



PROCUREMENT POLICY & PROCEDURES

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1. GENERAL

1.1 Purpose

This document is intended to direct the procurement of public works, goods and services at a reasonable cost. An open, fair, documented, and competitive process is to be used whenever reasonable and possible. The integrity, efficiency, and effectiveness of the City's procurement processes are critical elements of sound government.

1.2 Objectives

The objectives of the City's Procurement Policy are as follows:

- To provide a uniform system to obtain supplies, materials, equipment, and services in an efficient and timely manner;
- To facilitate responsibility and accountability with the use of City resources;
- To ensure equal opportunity and competition among vendors and contractors;
- To promote effective relationships and clear communication between the City and its vendors and contractors;
- To comply with State (and where applicable Federal) procurement statutes and guidance governing expenditures of public funds;
- To promote use of recycled materials and products and dispose of surplus and scrap materials with regards to cost savings and the environment.

1.3 Scope

These guidelines apply to purchases of:

- Purchases: Supplies, materials, and equipment
- Professional services (including architectural and engineering services)
- Non-professional services (purchased services)
- Public works projects

The guidelines do not apply to the acquisition, sale, or lease of real property, except as described in Section 15.3.

If grant or debt funding is involved in the proposed purchase, applicable requirements should be obtained from the funding agency. Such requirements may be more restrictive than the City's policy.

1.4 Controlling Laws

All procurements shall comply with appropriate and relevant Federal, State, and City laws and policies. If the appropriate and relevant Federal or State laws, regulations, grants, debt, or requirements are more restrictive than this Procurement Policy, such laws, regulations, grants, debt, or requirements must be followed.

The City Attorney shall be consulted when questions regarding potential conflicts arise. Applicable laws and regulations will be cited throughout this document.

2.0 DETERMINING TOTAL PURCHASE COST

2.1 Use Anticipated Cost

The anticipated need for a good or service (when it can reasonably be projected) shall be used to determine the cost of that good or service, and thus which contract approval level, cost threshold, or other related purchasing requirements apply. In some instances tax and shipping may be included in the contract approval level.

2.2 No “Bid Splitting”

Procurements of goods or services shall not be divided to come up with a lower total cost to avoid contract approval levels or competition requirements contained in this Procurement Policy or in state or federal law. For example, if one item being purchased requires another item to “make a whole,” the total accumulated costs of the two items (when they can reasonably be projected) should be considered together to determine which approval level and cost threshold apply, unless the two items are not available from a single vendor.

2.3 Costs to include

Include costs such as taxes, freight, and installation charges when determining which cost threshold applies. Do not include the value of a trade-in. Trade-in value should be considered, however, to determine the lowest bid when competitive bidding is used.

2.4 Include Total Quantity Needed

Requirements for the total quantity of an item (when they can be reasonably projected) should be considered when determining which cost threshold and related purchasing requirements apply.

2.5 Multiphase Projects

If a project is to be completed in phases, the total accumulated cost for all phases should be considered when determining which cost threshold applies.

3.0 CONTRACT APPROVAL LEVELS

These approval levels are designed for contracts whose costs are covered by budget appropriations previously approved by the City Council. Contracts requiring additional appropriations must be approved by the Council.

3.1 Purchases - Equipment, Supplies, & Materials (Unrelated to A Public Works Project)

3.1.1 \$15,000 or Less

Purchases in this price range are to be approved by the Department Director.

3.1.2 \$15,001 to \$25,000

Purchases in this price range are to be approved by the City Administrator or Mayor.

3.1.3 \$25,001 or More

Purchases in this price range are to be approved by the City Council.

3.2 Professional Services

3.2.1 \$25,000 or Less

Contracts in this price range are to be approved by the Department Director.

3.2.2 \$25,001 to \$50,000

Contracts in this price range are to be approved by the City Administrator or Mayor.

3.2.3 \$50,001 or More

Contracts in this price range are to be approved by the City Council.

3.3 Non-Professional Services (Purchased Services)

3.3.1 \$15,000 or Less

Contracts in this price range are to be approved by the Department Director.

3.3.2 \$15,001 to \$25,000

Contracts in this price range are to be approved by the City Administrator or Mayor.

3.3.3 \$25,001 or More

Contracts in this price range are to be approved by the City Council.

3.4 Public Works Projects (Including Related Materials, Supplies, and Equipment)

3.4.1 \$25,000 or Less

Contracts in this price range are to be approved by the Public Works Director.

