaction on a matter to a lesser or greater extent than like enterprises or other interests in the same enterprise.
    - c. *Statutory responsibility.* In any case where a person has a statutory responsibility with respect to action or inaction on any matter where he has a personal or

private interest and there is no provision for the delegation of such responsibility to another person, the person may exercise responsibility with respect to such matter, provided that, promptly after becoming aware of such conflict of interest, he files a written statement with the ethics commission, fully disclosing the personal or private interest and explaining why it is not possible to delegate responsibility for the matter to another person.

(2) *Restrictions on representing another's interest before the city.*

- a. *Prohibited.* No city employee or official may represent or otherwise assist any private enterprise with respect to any matter before the city.
- b. *Exception.* This subsection shall not preclude any city employee or official from appearing before the city or otherwise assisting any private enterprise with respect to any matter in the exercise of his official duties.

(3) *Restriction on contracting with the city.*

- a. *Prohibited.* No city employee or official shall benefit from any contract with the city, nor solicit any contract, and shall not enter into any contract with the city (other than an employment contract).
- b. *Ownership of enterprise.* No private enterprise in which a city employee or official has a legal or equitable ownership of more than ten percent (more than one percent in the case of a corporation the stock of which is regularly traded on an established securities market) shall enter into any contract with the city (other than an employment contract) unless such contract was made or let after public notice and competitive bidding.

(f) *Postemployment restrictions.* No person who has served as a city employee or official shall represent or otherwise assist any private enterprise on any matter involving the city, for a period of two years after termination of his employment or elected or appointed status with the city, if he gave an opinion, conducted an investigation or otherwise was directly and materially responsible for such matter in the course of his official duties as a city employee or official, nor shall any former city employee or official disclose confidential information gained by reason of his public position, nor shall he otherwise use such information for personal gain or benefit.

(g) *Unauthorized disclosure of confidential information.* No person shall disclose any information required to be maintained confidential by the ethics commission under section 30-3(b), 30-73 or 30-74.

(h) *Abuse of office.*

- (1) *Political contributions.* No elected city official shall agree to sponsor legislation, or to influence in any manner the formulation or passage of legislation, in exchange for political contributions or promises thereof.
- (2) *Substantial interest.* No elected city official shall vote for, or promote in any manner whatsoever, legislation affecting any subject matter in which he has a substantial interest. Any such interest shall be disclosed by said elected official prior to a vote on any such legislation and said elected official shall vote "abstain" when called upon to vote.

- (3) *Use of city property.* No city official or employee shall request or permit the use of city-owned vehicles, equipment, materials, or property for personal convenience or profit, except when such services are available to the public generally or are provided for the use of such official or employee in the conduct of official business as a matter of municipal policy.
- (4) *Personal gain.* No city official or employee shall utilize the influence of his office or position for personal pecuniary gain, or to avoid the legal consequences of his personal conduct.
- (i) *Criminal sanctions.*
  - (1) *Penalties.* Any person who knowingly or willfully violates any provision of this section shall be guilty of a misdemeanor, punishable for each such violation by imprisonment of not more than one year and by a fine as provided for in Appendix F—Fees and Fines.
  - (2) *Time limitations.* A prosecution for a violation of this section shall be subject to the time limitations of 11 Del. C. § 205.
- (j) *Contracts voidable by court action.* In addition to any other penalty provided by law, any contract entered into by any city agency in violation of this chapter shall be voidable by the city agency; provided that in determining whether any court action should be taken to void such a contract pursuant to this subsection, the city agency shall consider the interests of innocent third parties who may be damaged thereby. Any court action to void any transaction must be initiated within 30 days after the city agency involved has, or should have, knowledge of such violation.
- (k) *Private gain.* No city employee or official shall use his public office to secure unwarranted privileges, private advancement or gain.
- (l) *Confidential information; prohibited activity.* No city employee or official shall engage in any activity beyond the scope of his public position which might reasonably be expected to require or induce him to disclose confidential information acquired by him by reason of his public position.
- (m) *Disclosure of information.* No city employee or official shall, beyond the scope of his public position, disclose confidential information gained by reason of his public position, nor shall he otherwise use such information for personal gain or benefit
- (n) *Ex parte communications.* No official or employee shall encourage, make or accept any ex parte or other unilateral application or communication that excludes the interests of other parties in a matter under consideration when such application or communication is designed to influence official decision or conduct of the official or other officials, employees or agencies in order to obtain a more favored treatment or special consideration to advance the personal or private interests of himself or herself or others. The purpose of this provision is to guarantee that all interested parties to any matter shall have equal opportunity to express and represent their interests.

Any written ex parte communication received by an official or employee in matters where all interested parties should have equal opportunity for a hearing shall be made part of the record by the recipient.

Any oral ex parte communication received under such conditions should be written down in substance by the recipient and also made a part of the record.

A communication concerning only the status of a pending matter is not regarded as an ex parte communication.

- (o) *Sexual favors.* No city employee or official, in the course of his public responsibilities, shall use the granting of sexual favors as a condition, either explicit or implicit, for an individual's favorable treatment by that person or a city agency.

### ARTICLE III. - ETHICS COMMISSION

#### Sec. 30-71. - Established; composition; removal; terms of office; vacancies; chairperson; quorum; compensation; legal counsel.

