

CHAPTER 31

PURCHASING CODE

ARTICLE I - GENERALLY

**31-1-1**      **TITLE OF CHAPTER.** This Chapter shall be known and may be cited as the "**Purchasing Code of St. Clair County**".

**31-1-2**      **DEFINITIONS.** For the purpose of this Chapter, the following terms, phrases, words and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in their present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural number. The word "**shall**" is always mandatory and not merely directory.

**"Committee"** is the Purchasing Sub-Committee of Finance.

**"Contractual Services"** shall mean and include all telephone, gas, water, electric, light and power service; towel and cleaning service; insurance; binding of record books; rental, repair, or maintenance of equipment, machinery, and other County owned personal property. The term shall not include professional and other contractual services which are in their nature unique and not subject to competition.

**"Purchasing Agent" or "Agent"** is the Director of Purchasing of St. Clair County.

**"Supplies"** shall mean and include all materials and expendable office supplies.

**"Using Agency"** is any department, agency, commission, board, bureau or other unit in the County Government using supplies or procuring contractual services as provided for in this Chapter.

**ARTICLE II - ADMINISTRATION**

**31-2-1**        **DEPARTMENT OF PURCHASING; ESTABLISHMENT.** There is hereby established in the Department of Administration a Department of Purchasing and Central Services, and in said Department, the Office of Director of Purchasing as provided for in the St. Clair County Rules of the County Board.

**31-2-2**        **DIRECTOR OF PURCHASING; POWERS AND DUTIES.** The Director shall be the head, and have general supervision, of the Department of Purchasing and Central Services. He shall perform all duties required of a Department Head of St. Clair County, and shall have the powers and duties prescribed by this Chapter.

**31-2-3**        **DIRECTOR OF PURCHASING; QUALIFICATIONS, APPOINTMENT.** The Director shall be at least **thirty (30) years** of age, and shall have had at least **five (5) years** experience as the Director of a commercial or governmental procurement Department, responsibility to be equal to or exceed St. Clair County. He shall be appointed by the Director of Administration with the approval of the County Board. He shall hold office until his successor is appointed and qualifies, or until his resignation or removal. He shall give an official bond to be approved by the County State's Attorney in the sum of **Fifty Thousand Dollars (\$50,000.00)**, the cost of such bond to be paid for by St. Clair County.

**31-2-4**        **SCOPE OF PURCHASING AUTHORITY.** The Director shall have the power and it shall be his duty, except as may be otherwise provided by law or ordinance: To purchase or contract for all supplies and contractual services needed by any using agency which derives its support wholly or in part from the County, in accordance with purchasing procedures as prescribed by this Code, such rules and regulations as the Director shall adopt for the internal management and operation of the Department of Purchasing and such other rules and regulations as may be prescribed by the County Director of Administration and County Board. Except as may be otherwise provided by law or ordinance, the Director shall have exclusive authority to negotiate all purchases for using agencies. Except as herein provided, it shall be unlawful for any County officer to order the purchase of any supplies or make any contract within the purview of this Chapter other than through the Department of Purchasing, and any purchases ordered or contract made contrary to the provisions hereof shall not be approved and the County shall not be bound thereby.

**31-2-5**        **OTHER POWERS AND DUTIES.** In addition to the purchasing authority conferred in **Section 31-2-4**, and in addition to any other powers and duties conferred by this Code, the Director shall:

- (A) Act to procure for the County a suitable quality in supplies and contractual services at least expense to the County.
- (B) Discourage collusive or restrictive bidding and endeavor to obtain as full and open competition as possible on all purchases.
- (C) Establish, and amend when necessary, all rules and regulations authorized by this Code and any other necessary to its operation.
- (D) Keep informed of current developments in the field of purchasing, prices, market conditions and new products, and secure for the County the benefits of research done in the field of purchasing by other governmental jurisdictions, national technical associations, trade associations having national recognition and by private businesses and organizations.
- (E) Prescribe and maintain such forms as he shall find reasonably necessary to the operation of this Code.
- (F) Prepare and adopt a standard purchasing nomenclature for using agencies and suppliers.
- (G) Prepare, adopt and maintain a vendor's catalog file, said catalog shall be filed according to materials and shall contain descriptions of vendor's commodities and prices.
- (H) Exploit the possibilities of buying "in bulk" so as to take full advantage of discounts.
- (I) Act so as to procure for the County all Federal tax exemptions to which it is entitled.
- (J) Cooperate with the offices of the County Auditor and comptroller so as to secure for the County the maximum efficiency in budgeting and accounting.
- (K) Have the authority to declare as irresponsible bidders those vendors who default on their quotations, and to disqualify them from receiving any business from the County for a stated period of time.