3.4.2 \$ 25,001 to \$50,000

Contracts in this price range are to be approved by the City Administrator or Mayor.

3.4.3 \$50,001 or More

Contracts in this price range are to be approved by the City Council.

4.0 Purchases - Equipment, Supplies, & Materials (Unrelated to a Public Works Project)

The following cost thresholds apply for procurements of supplies, materials, and equipment unrelated to a public works project.

Refer to Section 10.0 in situations involving *competitive bidding exemptions* or *emergency* purchases of equipment, supplies, & materials.

4.1 Summary – Purchase Guidelines

Purchasing Procedure	Signing Authority	\$10,000 Or Less	\$10,001 – \$25,000	\$25,001 - \$75,000	\$75,001 and over
Direct Negotiations	Directors	X			
Quotes (recommend obtaining 3 quotes when possible) Telephone, fax, or email	Up to \$15,000 – Directors Over \$15,000 - City Administrator or Mayor		X		
Quotes (3 vendors should be solicited)	City Council			X	
Competitive bid	City Council				X

- This matrix is to be used for purchasing charges that includes goods, equipment, materials, and supplies that are not part of a public works project (telecommunications is not included and is governed by RCW 39.04.270). For items that are defined as a purchased service, please see “Non-professional Services” matrix. For purchases relative to a public works project, please see “Public Works Projects.”

4.2 \$10,000 OR LESS – Direct Negotiation

Procurements or purchases in this price range may be entered through direct negotiation and informal quote. Competition is not required, though departments should still make every effort to receive the best price possible. Award of a contract will be based on qualifications and price. Documentation (e.g., date, time, vendor contract name, phone #, email of applicant) on all quotes must be retained to the extent required under state law.

4.3 \$10,001 to \$75,000 – Vendor List - Three (3) Minimum Quotes

For procurements or purchases in this price range, it is recommended that at least three quotes be obtained when possible from a vendor list. Quotes between \$10,000-25,000 may be obtained by telephone or in writing (electronic submittals are ok). Documentation (e.g., date, time, vendor contract name, phone #, email of applicant) on all quotes must be retained to the extent required under state law. Quotes over \$25,000 do not need to be sealed must be in writing (electronic submittals are ok).

The City shall establish and maintain a vendor list. The City may create multiple vendor lists for different types of products.

The City must advertise the existence of each vendor list at least twice a year in a newspaper of general circulation and solicit names for the list.

4.4 \$75,001 or More– Competitive Bidding

For purchases in this price range, competitive bidding is required.

4.5 FEDERAL FUNDS - \$10,000 to \$75,000 – Competitive Quotes

If the purchase is between \$10,000 and \$75,000 and is funded in whole or in part with federal funds, competitive quotes as described above is required, as it is the more restrictive of federal and local policy. Federal small purchase procedures (2 CFR 200.320(a)(2)) require price or rate quotations must be obtained for an adequate number of qualified sources. The Washington State Auditor’s office deems “an adequate number of qualified sources” as more than one.

Note: \$10,000 is the federal micro-purchase threshold. The City has the ability to self-certify up to \$50,000 if it qualifies as a low-risk auditee. The City does not currently qualify as a low-risk auditee as it does not consistently receive annual federal compliance audits and does not report under General Accepted Accounting Principles (GAAP).

4.6 FEDERAL FUNDS - \$75,001 or Greater – Formal Competitive Bids Required

If the purchase is \$75,000 or greater and is funded in whole or in part with federal funds, a formal bid process is required. This threshold is set by the federal government 48 CFR § 2.101 (“Simplified acquisition threshold”) and is subject to periodic adjustment for inflation pursuant to 41 U.S.C. § 1908. Proposals (RFP/RFQ) are also allowable under 2 CFR 200.320(b)(2) when conditions are not appropriate for the use of sealed bids.

4.7 Alternative Methods of Procurement and Purchasing

If applicable, the City may utilize any one of the following methods as an alternative to the requirements of sections 4.1, 4.2, and 4.3 above.

4.7.1 Auctions

RCW 39.30.045 allows for the purchase of any supplies or equipment at auctions rather than through competitive bidding, if the items can be obtained at a competitive price. This authority allows the City to make a purchase on an internet-based auction service,

such as eBay, as well as through in-person auctions. The City may also use federal, state, or local governmental auctions.

