

CHAPTER 22 PROCUREMENT CODE¹

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Article 22-1 General Authority to Expend Funds

Council approval of the annual municipal budget shall be construed to include authority for the making of municipal expenditures as set forth in said budget except as may be otherwise provided by the Council by resolution. City Council approval shall be required for any purchase that exceeds \$25,000 (except for emergency purchases made in accordance with Article 22-3).

Article 22-2 Purchase Orders Required

All municipal purchases shall be by written purchase order or written request with authorization.

Article 22-3 Emergency Expenditures

Notwithstanding any other provisions of this Chapter, the City Manager or designee may make or authorize others to make emergency procurements of materials, goods or services when there exists a threat or severe impairment to the quality of public health, welfare or safety, or if a situation exists which makes compliance with established procurement processes impracticable, unnecessary or contrary to the public interest; provided that such emergency procurements shall be made with such competition as is practicable under the circumstances. An emergency procurement shall be limited to those materials, goods or services necessary to satisfy the emergency need. A written determination of the basis for the emergency and for the selection of the particular contractor shall be submitted to Council and included in the purchase file. Any emergency procurement exceeding the dollar limit for Council approval shall be scheduled for review at the next available

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council meeting. Nothing in Article 22-5 through Article 22-7 shall be construed to pertain to emergency purchases.

Article 22-4 Expenditures: Signatures on Checks and Ratification

All checks for expenditures of City monies shall bear two signatures: (1) a signature of the Court Administrator, City Clerk or City Manager and (2) a signature of one City Councilmember as designated by Council action.

Article 22-5 Quotation or Bid Requirements

Except as otherwise provided under federal and state laws and in Article 22-3, Articles 22-6 through 22-12 of this Chapter, prior to purchase of goods and services, quotations or bids shall be solicited according to the following schedule:

Dollar Range

0.00 - \$5,000	Whether quotations or bids are solicited shall be at the discretion of the City Manager.
\$5,001 - \$10,000	A minimum of three (3) verbal quotations shall be solicited.
\$10,001-\$25,000	A minimum of three (3) written quotations shall be solicited.
\$25,001 - and over	Newspaper advertised sealed bids shall be solicited from a minimum of three (3) sources. The City Council may waive the sealed bid and/or advertisement requirement(s) if it determines that such a waiver is in the best interest of the City.

Article 22-6 Sealed Bid Procedures

- A. A request for sealed bids may include the requirement that each bidder furnish a performance bond, in cash or otherwise, sufficient to secure the performance sought.
- B. Sealed bids shall be submitted to the City Manager or designee prior to the deadline. A time/date stamp shall be affixed to the sealed bid. Bids shall be opened in public at the time and location designated in the "advertisement for bids" by the City Manager or designee. A tabulation of all bids received shall be delivered to the Council at the next regular meeting or special meeting. The City Manager or designee shall report to the City Council as to whether each bid meets the City's requirements,

and shall further advise the Council regarding the award of the contract. A tabulation of all bids received shall be retained on file and shall be open to public inspection as required under state law.

- C. Awarding of contracts based upon sealed bids shall be by Council action, and the Council shall retain the right to reject any or all bids. Notice of the provisions of this Section shall be included in the call for bids. In the event of the rejection of all bids received by the Council, or of partial rejection of any bid, the City Council reserves the right to direct the City Manager to negotiate the terms of a contract when such negotiation is in the best interests of the City. Final approval of any said contract shall be by City Council action.
- D. Contracts shall be awarded by the City Council to the lowest bidder, except as otherwise provided under federal law, state law or this Chapter.
- E. If two or more bids received are for the same total amount or unit price on purchases exceeding \$25,000.00 (quality and service being equal and if the public interest will not permit the delay of re-advertising for bids), the Council may take one or more of the following actions:
 - 1. Except as provided in Subsection 3 below, Council may give preference to local firms as set forth in Article 22-7(B). When two or more local firms are otherwise equal in their bids, Council shall determine the successful bidder by lot between the local firms.
 - 2. In cases where there are no bids received from local firms, Council shall determine the successful bidder by lot.
 - 3. Local preference shall not apply where state or federal laws prohibit the granting of such preference or require another method for competitive bidding.

