

## **GENERAL PURCHASING PROCEDURE**

### **1.06.250 Approval by City Council of system expansions and additions and betterments.**

None of the authorizations set forth in this chapter relating to system expansion and the making of additions and betterments thereto or extensions thereof for utility services under the jurisdiction of the Public Utility Board shall be exercised until such system expansion, additions, betterments or extensions have been approved by the City Council pursuant to Section 4.11 of the City Charter.

(Repealed and reenacted by Ord. 27777 Ex A; passed Jan. 6, 2009: Ord. 26914 § 1; passed Dec. 18, 2001: Ord. 24743 § 1; passed Oct. 23, 1990: Ord. 23123 § 1; passed Mar. 6, 1984)

### **1.06.251 Definitions.**

Unless the context clearly requires otherwise, the terms used in Sections 1.06.250 through 1.06.280 of this Chapter shall have the following meanings:

- A. "Bid" means an offer submitted by a Respondent to furnish Supplies, Services, Public Works, and/or other property, as well as an offer to purchase surplus property, in conformity with the Specifications and any other written terms and conditions included in a City request for such offer.
- B. "Bidder" means an entity or individual who submits a Bid, Proposal or Quote. See also "Respondent."
- C. "Competitive Solicitation" means the procedure used to solicit Bids, Proposals, Quotes, qualifications and other information, as well as offers to purchase personal property, from multiple entities or persons to obtain the most favorable terms for the City, and includes all forms of City requests for same.
- D. "Contract" means any type of legally binding agreement, regardless of form or title that governs the terms and conditions for procurement of Supplies, Services, Public Works, or for the Sale of surplus property. Contracts include the terms and conditions found in Specifications, Bidder or Respondent Submittals, and purchase orders issued by the City.
- E. "Competitive Negotiation" means the method of acquiring Supplies or Services in which discussions or negotiations may be conducted with responsible Respondents to a Request for Proposal, resulting in a Contract award.
- F. "Formal Sealed Submittal" means a Sealed Submittal for a Purchase when the estimated cost is more than \$~~200,000~~500,000, excluding sales tax. Except as otherwise mandated in this Chapter, Formal Sealed Bid solicitation processes shall be governed by the Purchasing Policy Manual.

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G. "Informal Submittal" means a Submittal for a Purchase when the estimated cost is ~~\$200,000-500,000~~ or less, excluding sales tax. Informal Bid processes shall be governed by the Purchasing Policy Manual.

H. "Personal Services" means non-Public Works services for which Submittals are evaluated on the basis of defined performance criteria in addition to price and satisfaction of minimum qualification criteria. This term may be further defined in the Purchasing Policy Manual.

I. "Professional Services" means non-Public Works services involving professional or technical expertise, often associated with a license, provided by a Respondent to accomplish a specific study, project, task or other work statement, rather than delivery of a product or physical labor. Includes, but is not limited to, architectural and engineering services as defined by state law. This term may be further defined in the Purchasing Policy Manual.

J. "Proposal" means a written offer to furnish Supplies or Services in response to a Request for Proposals. This term may be further defined in the Purchasing Policy Manual and/or in Competitive Solicitations issued by the City.

K. "Public Works" (or "Public Works and Improvements") means all work, construction, alteration, repair, or improvement other than ordinary maintenance, executed at the cost of the City, or that is by law a lien or charge on any property therein.

L. "Purchase" (or "Purchasing") means the act of procurement or acquisition of Supplies, Services, Public Works or other items.

M. "Purchasing Policy Manual" means the written document authorized under Section 1.06.253 to establish uniform policies and/or procedures consistent with this Chapter.

N. "Purchased Services" means non-Public Works services for which submittals may be evaluated merely on the basis of price and satisfaction of minimum qualification criteria. This term may be further defined in the Purchasing Policy Manual.

O. "Quote" means a competitively solicited written offer to furnish Supplies or Services by a method of procurement that is less formalized than a Bid or a Proposal. This term may be further defined in the Purchasing Policy Manual.

P. "Request for Proposals" ("RFP") means a solicitation method by which purchases of Supplies, Services and in limited circumstances, Public Works, are made by Competitive Negotiation, in conformity with the Specifications and other written terms and conditions advertised by the City.

Q. "Request for Qualifications" ("RFQ") means a solicitation method most commonly used for the procurement of architectural and engineering services per 39.80 RCW. Price is not a factor in the evaluation of qualifications.

R. "Respondent" means any entity or person, other than a City employee, that provides a Submittal in response to a request for Bids, Request for Proposals, Request for Qualifications, request for Quotations or other request for information. This term includes any such entity or person whether designated as a supplier, seller, vendor, proposer, Bidder, contractor, consultant, merchant, service provider or otherwise.

S. "Sale" means the disposition of City surplus property by Bid, auction or negotiation process.

T. "Sealed Submittal" means a Submittal, whether a Bid, Proposal, Quote, qualifications, information or otherwise required to be received by the City in a sealed package.

U. "Services" means non-Public Works services and includes Professional Services, Personal Services, and Purchased Services, as such terms may be further defined in the Purchasing Policy Manual.

V. "Specification" means the document and any subsequent addenda, including terms and conditions that describes the physical or functional characteristics, or the nature of the required Supplies, Services, or Public Works; commonly referred to as the Bid document or Bid Specification.

W. "Submittal" means Bids, Proposals, Quotes, qualifications or other information submitted in response to requests for Bids, Requests for Proposals, Requests for Qualifications, requests for Quotations, or other City requests for information.

X. "Supplies" means materials, goods, products, provisions, equipment or other items not considered Services or Public Works.