**31-2-6**      **REQUISITION AND ESTIMATES.** All using agencies, either by or with the authorization of the head of the Department or office under which the using agency operates, shall file with the Director detailed requisitions or estimates of their requirements in supplies and contractual services in such manner, at such times, and for such future periods as the Director shall prescribe. A using agency shall not be prevented from filing, in the same manner, with the Director at any time a requisition or estimate for any supplies and contractual services, the need for which was foreseen when the detailed estimates were filed. The Director shall examine each requisition or estimate and shall have the authority to revise it as to quality, quantity, or estimated cost, except where the using agency shall have the specific power and duty as otherwise provided by law or ordinance to determine the quality, quantity, and specifications or cost of any supplies; but revision as to quality shall be in accordance with the standards and specifications established pursuant to this Code.

**31-2-7**      **ENCUMBRANCE OF FUNDS.** The Director shall not issue any order for delivery on a contract or open market purchase until the County Comptroller shall have certified that there is to the credit of the using agency or agencies concerned a sufficient unencumbered appropriation balance in excess of all unpaid obligations to defray the amount of such order.

**ARTICLE III - REGULATIONS**

**31-3-1 GIFTS AND REBATES.** The Director and every officer and employee of the County are expressly prohibited from accepting, directly or indirectly, from any person, company, firm or corporation to which any purchase order or contract is or might be awarded, any rebate, gift, money or anything of value whatsoever.

**31-3-2 COMPETITIVE BIDDING REQUIRED.** All purchases for supplies and contractual services shall, as specifically provided herein, be based where possible, on competitive bids, except when a sole source procurement is necessary. The following are examples of possible circumstances which could necessitate a sole source procurement:

- (A) The purchase of equipment or supplies for which there is no competitive product;
- (B) The purchase of a component or replacement part for which there is no commercially available substitute and which can be obtained only from the manufacturer;
- (C) The purchase of an item where compatibility is the paramount consideration;
- (D) Where a sole supplier's item is needed for trial use or testing;
- (E) Where a sole supplier's item is to be procured for over-the-counter resale; and
- (F) Where public utility services are to be procured.

Approval of a sole source procurement must first be approved by the Finance Committee.

**31-3-3 FORMAL CONTRACT PROCEDURES, EXCEPTIONS.** Unless otherwise provided, all supplies and contractual services shall be purchased by formal written contract from the lowest responsible bidder, when the estimated cost thereof shall exceed **Ten Thousand Dollars (\$10,000.00)**, after due notice inviting proposals has been submitted pursuant to this Section. This paragraph shall not apply to professional services nor to fuel purchases when the estimated cost thereof exceeds **Twenty Thousand Dollars (\$20,000.00)**. **(Ord. No. 04-830; 05-25-04)**

(A) Notice inviting bids shall be published at least once in at least **one (1)** official newspaper in the County with a circulation of at least **fifteen thousand (15,000) copies** per issue, which notice shall be published at least **five (5) days** preceding the last day set for receipt of proposals. The newspaper notice required herein shall include a general description of the articles to be purchased or sold; shall state where bid blanks and specifications may be secured, and the time and place for opening bids. The Director shall also solicit sealed bids from all responsible prospective suppliers or purchasers who have requested their names to be added to a "**Bidder's List**", which the Director shall maintain by sending them a copy of such newspaper notice or such other notice as will acquaint them with the proposed purchase or sale.

(1) In any case, invitations sent to the vendors on the Bidder's List shall be limited to commodities that are similar in character and ordinarily handled by the trade group to which the invitations are sent. All such purchases or sales shall also be advertised by a notice posted on a public bulletin board in the courthouse.