- (a) *Established; composition; removal.* The city ethics commission is hereby established to administer and implement this chapter. The ethics commission shall consist of five members appointed by the mayor and confirmed by the city council. No member of the commission shall hold any elected or appointed office under the government of the United States or the state, county, or city. Members of the ethics commission may be removed by the mayor, with the concurrence of the city council, for substantial neglect of duty, gross misconduct in office or a violation of this chapter.
- (b) *Terms of office; vacancies.* A member of the ethics commission shall be appointed for a term of office of five years and until his successor has been appointed and has qualified. The members shall be appointed for staggered terms of office, and until their successors have been appointed. When a vacancy occurs in the membership of the ethics commission, it shall be filled by appointment for the unexpired portion of the term in the same manner as the original appointment.
- (c) *Chairperson; quorum.* The ethics commission shall elect a chairperson from among its membership. Three members of the ethics commission shall constitute a quorum and, if a quorum is present, a vacancy on the ethics commission shall not impair the right of the remaining members to exercise all the powers of the ethics commission. Disciplinary hearings may be conducted and sanctions may be imposed only by the affirmative action of at least three members; otherwise, the ethics commission may delegate authority to the chairperson to act for the ethics commission between meetings.
- (d) *Compensation.* Members of the ethics commission shall receive no compensation.
- (e) *Legal counsel.* The city solicitor shall provide legal counsel to the ethics commission and shall be the legal representative of the ethics commission in connection with its duties hereunder, on a case-by-case basis, or determine that outside counsel is needed and obtain such outside counsel for a particular matter.

#### Sec. 30-72. - Powers and duties.

- (a) The powers and duties of the ethics commission shall be:
  - (1) *Standards of ethical conduct.* To recommend to the mayor and council, from time to time, such rules of conduct for public employees and officials as it shall deem appropriate.

- (2) Advisory opinions. To issue written advisory opinions, upon the request of any city employee or official, as to the applicability of this chapter to any particular factual situation.
- (3) Referrals to solicitor. To refer to the city solicitor for investigation any alleged violation of this chapter and, after notice and hearing, to recommend such disciplinary action as it may deem appropriate to such appropriate official or agency as the ethics commission shall determine, or to take such other disciplinary action as authorized by section 30-73(o) or other provisions of the city Charter or this Code. The ethics commission may dismiss, without reference to the city solicitor, any complaint which the ethics commission determines is frivolous or fails to state a violation.
- (4) Report of crimes. To report to the appropriate federal, state or city authorities any substantial evidence of a violation of any criminal law which may come to its attention in connection with any proceeding, whether advisory or disciplinary.
- (5) Records. To maintain a file of its proceedings, waiver decisions and advisory opinions with a view toward achieving consistency of opinions and recommendations subject to the confidentiality requirements of sections 30-74 and 30-73(s).
- (6) Procedures. To follow the procedural rules specified in section 30-73 and to establish such other procedural rules as shall be consistent with the rules prescribed therein.
- (7) Witnesses, evidence. To subpoena witnesses, compel their attendance and testimony, administer oaths and affirmations, take evidence and require, by subpoena, the production of books, papers, records or other evidence needed for the performance of the ethics commission's duties or exercise of its powers.
- (8) Assistance to city personnel. To provide assistance to any city employee, official or agency in administering the provisions of this chapter.
- (9) Provide information. To prepare any necessary reports and studies to advance the purpose of this chapter, to provide any necessary materials explaining the duties of individuals covered by this chapter, and to supply instructions and public information materials to facilitate compliance with, and enforcement of, this chapter.
- (10) Request city agencies for assistance. To request appropriate city agencies to provide such professional assistance as it may require in the discharge of its duties.

Sec. 30-73. - Rules of procedure; complaints; hearings; dispositions.

- (a) Any person, either personally or on behalf of an organization or governmental body, may file a sworn complaint for the ethics commission with the city clerk. The complaint must be in writing, be signed, and show the address of the person who submitted it. The complaint must state that, to the best of the person's knowledge, information, and belief formed after reasonable reflection, the information in the complaint is true. The complaint must describe the facts that constitute the violation of the standards of ethical conduct in sufficient detail so that the ethics commission and the person who is the subject of the complaint can reasonably be expected to understand the nature of any offense that is being alleged. The commission may request any additional information deemed necessary to screen the complaint or to render a decision. No complaints shall be accepted or

considered which relate to actions that took place more than one year prior to the date of filing. The individual filing the sworn complaint has 60 days from the date that the issue is brought to his or her attention to file a complaint.

- (b) After the sworn complaint has been filed, none of the parties or their representatives may communicate on an ex parte basis with any commission members pertaining to the complaint. All communications pertaining to the complaint shall be submitted to the city clerk.
- (c) Within seven days of receiving a sworn complaint the city clerk shall send copies of the complaint to each member of the ethics commission, the city solicitor, and the official or officials against whom such complaint has been filed. Hereinafter, the complaining party shall be referred to as the "complainant" and the official against whom a complaint has been lodged shall be referred to as the "respondent."
- (d) The commission recognizes that distribution to the public of a sworn complaint prior to screening by the commission as required below could harm the reputation of an innocent person and is contrary to the public interest; therefore, the public release of the complaint is prohibited until the screening process has been completed. The commission shall consult in confidence to screen the complaint within 14 days of receiving the complaint. The commission may immediately dismiss a complaint if:
  - (1) It has no jurisdiction; or
  - (2) The alleged violation, if true, would not constitute a violation of the standards of ethical conduct; or
  - (3) The alleged violation is a minor or de minimis violation; or
  - (4) The complaint is, on its face, frivolous, groundless, or brought for purposes of harassment; or
  - (5) The matter has become moot because the person who is the subject of the complaint is no longer an officer, official or employee; or
  - (6) The respondent had obtained an advisory opinion under section 30-74(c) permitting the conduct; or
  - (7) The appointing authority of the respondent has already taken action as a result of finding a violation and the commission believes the action was appropriate.
- (e) In issues regarding standards of ethical conduct violations, the enforcement process is intended to be corrective rather than remedial unless the violation is a repeated offense. In the event the ethics commission determines a standards of ethical conduct violation has occurred, and it is minor in nature, with the concurrence of the complainant and the subject of the sworn complaint, the commission may dispense with the hearing process and conduct a more informal mediation process in lieu of a hearing.
- (f) If the sworn complaint is not dismissed or otherwise resolved pursuant to subsection 30-73(d), the city clerk shall promptly contact the members of the ethics commission, the city solicitor, the complainant, and the respondent in order to ascertain a date and time when a hearing can be convened on such complaint. As soon as a date and time have been agreed upon for a hearing before the ethics commission, the city clerk shall send written notice of such scheduling and a copy of the rules of procedure to the complainant and to the respondent. No copies of the complaint shall be provided to any other parties before

