



STAFF REPORT

DATE: May 15, 2018

REGULAR

ITEM #: 19

AGENDA ITEM: Updated Purchasing Policy

SUBMITTED BY: Brian A. Swanson – Finance Consultant

REVIEWED BY: Kristina Handt - City Administrator

BACKGROUND:

Per the 2018 Finance Committee Work Plan that the Finance Committee approved in 2017, and the City Council in January 2018, a Purchasing Policy Review occurred at the February Finance Committee Meeting. Staff reviewed several other Purchasing Policies of cities, operating under the City Administrator and City Manager forms of governance when drafting the updated policy. The updated policy also underwent substantial revisions compared the last approved policy from August 2014, making a redlined copy not very useful. From the Finance Committee meeting, direction was provided to staff to make a few other clarifications, and the policy was brought back in April for review and subsequently approved with no further changes. Since approval by the Finance Committee, the Minnesota State Legislature **increased the competitive bidding threshold from \$100,000 to \$175,000 effective August 1, 2018**. Therefore, rather than amend the policy in a few months, staff updated the policy to reflect this change to be effective August 1, 2018.

ITEMS OR QUESTIONS BEFORE THE CITY COUNCIL:

- 1) Does the City Council have any questions or changes regarding the proposed, attached updated Purchasing Policy?
- 2) Would the City Council like to adopt the Purchasing Policy based on the recommendation of the Finance Committee with the adjustment to the competitive bidding threshold which occurred after approval by the Finance Committee?

DISCUSSION:

Some key areas of the update Purchasing Policy compared to the Policy adopted in 2014 are outlined below:

- 1) **General Purchasing Procedures** – Added this section to address items such as process, procedures, accounting principles, contracts, and petty cash procedures.

2) **Construction, Contract Services, and Purchase (Goods) Contracts** - This section pertains to the purchase of supplies, materials, equipment or the rental thereof, or the construction, alteration, repair or maintenance of real or personal property. Some key items in this section are as follows:

- a. **Authorization Thresholds and Requirements** – This area discusses processes and procedures in conducting City business based on dollar amount, approval and supporting documentation required. It also discussed when sealed bids are required, the process for accepting bids and the retention period of the bids. This section also outlines the change from \$100,000 to \$175,000 effective August 1, 2018.
- b. **Performance and Payment Bonds** – Outlines for contracts over \$100,000, and \$175,000 effective August 1, 2018, that this is required and can be increased if scope of project increases.
- c. **Best Value Procurement Alternative** – Discusses MN State Statute and that the City may choose to use this option. Essentially, it allows the City to look at the overall life cycle of a bid project or item to determine the best value over a period of time. For example, this can, and has been used in communities for automated water meter and meter reading system replacements.
- d. **Cooperative Purchasing Procedures** – Expanded this section with more detail and more entities with whom the City has cooperative agreements in place.
- e. **Change Orders** – Outlines change orders and approval levels required based on a project. This area was discussed significantly by the Finance Committee regarding thresholds from both a dollar and percentage perspective. Ultimately, the Finance Committee requested staff to put in a percentage of the project in addition to a dollar amount. As such, here is language from the policy:

Change orders may occur due to City driven changes, errors and omissions, field directives, unforeseen/hidden conditions, regulatory requirements or changes that are contractor driven. Changes that need to be made during construction need to be addressed and approved in a timely manner in order to keep the project on schedule.

- 1) For a change order less than \$100,000, or less than 10% of total estimated project cost, which does not result in exceeding the overall project budget, the City Administrator may approve these.*
- 2) At the discretion of the City Administrator, for a change order less than \$100,000, or less than 10% of the total estimated project cost, but still within the scope of the overall project budget, it may be presented to the City Council for consideration and approval.*
- 3) For any change order that results in exceeding the overall project budget, and/or exceeds \$100,000 must be approved by the City Council.*

While there are many factors such as project budget, scope of the change order, and whether work will halt before approval, staff put in a change order threshold of less than \$100,000 or less than 10% of the estimated project cost, which does not exceed the overall project budget could be approved by the City Administrator.

Based upon this, staff is comfortable with the dollar amount threshold, but would recommend removal of the percentage, as depending on the size of the contract, this could result in additional council and administrative process without adding value to the process.

