

## Chapter 5

### ADMINISTRATION

- § 5.1. Definitions.
- § 5.2. Duties of borough agencies.
- § 5.3. Compensation of officials and employees.
- § 5.4. Indemnification of officials and employees.
- § 5.5. Reading of ordinances and resolutions at meeting for consideration.
- § 5.6. Authority and organization of boards and commissions.
- § 5.7. Contract bidding procedures. *(Amended 5-19-99 by Ord. 902; 7-16-03 by Ord. 961; amended 10-01-05 Ord. 983; Amended 5-18-11 by Ord. 1034; Amended 8-6-14 by Ord. 1066)*
- § 5.8. Appointment of blood relatives.
- § 5.9. Adoption of provisions of the BOROUGH CODE.
- § 5.10. Purpose; CHARTER provisions to prevail.

[*HISTORY:* Adopted by the Borough Council of the Borough of Whitehall 2-4-81 as Ord. No. 622. Amendments noted where applicable.]

#### 1.§ Definitions. *(Amended 7-16-03 by Ordinance 961)*

The following words, when used in this chapter, shall, unless the context clearly indicates otherwise, mean or indicate as follows:

BEST RESPONSIBLE BIDDER - A responsible bidder who submits a bid which, as finally determined by the Council of the Borough of Whitehall, is the best bid available in terms of

§5 WHITEHALL CODE §5

price, product and/or service quality, adherence to specifications, timeliness of delivery, serviceability and maintenance. (Added 7-16-03 by Ord. 961)

BOROUGH CODE - The legislative enactment of the General Assembly of Pennsylvania commonly designated as the "Borough Code of 1966"<sup>1</sup> and including all of its amendments no matter when passed.

CHARTER - The Home Rule Charter of the Borough of Whitehall.

CODE - This chapter and any and all amendments thereto and modifications thereof, unless some other specific code is indicated.

MUNICIPALITY - The Borough of Whitehall.

RESPONSIBLE BIDDER - A bidder who is considered responsible either through previous experience in business dealings with the Borough of Whitehall or through an investigation of financial responsibility, integrity, efficiency, industry, experience, promptness, and ability to successfully carry out the undertaking. (Added 7-16-03 by Ord. 961)

**§ 2. Duties of borough agencies.**

The responsibilities of the borough departments, agencies and offices shall be as set out and provided for by the CHARTER, other applicable law and the ordinances of the Borough of Whitehall creating and controlling them.

**§ 3. Compensation of officials and employees.**

The compensation for the Mayor, members of Council, the Engineer, the Solicitor and all employees of the Borough of Whitehall shall be as set by ordinance.

**§ 4. Indemnification of officials and employees.**

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1 Editor's Note: See 53 P.S. § 45001 et seq.

§ 5 ADMINISTRATION § 5

The Borough of Whitehall shall indemnify the Mayor, any member of Council, the Secretary/Manager, the Assistant Secretary/Fiscal Officer, building inspection employees, members of boards and commissions appointed by Council, the Solicitor and the Engineer in the event that such individuals are a party to or are threatened to be made a party to any threatened, pending or pleaded action, suit or proceeding, whether civil, criminal, administrative or investigative (other than an action by or in the right of the municipality), by reason of the fact that such person is or was an elected or appointed official of the borough, an employee of the borough or an appointed member of the board or commission of the borough, against expenses, including attorneys' fees, judgments, fines and amounts paid in settlement, actually and reasonably incurred in connection with such action, suit or proceeding if the individual acted in good faith and in a manner he reasonably believed to be in or not opposed to the best interest of the Borough of Whitehall and, with respect to any criminal action or proceeding, had no reasonable cause to believe his conduct was unlawful. The MUNICIPALITY may provide insurance for the benefit of such individual insuring such individual from any liability asserted against that individual or incurred by that individual in any capacity, in such amounts and with such limitations as Council shall deem appropriate.

**§ 5. Reading of ordinances and resolutions at meeting for consideration. [Amended 1-17-90 by Ord. No. 751]**

Ordinances and resolutions, except as set out below, shall be read in full at the meeting at which their passage or adoption is considered. Those ordinances which require prior public notice; those ordinances which, because of their complexity or length, have been placed on file in the borough offices for review prior to passage; and those resolutions which, because of their length or complexity, have been placed on file in the borough offices for review prior to adoption need not be read in full. In those cases where the full text of the ordinance or resolution need not be read, a copy of the full text of the ordinance or resolution shall be provided to all council persons, the Mayor and any other interested resident requesting a copy of the same, and a summary setting forth the

§5 WHITEHALL CODE §5

substance of the ordinance or resolution shall be read at the meeting at which passage or adoption is considered.

**§ 6. Authority and organization of boards and commissions.**

The purpose, organization and authority of boards and commissions created by the Council of the Borough of Whitehall shall be set out in the ordinances creating them and the applicable Acts of the Pennsylvania General Assembly and the Congress of the United States under which they are created. Each board or commission shall have a Chairman, whose duties and responsibilities shall be to regulate the operation and performance of the board or commission. The Chairman and the members shall be responsible to Council for the faithful and timely performance of the duties assigned them.