the respondent receives the complaint. The city solicitor shall be the prosecuting attorney in all disciplinary proceedings before the ethics commission. In any such investigation or proceeding, a defendant shall be given an opportunity to be heard after notice, to be advised and assisted by legal counsel, to produce witnesses and offer evidence, and to cross examine witnesses. A transcript of any such proceeding shall be made and retained, subject to the confidentiality requirements of this chapter.

- (g) The commission may dismiss a complaint if the complainant does not appear at the hearing and if, in the opinion of the commission, it would be unfair to the respondent not to have the opportunity to examine the complainant.
- (h) As promptly as possible after the close of the hearing, the commission shall deliberate to determine if the allegations have been proven by clear and convincing evidence. Only ethics commission members who have been present for the hearing may participate in the deliberations, and any findings and recommendations must be adopted by a majority of the commission. The commission may consider, when making findings and recommendations, the severity of the offense, the presence or absence of any intention to conceal, deceive, or mislead, whether the violation was deliberate, negligent or inadvertent, and whether the incident was isolated or part of a pattern.
- (i) Within seven days of the conclusion of deliberations, the commission shall issue an order setting forth its findings and recommendations. In the alternative, the commission where it deems it appropriate, may issue an advisory opinion in lieu of making findings and recommendations.
- (j) If the respondent is an employee, the commission may, if it determines corrective action is necessary, notify the city manager or the council president and recommend that action be taken, including discipline.
- (k) If the respondent is a city official, the commission may propose actions to the city council that are appropriate to the finding as specified in section 30-73(o).
- (l) The commission shall send a written copy of its findings and recommendations to the respondent and the complainant.
- (m) Proceeding relating to member. A member of the ethics commission shall be ineligible to participate, as a member of the ethics commission, in any ethics commission proceeding relating to his conduct. A member of the ethics commission who has been found by the ethics commission to have violated this chapter shall be ineligible to serve again as a member of the ethics commission.
- (n) Self-disqualification. A member of the ethics commission may disqualify himself from participating in any investigation of the conduct of any person upon submission, in writing and under oath, of an affidavit or disqualification stating that he cannot render an impartial and unbiased decision in the case in which he seeks to disqualify himself.
- (o) Actions by ethics commission. With respect to any violation with which a person has been charged and which the ethics commission has determined as proved, the ethics commission may take any one or more of the following actions:
  - (1) Reprimand. Issue a written reprimand or censure of that person's conduct.
  - (2) Discipline. With respect to a city employee, remove, suspend, demote or take other appropriate disciplinary action with respect to that person, without regard to any

limits imposed by this chapter, but within the limits of the constitution, the laws of the state, the Charter of the city, and ordinances and existing collective bargaining agreements.

- (3) Recommend removal. With respect to an appointed official, recommend that appropriate action be taken to remove the official from the appointed position.
- (4) Recommend fine. With respect to an elected city official, recommend that such official be fined in an amount recommended by the ethics commission.
- (p) Rights of person charged. In any proceeding before the ethics commission, upon the request of any person charged with a violation of this chapter, such person shall be permitted to inspect, copy or photograph books, papers, documents, photographs or other tangible objects which will be used as evidence against that person in a disciplinary hearing and which are material to the preparation of his defense.
- (q) Exculpatory information. In any proceeding before the ethics commission, if the city solicitor or ethics commission at any time receives any exculpatory information concerning an alleged violation against any person, it shall forthwith make such information available to such person.
- (r) Subpoenas. Any person charged with a violation of this chapter may apply to the ethics commission for the issuance of subpoenas for the appearance of witnesses and for the production of documents on his behalf. The application shall be granted upon a concise showing by such person that the proposed testimony or evidence is relevant (or is reasonably calculated to lead to the discovery of relevant evidence) and is not otherwise available. The application shall be denied if not made at a reasonable time or if the testimony or evidence would be merely cumulative.
- (s) Confidentiality of proceedings.
  - (1) City employee. All proceedings before the ethics commission relating to a violation of this chapter by a city employee shall be maintained confidential by the ethics commission, unless:
    - a. Public disclosure is requested, in writing, by the person charged; or
    - b. The ethics commission determines after a hearing that a violation has occurred.
  - (2) City official. All proceedings before the ethics commission relating to a violation of this chapter by a city official, appointed or elected, shall be maintained confidential by the ethics commission, unless:
    - a. Public disclosure is requested, in writing, by the person charged; or
    - b. The ethics commission determines after a hearing that a violation has occurred.
- (t) Appeals; public inspection. Notwithstanding the confidentiality requirements of subsections (s)(1) and (2) of this section, the ethics commission shall make available for public inspection the record of all proceedings relating to any decision of the ethics commission which is appealed to the superior court and the ethics commission shall report to appropriate federal, state and/or city authorities any substantial evidence of a violation of any criminal law which comes to its attention in connection with any proceeding under this chapter.