- f. **Other Bidding Requirements** – Discusses that bids may not be split, or to only allow for one vendor in the RFP process, and when the city must rebid.
 - g. **Public Safety Equipment** – Discusses that due to the nature of specialized fire equipment, and the very few vendors available, competitive bidding or proposals are not required.
 - h. **Withholding Certificates** – This area outlines that a contractor must demonstrate compliance with withholding tax laws by producing Form IC134 approved by the MN Department of Revenue.
 - i. **Federal Purchases** – This section is required under the uniform grant guidance for making purchases related to a federal program.
 - j. **Public Purpose Expenditures** – Outlines public purpose expenditures, eligibility to be considered and authorizing individual.
- 3) **Professional Service and Consultant Contracts** – Provides more detail on when bid or sealed bids are not required, but rather a Request for Proposal is to be used.
 - 4) **Disposition or Donation of Surplus Assets** – Covers the process, thresholds, sale processes, trade-ins, when donations are allowed, and restrictions.

FISCAL IMPACT:

By regularly analyzing, discussing and updating policies and procedures as needed helps to ensure sound financial management. Further, review of governing and oversight bodies helps to ensure the policies and procedures are in congruence with the goals of those entities.

RECOMMENDATION(S):

- 1) Motion to recommend approval of the attached revised Purchasing Policy, dated May 15, 2018, with striking the percentage in the Change Orders section.

Or

- 2) Motion to recommend approval of the attached revised Purchasing Policy, dated May 15, 2018, as drafted.

ATTACHMENTS:

- 1) City of Lake Elmo Purchasing Policy – Adopted – 8-19-14
- 2) City of Lake Elmo Purchasing Policy – Revised – 5-15-18



Purchasing Policy

(Approved by City Council on 8/19/2014)

This policy applies to all purchasing activities of the City, and applies to all City Departments, employees, and authorized users and encompasses all purchases using City funds. Failure to comply with these policies and procedures could result in discipline up to and including termination.

Prior to making a purchase of new products, determine if used, recycled, repaired, refurbished or remanufactured products would be a more cost effective way to fulfill the need. Consideration of made in the USA, economic, environmental, and social factors should also be considered.

If an item or service is to be purchased new, determine whether the item or service is currently available through the cooperative purchasing process outline below:

The City and its purchasing agents are not only encouraged but mandated in some instances to consider purchasing through the state CPV (Cooperative Purchasing Venture). For all purchases estimated to exceed \$25,000 the purchasing agent must consider the price and quality available through the CPV (<http://www.mmd.admin.state.mn.us/>) before buying through another source, and these findings must be documented on the purchase requisition.

When a CPV vendor is not available, the city may choose to enter into a Price Agreement Contract. Department Heads are the only staff authorized to enter into a Price Agreement Contract. A price agreement contract between the city and a merchant may be used to acquire items frequently purchased in small quantities. Under the agreement the merchant agrees to supply a specified commodity at a set price.

For purchases/contracts estimated to cost over \$50,000 the uniform municipal contracting law (competitive bidding law) guidelines (<http://www.mmd.admin.state.mn.us/>) must be followed (exceptions noted below). This applies to: contracts for the sale, purchase, or rental of supplies, materials, or equipment; and contracts for the construction, alteration, repair, or maintenance of real or personal property. The City Administrator will work with appropriate department staff to prepare necessary specifications, seek competitive bids, and formulate a recommendation to present for review and approval by the Council. If recommendations/bids are approved by the Council, then the City Administrator will sign the purchase requisition and have the authority to move ahead with the purchase/contract.

The competitive bidding process is not required:

- 1) When contracting for professional services such as those of doctors, engineers, lawyers, architects, accountants, or other services requiring technical, scientific, or professional training.
- 2) For insurance contracts; however, the city must seek RFPs for group insurance for 25 or more employees.
- 3) When electronic reverse auctions are used where vendors bid against each other to offer the lowest selling price (note: the city is prohibited from using a reverse auction procedure to contract for professional or technical services).
- 4) When purchasing from the national government, the state, or any political subdivision of the state.
- 5) For the purchase, lease, or sale of real estate

A purchase requisition form (Attachment A) must be completed for all purchases \$1,000 and over. All purchase requisitions must include documentation that the item is authorized in the budget and/or that sufficient funds are available.

