

## **REGULATIONS OF THE PHILADELPHIA GAS COMMISSION CONCERNING PROCUREMENT**

*SECTION 1. In accordance with Section VIII of that certain Management Agreement by and between the City of Philadelphia and the Philadelphia Facilities Management Corporation ("PFMC") dated December 29, 1972, as amended, The Philadelphia Gas Commission hereby adopts the following procurement standards as regulations:*

### **SECTION A – Definition**

#### **1. Purchases**

*Purchase shall include any purchasing, by contract or otherwise of material, supplies, construction, alteration, repairs, maintenance, services, or any other item, thing or services, except for unique articles or services or articles or services which for any other reason cannot be obtained in the open market (sole source items), electricity pursuant to Section 1, Paragraph 3 of the Management Agreement, and professional services.*

#### **2. Sales**

*Sales shall include any sale of residuals or by-productions from operations, unserviceable property or equipment, except for sales of electricity pursuant to Section 1, Paragraph 3 of the Management Agreement*

#### **3. Gas Commission notified**

*Notice to Gas Commission shall mean notice in writing to each Gas Commissioner.*

### **SECTION B – Purchase and Sales – Competitive Bidding**

#### **1. Purchase and Sales over \$75,000**

*Sealed bids ("sealed bids" may include, at the discretion of the Philadelphia Gas Works, electronic submission of bids, so long as appropriate safeguards are in place to protect against premature disclosure) to be awarded to the lowest responsible bidder, in the case of purchases, or highest responsible bidder, in the case of sales, shall be used for all purchases and sales in excess of \$75,000, as such amount is adjusted from time to time as provided in Section 8-200(2) of the Philadelphia Home Rule Charter. Invitations to bid shall be sent (electronically, if electronic submission of bids is utilized) at least one week prior to bid opening to at least three potential bidders who are qualified technically and financially to submit bids, or in lieu thereof a memorandum shall be kept on file showing that fewer than three potential bidders so qualified exist in the market area within which it is practicable to obtain bids. All bids received shall be opened at a predetermined time and place designated in the bid document. The Gas Commission shall be notified*

*(electronically, if electronic submission of bids is utilized) of each proposed purchase or sale at least one week prior to the bid opening and the Commission may extend the date for bid opening if deemed necessary.*

*At its discretion, and in lieu of sealed bids, the Philadelphia Gas Works may provide for competitive electronic auction bidding under which (i) bids are submitted electronically at the time and in the manner designated in the invitation to bid; (ii) during the auction, only such information regarding the prices bid as the Philadelphia Gas Works determines is likely to result in the lowest price, in the case of purchases, or highest price, in the case of sales, is disclosed to other bidders; (iii) bidders have the opportunity to reduce or increase their prices, as applicable, during the auction; and (iv) at the conclusion of the auction, the name of each bidder and the lowest price, in the case of purchases, or highest price, in the case of sales, it submitted are made available for public inspection. The contract shall be awarded to the lowest responsible bidder, in the case of purchases, or the highest responsible bidder, in the case of sales.*

**2. Purchases from Local Businesses**

*In lieu of compliance with Section B.1, the Philadelphia Gas Works may establish a procedure for the award of contracts to or the purchase from businesses located or doing business in Philadelphia, provided that (i) the purchase or contract requires an expenditure of less than \$100,000, as such amount is adjusted from time to time as provided in Section 8-200(2.1)(a) of the Philadelphia Home Rule Charter; and (ii) the contract is not for the erection, remodeling or alteration of, or addition to, any building or structure.*

**3. Purchases and Sales of \$75,000 or Less**

*Purchases and sales shall be made in conformity with any procedure established by the Philadelphia Gas Works designed to appropriately maximize accessibility by vendors, maximize transparency to the public, and minimize costs, in the case of purchases, or maximize return, in the case of sales, to the Philadelphia Gas Works. Records of all procurement transactions shall be maintained.*

**SECTION C – Purchases and Sales No Competitive Bidding**

*The following purchases and sales do not require competitive bidding:*

- 1. Purchases of gas appliances and other gas consuming equipment, their repair parts, and their installation, bought for resale or for sales promotional purposes.*
- 2. Purchases of such pipe couplings, bell joint clamps, compression ells, and other related materials as may be needed from time to time in the operation of the Philadelphia Gas*

*Works and can only be purchased from one supplier, in the design considered best and most efficient; provided, however, that an adequate memorandum be attached to such a purchase order justifying this restrictive purchase. This paragraph shall not be construed to eliminate competition required where couplings, clamps, ells, etc. may be bought competitively on the open market and are equal in end use performance.*

- 3. Purchases required in emergency situations for the safety of operations or for rendering proper service to customers. An adequate memorandum shall be placed on or attached to each purchase order justifying an emergency purchase.*
- 4. Purchases of such repair parts as may be needed from time to time for apparatus and equipment already part of the Philadelphia Gas Works and presently limited to sole source procurement.*
- 5. In lieu of awarding a contract to the lowest responsible bidder when such award is required herein, the Philadelphia Gas Works may award a contract to the responsible bidder whose proposal provides the Philadelphia Gas Works with the best value, but only when the Vice President of Supply Chain (or successor position) has determined in writing that award to the lowest responsible bidder may not yield the best value to the Philadelphia Gas Works because the goods, construction, alterations, repairs, maintenance or other services that are the subject of the award have qualitative characteristics that make them better suited to an open, competitive solicitation of proposals. Such characteristics may include the integration of technical or professional service elements, quality differences among proprietary products and services, incorporation of Philadelphia Gas Works contracting objectives, including but not limited to, participation in Philadelphia Gas Works contracts by disadvantaged business enterprises, or other attributes that make price alone a poor indicator of best value. In such instances, the award of the contract shall be subject to any process established by the Philadelphia Gas Works applicable generally to contracts not subject to the lowest responsible bidder requirement; and the awarding decision shall be made according to criteria established by the Supply Chain Department of the Philadelphia Gas Works ("Best Value Criteria"). For contracts involving an expenditure in excess of the amount set forth in Section B.1, above, as adjusted, the Best Value Criteria shall be set forth or referenced in any solicitation for proposals.*

#### SECTION D – Administrative Rules

##### 1. Release of Bidders

*No bidder may be permitted to change or withdraw its sealed bid after it has been opened, except as otherwise provided by law. However, a bidder shall be permitted to amend or completely withdraw its sealed bid by written notice to the purchasing agent*

*prior to the bid opening. The same rules shall apply to best-value proposals under Section C.5.*

2. *Rejection of Bids*

*The Philadelphia Gas Works may reject all bids or price quotations if it shall deem it in the interest of the Philadelphia Gas Works so to do.*

3. *More Stringent Requirements*

*Nothing contained herein shall restrict the Philadelphia Gas Works from establishing procedures with more stringent requirements for competitive bidding than those contained herein, or procedures for giving appropriate regard to the importance of opportunities for diverse, small, and local businesses.*

SECTION 2. The 1963 Standards for Competitive Bidding of The Philadelphia Gas Commission are hereby rescinded.