- (u) Confidentiality procedures. The chairperson of the ethics commission shall, with the approval of the ethics commission, establish such procedures as, in the chairperson's judgment, may be necessary to prevent the disclosure of any record of any proceedings or other information received by the ethics commission, except as permitted by this chapter.

Sec. 30-74. - Waivers of restrictions and advisory opinions.

- (a) Authority of ethics commission. Notwithstanding the provisions of section 30-20, upon the written request of any city agency or of any individual who is or was a city employee or city official, the ethics commission may grant a waiver to the specific prohibitions contained therein if the ethics commission determines that the literal application of such prohibition in a particular case is not necessary to achieve the public purposes of this chapter or would result in an undue hardship on any employee or official. Any such waiver may be granted only by written decision of the ethics commission. Any person who acts in good faith reliance upon any such waiver decision shall not be subject to discipline or other sanction hereunder with respect to the matters covered by the waiver decision, provided there was a full disclosure to the ethics commission of all material facts necessary for the waiver decision.
- (b) Waiver information confidential; exceptions. Any application for a waiver, any proceeding and any decision with respect thereto shall be maintained confidential by the ethics commission, provided that:
  - (1) Applicant's request. Public disclosure shall be made by the ethics commission upon the written request of the applicant;
  - (2) Violations. The ethics commission may make such public disclosure as it determines is required in connection with the prosecution of any violation of this chapter;
  - (3) Evidence of crime. The ethics commission shall report to appropriate federal, state and/or city authorities substantial evidence of any criminal violation which may come to its attention; and
  - (4) Public record. In the event that a waiver is granted, the waiver decision and the record of all proceedings relating thereto shall be open to public inspection.
- (c) Advisory opinion authorized. Upon the written request of any city employee or official, the ethics commission may issue an advisory opinion as to the applicability of this chapter to any particular fact or situation. Any person who acts in good faith reliance upon any such advisory opinion shall not be subject to discipline or other sanction hereunder with respect to the matters covered by the advisory opinion, provided there was a full disclosure to the ethics commission of all material facts necessary for the advisory opinion.
- (d) Advisory opinion confidential; exceptions. Any application for an advisory opinion, any proceeding and any decision with respect thereto shall be maintained confidential by the ethics commission, provided that:
  - (1) Applicant's request. Public disclosure shall be made by the ethics commission upon the written request of the applicant;

- (2) Violations. The ethics commission may make such public disclosure as it determines is required in connection with the prosecution of any violation of this article; and
- (3) Evidence of crime. The ethics commission shall report to appropriate federal, state and/or city authorities substantial evidence of any criminal violation which may come to its attention.

Sec. 30-75. - Judicial review.

In the event that the ethics commission finds that any person has violated any provision of this chapter, said person shall have a right of appeal to the superior court of any such finding, and of any sanctions imposed with respect thereto, by filing a notice of appeal with the superior court within 30 days of the final action by the ethics commission in a particular case. The appeal shall be on the record without a trial de novo. If the court determines that the record is insufficient for its review, it shall remand the case to the ethics commission for further proceedings on the record. The court's review, in the absence of actual fraud, shall be limited to a determination of whether the ethics commission's decision was supported by substantial evidence on the record. The burden of proof in any such appeal shall be on the appellant.

(Ord. No. 2017-14 , 12-11-2017)

## **APPENDIX B**

### **INVITATION TO BID AND REQUEST FOR PROPOSAL PROCEDURES**

Departments will use the chart below to determine the appropriate solicitation method. Advance coordination with the Purchaser is required.

#### **Competitive Sealed Bids VS Competitive Sealed Proposals**

<b>Activity Description</b>	<b>Competitive Sealed Bids</b>	<b>Competitive Sealed Proposals</b>
Specifications	Specific as to performance/design	End results oriented by Scope of Work. Proposer must develop and provide solution.
Opening	Public – all data available to other bidders and the public	Public – only names of proposers are read; no pricing or other data made available
Evaluation	Based strictly on Technical Specifications – <i>NO</i> material changes allowed	Based on <i>quality</i> with multi-member Criteria Evaluation Committee assigning weighted values to various parts of each proposal
Discussion	None	Individual discussions with each proposer to determine understanding of proposal requirements
Changes	None	Each proposer can re-submit a Best and Final Offer that might change the solution and the price
Award	Lowest Responsive and Responsible Bidder	<i>Best Value</i> Proposal – not necessarily the <i>lowest price</i>

### **I. COMPETITIVE SEALED BIDS**

#### **A. Preparing Specifications**

- The department requesting the purchases through Procurement/Inventory will prepare the complete specifications, with the assistance of the Purchaser (if requested) and submit them to Procurement/Inventory.
- All specifications shall be written in such a manner as to describe the requirements to be met, without having the effect of exclusively requiring a proprietary supply, service, or construction item, or procurement from a sole source, unless no other manner of description will suffice.
- Where a brand name or equal specification is used in a solicitation, the solicitation shall contain explanatory language that the use of a brand name is for describing the standard of quality, performance, and characteristics desired and is not intended to limit or restrict competition.
- It is the general policy of the City to procure standard commercial products whenever practicable. In developing specifications, accepted commercial standards shall be used and unique requirements shall be avoided, to the extent practicable.