(Repealed and reenacted by Ord. 27777 Ex A; passed Jan. 6, 2009: Ord. 26914 § 1; passed Dec. 18, 2001: Ord. 24743 § 1; passed Oct. 23, 1990: Ord. 23123 § 1; passed Mar. 6, 1984: Ord. 15998 § 1; passed Dec. 23, 1957)

#### **1.06.252 General responsibility for purchasing.**

The Director of Finance shall be responsible for all City purchasing and procurement and shall appoint a finance/purchasingsenior financial manager who shall be head of the PurchasingProcurement and Payables Division of the Finance Department and who shall, subject to the exceptions stated in the Charter and in this Chapter, make all purchases and all sales of personal property for all departments, offices, boards and other agencies of the City.

The duties and responsibilities designated in this Chapter to be performed by the Director of Finance and the finance/purchasingsenior financial manager shall be performed with the oversight of the City Manager.



(Repealed and reenacted by Ord. 27777 Ex A; passed Jan. 6, 2009: Ord. 26914 § 1; passed Dec. 18, 2001: Ord. 24743 § 1; passed Oct. 23, 1990: Ord. 23123 § 1; passed Mar. 6, 1984: Ord. 15998 § 1; passed Dec. 23, 1957)

#### **1.06.253 Purchasing Policy Manual.**

The Director of Finance, ~~with the approval of the City Manager and the Director of Utilities,~~ is authorized to ~~and shall~~ establish a ~~unified written~~ Purchasing Policy Manual applicable to all City purchases and to sales of surplus personal property. The Purchasing Policy Manual shall establish ~~processes and standards~~policies for, but not be limited to, the following:

- A. Obtaining competitive solicitations whenever practicable; provided, that the Purchasing Policy Manual may allow for greater flexibility in how solicitations are made, commensurate with the dollar amount involved.
- B. Determining the lowest and best responsible bidder in case of supplies, purchased services and public works, and award to the highest and best responsible bidder for surplus sale transactions.
- C. Competitive solicitation processes as provided in this Chapter.
- D. The procurement of public works by way of the small works roster as provided in this Chapter and allowed by state law.
- E. The procurement of architectural and engineering (A&E) services, including management of an annual A&E roster for citywide use, consistent with this Chapter and as allowed by state law, as the same may hereafter be amended.
- F. ~~Standards and procedures for~~The use of requests for proposals (competitive negotiation), rather than requests for bids, for acquisition of supplies, purchased services, personal services, professional services, and public works.
- G. The use of direct solicitation as provided in this Chapter.
- H. Use of procurement cards.
- I. Purchase at auctions pursuant to TMC 1.06.277.
- J. Waivers of competitive solicitations and/or advertising.
- K. Acceptance of electronic submittals in response to requests for bids, proposals, quotations, qualifications or information.
- L. Determining if a performance bond and/or bid bond is necessary in the City's best interests when such bond(s) are not required by state law.
- M. Determining if a noncollusion declaration is necessary in the City's best interests when such declaration is not required by this Chapter or state law.
- N. Obtaining written contracts, insurance, indemnification, and guarantee requirements, as appropriate.
- O. ~~Ensuring f~~Fair and equitable treatment of all potential respondents.

P. Obtaining authorization for purchases consistent with this Chapter.

Q. ~~Ensuring~~ Compliance with the City's Ethics Code.

R. Contract recommendations and award and additional rules for protest and surplus sales.

S. Defining purchasing related terms as necessary and consistent with this chapter.

~~T. Reporting purchases, as requested, to the City Council for General Government transactions or to the Public Utility Board for Department of Public Utilities transactions.~~

~~U. Ensuring~~ The City's specification documents ~~shall to~~, where appropriate, include locality criteria. Locality criteria contained in the specification documents shall be designed to elicit respondents who demonstrate knowledge and understanding of factors unique to the relevant locality. Such factors might include, but are not limited to, culture; customs; history; and the natural, built, and economic environment of the relevant locality. A respondent's ability to satisfy such criteria shall be considered when determining the lowest and best responsible bidder.

~~V. Ensuring~~ The City's specification documents ~~shall to~~, where appropriate, include criteria designed to demonstrate a respondent's ability to advance the City of Tacoma's Sustainable Procurement Policy. ~~contained in the Purchasing Policy~~

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~~Manual~~. A respondent's ability to satisfy such criteria shall be considered when determining the lowest and best responsible bidder.

(Ord. 28140 Ex. A; passed Mar. 26, 2013: Repealed and reenacted by Ord. 27777 Ex A; passed Jan. 6, 2009: Ord. 26914 § 1; passed Dec. 18, 2001: Ord. 24743 § 1; passed Oct. 23, 1990: Ord. 23123 § 1; passed Mar. 6, 1984: Ord. 15998 § 1; passed Dec. 23, 1957)

#### **1.06.254 General competitive solicitation and award requirements.**

Except as otherwise provided in this Chapter or the Purchasing Policy Manual, all purchases shall be by competitive solicitation. For supplies, services (other than professional services) and public works, competitive prices shall be obtained by request for bid or, when allowed by state law or the Purchasing Policy Manual, by request for proposal; and the purchase made from, or the contract awarded to, the lowest and best responsible bidder or respondent. Unless otherwise required by state law or in the Purchasing Policy Manual, solicitation of professional services may be by requests for bids, requests for proposals, requests for qualifications, or by direct negotiation; and the contract awarded based on qualifications and price in the best interests of the City.

A. For purposes of interpreting the provisions of this Chapter 1.06, Sections 1.06.251 through 1.06.280, the dollar amounts specified therein with regard to procedural requirements shall not include sales and/or use tax.

B. For City contracts when monies are not directly received or expended by the City (such as, but not limited to, vendor concessions, towing services and ambulance services), and regardless of the funding source or whether the award is made to a non-profit organization, the contract awarded shall be the result of competitive solicitation as determined to be in the best interests of the City. Required approval authority for such transactions, based on the total value of the subject contract, shall be consistent with Section 1.06.268 herein.