**§ 7. Contract bidding procedures.**

The comprehensive competitive bidding procedures mandated by **Article X, § C-1002**, of the CHARTER shall be as follows:

1. Competitive bidding of contracts for goods and services in excess of Five Thousand Dollars (\$5,000) and less than Twenty-Five Thousand Dollars (\$25,000) may be satisfied by the solicitation of letter bids from known suppliers for the required goods or services. The Chief Administrator/Borough Secretary shall maintain an index list of known suppliers of generally required goods and services, which index listing shall be open to the public and shall be updated periodically. The names of all suppliers solicited shall be provided to Council at the time that the letter bids are received, opened and reported. The term "letter bids" shall include bids submitted by facsimile transmission, E-Mail or telephone, provided that telephone bids are timely confirmed in writing. **(Amended 5-18-11 by Ord. No. 1034; Amended 8-6-14 by Ord. No. 1066)**

2. Council shall authorize the solicitation of all competitive bids for goods and services. Appropriation in the annual budget for such goods or services shall constitute authorization to solicit competitive bids for such goods and services.

§ 5 ADMINISTRATION § 5

3. When it is determined that a purchase is to be made through competitive bidding other than as provided in Subsection 5.7.1 hereof, an invitation to bid shall be advertised in the borough's official newspaper and shall be sent to those bidders known to the borough to supply the desired goods or services. The invitation to bid shall include:

1. A description of the item to be purchased.
2. Quantity to be purchased.

§5 WHITEHALL CODE §5

3. Copy of the specifications and bid document.
4. Date, time and place of the bid opening.
4. Specifications shall be prepared for all purchases of goods and services, and such specifications shall be specific, complete and accurate, but not so specific as to eliminate acceptable equal products from competition.
5. A bid deposit may be required for any purchase made by the MUNICIPALITY and provided in an amount and form to be determined by the Manager.
6. All bids shall be sealed in an envelope and labeled to identify the bids both by subject and date of opening.
7. The Manager shall maintain on file all bids received for goods and services. They shall be retained for a period of not less than two (2) years.

8. Bidders List - The Borough Manager shall cause to be established and maintained a bidders list for construction or public works projects estimated to cost Fifty Thousand Dollars(\$50,000)or more. Inclusion on the bidders list shall signify that a bidder is considered responsible as defined in §5.1. Once qualified as responsible, a bidder shall remain on the bidders list indefinitely unless removed by reason of disqualification. *(Added 7-16-03 by Ord. 961; amended 10-1-05 by Ord. 983)*

1. Bidders List Application - Any entity wishing to be included on the bidders list may apply by completing a questionnaire prepared by the borough Engineer and the Borough Manager in consultation with the borough Solicitor which questionnaire will solicit information regarding financial responsibility, integrity, efficiency, industry and experience of the bidder.

2. Disqualification of Bidders - A bidder may be disqualified for reasons, including but not limited to, the following:

§ 5 ADMINISTRATION § 5

Documentation of unsatisfactory performance by the bidder or of unsatisfactory goods or services provided by the bidder to the Borough or to other public entities;

False or misleading statements about a product or service;

An attempt by a bidder to influence the purchase of goods or services by the Borough through a gift, gratuity, favor or benefit, or promise thereof, to a Borough officer or employee;

Collusion with another bidder in an attempt to regulate the price, quality or availability of goods or services to the detriment of the Borough.

3. Removal from Responsible Bidders List. Upon disqualification, a bidder shall be removed from the Responsible Bidder's List until requalified. Such requalification shall require reasonable proof that the cause for disqualification has been corrected and shall not reoccur.

4. Appeal Process - In the event that a bidder feels that it has been unreasonably disqualified, the bidder may appeal, in writing, to an appeal committee consisting of the borough Manager or designee, the Borough Engineer or designee, and the Borough Solicitor or designee. Such appeal shall be in writing and will comprehensively detail those matters which it feels have been improperly considered in the disqualification of the bidder.

**§ 8. Appointment of blood relatives.**

No elected official shall appoint or vote for the appointment of any person for full-time service as an official or an employee who is related to him by blood or marriage when the compensation of such official or employee is to be paid from public funds.

**§ 9. Adoption of provisions of the BOROUGH CODE.**

9. In addition to the powers and duties vested in Council by the provisions of Article IV of the CHARTER, the provisions of Section 1005, Section 1201 and Section 1202 of the BOROUGH CODE (53 P.S. § 46006; 53 P.S. §§ 46201 and 46202) and all amendments are hereby adopted as a part of this chapter.

10. The provisions of the BOROUGH CODE pertaining to land subdivision as set forth in Sections 1601 through 1609 (53 P.S. §§ 46601 through 46609) and any amendments are hereby adopted as part of this chapter.

11. The provisions of the BOROUGH CODE pertaining to streets as set forth in Sections 1701 through 1782 (53 P.S. §§ 46701 through 46782) and any amendments are hereby adopted as a part of this chapter.

12. The provisions of the BOROUGH CODE pertaining to sanitary sewers as set forth in Sections 2001 and 2072 (53 P.S. §§ 47001 through 47072) and any amendments are adopted as a part of this chapter.

13. The provisions of the BOROUGH CODE pertaining to storm sewers and watercourses as set forth in Sections 2201 through 2204 (53 P.S. §§ 47201 through 47204) and any amendments are adopted as a part of this chapter.

14. The provisions of the BOROUGH CODE pertaining to recreation places, shade trees and forests as set forth in Sections 2701 through 2759 (53 P.S. §§ 47701 through 47759) and any amendments are adopted as a part of this chapter.

**§ 10. Purpose; CHARTER provisions to prevail.**

The provisions of this chapter are intended to implement the provisions of the CHARTER to comply with **§ C-405** of the CHARTER. If the provisions of this chapter conflict with any section of the CHARTER, the CHARTER shall prevail.