- B. If only one responsive bid is received in response to an invitation to bid or request for proposal, an award may be made to the single bidder if the Department Director having operational authority over the funds to be expended determines that the price submitted is fair and reasonable, and that either other prospective bidders had reasonable opportunity to respond, or there is not adequate time for re-solicitation. Otherwise the bid/proposal may be rejected and new bids or offers may be solicited or the proposed procurement may be cancelled.
- C. Bids are to be delivered to Procurement/Inventory, 710 William Street, Dover, Delaware 19904. They will be opened in the presence of the Purchaser or her/his designee. All bids shall become public record and shall be available for public inspection after it has been determined that there is no proprietary information within the bids. Copies of bids will not be provided to competing vendors. All purchasing related records must be kept for the period described in the State Bureau of Archives Retention Schedule by Procurement/Inventory. Copies of all evaluation forms and signed contracts/award letters must be forwarded to Procurement/Inventory for retention.
- D. For materials, supplies, equipment, and construction work, the department requesting the solicitation will supply Procurement/Inventory with clear bid specifications. Such specifications should rigorously meet the need of the City of Dover, but not be so all inclusive as to effectively eliminate all but one vendor.
- E. The City reserves the right to pre-qualify bidders. This pre-qualification does not prohibit the City from determining, in its sole opinion, the most suitable bid for the product or projects.
- F. For purchases \$25,000 and greater, vendor references may be checked. This will be done to verify the bidder's ability to perform the contract requirements, the quality of work and the ability to meet obligations in case of non-fulfillment of the contract.
- G. The bid notice prepared by Procurement/Inventory shall provide the specifications or details of how vendors can obtain specifications. The bid notice shall also specify the closing date, time and place for receiving the bids, opening of the bids, where potential bidders may obtain contract documents, and the fee for each contract. A fee in an amount capable of recovering the cost of preparation of the specifications may be charged when specifications are picked up by the vendor.
- H. A bid bond or certified check in the amount equivalent to ten percent (10%) of the bid amount should be required with each bid for construction work, materials, supplies, or equipment over \$25,000. The requirement for a bid bond may be waived by the Procurement/Inventory Manager and Department Head when the bid is for items being purchased for stock. A bid bond may be required by the requesting department regardless of the dollar value of the bid. Acceptable bid security shall be limited to a bid bond in a form satisfactory to the City underwritten by a company licensed to issue bid bonds in this state or a bank certified check. If a bid does not comply with security requirements, it shall be rejected as being non-responsive. The required bid bond shall be in substantially the format as identified in APPENDIX C.

The check or bid bond of the bidder to whom the contract is awarded will be forfeited to the City of Dover as liquidated damages in case the contract and performance bond are not executed within fifteen days after receiving official notification of award.

- I. A performance bond shall be required from the successful bidder for a construction contract. Such a bond shall be for the full amount of the contract. If the contractor fails to provide such a bond or a binder within fifteen days of the award of the contract, the award of the contract or the contract shall be void. The required performance bond shall be in substantially the format as identified in APPENDIX D.

Other insurance or bonds as required by State and/or Federal laws shall be furnished by the contractor. The amounts and the types of the bonds and insurance required shall be disclosed in the bid specifications. The bond shall be released by the City of Dover upon successful completion of the contract and upon a detailed inspection of the contracted work.

- J. The City of Dover shall have the right to reject any or all bids if deemed to be in the best interest of the City.
- K. All bids submitted to the City of Dover shall be such as to comply with the applicable local, state and federal requirements.

## **II. COMPETITIVE SEALED PROPOSALS**

Evaluation of proposals must adhere to the following guidelines:

- a. Determine what proposals are acceptable and unacceptable
- b. A determination that a proposal is unacceptable shall be in writing, state the basis for the determination and be retained in the procurement file
- c. The offeror shall not be afforded an opportunity to modify its offer

Negotiation with individual offerors

- a. The department can negotiate with individual offerors after their proposals are opened.
- b. Formalized procedures should be established and consistently applied to each offer
- c. Disclosure of one offerors price to another is prohibited
- d. The department must send a written request for best and final offers setting forth the date, time, and place for submission of best and final offers
- e. The department must inform the offerors that if they do not submit a notice of withdrawal or a best and final offer, their immediate previous offer will be construed as their best and final

Final Award

- a. The contract shall be awarded within 90 days of the closing date
- b. The department shall award a contract to the offeror whose proposal is determined in writing to be most advantageous to the City
- c. The determination shall explain the basis of the award
- d. Procurement/Inventory shall notify each unsuccessful offeror in writing of the award

# APPENDIX C

## SAMPLE BID BOND

Bond No. \_\_\_\_\_

KNOW ALL MEN BY THESE PRESENTS, that we, \_\_\_\_\_

as Principal, hereinafter called the Principal and [Bonding Company] (hereinafter called the "Surety"), a corporation duly authorized to transact business in \_\_\_\_\_ and having its principal office at

\_\_\_\_\_, are held and firmly bound unto the City of Dover, for the sum of

\_\_\_\_\_ Dollars (\$ \_\_\_\_\_), for payment of which sum well and truly to be made, the said

Principal and said Surety bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, the Principal has submitted a bid for [Identify project by number and brief description].

NOW, THEREFORE, if the City of Dover shall accept the bid of the Principal and the Principal shall enter into a Contract with the City of Dover in accordance with the terms of such bid, and give such bond or bonds as may be specified in the bidding or Contract Documents with good and sufficient surety for the faithful performance of such Contract and for the prompt payment of labor and material furnished in the prosecution thereof, or in the event of the failure of the Principal to enter such Contract and give such bond or bonds, if the Principal shall pay to the City of Dover the difference not to exceed the penalty hereof between the amount specified in said bid and such larger amount for which the City of Dover may in good faith contract with another party to perform work covered by said bid or an appropriate liquidated amount as specified in the Invitation for Bids then this obligation shall be null and void, otherwise to remain in full force and effect

Signed and sealed this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_.