(B) When deemed necessary by the Director, bid deposits shall be prescribed in the public notice inviting bids. Unsuccessful bidders shall be entitled to return of surety or deposit where the Director has required such. A successful bidder shall forfeit any deposit or surety required by the Director upon failure on his part to enter into a contract within **ten (10) days** after the award.

(C) In addition to the requirements set forth in subsections (A) and (B) hereinabove, with respect to the purchase of insurance, the Director shall solicit sealed bids from those brokers who regularly bid on County insurance by sending them a copy of such newspaper notice or such other notice as will acquaint them with the proposed insurance purchase. If more than **one (1) broker** is present at the time and place where bid blanks and specification may be secured, the Director shall determine, by first come first serve, the order of distribution of bid blanks and specifications and the order in which brokers select an insurance company; provided, however, that the broker representing an insurance company on an expiring policy may continue to quote that insurance company on renewal. Brokers arriving at the designated place after the designated time shall not be included in said drawing but shall receive their bid blanks and specifications and select their insurance company in the order of their appearance. The Director may not be required to allow more than **one (1) broker** to represent the same insurance company.

(D) All bids shall be submitted sealed to the Director and shall be identified as bids on the envelope. Bids shall be opened by the Director or his duly authorized representative in the presence of the Purchasing Committee in the County Government Center, in the particular room and on the day and at the time stated in the public notices. The Director shall tabulate all bids received on a form specially designed for the purpose, and such tabulation shall be posted in the office of the Director and available for public inspection for at least **five (5) days**. The Director shall forward the bids to the Insurance Consultant, who shall return the bids with his recommendations to the Director within the shortest practicable time.

(E) The Director shall have the authority to reject all bids, parts of all bids for any **one (1)** or more supplies or contractual services included in the proposed contract, when the public interest will best be served.

(F) The Director shall have the authority to award contracts within the purview of this Code. Contracts shall be awarded to the lowest bidder. In determining "lowest responsible bidder", in addition to price, the Director shall consider: the ability, capacity or skill of the bidder to perform that contract or provide the service required; whether the bidder can perform the contract or provide the service promptly or within the time specified without delay or interference; the character, integrity, reputation, judgment, experience and efficiency of the bidder; the quality of performance and existing compliance by the bidder with laws and ordinances relating to the contract or service; the sufficiency of the

financial contract to provide the services; the quality availability and adaptability of the supplies, or contractual services to the particular use required; the ability of the bidder to provide future maintenance and service for the use of the subject of the contract; and the number and scope of conditions attached to the bid. When the award is not given to the lowest bidder, a full and complete statement of the reasons for placing the order elsewhere shall be prepared by the Director with the concurrence of the Purchasing Committee, filed with the other papers relating to the transaction. If all bids received are for the same total amount or unit price, the Director shall re-advertise for bids, unless the public interest will not permit this delay. In such case, the Director shall award the contract to one of the tie bidders by drawing lots in the presence of the Finance Committee in public, or by purchasing the supplies or contractual services in the open market, provided the price paid therefor shall not exceed the lowest contract bid price submitted for the same supplies or contractual services. If **two (2)** or more bidders tie for low bid and elements of time or responsibility of the bidders are not sufficient to justify the award to one of the tie bidders, the Director shall award the contract to one of the tie bidders by drawing lots in the presence of the Finance Committee in public.

(G) All contracts of St. Clair County that exceed **Ten Thousand Dollars (\$10,000.00)** shall be approved by the County Board and attested by the County Clerk, and shall bear thereon the approval of the State's Attorney and the certification of the Director of Administration. A copy of each contract shall be filed with the County Auditor. All contracts shall be executed by the St. Clair County Purchasing Committee acting on behalf of the County Board. **(Ord. No. 88-94; 02-29-88)**

(H) No contract or purchase shall be subdivided to avoid the requirements of this Section, for any particular contract.

