

O-20-15

**AN ORDINANCE AMENDING CHAPTER 48 OF THE REVISED GENERAL
ORDINANCES OF THE BOROUGH OF WHARTON, COUNTY OF MORRIS, STATE
OF NEW JERSEY**

BE IT ORDAINED by the Governing Body of the Borough of Wharton that Chapter 48 of the revised general ordinances of the Borough of Wharton is hereby amended as follows:

§ 48-1. Title.

This chapter shall be known as the "Purchasing Ordinance of the Borough of Wharton."

§ 48-2. Definitions.

For the purpose of this chapter, the following terms, phrases, words and their derivations shall have the meanings given herein:

BOROUGH

The Borough of Wharton.

BOROUGH COUNCIL

The Mayor and Council of the Borough of Wharton.

BOROUGH PURCHASING AGENT

The Purchasing Agent of the Borough of Wharton.

CONTRACTUAL SERVICES

Includes all telephone, gas, water, electric light and power service, repair or maintenance of equipment, machinery and other Borough-owned personal property. It shall not include professional and other contractual services which are by their nature unique and not subject to bidding under the laws of New Jersey.

EMERGENT

The need for prompt action to protect the public health, safety, or welfare or infrastructure of the Borough.

SUPPLIES

Includes all supplies, materials and equipment.

USING AGENCY

Any department or other unit, the various boards in the Borough government using supplies or procuring contractual services as provided for in this chapter.

§ 48-3. Department of Purchasing.

The Department of Purchasing shall be a part of the office of the Administrator of the Borough unless or until the Borough Council shall authorize the establishment of a separate purchasing department.

§ 48-4. Purchasing Agent.

A. As already established by ordinance, the Administrator shall serve as purchasing agent of the Borough, unless or until the Borough Council shall authorize by ordinance the appointment of a different purchasing agent who shall function separate and apart from the office of the Administrator.

B. The Purchasing Agent is required to possess a valid qualified purchasing agent certificate, as issued by the New Jersey Division of Local Government Services, Department of Community Affairs.

§ 48-5. Power and duties.

The agent shall have the power, and it shall be his duty to:

A. Purchase or contract for all supplies and contractual services needed by any using agency of the Borough, in accordance with Local Public Contracts Law (*N.J.S.A. 40A:11-1 et seq. and N.J.A.C. 5:34-6.1 et seq.*) and purchasing procedure as prescribed by this chapter and such rules and regulations as the Mayor and Council shall adopt for the internal management and operation of the purchasing procedure.

B. Except as herein provided, it shall be unlawful for a using agency or an individual to order or purchase any supplies or make any contract within the purview of this chapter other than through the purchasing agent.

C. Any purchase order or contract made contrary to the provisions hereof shall not be approved by the Borough purchasing agent, and the Borough shall not be bound thereby.

D. In addition to the purchasing authority conferred in Subsection C above and in addition to any other powers and duties conferred by this chapter, the agent should:

1. Endeavor to obtain full and open competition insofar as possible on all purchases and sales.
2. Prescribe and maintain such forms as shall be reasonable necessary to the operation of this chapter.
3. Prepare, adopt and maintain a systematic catalog file.
4. Take full advantage of all discounts including those earned by bulk and volume purchasing.

5. Act so as to procure for the Borough all federal and state tax exemptions to which it is entitled.
6. Recommend to the Borough Council to declare vendors who default on their quotations irresponsible bidders and to disqualify them from receiving any business from the Borough for a stated period of time, as recommended by the purchasing agent and approved by the Borough Council.
7. Perform any and all functions necessary to fulfill the purpose and intent of this chapter.

§ 48-6. Using agencies.

A. Detailed requisitions; estimate of requirements. All using agencies, either by or with the authorization of the head of the department under which the using agency operates, shall file with the agent detailed requisitions and estimates of their requirements in supplies and contractual services in such manner, at such time and for such future periods as the agent shall prescribe.

B. Agent to examine each requisition. The purchasing agent shall examine each requisition and estimate and shall have the authority to revise it as to quantity, quality or estimated cost, but revision as to quality shall be in accordance with the standards and specifications established pursuant to this chapter.

§ 48-7. Voidable contracts.

A. Conflict of interest. Any purchase order or contract within the purview of this chapter in which any officer or employee of the Borough is financially interested so as to create a conflict of interest, directly or indirectly, shall be void.

B. Prohibition. The agent and every officer and employee of the Borough 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 except where given for the use and benefit of the Borough.

§ 48-8. Competitive bids.