Witness of Attest: \_\_\_\_\_ (Witness)

By: \_\_\_\_\_ (Principal)

By: \_\_\_\_\_ (Surety)

IMPORTANT: Surety Companies executing BONDS must appear on the Treasury Department's most current list (Circular 570 as amended) and be authorized to transact business in the state where the project is located.

# APPENDIX D

## SAMPLE PERFORMANCE BOND

Bond No. \_\_\_\_\_

KNOW ALL MEN BY THESE PRESENTS, that [*Here insert the full name and address or legal title of the contractor*] as Principal, hereinafter called Contractor, and [*Bonding Company*] (hereinafter called the "Surety"), a corporation duly authorized to transact \_\_\_\_\_ business in \_\_\_\_\_ and having its principal office at \_\_\_\_\_, are held and firmly bound unto the City of Dover, as Obligee, in the amount of [*Here insert a sum equal to the total amount of the contract price*] Dollars (\$\_), for the payment whereof Contractor and Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, Contractor has by written agreement dated \_\_\_\_\_, 20 \_\_\_\_\_, entered into a contract with the City of Dover for [*Describe project and insert project number*] in accordance with drawings and specifications prepared by [*Here insert full name and address or legal title of Architect*] which contract is by reference made a part hereof, and is hereinafter referred to as the Contract.

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION is such that, if the Contractor shall promptly and faithfully perform said Contract then this obligation shall be null and void; otherwise it shall remain in full force and effect. The Surety hereby waives notice of any alteration or extension of time made by the City of Dover and its obligation is not affected by any such alteration or extension provided the same is within the scope of the contract. Whenever the Contractor shall be, and is declared by the City of Dover to be in default under the Contract, the City of Dover having performed the City of Dover's obligations thereunder, the Surety may promptly remedy the default or shall promptly:

- 1) Complete the Contract in accordance with its terms and conditions; or
- 2) Obtain a bid or bids for completing the Contract in accordance with its terms and conditions, and upon determination by the City of Dover and the Surety jointly of the lowest responsive, responsible bidder, arrange for a contract between such bidder and the City of Dover, and make available as work progresses sufficient funds to pay the cost of completion less the balance of the contract price; but not exceeding, including other costs and damages for which the Surety may be liable hereunder the amount set forth in the first paragraph hereof. The term "balance of the contract price," as used in this paragraph, shall mean the total amount payable by the City of

Dover to the Contractor under the Contract and any amendments thereto, less the amount properly paid by the City of Dover to the Contractor. No right of action shall accrue on this bond to or for the use of any person or corporation other than the City of Dover or successors of the City of Dover.

Signed and sealed this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_.

Witness of Attest: \_\_\_\_\_(Witness)

By: \_\_\_\_\_(Principal)

By: \_\_\_\_\_(Surety)

**IMPORTANT:** Surety Companies executing BONDS must appear on the Treasury Department's most current list (Circular 570 as amended) and be authorized to transact business in the state where the project is located.

## APPENDIX E

### GLOSSARY

**“Addendum/Addenda”** A written change, addition, alteration, correction, or revision to a bid, proposal, or contract document. Commonly, the name given to the document used to revise a solicitation. Addendum/addenda may be issued following a pre-bid/pre-proposal conference or as a result of a specification or work scope change to the project.

**“Award”** The acceptance of a bid or proposal; the presentation of a purchase agreement or contract to a bidder or proposer.

**“Best and Final Offer”** A process requested from one proposer or short-listed proposers for their best price(s) for a specific solicitation prior to determining of contract award.

**“Best Value”** 1) A procurement method that emphasizes value over price. The best value might not be the lowest cost. Generally achieved through the Request for Proposals (RFP) method. 2) An assessment of the return that can be achieved based on the total life cycle cost of the item; may include an analysis of the functionality of the item; can use cost-benefit analysis to define the best combinations of quality, services, time, and cost considerations over the useful life of the acquired item.

**“Bid”** The response submitted by a bidder to an Invitation to Bid (ITB).

**“Bid Bond”** An insurance agreement, accompanied by a monetary commitment, by which a third party (the surety) accepts liability and guarantees that the bidder will not withdraw the bid. The bidder will furnish bonds in the required amount and if the contract is awarded to the bonded bidder, the bidder will accept the contract as bid, or else the surety will pay a specific amount.

**“Bid Protest”** A written objection made against the selection methods employed or decisions made by a public agency leading to the award of a contract or purchase.

**“Brand Name or Equivalent”** One or more manufacturers’ brand names, with identifying model numbers, used in a specification to invoke certain quality, performance, and other salient characteristics needed to meet the solicitation requirements.

**“Brand Name Specification”** A specification using one or more manufacturers’ brand names, with identifying model numbers, to describe the acceptable items; all other items will be excluded.

**“Buyer”** A purchaser or procurer of products and services. This title may also refer to an individual who is responsible for the procurement activities of an entity, also commonly referred to as a purchasing or procurement agent.

**“Capital Asset”** An asset with a life cycle of more than one year with a value of more than a certain prescribed limit set by accounting standards or by governmental policy. For the City, this amount is \$4,999.

**“Certain Professional Services”** means those services within the scope of the practice of architecture, professional engineering, professional land surveying, landscape architecture and geology.

**“Change Order”** A written alteration that is issued to modify or amend a contract or purchase order. A bilateral (agreed to by all parties) or unilateral (government orders a contract change without the consent of the contractor) request that directs the contractor to make changes to the contracted scope of work or specifications. In reference to construction contracts, it relates primarily to changes caused by unanticipated conditions encountered during construction not covered by the drawings, plans, or specifications of the project.