(Repealed and reenacted by Ord. 27777 Ex A; passed Jan. 6, 2009: Ord. 26914 § 1; passed Dec. 18, 2001: Ord. 24743 § 1; passed Oct. 23, 1990: Ord. 23123 § 1; passed Mar. 6, 1984: Ord. 15998 § 1; passed Dec. 23, 1957)

**1.06.255 Competitive solicitation requirements for supplies and public works.**

Except as otherwise provided in this Chapter, the Purchasing Policy Manual or by other applicable law, all City purchases for supplies and public works shall be made as follows:

A. Contracts for supplies and/or public works, when the estimated cost is ~~\$200,000~~\$500,000 or less (excluding sales tax), shall be made only after solicitation of informal submittals and the contracts shall be awarded to the lowest and best responsible bidder.

B. Contracts for supplies and/or public works, when the estimated cost is over ~~\$200,000~~\$500,000 (excluding sales tax), shall be made only after solicitation of formal sealed submittals and the contracts awarded to the lowest and best responsible bidder.

C. The ~~finance/purchasing~~senior financial manager shall have the authority ~~in limited circumstances~~ to negotiate volume discount supply contracts, convenience contracts and other contracts when bidders have no incentive to respond to a competitive solicitation, and when in the best interests of the City.

D. Use of a request for proposals (competitive negotiation process) may be used, consistent with state law, in lieu of the bid process for purchase of supplies requiring the acquisition of specially tailored or performance criteria-based products, including but not limited to, such as -computer and technological software, firmware, hardware, equipment, and other goods as may be provided for in the Purchasing Policy Manual.

E. Use of a request for proposals (competitive negotiation process) may be used, consistent with state law, in lieu of the bid process for purchase of public works as provided for in the Purchasing Policy Manual.

F. The City may procure public works in accordance with alternative public works procedures authorized by state law, as it may hereafter be amended.

G. The City may procure public works in accordance with TMC 10.27, as it may hereafter be amended, governing small works rosters.



(Repealed and reenacted by Ord. 27777 Ex A; passed Jan. 6, 2009: Ord. 26914 § 1; passed Dec. 18, 2001: Ord. 25327 § 1; passed Jul. 6, 1993: Ord. 24743 § 1; passed Oct. 23, 1990: Ord. 23123 § 1; passed Mar. 6, 1984)

#### **1.06.256 Competitive solicitation requirements for services.**

Except as otherwise provided herein or by other applicable law, all City purchases of services shall be made as follows:

A. Purchased Services. Solicitation of contracts for purchased services shall be made either by request for bid or request for proposal (competitive negotiation) in accordance with the ~~standards and procedures set forth in the~~ Purchasing Policy Manual.

1. Where the ~~finance/purchasing~~senior financial manager determines a request for bid to be the appropriate solicitation method for a purchased service, the contract shall be awarded to the lowest and best responsible bidder only after solicitation of a request for bids in accordance with ~~the standards and procedures set forth in the~~ Purchasing Policy Manual.

2. Where a request for proposal is determined by the ~~finance/purchasing~~senior financial manager to be the appropriate solicitation process for a purchased service, the contract shall be awarded after solicitation of a request for proposals in accordance with the ~~standards and procedures set forth in the~~ Purchasing Policy Manual.

B. Professional/Personal Services, excluding architectural and engineering services. Solicitation of, and contracts for, professional services and personal services shall be by request for bids or request for proposals except when use of direct solicitation and negotiation is determined by the City Manager, on behalf of General Government, or the Director of Utilities, on behalf of the Department of Public Utilities, to be in the best interests of the City. If so authorized, direct solicitation and negotiation process shall be in accordance with ~~standards and procedures set forth in the~~ Purchasing Policy Manual.

C. Architectural and Engineering (A&E) Services. Solicitation of, and contracts for, architectural and engineering services shall be by request for qualifications, the utilization of an annual A&E roster of qualified firms, or other method consistent with applicable state law and ~~standards and procedures set forth in the~~ Purchasing Policy Manual.

(Repealed and reenacted by Ord. 27777 Ex A; passed Jan. 6, 2009: Ord. 26914 § 1; passed Dec. 18, 2001: Ord. 25335 § 11; passed Jul. 20, 1993: Ord. 24743 § 1; passed Oct. 23, 1990: Ord. 23123 § 1; passed Mar. 6, 1984: Ord. 16456 § 1; passed Nov. 16, 1959)

#### **1.06.257 Waiver of competitive solicitation requirements.**

Except as prohibited by state law, competitive solicitation and/or other public contracting requirements may be waived, in whole or in part, for sole source purchases or in cases where it is not practicable to utilize a competitive solicitation process, or in

emergency situations, or when otherwise deemed in the best interests of the City. Waiver of the City's competitive solicitation requirements shall be accomplished in accordance with ~~the standards and procedures set forth in~~ the Purchasing Policy Manual, and the following definitions and requirements:

A. "Sole Source" means, but is not limited to, circumstances where there is only one feasible supplier, including circumstances where the purchase is required to improve or maintain a proprietary system or where the purchase is intended to promote the standardization of a system by purchasing from a single source.

B. "Not Practicable" means, but is not limited to:

1. An immediate and important need for proposed construction, installation, repair, materials, supplies, equipment, or services where the delay that would result from following the requirements of the competitive solicitation process would cause financial loss to the City or an interruption of vital services to the public;
2. Purchases involving special facilities or market conditions; or
3. Purchases involving specially tailored or performance criteria-based products such as computer systems or equipment.

C. "Emergency Situations" means, but is not limited to:

1. In case of any breakage or loss of equipment or other circumstances in which any necessary service is or is about to be interrupted;
2. In cases where the City will suffer a substantial loss by following the normal competitive solicitation procedures;
3. In situations where public health or safety may be jeopardized;
4. When required by a regulatory agency with jurisdiction;
5. In other cases as allowed by state law.