(I) This Section **(Ch. 31-3-3)** does not apply to contracts by the County with the federal government or to purchases of used equipment, purchases at auction or similar transactions which by their very nature are not suitable to competitive bids. **(Ord. No. 88-94; 02-29-88)**

**31-3-4            OPEN MARKET PROCEDURE.**

(A) All purchases of supplies and contractual services of less than the estimated value of **Ten Thousand Dollars (\$10,000.00)** shall be made in the open market without newspaper advertisement and without observing the procedure prescribed in **Section 31-3-3** hereof for award of formal contracts. **(Ord. No. 88-94; 02-29-88)**

(B) All open market purchases over **Ten Thousand Dollars (\$10,000.00)** shall, whenever possible, be based on at least **three (3)** competitive bids and shall be awarded to the lowest responsible bidder in accordance with the standards set forth in this Code.

- (1) The Director of Purchasing shall solicit bids by direct mail or by telephone to prospective vendors. The Director of Purchasing shall keep a record of all open market orders and the bids submitted in competition hereon and such record shall be open to public inspection.

- (2) Notwithstanding the provisions of this Section, the County may let without advertising for bids in the case of purchases and contracts, when individual orders do not exceed **Twenty-Five Thousand Dollars (\$25,000.00)** for the use, purchase, delivery, movement, or installation of data processing equipment, software, or services and telecommunications and inter-connect equipment, software and services. **(Ord. No. 98-643; 03-30-98)**

(C) In addition to the requirements of subsection (B) hereinabove, with respect to the purpose of insurance, the Director shall notify those brokers who regularly bid on County insurance of the time and place where bid blanks and specifications may be secured. If more than **one (1) broker** is present at such designated time and place, the Director shall determine, by "first-come-first-served", the order of distribution of bid blanks and specifications and the order in which brokers select an insurance company; insurance company on an expiring policy may continue to quote that insurance company on renewal. Brokers arriving at the designated place after the designated time shall not be included in said drawing, but shall receive their bid blanks and specifications from the Director in order of their appearance. The Director may not be required to allow more than **one (1) broker** to represent the same insurance company. **(Ord. No. 489-83-O; 11-28-83)**

**31-3-5            DISPOSAL OF PERSONAL PROPERTY.**

(A) The Director of Purchasing is authorized to dispose of personal property which has become obsolete and unusable upon the terms advantageous to St. Clair County; provided that the Director shall, prior to such disposal, submit a list of items to the County Board for its approval by order, together with the factual information in clear and specific terms to support the finding by the Director of Purchasing that the items to be disposed of are obsolete and unusable.

(B) Personal property having an estimated value in excess of **Ten Thousand Dollars (\$10,000.00)** shall be disposed of in accordance with the Formal Contract Procedure, **Section 31-3-3**. Disposal of personal property having a value of less than **Ten Thousand Dollars (\$10,000.00)** shall be made in accordance with the Open Market Procedure, **Section 31-3-4**. **(Ord. No. 88-94; 02-29-88)**

**31-3-6            DISCRIMINATION BY CONTRACTORS PROHIBITED.** All contracts for professional services, supplies and construction wherein St. Clair County is a party, whether negotiated or formally advertised, shall contain a non-discrimination in employment clause which shall provide that the contractor in the performance of the contract will not discriminate against any employee or applicant for employment because of race, creed, color or national origin. Actions of the contractor shall include, but not be limited to the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

**31-3-7**        **CENTRAL WAREHOUSING.**    The Director shall control and supervise all County storerooms. The County Board shall provide a stores revolving fund of sufficient amount to finance the purchase and storage of supplies which are used in large quantities and which may be purchased and stored advantageously. Such fund shall be under the control of the Director, subject to financial control of the Auditor, and he shall be accountable for all supplies in his custody. Requisitions from supplies in a storeroom shall be credited to the stores revolving fund by a charge against the appropriation of the using agency. The Director shall cooperate with the Auditor in the maintenance of inventory record of all such supplies.

**31-3-8**        **PRICE AGREEMENT CONTRACT PROCEDURE AND OPEN PURCHASE ORDERS.**    The Director shall have authority to execute long term price agreement contracts, subject to the provisions of this Code, whereby the using agencies requisition and accept delivery of supplies and equipment in small lots, to meet requirements as needed. The Director shall have authority to charge the cost of such contract against the appropriations of such using agencies. The Director shall prescribe by rules and regulations the procedure under which open Purchase Orders may be made by the heads of using agencies.