Price quotes information must be noted on the purchase requisition form and must be obtained for all purchases except for those purchases where a state CPV vendor is used (and the contract is not estimated to cost more than \$50,000) or a price agreement is already in place, per the following guidelines:

Purchases at or below \$2,500.00:	Minimum of 1 price quote is required
Purchases between \$2,500.01 and \$25,000.00	Minimum of 2 price quotes are required
Purchases between \$25,000.01 and \$50,000.00	Competitive Bidding Process or direct negotiation
Purchases \$50,000.01 and over	Competitive Bidding Process must be used

The purchase requisition should be signed by the person who is requesting the purchase and who obtained the quotes, verified the funds, etc. If this person is not a Department Head, the purchase requisition will also need the Department Head signature of approval. When complete, the purchase requisition is submitted to the Finance Director for approval and verification that sufficient funds are available. After approval by the Finance Director the purchase requisition is signed and approved by the City Administrator.

City Council may authorize the use of credit cards by any city officer or employee otherwise authorized to make a purchase on behalf of the City.

Conflict of Interests

Employees – no employee will participate directly or indirectly in any contract or procurement of goods/services that the City makes when the employee or any member of the employee's immediate family has a financial interest related to the contract or procurement, including involvement with a business or organization related to the procurement. If a conflict of interest is deemed to exist, the employee shall not participate in the transaction.

Immediate family shall be defined as a spouse, domestic partner, parent, child, sibling, father-in-law or mother-in-law, son in-law or daughter in-law, sister in-law or brother in-law, step child, step sibling, and half sibling.

City Officials - no city official, elected or appointed, will participate directly or indirectly in any contract or procurement of goods/services that the City makes when the City officials or any member of the city official's immediate family has a financial interest to the contract or procurement, including involvement with a business or organization related to the procurement. This prohibition applies whether the official actually votes on a contract or not. There are limited exceptions to this prohibition, and the City Council should seek advice from the City Attorney before entering into any contract in which a council member or any other city official will have a financial interest. Conflicts of interest can also arise when a city official has a personal interest in a matter which is particularized and so distinct from the public interest that the official cannot be impartial or fairly represent the public interest. A city official who violates the conflict of interest law is guilty of a gross misdemeanor and can be fined up to \$3,000 and imprisoned up to one year. In addition, the other members of the council who knowingly authorized the unlawful contract may also be subject to criminal penalties. Furthermore, contracts that violate these statutes are generally void.

Immediate family shall be defined as a spouse, domestic partner, parent, child, sibling, father-in-law or mother-in-law, son in-law or daughter in-law, sister in-law or brother in-law, step child, step sibling, and half sibling.

Emergencies

Under Minnesota's Emergency Management Act, the city is given authority to enter into contracts without following normally required procedures. The governing body may waive compliance with the time-consuming procedures that concern: the performance of public work, contracting, incurring obligations, employing temporary workers, renting equipment, purchasing supplies and materials, limitations on tax levies and the appropriation and expenditure of public funds (uniform municipal contracting law).



Purchasing Policy

May 15, 2018

Table of Contents

City of Lake Elmo Purchasing Procedures	3
General Purchasing Procedures	3
Construction, Contract Services, and Purchase (Goods) Contracts	6
Authorization Thresholds and Requirements	6
Over \$100,000 (\$175,000 effective August 1, 2018) with labor - Performance Bond	7
Awarding Contracts	7
Best Value Procurement Alternative	7
Cooperative Purchasing Procedures	7
Change Orders	9
Other Bidding Requirements	9
Purchase or Lease of Used Public Safety Equipment	9
Leases and Lease Purchases	9
Real Estate	10
Online Purchases	10
Withholding Certificates	10
Ethics and Acceptance of Gifts	10
Public Purpose Expenditures	11
Professional Service & Consultant Contracts	12
Disposition or Donation of Surplus Assets	13
Government to Government Sales	13
Trade-ins	14
Electronic Sales	14
Restrictions	14

City of Lake Elmo Purchasing Procedures

Effective May 15, 2018

These purchasing procedures are intended to provide a consistent manner of purchasing goods and services Citywide. Employees should secure the best balance between quantity, quality, and price when purchasing for the City.