Emergency purchases over ~~\$200,000~~\$500,000 (excluding sales tax) shall be reported to the City Council or Utility Board, as appropriate, consistent with 39.04.280 (2) (b) RCW, as it may hereafter be amended.

(Repealed and reenacted by Ord. 27777 Ex A; passed Jan. 6, 2009: Ord. 26914 § 1; passed Dec. 18, 2001: Ord. 25335 § 12; passed Jul. 20, 1993: Ord. 24743 § 1; passed Oct. 23, 1990: Ord. 23123 § 1; passed Mar. 6, 1984: Ord. 18538 § 1; passed Mar. 26, 1968: Ord. 15998 § 1; passed Dec. 23, 1957)

#### **1.06.258 Routine sole source items.**

The City Manager or designee, on behalf of General Government, and the Director of Utilities or designee, on behalf of the Department of Public Utilities, are authorized to contract for, purchase and pay for routine sole source items including, but not limited to, local telephone service, utility services, taxes and special assessments, and other payments as required by law, for which funds are budgeted, without competitive



solicitation or additional City Council or Public Utility Board approval. Written reports, when requested, shall be provided to the City Council for General Government or the Public Utility Board for the Department of Public Utilities to identify expenditures made pursuant to this authority.

(Repealed and reenacted by Ord. 27777 Ex A; passed Jan. 6, 2009: Ord. 26914 § 1; passed Dec. 18, 2001: Ord. 25335 § 13; passed Jul. 20, 1993: Ord. 24743 § 1; passed Oct. 23, 1990: Ord. 23630 § 1; passed Jun. 3, 1986: Ord. 23123 § 1; passed Mar. 6, 1984: Ord. 15998 § 1; passed Dec. 23, 1957)

#### **1.06.259 Requests for formal sealed submittals.**

Except as otherwise provided in this Chapter, all solicitations for formal sealed submittals, when the estimated cost is more than \$~~200,000~~500,000 (excluding sales tax), shall be advertised and published ~~in the official newspaper of the City, as required~~ by law at least once, not less than five City business days before the submittal deadline.

(Repealed and reenacted by Ord. 27777 Ex A; passed Jan. 6, 2009: Ord. 26914 § 1; passed Dec. 18, 2001: Ord. 24743 § 1; passed Oct. 23, 1990: Ord. 23123 § 1; passed Mar. 6, 1984: Ord. 15998 § 1; passed Dec. 23, 1957)

#### **1.06.260 Bid deposits, performance bonds and noncollusion declarations.**

A. Bid Deposits. Unless stated otherwise in the specifications, respondents to solicitations for public works shall make a deposit in the form of a certified check or bid bond from a bonding company licensed to do business in the state of Washington and in a form as approved by the City Attorney in an amount equal to not less than five percent of the total bid, which percentage shall be stated in the specification document; and provided further that bid deposits may be required for supply and service contracts, in the City's sole discretion.

1. Bid deposits submitted in the form of a certified check may be refunded prior to award as deemed in the best interests of the City, and in accordance with ~~standards and procedures set forth in~~ the Purchasing Policy Manual. If the recommended award is not approved, the next lowest responsible bidder shall upon request of the City promptly resubmit their deposit. The deposit of the successful bidder, upon failure of such bidder to consummate the contract, shall be forfeited as liquidated damages.

B. Performance Bonds. Unless stated otherwise in the specifications, the successful bidder for public works shall furnish a faithful performance or surety bond from a bonding company licensed to do business in the state of Washington and in a form as approved by the City Attorney in the amount equal to the total amount of the contract; provided, however, that the performance bond amount may be reduced as provided by applicable law and/or pro-rated according to project phase(s) or contract year in certain

appropriate cases; and provided further that a performance bond may be required in other appropriate cases in the City's sole discretion.

C. Noncollusion. Each respondent shall certify under penalty of perjury, or submit a notarized affidavit attesting, that its submittal is a genuine bid or proposal and that he, she or it has not entered into collusion with any other respondent or any other person. Such certification shall be by written declaration or notarized affidavit in a form approved by the City Attorney and executed by the respondent.

(Repealed and reenacted by Ord. 27777 Ex A; passed Jan. 6, 2009: Ord. 26914 § 1; passed Dec. 18, 2001: Ord. 24743 § 1; passed Oct. 23, 1990: Ord. 23123 § 1; passed Mar. 6, 1984)

#### **1.06.261 Formal sealed submittals opening procedure, tabulations and disclosure.**

Formal sealed submittals shall be delivered to the designated City office as set forth in the specification documents. If authorized by the specification documents, and if not otherwise required by law, submittals may be delivered in the electronic format set forth in the specification documents. Formal sealed submittals shall be opened in public by the finance/purchasing senior financial manager or designee, at the time and place stated in the request for such submittals. The finance/purchasing senior financial manager or designee shall forward copies of the submittals to the appropriate department or division for recommendations. A tabulation of all formal sealed bids received shall be made and be available for public inspection at the Purchasing Division during regular office hours.

(Repealed and reenacted by Ord. 27777 Ex A; passed Jan. 6, 2009: Ord. 26914 § 1; passed Dec. 18, 2001: Ord. 24880 § 1; passed Apr. 9, 1991: Ord. 24743 § 1; passed Oct. 23, 1990: Ord. 23123 § 1; passed Mar. 6, 1984: Ord. 15998 § 1; passed Dec. 23, 1957)

#### **1.06.262 Evaluation of submittals, qualifications of bidders and respondents.**

A. In determining the "lowest and best responsible bidder" for purchase of supplies, purchased services and public works, in addition to price, the following may be considered:

1. The ability, capacity, experience, stability, technical qualifications and skill of the respondent to perform the contract;
2. Whether the respondent can perform the contract within the time specified, without delay or interference;

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3. Integrity, reputation, character, judgment, experience, and efficiency of the respondents, including past compliance with the City's Ethics Code;

4. Quality of performance of previous contracts;
5. Previous and existing compliance with laws and ordinances relating to contracts or services;
6. Sufficiency of the respondent's financial resources;
7. Quality, availability, and adaptability of the supplies, purchased services or public works to the particular use required;
8. Ability of the respondent to provide future maintenance and service on a timely basis;
9. Payment terms and prompt pay discounts;
10. The number and scope of conditions attached to the submittal;
11. Compliance with all applicable City requirements, including but not limited to the City's Ethics Code and its Historically Underutilized Business and Local Employment and Apprenticeship programs;
12. Other qualification criteria set forth in the specification or advertisement that the appropriate department or division head determines to be in the best interests of the City.