All purchase of and contracts for supplies and contractual services and all sales of obsolete equipment shall, except as specifically provided herein, be based wherever possible on competitive bids.

§ 48-9. Purchases.

A. The purchase of any item, service, contract or agreement must be made through a purchase order unless specifically authorized by the purchasing agent to use a voucher or where *established* policy already permits use of vouchers.

B. Confirming purchase orders will not be recognized unless the item, service, contract or agreement is of an emergent nature.

§ 48-10. Public bidding.

A. Public bidding is required where the purchase cost of any item, service, contract or agreement exceeds the bid threshold established by the Borough Council and subject to the rules established by the State of New Jersey.

B. Two informal quotations are required where the cost of any items, service, contract or agreement exceeds 15% of the bid threshold set by the Borough Council but is less than the bid threshold. Where two informal quotations cannot be procured, then a statement must accompany the purchase order certifying that an attempt was made to satisfy this requirement.

C. Normal bidding procedures may only be eliminated where the Borough Administrator has rendered an opinion that an emergent situation exists. In the absence of the Borough Administrator the Assistant Borough Administrator may render the opinion. If the Mayor and Council concurs, an emergency resolution authorizing the elimination of the bidding procedure must be confirmed through adoption at the next council meeting.

D. Bid deposits; return; forfeit of surety. When deemed necessary by the agent, bid deposits shall be prescribed in the public notices inviting bids. Unsuccessful bidders shall be entitled to return of surety where the agent has required such. A successful bidder shall forfeit any surety required by the agent upon failure on his part to enter a contract within the specified period after the award.

E. Bid opening procedure:

1. Sealed bids shall be received by the Administrator or Clerk as set forth in the specifications of the bid.
2. Bids shall be opened in public at the time and place stated in the public notice and/or specifications.

F. Rejection of bids. The Borough Administrator shall have the authority to reject all bids, parts of all bids, or all bids for any one or more supplies or contractual services included in the proposed contract when the public interest will be served thereby, as provided by law.

G. Award of contract.

1. Prohibited. The agent may not award the bid of a contractor or supplier who is in default on the payment of taxes, licenses or other monies due to the Borough, the County or the State of New Jersey.

2. **Lowest responsible bidder.** Contracts shall be awarded to the lowest responsible bidder.
3. **Tie bids.** If all bids received are for the same total amount of unit price, quality and service being equal, the contract shall be rebid until such tie is broken. Where the tie bid cannot be broken, the agent shall award the contract to one of the "tie bidders" by drawing lots in public.
4. **Performance bond required.** The agent shall have the authority to require a performance bond before entering a contract in such an amount as he shall find reasonably necessary to protect the best interests of the Borough.
5. **Prior approval of Borough Attorney.** All contracts, performance bonds and deposits shall have the prior approval of the Borough Attorney before acceptance.

§ 48-11. Inspection of purchases.

A. Using agency; Borough Engineer. The head of the using agency and/or the Borough Engineer 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.

B. Laboratory tests. The purchasing agent 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 agent shall have the authority to make sure of laboratory facilities of any outside laboratory. The cost of such test shall be charged to the using agency.

C. Deliveries not meeting requirements. Where the delivery of supplies on contractual service do not meet the requirements requested, the using agency shall:

1. Not receipt acceptance of supplies or contractual service.
2. Return the delivery at the vendor's expense.

D. Partial delivery. Where a partial delivery is made, the using agency shall have the option to receipt acceptance of the lesser amount and notify the purchasing agent in writing to adjust the purchase order accordingly.

§ 48-12. Inventory procedure.

All using agencies shall submit to the agent, at the 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 agent shall submit to all departments, prior to

the sale of surplus materials as described below, a list of items no longer required to determine if they can use any of the equipment, parts and supplies listed.

A. Surplus stock. The agent shall have the authority to transfer surplus stock to other using agencies.

B. Sale; exchange of unsuitable supplies. The agent shall have the authority 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 subsection shall be made to the highest responsible bidder. A record of each sale shall be made and placed on file in the Administrator's office.

§ 48-13. Cooperative purchasing.

The agent shall have the authority to join with other units of government in cooperative purchasing plans as stated in the Revised Statutes of the State of New Jersey when the best interests of the Borough could be served thereby.

First Reading: October 19, 2015

Second Reading: November 9, 2015

BOROUGH OF WHARTON

ATTEST:

**WILLIAM J. CHEGWIDDEN,
MAYOR**

**Gabrielle Evangelista,
Borough Clerk**