General Purchasing Procedures

- The City of Lake Elmo has a “decentralized” purchasing program; purchasing is the responsibility of each Department Director or designated individual.
- The Finance Department processes payments twice per month, which is the week preceding the City Council meeting and invoices are paid by due date. Fully completed Payment Voucher forms must be submitted by 4:30 pm on the Tuesday before the City Council packet is due. This will ensure inclusion in the packet for which the City Council will consider at the subsequent meeting.
- Payments will be made only from invoices, or expense reimbursement forms, which should be attached to completed Payment Voucher forms.
- Persons authorizing payments are responsible for verifying that goods are received, services provided, that they are necessary, and that no duplicate payments occurred. Signature(s) are required by authorized individual(s) in order to be processed for payment.
- Persons authorizing payments are responsible for coding invoices and ensuring that correct account codes are used. If there are questions regarding coding, contact the Finance Department for assistance.
- Contracts to which the City is a party, shall be brought to the City Council for consideration and if approved, will be signed by the Mayor and the City Clerk on behalf of the City to be executed.
- Generally, accepted accounting principles will be followed. For the end of each year, invoices that are received early the next year which are for goods or services received the previous year will usually be charged against the previous year. The year to which an invoice will be charged is based on the financial statement/audit cut-off date and the materiality of the item. If you have any questions about this, please contact a member of the Finance Department.
- Employees will not make any purchases for personal use through the City.
- Minnesota State Statutes §471.87 and §471.88 prohibit the purchase of goods and services wherever a conflict of interest may exist. The City of Lake Elmo requires employees to disclose to their immediate supervisor any personal financial interest in the selling or buying of goods or

services for the City. No purchase orders, contracts or service agreements shall be given to an employee of the City or to a partnership or corporation of which an employee is a major stockholder or principal. No employee shall enter into the relationship with a vendor where the employee's actions are, or could reasonably be viewed as, not in the best interests of the City. If any employee becomes involved in a possible conflict situation, the employee shall disclose the nature of the possible conflict to his or her supervisor and to the City Administrator. The City Administrator shall promptly notify the individual in writing of an approval or disapproval of the activity. If disapproved, the employee shall remove himself or herself from the conflict situation.

- Minnesota Statute §12.37 gives the City the ability to declare an emergency situation for a limited period of time. During such an emergency, the City is not required to use the typically mandated procedures for purchasing and contracts. Emergency purchases require approval by the City Administrator, Finance Director, and when necessary because of the dollar amount, formal City Council action. An emergency purchase is defined as one where an immediate response is required to protect the health, welfare or safety of the public or public property.
- The City has a credit card program available for employees who frequently purchase items for the City. A separate Credit Card Policy is available.
- Travel purchases should be made following the City's travel guidelines in the Personnel Policy.
- Provisions of this Policy do not apply to previously City Council approved routine expenditures/expenses such as utilities, payroll and related expenditures, insurance premiums, MCES charges for sewer, bond payments, etc.

Petty Cash Procedures

Below are some key process for petty cash advances or reimbursements. The entire Petty Cash Procedures document is available by contacting the Finance Department

Receipting of Transactions:

1. On the log sheet, fill out date, vendor, description, amount and department
2. Fill out the receipt in the yellow receipt book, attach receipt, and attach appropriate documentation.
3. At month end, reconcile the cash and receipts.
 - The staff person reconciling petty cash signs off on the log sheet verifying they have reconciled the petty cash box, which should include documentation for all cash payments received.
 - After reconciliation, have another staff person review for internal controls. This should be the Accountant, Finance Director, Deputy City Clerk or Permit Technician.

- If the petty cash balance has more than the \$500 base amount, a deposit should be prepared to reduce the balance back to \$500.
- If the petty cash balance has less than the \$500 base amount, a check request with appropriate documentation for the amount needed to replenish the fund should be sent to Finance.

This process will be revised upon completion of the software implementation for the City.

Cash Advance or Reimbursement:

1. **Cash Advance** - If requesting a cash advance for an eligible City expenditure/expense, have the staff person fill out a "Petty Cash Advance or Reimbursement Form" outlining the advance and verified by the appropriate staff person. After the purchase is made, provide the appropriate documentation; amend the form for the actual amount and add the transaction to the log sheet.
2. **Cash Reimbursement** – If requesting a cash reimbursement from an eligible City expenditure/expense, have the requesting individual fill out a "Petty Cash Advance or Reimbursement Form". Attach appropriate documentation, and the authorized individual will reimburse the individual, upon which both people should sign the form acknowledging receipt and payment.