**“Clarification”** A communication with a proposer for the sole purpose of eliminating minor irregularities or apparent clerical mistakes in a proposal; may be initiated by either proposer or purchaser; does not give the proposer an opportunity to revise or modify its proposal, except to the extent the correction of apparent clerical mistakes results in revision.

**“Combination Specification”** Has the features of both design specifications and performance specifications.

**“Commodity”** A marketable item produced to fulfill a need or want, and references both goods and services.

**“Commodity Code”** A system of words or numbers designed to identify and list commodities or services by classes or sub-classes. For the City, the commodity code is the first three numbers of stock code and the sub-commodity is the second three numbers of the stock code. A list can be printed from HTE.

**“Competitive Sealed Bidding”** Method of acquiring goods, services, and construction for public use in which the award is made to the lowest responsive and responsible bidder, based solely on the response to the criteria set forth in the Invitation to Bid (ITB); does not include discussions or negotiations with bidders.

**“Contract”** 1) A legally binding promise, enforceable by law. 2) An agreement between parties, with binding legal and moral force, usually exchanging goods or services for money or other consideration. 3) An obligation, such as an accepted offer, between competent parties upon a legal consideration, to do or abstain from doing some act. The essential elements of a contract are an offer and an acceptance of that offer; the capacity of the parties to contract; consideration to support the contract; a mutual identity of consent; legality of purpose; and definiteness.

**“Contract Modification”** Any written alteration in specifications, delivery point, frequency of delivery, period of performance, price, quantity, or other provision of any contract, accomplished by mutual agreement of parties to the contract.

**“Depreciation”** 1) An accounting term that denotes a loss or decrease in the acquired value over a specified period of time. Usually applies to a loss of value of a fixed asset (capital equipment). 2) The systematic transfer of the cost of a capital expenditure (an asset on the balance sheet) to expense (on the income statement). 3) To diminish in price or value. 4) The consumption of capital in the production process. 5) The wearing out of plant and equipment over a specified

time.

**“Designee”** A duly authorized representative.

**“Design Specification”** A type of specification that establishes the characteristics an item must possess, including details indicating how it is to be manufactured. May include engineering plans or drawings, and blueprints. It states to the contractor in prescriptive terms what the contractor must provide to the buyer.

**“Economic Order Quantity (EOQ)”** An inventory calculation used to determine stock-level reorder point. The calculation is based on costs of acquisition, storage, handling, and inventory investment to determine the most cost-effective time and quantity to reorder.

**“Emergency Purchase”** A purchase made due to an unexpected and urgent request where health and safety or the conservation of public resources is at risk. Usually formal competitive bidding procedures are waived.

**“F.O.B. Destination”** Title changes hands from the supplier to the public entity at the destination of the shipment when the public entity signs for the goods; the supplier owns the goods in transit, assumes responsibility for carrier selection, and files any claims for damages incurred during this period. It does not address the responsibility for the cost of transportation (freight charges), which must be specified with the inclusion of additional language.

**“Functional Specification”** A specification setting forth the results required from the supply or service.

**“Indemnify”** 1: To protect against hurt or loss, to exempt from incurred penalties or liabilities.  
2: To compensate or pay for damage.

**“Informal Bid/Proposal”** A competitive bid, price quotation, or proposal for supplies or services that is conveyed by a letter, fax, e-mail, or other manner that does not require a formal sealed bid or proposal, public opening, or other formalities. Generally relegated to requirements that may be considered low value or fall under a stipulated price/cost threshold.

**“Invitation to Bid”** A formal request to prospective vendors soliciting price quotations or bids; contains, or incorporates by reference, the specifications or scope of work and all contractual terms and conditions.

**“May”** Denotes the permissive in a contract clause or specification.

**“Non-responsible”** A contractor, business entity, or individual that responds to a solicitation that does not have the ability or capability to fully perform the requirements of the solicitation. A business entity or individual who does not possess the integrity and reliability to assure contractual performance.

**“Non-responsive”** A bid that does not conform to the mandatory or essential requirements contained in the invitation to bid.

**“Open Market Purchase”** A purchase, usually of a limited monetary amount, from any available source.

**“Performance Bond”** An instrument executed, subsequent to award, by a successful bidder that protects the public entity from loss due to the bidder’s inability to complete the contract as agreed. A risk mechanism that secures the fulfillment of all contract requirements. May be referred to as a completion bond.

**“Performance Specification”** A type of specification that describes the desired outcome or intended use of a commodity and how the commodity will perform (e.g., number of items, distance to travel, time required).

**“Pre-Bid/Pre-Proposal Conference (Meeting)”** A meeting held by the buyer with potential bidders/proposers prior to the opening of the solicitation for the purpose of answering questions, clarifying any ambiguities, and responding to general issues to establish a common basis for understanding all of the requirements of the solicitation. May result in the issuance of an addendum to all potential providers. In certain situations, a mandatory conference may be advisable.

**“Prequalification (of Bidder/Proposer)”** The screening of potential suppliers/contractors in which such factors as financial capability, reputation, and management are considered to develop a list of qualified businesses who may then be allowed to submit bids/proposals.

**“Procurement”** Purchasing, renting, leasing, or otherwise acquiring any supplies, services, or construction; includes all functions that pertain to the acquisition, including description of requirements, selection and solicitation of sources, preparation and award of contract, and all phases of contract administration. The combined functions of purchasing, inventory control, traffic and transportation, receiving, inspection, storekeeping, and salvage and disposal operations.

**“Professional Services”** Services rendered by members of a recognized profession or possessing a special skill. Such services are generally acquired to obtain information, advice, training, or direct assistance (i.e. architectural & engineering services).