B. The criteria in 1.06.262A may be used to evaluate personal services and professional services submittals.

C. Proof of Qualifications for Award. As a condition of accepting a submittal, the City may require respondents to furnish information, sworn or certified to be true, on the requirements of this Section. If the ~~City Manager or Director of~~ Utilitiesfinance/purchasingsenior financial manager is not satisfied with the sufficiency of the information provided, or if the prospective respondent does not meet all of the following requirements, any submittal from such respondent must be disregarded. In order to be considered a responsible bidder, the prospective bidder shall have all of the following qualifications:

1. Adequate financial resources or the ability to secure such resources;
2. The necessary experience, stability, organization and technical qualifications to perform the proposed contract;
3. The ability to comply with the required performance schedule, taking into consideration all existing business commitments;
4. A satisfactory record of performance, integrity, judgment and skills; and
5. Be otherwise qualified and eligible to receive an award under applicable laws and regulations.

a. Bidder Responsibility. Bidders shall not be in violation of 39.04.350 RCW Bidder Responsibility Criteria - Supplemental Criteria.



Minimum criteria for meeting the above qualifications as to any purchase or contract over \$~~200,000~~500,000 (excluding sales tax) shall be subject to approval by resolution of the City Council or Public Utility Board.

D. Appeals. The determination of the ~~City Manager for General Government transactions or the Director of Utilities for Department of Public Utilities transactions, as appropriate, finance/purchasing~~senior financial manager that a respondent is not qualified pursuant to subsections B. and C. of this Section shall be conclusive unless appeal is filed in accordance with the ~~standards and procedures set forth in the~~ Purchasing Policy Manual.

E. Financial Information Not Open to Public Inspection. Except as expressly required by applicable law, the City shall not be required to make available for public inspection and copying confidential financial information supplied by any person, firm or corporation for the purpose of qualifying to submit a bid as required by this Section.

(Repealed and reenacted by Ord. 27777 Ex A; passed Jan. 6, 2009: Ord. 26914 § 1; passed Dec. 18, 2001: Ord. 24743 § 1; passed Oct. 23, 1990: Ord. 23123 § 1; passed Mar. 6, 1984: Ord. 15998 § 1; passed Dec. 23, 1957)

#### **1.06.263 Performance**

##### **1.06.263 Performance criteria.**

In addition to the evaluation criteria set forth in Section 1.06.262, performance criteria may be requested or required in the City's specification documents. Said criteria may include, but are not limited to, minimum response times for providing maintenance or service, repairs, replacement parts and installation thereof, and on-site assistance. A respondent's ability to satisfy said criteria may be considered when determining the lowest and best responsible bidder.

(Repealed and reenacted by Ord. 27777 Ex A; passed Jan. 6, 2009: Ord. 26914 § 1; passed Dec. 18, 2001: Ord. 24743 § 1; passed Oct. 23, 1990: Ord. 23123 § 1; passed Mar. 6, 1984: Ord. 15998 § 1; passed Dec. 23, 1957)

##### **1.06.264 Award in cases of tie bids.**

If two or more low bids contain the same information in response to required evaluation criteria, where all factors are considered and deemed equal, the contract shall be approved for award to the lowest and best responsible bidder who has a business office within the City's boundaries in accordance with the ~~standards and procedures set forth in the~~ Purchasing Policy Manual. In all other cases of tie bids, the award shall be made in the manner determined by the ~~City Council or the Public Utility Board, as appropriate, finance/purchasing~~senior financial manager after an initial hearing before the Board of Contracts and Awards.

(Repealed and reenacted by Ord. 27777 Ex A; passed Jan. 6, 2009: Ord. 26914 § 1; passed Dec. 18, 2001: Ord. 25335 § 14; passed Jul. 20, 1993: Ord. 24743 § 1; passed Oct. 23, 1990: Ord. 23123 § 1; passed Mar. 6, 1984: Ord. 15998 § 1; passed Dec. 23, 1957)

#### **1.06.265 Board of contracts and awards.**

A. Creation and Membership. There is hereby created a board, to be known as the Board of Contracts and Awards, for the purpose of recommending the award or rejection of contracts over \$~~200,000~~500,000 (excluding sales tax). The Board shall be comprised of five members, as follows: The ~~finance/purchasing~~senior financial manager; two appointees by the City Manager; two appointees by the Director of Utilities. The Board shall meet regularly at such times and places as may be directed by the chair thereof.

#### **B. Powers and Duties.**

1. The Board of Contracts and Awards shall recommend award or rejection of the following:

- a. Competitively solicited contracts over \$~~200,000~~500,000 (excluding sales tax).
- b. Waivers of competitive solicitation over \$~~200,000~~500,000 (excluding sales tax), except for emergency purchases pursuant to Section 1.06.257 C.
- c. Sales of surplus personal property over \$~~200,000~~500,000.

2. The Board of Contracts and Awards shall establish rules of procedure for the conduct of its meetings, and for the conduct of hearings.