Construction, Contract Services, and Purchase (Goods) Contracts

Supplies, Materials, Equipment or Equipment Rental, and
Construction, Alteration, or Repair & Maintenance of Property

This section pertains to the purchase of supplies, materials, equipment or the rental thereof, or the construction, alteration, repair or maintenance of real or personal property. For professional services including but not limited to audit services, legal services, and engineering services, see the Professional Services section of this document.

Authorization Thresholds and Requirements:

Less than \$500.00 – Authorized Individuals

Purchases may be obtained through open market or direct negotiations. The City Administrator may grant purchasing authority to individuals authorized to conduct City business through an Authorization Form kept on file in Finance. This form outlines spending thresholds, and any exceptions to that threshold.

\$500.00 to \$2,500.00 – Authorized Individuals

Purchases may be obtained through open market or direct negotiation, **with two quotations** obtained whenever possible. Quotations must be retained for at least one year. The City Administrator may grant purchasing authority to individuals authorized to conduct City business through an Authorization Form kept on file in Finance.

\$2,500.01 to \$10,000.00 – City Administrator

Purchases may be obtained through open market or direct negotiation, **with two quotations** obtained whenever possible. Quotations must be retained for at least one year. The City Administrator may grant purchasing authority to individuals authorized to conduct City business through an Authorization Form kept on file in Finance.

\$10,000.01 to \$100,000 (\$175,000 effective August 1, 2018) – City Council or City Administrator as Delegated

Purchases may be obtained through sealed bids, or cooperative purchasing contracts, or direct negotiation, with two quotations obtained whenever possible. Quotations must be retained for at least one year. Cooperative Purchasing Contracts should be considered for contracts over \$25,000 and may be used in lieu of sealed bids or quotes. The City Council would approve purchases in this range, unless delegated to the City Administrator for routine budgeted items. Due to the cost of preparing sealed bids, and the additional length of time required in this process, the use of sealed bids for this threshold should only be used when deemed necessary.

Greater than \$100,000 (\$175,000 effective August 1, 2018), or Greater than \$50,000 if Being Specially Assessed

Sealed bids solicited by public notice are required under M.S. 471.345, Subd. 3. Contracts must be awarded to either the lowest responsible bidder, or the “Best Value Procurement Alternative”. Obtain authorization from the City Council to prepare plans and specifications. The City Attorney should review the plans and

specifications including the contract prior to advertisement for bids. Cooperative Purchasing Contracts should be considered for contracts over \$25,000 and may be used in lieu of sealed bids.

Advertisement for sealed bids must be published in the City's Official Newspaper and advertised on QuestCDN at least ten days before the last date for submission of bids.

The published notice must contain the following:

- A description of the project or the purchase
- The availability of specifications including the location, for example, Office of the City Clerk, etc.
- The last day for submission of bids and the place where they are due
- The time and place for opening bids
- A statement reserving the right of the City to reject all bids

The bids must be opened and tabulated at the time and place specified in the advertisement for bids. Preferably, this should be completed approximately 10 working days in advance of the City Council meeting to allow for a thorough review and tabulation of the bids, and to allow for reference checks as appropriate.

A recommendation can then be made to the City Council and the City Council will award or deny the contract.

Bids rejected by council must be kept on file for 6 years and the accepted bid must be retained for 10 years after completion of the project.

Over \$100,000 (\$175,000 effective August 1, 2018) with labor - Performance and Payment Bond

For contracts over \$100,000 (\$175,000 effective August 1, 2018) that include labor (ex. road construction and the purchase and installation of playground equipment) a performance and payment bond in an amount not less than the contract price is required from the vendor. If change orders substantially increase the amount of the contract, the City Council has the option to increase the amount of the contractor's bond.

Awarding Contracts

For contracts procured through sealed bids or multiple quotes, the City must award the contract to the lowest responsible bidder, or Best Value Procurement Alternative, as set forth in the next section outlines. The bidder who submits the lowest bid or quote in dollars is not necessarily the "lowest responsible bidder."

Best Value Procurement Alternative

Minnesota Statute 412.311 allows the City to use a Best Value Procurement Alternative instead of awarding the bid to the lowest responsible bidder. Please contact the City Administrator or Finance Director if you wish to consider using the Best Value Procurement Alternative.