**“Public Works and Utilities Contract”** means any contract for the construction, reconstruction, alteration or repair of any public building, road, street, highway, utility system or other public improvement, the cost of which will be paid with public funds.

**“Reasonable Cost”** A cost that by its nature or amount does not exceed what would normally be incurred by an ordinarily prudent person in the conduct of competitive business. Often used in the context of “fair and reasonable” cost/price.

**“Request for Proposal (RFP)”** The document used to solicit proposals from potential providers (proposers) for goods and services. Price is usually not a primary evaluation factor. Provides for the negotiation of all terms, including price, prior to contract award. May include a provision for the negotiation of best and final offers. May be a single-step or multi-step process.

**“Request for Quotation (RFQ)”** The document used to solicit proposals from potential

providers (proposers) for goods and services. Price is usually not a primary evaluation factor. Provides for the negotiation of all terms, including price, prior to contract award. May include a provision for the negotiation of best and final offers. May be a single-step or multi-step process.

**“Responsible Bidder/Proposer”** A business entity or individual who has the integrity and reliability as well as the financial and technical capacity to perform the requirements of the solicitation and subsequent contract.

**“Responsive Bid/Proposal”** A bid or proposal that fully conforms in all material respects to the Invitation to Bid (ITB)/Request for Proposals (RFP) and all of its requirements, including all form and substance.

**“Restrictive Specification”** Specifications that unnecessarily exclude a potential bidder or proposer from competing for a procurement. Precludes full and open competition. Specifications that are written around a specific product or service.

**“Shall”** Denotes an imperative in contract clauses or specifications.

**“Small Purchase”** Any procurement not exceeding a given upper monetary limit, as established by law or regulation, executive order, etc. Usually applies to purchases of small dollar amounts under a certain monetary threshold.

**“Single Source Procurement”** A contract for the purchase of goods and services entered after soliciting and negotiating only with one source, usually because of the technology required or uniqueness of the service provided.

**“Sole Source Procurement”** A non-competitive method of procurement used when only one supplier possesses the unique ability or capability to meet the particular requirements of the entity or because only one supplier is practicably available. The entity may require a written justification from the end user explaining why only this supplier can fulfill the requirement.

**“Specification”** A precise description of the physical characteristics, quality, or desired outcomes of a commodity to be procured, which a supplier must be able to produce or deliver to be considered for award of a contract. See Brand Name Specification, Brand Name or Equal Specification, Combination Specification, Design Specification, Performance Specification, Restrictive Specification, Standard Specification.

**“Standard Specification”** A specification that is to be used for all or most purchases of an item; describes all required physical and functional characteristics of a good, service or construction.

**“Statement of Work”** A written description in the contract detailing performance expectations and deliverables between the contracting parties. After a supplier has been selected, the statement of work becomes the basis for the contract and must provide sufficient information to meet the entity’s needs and achieve successful outcomes, describe and define the expectations of the parties, set price and payment schedules, and mitigate or avoid disputes.

**“Term Contract”** A type of contract in which a source of supply is established for a specified period for specified services or supplies; Usually characterized by an estimated or definite

minimum quantity, with the possibility of additional requirements beyond the minimum, all at a predetermined unit price.

**Source of Definitions:** Dictionary of Purchasing Terms published by the National Institute of Governmental Purchasing.

# APPENDIX F

## CITY OF DOVER QUOTATION WORKSHEET

(To be used for purchases between \$5,000.00 and \$24,999.99)

Department: \_\_\_\_\_ Division: \_\_\_\_\_

Department Contact (Name & number): \_\_\_\_\_

Item/Service: \_\_\_\_\_

Estimated Dollar Value: \_\_\_\_\_

Account Code: \_\_\_\_\_ Project Code: \_\_\_\_\_

Vendors (At least three vendors must be used. Include at least one minority or women owned vendor, if available. Use of more than one minority or women owned vendor is encouraged):

1. Go to <https://business.delaware.gov/osd/> .
2. Click on "Directory of Certified Businesses" button.
3. Search by keyword i.e. Electrician, Construction, Furniture  
List keyword(s) used: \_\_\_\_\_
4. Each company displayed will have its assigned NAICS code listed.  
List NAICS Code(s) used: \_\_\_\_\_
5. Refine search by NAICS Code if necessary.
6. Were Vendors Found: YES NO If so, how many: \_\_\_\_\_
7. If no vendors were found, please explain: \_\_\_\_\_  
\_\_\_\_\_

Vendor 1: \_\_\_\_\_ Minority

Vendor 2: \_\_\_\_\_ Minority

Vendor 3: \_\_\_\_\_ Minority

If more than three vendors are used, list them on the reverse of this form.

Date sent out for quotes: \_\_\_\_\_

Date due back: \_\_\_\_\_

Date of award: \_\_\_\_\_

Vendor receiving the award: \_\_\_\_\_

Was the 3% minority vendor preference applied in the evaluation? YES NO

Was this a minority vendor? YES NO

Total dollar amount of purchase or estimated total contract value: \$ \_\_\_\_\_

Purchase Order produced: YES      NO      PO Number: \_\_\_\_\_

Additional vendors used for this purchase

Vendor 4: _____	Minority	<input type="checkbox"/>
Vendor 5: _____	Minority	<input type="checkbox"/>
Vendor 6: _____	Minority	<input type="checkbox"/>
Vendor 7: _____	Minority	<input type="checkbox"/>
Vendor 8: _____	Minority	<input type="checkbox"/>
Vendor 9: _____	Minority	<input type="checkbox"/>
Vendor 10: _____	Minority	<input type="checkbox"/>

Attach completed form to requisition in Tyler/Munis.