**31-3-9**        **UNFORESEEN REQUIREMENTS.**

(A)            In case of an immediate need which requires immediate purchase of supplies or contractual services, the County Board Chairman, authorize the Director to secure by open market procedure, as herein set forth, at the lowest possible price, any supplies or contractual services regardless of the amount of the expenditure; provided, however, that the County Comptroller shall certify that the account to be charged for said services or purchase has a sufficient unencumbered balance to pay the same in the appropriation account against which such obligation is to be charged.

(B)            A full report of the circumstances of such immediate purchase shall be filed by the requesting agency through the Director with the County Board Chairman and the County Board, and shall be entered in the minutes of the Board and shall be open to public inspection.

(C)            In cases of emergency, where the immediate procurement of any supplies or contractual services is essential to prevent delays in the work of any using agency, which may vitally affect the life, health, welfare, or convenience of citizens, and there is not sufficient time for the procedure set forth above to be followed, the Director may authorize the head of any such using agency to purchase directly such supplies or contractual services. The head of such using agency shall send to the Director a requisition and a copy of the delivery record, together with a full written report of the circumstances of the emergency. The report shall be filed by the Director with the County Board and County Board Chairman as set forth above.

(D)            The Director shall prescribe by rules and regulations the procedure under which emergency purchases by heads of using agencies may be made.

**31-3-10      INSPECTION AND TESTING.**

(A)            The Director shall inspect, or supervise the inspection of, all deliveries of supplies or contractual services to determine their conformance with the specifications set forth in the order or contract. The Director shall have the authority to authorize using agencies having the staff and facilities for adequate inspection to inspect all deliveries made to such using agencies.

(B)            The Director shall have the authority to require chemical and physical tests of samples submitted with bids and samples of deliveries which are necessary to determine their quality and conformance with the specifications. In the performance of such tests, the Director shall have the authority to make use of laboratory facilities of any agency of the County Government or of any outside laboratory.

**31-3-11      SURPLUS STOCK.**

(A)            All using agencies shall submit to the Director, at such times and in such form as he shall prescribe, reports showing stocks of all supplies which are no longer used or which have become obsolete, worn out or scrapped. The Director shall have the authority to transfer surplus stock to other agencies and to sell all supplies which have become unsuitable for public use or to exchange the same for, or trade in the same on, new supplies. Sales under this Section shall be made to the highest responsible bidder and in conformance with **Section 100.100, 100.110, 100.115** of the St. Clair County Purchasing Manual, hereof, whichever is applicable.

(B)            The Director shall make necessary arrangements to keep the comptroller informed of all transfers, sales, exchanges, and trade-ins so that the County Comptroller inventory records may be kept current.

**31-3-12      COOPERATIVE PURCHASING.**    The Director shall have the authority, with the approval of the County Board, to join with any public body or agency, private association, or educational institution in the cooperative purchasing of any supplies, materials, equipment or contractual services when the best interests of the County would be served thereby.

**31-3-13      FALSE REPRESENTATION PROHIBITED.**    Whoever, in any matter within the jurisdiction of any office, department, division, board, commission, or the County Board of St. Clair County, knowingly and willfully falsifies, conceals or covers up by any trick, scheme or device, a material fact, or makes any false, fictitious or fraudulent statement or entry, shall be fined not more than **One Thousand Dollars (\$1,000.00)** or imprisoned in the County Jail not more than **one (1) year** or both.

**31-3-14**      **ST. CLAIR COUNTY INSURANCE CONSULTANT.** The County's Insurance Consultant shall investigate and study all insurance purchasing done by St. Clair County and advise the County Board from time to time relative to policies and practices to be adopted and followed in purchasing insurance, including determining what hazards and what properties are to be commercially insured, the method of insuring values on property, the qualifications and financial responsibility of persons or corporations who may be permitted to bid on County insurance business, the manner and method of obtaining such bids, and the handling of claims thereunder, and such other matters as it may determine are for the good of the County in connection with its insurance matters. The Consulting Firm shall be appointed annually by County Board resolution.