Cooperative Purchasing Procedures

Cooperative purchasing contracts provide an opportunity for the City to purchase goods and services at reduced costs. Employees do not need to obtain quotes or bids if a purchase is made through a national municipal association purchasing alliance or a cooperative created by a joint powers agreement (of which the City is a member) that purchases items from more than one source based on competitive bids or quotations that complies with State Statute.

The following is a list of some of the larger purchasing cooperatives of which the City is a member:

1. Cooperative Purchasing Ventures (CPV)

Minnesota Statute 471.345, Subd. 15 requires cities to consider the Cooperative Purchasing Venture (CPV) for contracts estimated to exceed \$25,000. The City of Lake Elmo participates in the State of Minnesota Cooperative Purchasing Venture (CPV). This enables the City to buy goods and services under the terms of contracts already negotiated by the State of Minnesota.

Information for this cooperative can be found on the State of Minnesota's Materials Management Division website: <http://www.mmd.admin.state.mn.us/cpv2.htm>

The website can direct employees to the releases and listings of the products/services that can be purchased on the state contract. If it is determined that a product/services is on a state contract, vendors should be told that the purchase will be made using that contract. When completing the purchasing paperwork, note the purchase is per state contract and indicate the contract number.

Vendors will often contend that the City can purchase from them without bidding because they are on the "state contract" or they will sell at the state contract price. **Beware of these approaches.** Verify both the vendor and the specific product/service is listed on the state contract. It is likely that not all of a vendor's products/services have been selected to be on the state contract. If a vendor is not on the state contract, but will match the state contract price, this action does not exempt the City from following the competitive bidding laws.

2. U.S. Communities Government Purchasing Alliance

The City participates in the U.S. Communities Government Purchasing Alliance <http://www.uscommunities.org/>.

4. Minnesota State Fire Chiefs Association – Fire Rescue Group Purchasing

The Fire Rescue Group Purchasing is a fire services purchasing program open to all Cities.

5. National Intergovernmental Purchasing Alliance (National IPA)

The City participates in the National IPA cooperative purchasing organization. <http://www.nationalipa.org>.

6. Joint Powers Member

Any Joint Powers Purchasing Entity of which the City is a member provides for purchases is also exempt from the quote or bid process.

In all items outlined pertaining to cooperatives, please contact the City Administrator or Finance Director if you have any questions.

Change Orders

Change orders may occur due to City driven changes, errors and omissions, field directives, unforeseen/hidden conditions, regulatory requirements or changes that are contractor driven. Changes that need to be made during construction need to be addressed and approved in a timely manner in order to keep the project on schedule.

- 1) For a change order less than \$100,000, or less than 10% of total estimated project cost, which does not result in exceeding the overall project budget, the City Administrator may approve these.
- 2) At the discretion of the City Administrator, for a change order less than \$100,000, or less than 10% of the total estimated project cost, but still within the scope of the overall project budget, it may be presented to the City Council for consideration and approval.
- 3) For any change order that results in exceeding the overall project budget, and/or exceeds \$100,000 must be approved by the City Council.

Other Bidding Requirements

- A City cannot avoid bidding requirements by splitting a contract into several contracts, each of which is below the minimum amount requiring bids.
- Specifications may not be written so as to exclude all but one type or kind of supplies or equipment.
- The City may not accept a bid that includes a number of items when the advertisement called for separate bids for each item.
- The City must re-bid when they make a material change in the specifications of the contract.
- Minnesota Statutes Chapter 429 (local improvement code) applies to all public improvement contracts (i.e., sewer, water and streets) being financed with special assessments.

Purchase or Lease of Used Public Safety Equipment

In 2011, cities were granted authority to lease or purchase used public safety equipment (“vehicles and specialized equipment used by a fire department ... in firefighting, ambulance and emergency medical treatment services, rescue, and hazardous materials response”) without bidding in certain specified circumstances. Competitive bidding or proposals are not required, “if the equipment is clearly and legitimately limited to a single source of supply, and the contract price may be best established by direct negotiation.”

Leases and Lease Purchases

All lease agreements need approval through the City Administrator and Finance Director prior to initiating the lease. The Finance Department and applicable Department will obtain at least two quotes to insure the best financing rates. Lease Performance Bonds are sometimes prudent for Lease Purchases, and as such, the City Administrator and Finance Director will assist in determining if a Lease Performance Bond should be required.