Article 22-7 Selection of Supplier

- A. Purchases shall be from suppliers offering the lowest price, except that the City may purchase at other than a lowest price for reasons including quality, ability of supplier to promptly furnish and deliver goods and services quoted or bid, or compatibility with existing equipment, structures, or ongoing service requirements.
- B. Locally licensed businesses with a business location within the Coolidge corporate limits shall be accorded a five percent (5%) preference for all purchases. This preference shall not be used where state law or any applicable federal statute or regulation forbids the granting of such preference, or requires another method for competitive bidding.

Article 22-8 Application to Employees, Professional Services/Technical Equipment

- A. Nothing in Article 22-5 through Article 22-7 shall be construed to pertain to the hiring of municipal employees.
- B. The requirements of Article 22-5 through Article 22-7 do not apply to the procurement of professional or technical services, but the purchasing director shall determine the scope of the services required and shall have the option to require the submission of proposals prior to engaging such services. For purposes of this Section, "professional or technical services" means those services requiring specialized knowledge, education, skill or expertise and where the qualifications of the person(s) rendering the services are of primary importance. Professional and technical services shall include, but not be limited to, services provided by architects, attorneys, accountants, construction and project managers, dentists, design professionals, engineers, geologists, physicians, nurses, psychologists, teachers, veterinarians and health care providers, which provide a combination of professional and paraprofessional services or any other professional and technical service as defined under state law.
- C. No contractor practicing in a professional or technical field for which a license is required by state law shall be engaged by the City unless the contractor possesses a current license in good standing.
- D. Upon engagement, the City shall enter into a written agreement for the performance of the services for which engaged, setting forth the scope of services and the unit or total price therefore.
- E. Professional and technical services shall be procured in accordance with federal and state law whenever applicable.

Article 22-9 Utilization of Bids from other Governmental Agencies

The City may accept Federal, State, County and City contract prices acquired through like procedures as outlined in Article 22-5 through Article 22-7. Purchases over \$25,000.00 require Council action.

Article 22-10 Sole/Preferred Vendors

A Sole/Preferred Vendor list for the purchasing of services or products when there is only one vendor that provides the specific service or product, or where it is in the best interest of the City not to seek bids, shall be approved by Council action and kept on file in the Finance Department.

Article 22-11 Right to Waive Regulations

The City Council by a majority vote may waive any of the rules or regulations herein stated when it is determined that a waiver is in the best interest of the City of Coolidge, unless prohibited by federal or state laws.

Article 22-12 Imposition of Additional Requirements

The City Manager may, at his discretion, in matters involving purchases made under his authority, impose requirements for the seeking of quotations or bids according to standards more stringent than those provided in Article 22-5, unless prohibited by federal or state laws.

Article 22-13 Federally Funded Purchases

22-13-1 Federal Transit Administration (FTA) Funding

Purchases using funding from the Federal Transit Administration (FTA) shall comply with all applicable FTA procurement requirements, including, but not limited to the following:

1. Required FTA clauses shall be included in all procurement and contract documents, excluding micro-purchases.
2. FTA funded contracts shall only be awarded to responsible contractors possessing the ability, willingness and integrity to perform successfully under the terms and conditions of the contract. When awarding a contract, the procedures used to determine a contractor's responsibility shall be documented and shall include compliance with City rules and regulations and state laws.
3. FTA funded contracts shall not exceed five (5) years in length.
4. For purchases greater than \$25,000, a System for Award Management (SAM) search shall be performed to determine if a vendor is debarred or suspended and the results of the SAM search shall be documented.
5. Quotes and sealed bid requirements shall follow FTA procurement threshold requirements which the City shall not waive at its discretion.

Article 22-14 Enforcement

- A. It shall be the duty of the City Manager to enforce the provisions of this Chapter.
- B. The City Manager shall prepare such reports as may be necessary for the Council to act in keeping with the

provisions of this Chapter, and maintain such records as may be necessary to demonstrate that the provisions of this Chapter have been met.

- C. The records of payments for goods or services shall include written verification that the provisions of this Chapter have been met.

Article 22-15 Right to Protest; Appeals and Remedies

- 22-15-1 Right to Protest
- 22-15-2 Authority to Resolve Protests
- 22-15-3 Filing of a Protest
- 22-15-4 Time for Filing Protests
- 22-15-5 Notice of Protest
- 22-15-6 Notice of Decision
- 22-15-7 Finality of Decision
- 22-15-8 Stay of Procurement During Protests

Section 22-15-1 Right to Protest

Any actual or prospective bidder, offeror, or contractor who is aggrieved in connection with the solicitation or award of a contract pursuant to this Chapter may protest to the City Manager.