(Repealed and reenacted by Ord. 27777 Ex A; passed Jan. 6, 2009: Ord. 26914 § 1; passed Dec. 18, 2001: Ord. 24743 § 1; passed Oct. 23, 1990: Ord. 23123 § 1; passed Mar. 6, 1984: Ord. 15998 § 1; passed Dec. 23, 1975)

#### **1.06.266 Award or rejection of submittals.**

A. Except as otherwise specified in this Chapter, when the proposed contract amount is over \$~~200,000~~500,000 (excluding sales tax), the City Manager for General Government transactions and the Director of Utilities for Department of Public Utilities transactions, or their respective designee, together with the division or department requesting the purchase relating to the award thereof, shall submit their award recommendation to the Board of Contracts and Awards, which shall forward its recommendation for approval to the City Council or the Public Utility Board, as appropriate.

B. A protest of any proposed contract award or rejection of submittals over \$~~200,000~~500,000 (excluding sales tax) shall be submitted to the ~~finance/purchasing~~senior financial manager for hearing by the Board of Contracts and Awards and recommendation to the appropriate final approving authority, all in accordance with the ~~standards and procedures set forth in the~~ Purchasing Policy Manual. Any such protest must be received within two business days after notice of

award or rejection is given; and failure to do so shall result in a waiver of such protest right.

C. In the event that there are no protests, appeals or Board member questions pertaining to a proposed award that has been submitted to the Board of Contracts and Awards, said Board may, by one motion (e.g., consent agenda), recommend transactions for approval. Upon approval of such purchases and contracts by the City Council or the Utility Board, the award shall be made by the ~~finance/purchasing~~senior financial manager or designee.

D. Protests of proposed contract award or rejection of submittals of \$~~200,000~~500,000 and less (excluding sales tax) shall be submitted to the ~~finance/purchasing~~senior financial manager for resolution; such resolution to be in accordance with the ~~standards and procedures set forth in the~~ Purchasing Policy Manual.

E. The City may reject any and all submittals for any transaction for any reason; such rejection to be in accordance with the ~~standards and procedures set forth in the~~ Purchasing Policy Manual.

(Repealed and reenacted by Ord. 27777 Ex A; passed Jan. 6, 2009: Ord. 26914 § 1; passed Dec. 18, 2001: Ord. 24743 § 1; passed Oct. 23, 1990: Ord. 23123 § 1; passed Mar. 6, 1984: Ord. 15998 § 1; passed Dec. 23, 1957)

#### **1.06.267 Award to other than low bidder.**

When the award is not given to the lowest bidder in price, the reasons for placing the order elsewhere shall be stated in writing and provided to the City Council or Public Utility Board, as appropriate, and in accordance with the ~~standards and procedures set forth in the~~ Purchasing Policy Manual.

(Repealed and reenacted by Ord. 27777 Ex A; passed Jan. 6, 2009: Ord. 27606 § 1; passed Apr. 24, 2007: Ord. 26914 § 1; passed Dec. 18, 2001: Ord. 25335 § 15; passed Jul. 20, 1993: Ord. 24743 § 1; passed Oct. 23, 1990: Ord. 23123 § 1; passed Mar. 6, 1984: Ord. 15998 § 1; passed Dec. 23, 1957)

#### **1.06.268 Contracting authority.**

A. All purchases shall be evidenced by a written submittal or contract submitted to and approved by:

1. The City Manager or designee for General Government transactions, or the Director of Utilities or designee for Department of Public Utilities transactions;
2. Director of Finance. The Director of Finance or designee, shall examine all contracts, purchase orders and other documents that involve financial obligations against the City and approve the same only upon ascertaining that moneys have been appropriated and that an unexpended and unencumbered balance is available to meet the same;



3. Approval by City Attorney. All legal contracts shall be approved as to legal form by the City Attorney or designee.

B. All purchases and contracts with a total gross value over \$~~200,000~~500,000 (excluding sales tax), before rebates, trade-ins or credits, and including the value of anticipated renewals, extensions, supplements or increases shall be approved by the City Council for General Government transactions, or the Public Utility Board for Department of Public Utilities transactions.

~~C. Citywide purchases and contracts shall be approved as follows:~~

1. Citywide purchases and contracts over \$~~200,000~~500,000 ~~(excluding sales tax), before rebates, trade-ins or credits, and including anticipated renewals,~~ shall be presented for approval to both the City Council and the Public Utility Board consistent with the Charter. In the event that only the City Council or Public Utility Board approves the award, the contract will be utilized only to the extent authorized.

2. Citywide purchases and contracts \$~~200,000~~500,000 and less (excluding sales tax), shall be presented for approval to the ~~finance/purchasing~~senior financial manager.

D. Delegations of authority pursuant to this Chapter, except for the City Attorney, shall be in writing and filed with the Purchasing Division. City Attorney approval shall include approval by any Deputy or Assistant City Attorney unless such delegation is expressly excluded or limited by applicable law or policy.

(Repealed and reenacted by Ord. 27777 Ex A; passed Jan. 6, 2009: Ord. 26914 § 1; passed Dec. 18, 2001: Ord. 25335 § 16; passed Jul. 20, 1993: Ord. 24743 § 1; passed Oct. 23, 1990: Ord. 23123 § 1; passed Mar. 6, 1984: Ord. 15998 § 1; passed Dec. 23, 1957)

#### **1.06.269 Contract amendments.**

A. Administrative Contract Amendments. Except as otherwise provided in this Chapter, or except as otherwise directed by City Council or Public Utility Board resolution or motion, the City Manager or the Director of Utilities as appropriate, or their respective designees, are authorized to approve when contract provisions for contract amount changes/increases, term extensions, contract renewals ~~and/or~~ other administrative amendments ~~are expressly identified in a City Council or Public Utility Board resolution or motion, or are specified in the Board of Contracts and Awards letter for such contract, administrative authority to exercise such contract provisions will be deemed granted upon approval of the contract by the City Council or Public Utility Board, as appropriate.~~ Exercise of said administrative authority shall be as described in subsections B. through H. below, and in accordance with the standards and procedures set forth in the Purchasing Policy Manual.