Real Estate

The purchase or sale of real property is generally not subject to competitive bidding.

Online Purchases

Employees may only purchase from vendors that use secure services for e-commerce. The City is required to submit sales tax for out-of-state purchases.

Withholding Certificates

Before the City makes a final payment to a contractor under a contract requiring employment for wages, it must make sure the contractor and any subcontractors have complied with withholding tax laws. Contractors and subcontractors must show compliance by submitting a withholding affidavit to the MN Department of Revenue. This can be done electronically or by mailing a completed Form IC134, "Withholding Affidavit for Contractors." If a contractor or subcontractor has withheld taxes as required, the Department of Revenue will return an electronic confirmation or sign and return the Form IC134, certifying compliance. The City must receive this certification of compliance before a final payment can be issued.

Covered contracts are only those under which a contractor undertakes to supply labor or a combination of labor and materials for specific construction, repairs, rehabilitation or improvements. It does not apply to contractors for maintenance services or dealers, merchants and suppliers who supply materials only. The Department of Revenue requires the Form IC134 only be submitted in connection with contractors on construction projects. Others are not required to submit the form so this paragraph only needs to be used on construction contracts.

Federal Purchases

Under uniform grant guidance (2 CFR 200.317–326) there are additional procurement requirements that need to be considered when making purchases related to a federal program. Five procurement methods are identified including: micro-purchase (<\$3,500), small purchase procedures (<\$150,000), sealed bid (>\$150,000), competitive proposal (>\$150,000), and noncompetitive proposal (>\$3,500). The general purchasing policy addresses many of these requirements and the City will also consider the full requirements in relation to each method as described in 2 CFR. The micro-purchase threshold which is set by Federal Acquisition Regulation at 48 CFR Subpart 2.1 is subject to change with inflation. The City will follow changes to thresholds as modifications occur. When practicable, micro-purchasing will be distributed among qualified suppliers.

Ethics and Acceptance of Gifts

Employees and Council Members authorized to make a sale, lease, or contract in an official capacity must not have a personal financial interest in that sale, lease, or contract, or personally benefit financially from it. (See Minn. Stat. § 471.87)

For non-business related purchases, employees may only take advantage of special pricing offered to employees of the City if the same pricing is offered to government employees state or countrywide. However, special pricing offered to the City by vendors may not be accepted by employees in a position to make purchasing decisions or recommendations within that same category of goods or services.

Public Purpose Expenditures

City employees are obligated to conserve and protect City resources for the benefit of public interest. As good stewards of public funds, City employees must only use City funds for public purpose expenditures. The expenditure of City Funds on meals and refreshments for City Employees, Officials, and Volunteers is only authorized by the City Council for certain purposes. These purposes should be conducive to the accomplishment of employees' duties and responsibilities while conducting City business and therefore provide a public benefit and have a public purpose.

As detailed below, the purchase of meals and refreshments, using City Funds is authorized in the following circumstances:

- Those provided immediately before or in conjunction with meetings of the Council, committees or subgroups.
- City business meetings at which those in attendance involve non-City employees.
- When a breakfast, lunch or dinner meeting is conducted for official City business when it is the only practical time to meet and when it involves non-City employee participants.
- In connection with a conference, workshop, seminar or meeting which the employee has been authorized to attend.
- Department-sponsored meetings, conferences or workshops where invited participants include non-City employees.
- An organization-wide or department-wide annual, quarterly or monthly staff meeting.
- At regularly scheduled meetings of the City Administrator and key staff.
- Meals for staff involved in election related duties when the performance of their duties prohibits staff from leaving the building.
- At the discretion of the City Administrator.

If you are unsure whether an item is a public purpose expenditure, please contact the City Administrator or Finance Director.

Professional Service & Consultant Contracts

Accountants, Architects, Engineers, Lawyers, Training, Technical/Scientific Services

State Statute does not require advertisement of bids or sealed bids for professional services such as those of engineers, lawyers, architects, accountants, and other services requiring technical, scientific, or professional training. It is recommended that proposals be obtained through a request for proposal (RFP) process when such a process would provide the City with increased quality, a decreased price, or anticipated to exceed \$100,000.

Request for Proposal (RFP)

The City follows an RFP process when soliciting professional consulting services.

