

**Regulations of the Procurement Department
Pursuant to Section 8-200(1) and (2.1) of the Philadelphia Home Rule Charter:
Micro Purchases, Small Order Purchases, and Local Business Purchases, collectively
"Small Purchase Regulations"**

1. Scope.

(a) These Regulations apply to all purchases of or contracts for goods or services by any City agency, except these Regulations shall not apply to:

(.1) The purchase of unique articles or articles which for any other reason cannot be obtained in the open market.

(.2) Contracts for professional services.

(.3) Contracts awarded pursuant to Charter § 8-200(4) (Cooperative Purchasing).

(.4) Contracts awarded pursuant to Charter § 8-200(5) (Best Value Purchasing) and its Regulation, unless otherwise specified under the Best Value Regulation.

(.5) Contracts for the erection, remodeling or alteration of, or addition to, any building or structure.

(b) These Regulations shall apply to purchasing by all agencies of City government, including, but not limited to, agencies headed by independently elected officials.

2. Definitions. For purposes of these Regulations, the following definitions shall apply:

(a) CAO. The Chief Administrative Officer, or such other City official with responsibility for contract administration, as designated by the Mayor.

(b) CPI-U. Consumer Price Index for All Urban Consumers All Items Index, Philadelphia, Pennsylvania, United States Department of Labor, Bureau of Labor Statistics.

(c) Local Business Entity or LBE. A business that has been certified as a Local Business Entity pursuant to § 17-109 of The Philadelphia Code and its Regulations, or any successor Local Business Entity ordinance adopted by City Council.

(d) Local Business Purchase. A Local Business Purchase is a purchase for goods

or services valued under \$100,000. The dollar limit for a Local Business Purchase expenditure shall be increased every City fiscal year (July 1 to June 30) by the percentage increase in the CPI-U from January 1, 2020, to the most recently published CPI-U rounded to the nearest one thousand dollars (\$1,000) and shall take effect upon certification by the Procurement Commissioner.

(e) M/W/DSBEs. Minority, Woman and Disabled owned business enterprises, as those terms are defined in Executive Order 3-12 or any successor Order.

(f) Micro Purchase. A Micro Purchase is a purchase for goods or services at or under \$34,000. The dollar limit for a Micro Purchase expenditure shall be increased every City fiscal year by the percentage increase in the CPI-U from January 1, 2020, to the most recently published CPI-U rounded to the nearest one thousand dollars (\$1,000) and shall take effect upon certification by the Procurement Commissioner.

(g) OEO. Office of Economic Opportunity, or such other office as may be established by the Mayor with responsibility for ensuring diversity in City contracting.

(h) Small Business Enterprise or SBE. A business which meets the requirements of and is registered as a small business concern, defined pursuant to section 3 of the Small Business Act and Small Business Administration regulations implementing it (13 CFR Part 121)

(i) Small Order Purchase. A Small Order Purchase is a purchase for goods or services above the Micro Purchase dollar limit of \$34,000 but below \$75,000. The dollar limit of a Small Order Purchase expenditure shall be increased every City fiscal year by the percentage increase in the CPI-U from January 1, 2020, to the most recently published CPI-U, and shall be rounded to the nearest one thousand dollars (\$1,000) and shall take effect upon certification by the Procurement Commissioner.

3. Procedure for Micro Purchases

(a) Contracts for Micro Purchases must be awarded to the lowest responsible bidder and may not exceed the dollar limit then in effect for a Micro Purchase. In securing competitive bids to find the lowest responsible bidder, the awarding agency shall engage in a process designed to maximize competition among small, local and diverse businesses without imposing an administrative burden disproportionate to the dollar amount of the contract. The awarding agency shall solicit bids from:

- (.1) the OEO Registry of M/W/DSBEs;
- (.2) SBEs;
- (.3) Alternative vendor registries of diverse businesses ("Diverse Businesses") recognized by the City such as the Rebuild Emerging Vendors

Program or firms certified by the Philadelphia Independence Business Alliance;
and

(.4) Procurement's list of certified LBEs.

(b) Micro Purchase contracts are not subject to Charter §8-200(2)(b).

(c) Contracts awarded pursuant to this paragraph 3. shall not be renewed; and shall not be amended to increase their contract amount above the Micro Purchase dollar limit then in effect at the time of amendment.

(d) Notwithstanding the foregoing, the Procurement Department, at its discretion, may direct the use of the Small Order Purchase process, set forth below in paragraph 4., or the competitive bid process described in Charter §8-200 for purchases that would otherwise qualify under this paragraph 3.