B. Contract Amount Amendments.

1. Contracts not requiring initial authorization by the City Council or Public Utility Board may be amended to increase the contract amount up to an aggregate total of ~~\$200,000~~\$500,000 by the City Manager or Director of Utilities, as appropriate, or their respective designees, and in accordance with the ~~standards and procedures set forth in the~~ Purchasing Policy Manual.

2. When authorized pursuant to subsection A. above, contract amount change amendments in an amount of up to \$200,000 over the contract amount initially authorized by the City Council or Public Utility Board may be administratively approved by the City Manager or Director of Utilities, as appropriate, or their respective designees.

3. Except as otherwise specified in this Section, the City Manager or Director of Utilities, as appropriate, or their respective designees, may authorize by change order, letter of instruction or other legally appropriate form, a decrease in the cost of any contract.

C. Contract Term Amendments. Except as otherwise authorized by City Council or Public Utility Board resolution or motion, contracts may be amended to shorten or extend the term thereof by a change order, letter of instruction or other legally appropriate form authorized by the City Manager or Director of Utilities, as appropriate, or their respective designees; provided, however, that a contract's term may not be so administratively extended more than three years without the further authorization of the City Council or Public Utility Board, as appropriate.

D. Software Contract Renewals. ~~When authorized pursuant to subsection A. above, contract renewal amendments may be administratively approved by the City Manager or Director of Utilities, as appropriate, or their respective designees.~~

~~1. Renewals of software maintenance and support~~For software contracts initially authorized by City Council or Public Utility Board resolution or motion; ongoing renewals of software maintenance, support and purchases of software licensinge(s) required by such renewals, for such software shall not require further competitive solicitation or further City Council or Public Utility Board approval; provided, however, that said ~~renewals and~~ purchases shall be made in accordance with the ~~standards and procedures set forth in the~~ Purchasing Policy Manual.

E. Council/Board Limited Amount Contracts. If a City Council or Utility Board resolution or motion expressly limits the contract "not to exceed" a certain amount, then any proposed price increase for such contract can only be approved by the City Council or Utility Board, as appropriate.

F. Expenditure and Obligation of Project and Contract Contingency Funds on Special Projects of \$10,000,000 or Greater. The project and contract contingency funds for Special Projects of \$10,000,000 or greater may, upon approval of the City Manager or the Director of Utilities, as appropriate, be spent by change order for project expenses, construction contract expenses, and other project-related purposes; provided, however, that such expenditures shall never exceed the total project cost as approved by the City



Council or Utility Board, as appropriate. Reports of all such expenditures shall be made to the City Council or Utility Board, together with such explanatory material as may be requested, on a schedule to be determined by the City Council or Utility Board, as appropriate.

G. Other Amendments. Except as otherwise specified in this Section, the City Manager or Director of Utilities, as appropriate, or their respective designees, may authorize by change order, letter of instruction or other legally appropriate form, modifications to the scope of work, and make or approve other minor amendments to any contract, as may be in the best interests of the City.

H. Approval for contract amendments shall be consistent with the contracting authority requirements of Section 1.06.268.

(Repealed and Reenacted by Ord. 27777 Ex A; passed Jan. 6, 2009: Ord. 26914 § 1; passed Dec. 18, 2001: Ord. 24743 § 1; passed Oct. 23, 1990: Ord. 23123 § 1; passed Mar. 6, 1984: Ord. 15998 § 1; passed Dec. 23, 1957)

#### **1.06.270 Cooperative purchasing.**

The ~~finance/purchasing~~senior financial manager is hereby delegated the express authority, without further City Council or Utility Board approval, to enter into interlocal purchase agreements with other agencies and entities, and to join cooperative purchasing programs, when approved by the Director of Finance, when the best interests of the City would be served. Authorization to purchase using an interlocal purchase agreement with another public agency or cooperative shall be in accordance with the ~~standards and procedures set forth in the~~ Purchasing Policy Manual; provided that approval for purchases in excess of \$~~200,000~~500,000 (excluding sales tax) shall be obtained from the City Council, or Public Utility Board, as appropriate.

The Director of Finance is authorized to and ~~shall~~may establish further policies and procedures to ensure all such interlocal purchases are consistent with the standards of competitive solicitation set forth in this Chapter, the Purchasing Policy Manual and applicable state law; provided, however, that such purchases, regardless of value, made by the City under a purchasing contract executed by a state, or agency or subdivision thereof, or by another governmental unit or public benefit nonprofit corporation shall be exempt from such competitive solicitation requirements.

(Repealed and reenacted by Ord. 27777 Ex A; passed Jan. 6, 2009: Ord. 26914 § 1; passed Dec. 18, 2001: Ord. 25335 § 17; passed Jul. 20, 1993: Ord. 24743 § 1; passed Oct. 23, 1990: Ord. 23123 § 1; passed Mar. 6, 1984)

#### **1.06.271 Unlawful purchases.**

Purchases or contracts for any supplies, services and/or public works contrary to the provisions of the Charter or this Chapter shall be void and of no effect. Any instruction other than a properly approved and executed contract, change order, letter of agreement, letter of instruction, purchase order or amendments thereto, shall not constitute a legal contract, contract amendment or notice to proceed with certain work of the City.



(Repealed and reenacted by Ord. 27777 Ex A; passed Jan. 6, 2009: Ord. 26914 § 1; passed Dec. 18, 2001: Ord. 25335 § 18; passed Jul. 20, 1993: Ord. 24743 § 1; passed Oct. 23, 1990: Ord. 23123 § 1; passed Mar. 6, 1984: Ord. 15998 § 1; passed Dec. 23, 1957)

## **SALE OF SURPLUS PERSONAL PROPERTY**

### **1.06.272 Certification of surplus personal properties to be sold or disposed.**

The City Manager or Director of Utilities, as appropriate, or their respective designees, shall certify in writing that certain personal property belonging to the City is surplus and has no further public use, or that the sale or disposition thereof would be in the best interests of the City. Original documentation for all surplus personal property sales shall be maintained in the Purchasing Division.