Recommended sections to include in a RFP:

- Background and scope of project.
- Description of the scope of professional services to be provided.
- Schedule for the delivery of services.
- Contract terms. Include and reference as an attachment the “Standard Professional Services Agreement”, except when using the City’s consulting pool.
- The last day for submission of proposals and the place where they are due.
- If necessary, include requirement for attendance at a pre-proposal meeting to answer vendor questions regarding the RFP. This provides fairness to all participants when questions are answered with all participants present. Request that questions be submitted in advance.
- Proposal evaluation and selection criteria.
- Format required for submitted proposals to provide for consistent submittals.
- Profile questionnaire to obtain general information about the vendor.
- A statement reserving the right of the City to reject all proposals.

At the discretion of the City Administrator, the RFP may be sent to the City attorney for review before it is sent to selected vendors. RFP’s should be sent to a reasonable/manageable number of vendors.

After the submittal deadline, review Proposals by using a rating sheet and rate each Proposal based on the specifications and general information. Follow up with reference checks as appropriate. Select a vendor and make recommendation to the City Council.

Standard Professional Services Agreement

The City’s “Standard Professional Services Agreement” (contract) should be used for professional service contracts, except when using the City’s consulting pool.

The Standard Professional Services Agreement outlines consultant obligations including insurance and liability coverage requirements, audit disclosure, subcontractors, and termination processes. This contract should be used for professional service agreements, except when using the City’s consulting pool.

Disposition or Donation of Surplus Assets

The City Administrator may recommend to the Council that certain property owned by the City is no longer needed for a municipal purpose and should be sold.

There are three aspects to any disposal of a City asset:

1. Disposal Approval

The City Council must approve the disposal of all property that exceeds an estimated value of greater than \$100.00.

2. Terms of Sale Approval

The sale itself must be approved by the City Council.

3. Proper Municipal Sale Contract

Just as with purchasing, making a sale is considered entering into a contract. After the Council has declared the property as surplus, and approved its disposal, the City Administrator, or designee, is authorized to dispose of the property using one of the following methods:

Assets under \$25,000

If the value of the surplus property is estimated to be \$25,000 or less, the City Administrator, or designee, may sell it either in the open market, or by obtaining two quotations, so far as practical. If the surplus property is sold based upon quotation(s), it/they shall be kept on file for a period of at least one year after receipt.

Assets between \$25,000 - \$100,000 (\$175,000 effective August 1, 2018)

If the value of the surplus property is estimated to exceed \$25,000 but not to exceed \$100,000 (\$175,000 effective August 1, 2018), the City Administrator, or designee, may sell the property upon sealed bids or by direct negotiation, by obtaining two or more quotations for the sale, when possible. All quotations obtained shall be kept on file for a period of at least one year after their receipt.

Assets over \$100,000 (\$175,000 effective August 1, 2018)

If the value of the surplus property is estimated to exceed \$100,000 (\$175,000 effective August 1, 2018), the City Administrator, or designee, shall solicit sealed bids by public notice in the manner and subject to the requirements of the law governing contracts by the City.

Government to Government Sales

The City may transfer real and personal property to another governmental entity for nominal or no consideration and without following the process set out under "Proper Municipal Sale Contract" (item #3) above. Sealed bids or quotes are not required. Council approval of the disposal (item #1 above) and of the terms of the disposal (item #2 above) is always required. The council may approve both the disposal and disposal terms in one action.

Trade-ins

The City Council must approve the disposal of equipment via trade-in to utilize toward the purchase of new equipment, just as it approves a regular disposal. This approval can be done as part of the approval of the purchase of new equipment.

Electronic Sales

Minn. Stat. 471.345, subd. 17 states that “a city may contract to sell supplies, materials, and equipment which is surplus, obsolete, or used, using an electronic selling process in which purchasers compete to purchase the items at the highest purchase price in an open and interactive environment.”

Donations

The City Council approved a Policy for Donation of Surplus Equipment to a Nonprofit Organization on February 7, 2018, and as such, said policy will govern the rules for donations.

Restrictions

No employee of the City who is a member of the administrative staff, department head, a member of the Council, or an advisor serving the City in a professional capacity may be a purchaser of property sold under this Section. Other City employees may be purchasers if they are not directly involved in the sale, if they are the highest responsible bidder, and if at least one (1) week's published or posted notice of sale is given.