4. Procedure for Small Order Purchases

(a) Small Order Purchases must be awarded to the lowest responsible bidder and may not exceed the dollar limit then in effect for a Small Order Purchase. In order to secure competitive bids to find the lowest responsible bidder, the awarding agency must post the contract opportunity for a minimum of 14 days on such website as may be designated by the Procurement Department. Small Order Purchase contracts are not subject to Charter §8-200(2)(b).

(b) During that minimum 14-day posting period, the awarding agency shall solicit bids from:

(.1) the OEO Registry of M/W/DSBEs;

(.2) SBEs;

(.3) Alternative vendor registries of diverse businesses ("Diverse Businesses") recognized by the City such as the Rebuild Emerging Vendors Program or firms certified by the Philadelphia Independence Business Alliance;
and

(.4) Procurement's list of certified LBEs.

(c) In evaluating bids to determine the lowest responsible bidder, the LBE bid preference found in Philadelphia Code Chapter 17-109 shall apply to bids submitted by LBEs; LBEs must be certified as an LBE prior to submitting their response and submit all the material required by Philadelphia Code § 17-109 (3).

(d) Contracts awarded pursuant to this paragraph 4. may be renewed to add one or more terms, each up to a maximum of one year, such that the initial term and all renewal terms combined do not exceed four years. Thereafter, a new contract opportunity must be posted in accordance with these Regulations. In extraordinary circumstances, based on a demonstrated

immediate and pressing need, the Procurement Commissioner, with the consent of the Law Department, may allow additional renewal terms, each up to a maximum of one year, beyond the four-year maximum.

(e) Contracts awarded pursuant to this paragraph 4. shall not be amended to increase the contract amount for any one (1) year term above the Small Order Purchase dollar limit, using the Small Order Purchase dollar limit in effect at the beginning of that term.

(f) The Procurement Department, at its discretion, may choose to use the competitive bid process described in Charter §8-200 for purchases that would otherwise qualify under this paragraph 4.

5. Procedure for Local Business Purchases.

(a) Local Business Purchases must be awarded to the lowest responsible LBE bidder and may not exceed the Local Business Purchase limit then in effect. This paragraph 5. shall only apply to contracts for an amount under the Local Business Purchase Limit but above the Small Order Purchase Limit.

(b) Awards pursuant to this paragraph 5. need not comply with the procedure for sealed bidding set forth at Charter § 8-200(2) and may only be awarded to a Local Business Entity. To qualify, a Local Business Entity must be certified as an LBE prior to submitting their response and submit all the material required by Philadelphia Code § 17-109 (3).

(c) A Local Business Entity awarded a contract pursuant to this paragraph 5. must submit such bid security or annual bond as the Procurement Department determines is sufficient.

(d) If the contract amount is above the Small Order Purchase Limit in paragraph 4., subsections (c), (d) and (e) of Charter § 8-200(2), relating, respectively, to performance and where appropriate payment security, contract approvals, and bond, shall apply.

6. Additional Requirements

(a) No contract or project shall be divided into multiple contracts or projects for the purpose of producing contracts or projects for amounts below any purchasing category defined in these Regulations or for the purpose of avoiding any restrictions or limitations in these Regulations. Upon a determination by the Procurement Department that any contract or project has been divided into multiple contracts or projects, in contravention of this paragraph 6. the Procurement Department may take such action as it deems appropriate under the circumstances for enforcement of these Regulations, including, but not limited to, rejection of the proposed division and requiring that the contract be awarded in compliance with these Regulations; educating the department or agency to ensure that future contracts on the same or similar projects are awarded in compliance with these Regulations; or cancellation of the

improperly divided contracts. Nothing in this paragraph 6 (a) is intended to discourage the good faith unbundling of large contracts when intended for purposes other than avoidance of these Regulations.

(b) For purchases under paragraphs 3 and 4., nothing shall prohibit a department from additionally soliciting bids from vendors who do not fall within the enumerated categories of required solicitation (i.e., bidders who are not M/W/DSBE, SBE, Diverse Businesses or LBE).

7. Effective August 1, 2021, and each August 1 thereafter, the Procurement Department shall file with the CAO an annual report regarding the Department's implementation of these Regulations for the immediately preceding fiscal year. Such report shall include, but need not be limited to, the total number of contracts (in absolute numbers; as a percentage of total contracts; and in total dollar amount) awarded under each paragraph of these Regulations to M/W/DSBEs, Diverse Businesses, SBEs and to LBEs. All City agencies shall cooperate with the Procurement Department in assembling the necessary data for these reports. The CAO shall post the report on the City's website and shall provide copies of the report to the Chief Clerk of City Council and to the Mayor.

8. Nothing in these Regulations shall create any private, enforceable rights in any member of the public, including any disappointed bidder. These Regulations are enforceable only within the City by the Procurement Department and the CAO.



Monique Nesmith-Joyner
Procurement Commissioner