Section 22-15-2 Authority to Resolve Protests

The City Manager or designee shall have the authority, prior to the commencement of any court action regarding the controversy, to settle and resolve a protest of an aggrieved bidder, offeror, or contractor, actual or prospective, concerning the solicitation or award of a contract.

Section 22-15-3 Filing of a protest

Any protest shall be in writing and shall include the following information:

1. The name, current address and telephone number of the protester;
2. The signature of the protester or its representative;
3. Identification of the solicitation or contract number;
4. A detailed statement of the legal and factual grounds of the protest including;
5. Copies of relevant documents; and
6. The form of relief requested.

Section 22-15-4 Time for filing protests

The time for filing protests shall be as follows:

1. If a protest is based upon any alleged improprieties occurring in a solicitation prior to the deadline date of a solicitation response, such a protest must be filed prior to the deadline date. Otherwise, any protests based on any alleged improprieties in a solicitation during this time frame will be deemed waived;
2. If a protest is based upon any alleged improprieties occurring upon or after the deadline date for a solicitation response, such protest must be filed prior to the award of the contract. Otherwise, any protests based on any alleged improprieties during this time frame will be deemed waived;
3. Protests concerning alleged improprieties that do not exist in the initial solicitation but that allegedly exist in the subsequently incorporated addendum to the solicitation shall be filed by the next deadline date for receipt of addendum responses;
4. Protests concerning awards shall be filed within ten (10) business days after the contract has been awarded; and
5. The City Manager may grant a written request for an extensions of time to file a protest up no more than thirty (30) days, but only if all of the following apply:
 - a. The request is submitted prior to the deadline to file the original protest;
 - b. The request sets forth good cause as to why the extension is necessary; and,
 - c. The request sets forth good cause as to why the protest could not be filed within the deadline.
6. Failure to file a written request for an extension of time prior to the deadline shall waive any right to request an extension and shall waive any right to protest.
7. The City Manager shall issue a written decision regarding a timely request for an extension, which sets forth the grounds for denying or granting said request. If an extension request is granted, the written decision shall also set forth the deadline to file a protest.

Section 22-15-5 Notice of Protest

The City manager or designee shall immediately give notice of a protest to all relevant parties.

Section 22-15-6 Notice of Decision

A copy of the decision under Section 22-15-4 of this Article shall be mailed or otherwise furnished immediately to the protester.

Section 22-15-7 Finality of Decision

A decision under Section 22-15-4 of this Article shall be final and conclusive unless fraudulent.

Section 22-15-8 Stay of Procurements During Protests

In the event of a timely protest under this Article, the City shall not proceed further with the solicitation or with the award of the contract until the City Manager makes a written determination that the award of the contract without delay is necessary to protect the interests of the City.

Article 22-16 Authority to Resolve Contract Disputes

- 22-16-1 Applicability
- 22-16-2 Authority
- 22-16-3 Decision
- 22-16-4 Notice of Decision
- 22-16-5 Finality of Decision
- 22-16-6 Failure to Render Timely Decision

Section 22-16-1 Applicability

This Section applies to controversies between the City and a contractor that arise under, or by virtue of, a contract between the parties.

Section 22-16-2 Authority

The City Manager or designee is authorized, prior to commencement of an action in a court concerning the controversy, to settle and resolve a controversy described in Section 22-16-1 of this Article.

Section 22-16-3 Decision

If such a controversy is not resolved by mutual agreement, the City Manager or designee of either officer shall promptly issue a decision in writing. The decision shall: (i) state the reasons for the action taken; and (ii) inform the contractor of its right to judicial review.

Section 22-16-4 Notice of Decision

A copy of the decision under Section 22-16-3 of this Article shall be mailed or otherwise furnished immediately to the contractor.

Section 22-16-5 Finality of Decision

The decision under Section 22-16-3 of this Article shall be final and conclusive unless fraudulent.

Section 22-16-6 Failure to Render Timely Decision

If the City Manager or designee fails to issue a written decision required under Section 22-16-3 of this Article within 120 days after a written request for a final decision by the contractor, or within such longer period as may be agreed upon by the parties, then the contractor may proceed as though an adverse decision was issued.

Article 22-17 Audit of Records

The annual audit of municipal records shall include an examination of records necessary under this Chapter.