(Repealed and reenacted by Ord. 27777 Ex A; passed Jan. 6, 2009: Ord. 26914 § 1; passed Dec. 18, 2001: Ord. 24743 § 1; passed Oct. 23, 1990: Ord. 23123 § 1; passed Mar. 6, 1984: Ord. 15998 § 1; passed Dec. 23, 1957)

### **1.06.273 Competitive bidding required for surplus personal property sales.**

City sales of surplus personal property shall be made in accordance with the ~~standards and procedures set forth in~~ the Purchasing Policy Manual except as otherwise provided in this Chapter or by other applicable law.

A. The sale of surplus personal property shall be accomplished by bid, unless a negotiated disposition process is approved. Use of a negotiated disposition process for surplus personal property with a value over ~~\$200,000~~\$500,000 may be approved only by the City Council, for property held by General Government, or by the Public Utility Board, for property held by the Department of Public Utilities. Use of a negotiated disposition process for surplus personal property with a value under ~~\$200,000~~\$500,000 may be approved by the Director of Finance. The negotiated disposition process may be used for surplus sales to other governmental entities, surplus sales of specialized or sensitive police and fire surplus personal property, sales of utility equipment to Department of Public Utilities customers, or when otherwise determined to be in the best interests of the City.

B. Trade-ins, when part of a purchase, do not need to be declared surplus.

(Repealed and reenacted by Ord. 27777 Ex A; passed Jan. 6, 2009: Repealed by Ord. 26914 § 2; passed Dec. 18, 2001:  
Ord. 25763 § 1; passed Sept. 26, 1995: Ord. 24743 § 2; passed Oct. 23, 1990)

#### **1.06.274 Good faith deposit for surplus personal property sales.**

Each bid for surplus personal property with an estimated value over ~~\$200,000~~\$500,000 shall be accompanied by a deposit in the form of a cashier's check or bid bond in an amount not less than five percent of the amount bid. Other governmental or public agencies may be exempted from the deposit requirement. All such deposits so made shall be returned to the unsuccessful bidders depositing the same after the City has determined the successful bidder(s). The deposit of the successful bidder shall be applied to the purchase price, or, upon failure of such bidder to consummate the purchase, such deposit shall be forfeited as liquidated damages.

(Ord. 27777 Ex A; passed Jan. 6, 2009)

#### **1.06.275 Surplus personal property sales bid opening.**

Sealed bids for the sale of surplus personal property shall be opened in public by the City's ~~finance/purchasing~~senior financial manager or designee at the time and place specified in the request for bids. The ~~finance/purchasing~~senior financial manager or designee shall make a tabulation of all bids that shall be available for public inspection during regular City business hours.

(Repealed and reenacted by Ord. 27777 Ex A; passed Jan. 6, 2009: Repealed by Ord. 26914 § 2; passed Dec. 18, 2001:

Ord. 25361 § 1; passed Sept. 7, 1993: Ord. 25335 § 19; passed Jul. 20, 1993: Ord. 25082 § 1; passed Mar. 24, 1992:

Ord. 24973 § 1; passed Sept. 10, 1991: Ord. 24743 § 3; passed Oct. 23, 1990)

#### **1.06.276 Award or rejection of surplus personal property sales.**

The award or rejection authority and procedure shall be as follows:

A. The City Manager or designee, for transactions involving the sale of surplus personal property held by General Government and valued over ~~\$200,000~~\$500,000, shall forward all bids or negotiated offers received, or a summary of such bids or offers, together with the recommendations relating to the award thereof, to the City Council for approval or rejection.

1. The City Manager or designee shall have the authority to approve the sale of surplus personal property held by General Government valued at ~~\$200,000~~\$500,000 or less.

B. The Director of Utilities, for transactions involving the sale of surplus utility personal property held by the Department of Public Utilities and valued over \$~~200,000~~500,000, shall forward all bids or negotiated offers received, or a summary of such bids or offers, together with the recommendations relating to the award thereof, to the Public Utility Board for approval or rejection. Upon approval of such sale by the Public Utility Board, the award shall be made by the ~~finance/purchasing~~senior financial manager. For

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purposes of this Section and RCW 35.94.040, the Public Utility Board is hereby authorized to approve, in a legislative authority capacity and after public hearing, all sales of surplus utility personal property without further City Council approval.

1. The Director of Utilities or designee shall have the authority to approve the sale of surplus utility personal property valued at \$~~200,000~~500,000 or less.

(Ord. 27777 Ex A; passed Jan. 6, 2009)

### **1.06.277 Purchase or sale at auctions.**

#### **A. Sale at Auction.**

1. When deemed to be in the best interests of the City, the ~~finance/purchasing~~senior financial manager or designee, may authorize the sale of surplus personal property by public auction; provided, however, that surplus personal property with an estimated value over \$~~200,000~~500,000, must first be approved as surplus personal property by the City Council or Utility Board, as appropriate. Upon completion of an approved auction sale, further governing body approval is not required.

2. Surplus personal property that will be sold by third-party auctioneers does not require prior approval by the City Council or Utility Board, even when the estimated value is over \$~~200,000~~500,000; provided, however, that the auctioneering services contract is approved by the City Council and/or Utility Board, as appropriate, and the intent is disclosed at time of contract approval.

**B. Purchase at Auction.** Pursuant to 39.30.045 RCW, the City may purchase supplies, equipment, or materials at auctions conducted by the United States or any agency thereof, or any other government agency or private party without being subject to public bidding requirements if the items can be obtained at a competitive price; provided, however, that in the event the bid price is anticipated to be over \$~~200,000~~500,000, prior authorization shall be obtained from the City Council or the Public Utility Board, as appropriate.

(Ord. 27777 Ex A; passed Jan. 6, 2009)