4.7.2 Purchasing Surplus Property from Other Governmental Agencies

RCW 39.33.010 allows for the purchase of surplus property from other governmental agencies without regard to bid laws.

4.7.3 Contracting for Services with Other Governmental Agencies

RCW 39.04.080 authorizes one public agency to contract with another public agency to perform any function which each agency is authorized by law to perform itself.

4.8 Environmentally-Friendly Purchasing

4.5.1 Where appropriate environmentally-friendly products are available and reasonably priced compared to competing products, such environmentally-friendly products are to be purchased by the City. Environmentally-friendly products may include, but are not limited to, products that are: less toxic or hazardous, energy and water efficient, recyclable or made from recycled content or renewable resources, bio-based, sustainably certified, or shipped or made with reduced packaging.

4.9 Non-Professional Services (Purchased Services)

Non-Professional Services shall be described as services provided by a vendor for routine, necessary and continuing functions of a local agency, relative to a physical activity. Examples include courier, janitorial, disposal, vehicle inspection repair or up-fitting, office furnishing install.

Non-Professional Services is not public works, therefore can be let by using a solicitation, evaluation, and award process based on qualifications and price.

Note that prevailing wages may need to be paid in connection with the contract. To verify if Labor and Industries will require prevailed wages for the service being provided, please contact L & I directly for assistance.

Procedure	Signing Authority	\$10,000 or Less	\$10,001 - \$25,000	\$25,001- \$50,000	\$50,001- greater
Qualifications/ Price Direct Negotiations	Directors	X			
Qualification /Price (recommend obtaining 3 quotes when possible) Telephone, fax or email	Up to \$15,000 – Directors Over \$15,000 - City Administrator or Mayor		X		
Qualification /Price (recommend obtaining 3 quotes when possible) Telephone, fax or email	City Council			X	
Qualification /Price (3 vendors should be solicited) must be in writing.	City Council				X

5.0 PUBLIC WORKS PROJECTS

As defined in RCW 39.04.010, *public works* include all work, construction, alteration, repair, or improvement (other than *ordinary maintenance* and professional services associated with the public works project) executed at the City’s cost, or which is by law a lien or charge on any property therein.

5.1 Defining Project Cost

The cost of a public works project includes the costs of materials, supplies, equipment, and labor on the construction of that project. Section 2.0 of this manual provides additional guidance on determining project cost.

5.2 Bid Requirements

In accordance with these provisions of state law, the following cost thresholds and bidding procedures apply when the City is soliciting bids for a public works project:

5.3 SUMMARY – Public Works Guidelines

Procedure	Signing Authority	\$2,501 - \$25,000	25,001 - 50,000	\$50,001 - \$350,000	\$350,000 - greater	Unit Price Contract (Follow the same threshold amounts and signing authority requirements).
Limited Public Works	Directors	X				
Limited Public Works	City Administrator or Mayor		X			
Small Works Roster (five written bids)	City Administrator or Mayor			X		
Competitive bid	City Council				X	

- All equipment, supplies, and materials purchased separately but as part of the Public Work project, will be part of the aggregate cost of all phases of the project when determining the applicable bid process to be used. Municipalities may not break public works projects into separate phases or parts to avoid compliance with bidding statutes (RCW35.23.352(1))

5.4 \$0 to \$2,500 – Project Less than \$2,500

If the estimated cost of the public works project is \$0 to \$2,500 and the City determines that the work should be performed by contract, the City shall require one quote.

5.5 \$2,501 to \$50,000 – Limited Public Works Process

If the estimated cost of the public works project is \$2,501 to \$50,000 and the City determines that the work should be performed by contract, the City shall obtain two or more quotes.

5.6 \$50,001 to \$350,000 – Five Bids from the Small Works Roster

If the estimated cost of the public works project is \$50,001 to \$350,000, then the City shall solicit five written bids from the small works roster in accordance with the procedure set forth in RCW 39.04.155(2).

If the estimated cost of the public works project is \$250,000 to \$350,000, then, in accordance with RCW 39.04.155(2)(c), the City must provide notice to the remaining contractors on the small works roster that bids are being sought. The notice can be made by:

- Publishing notice in a legal newspaper in general circulation in the area where the work is to be done; or
- Mailing a notice to these contractors; or
- Sending a notice to these contractors by electronic means such as email or fax.

If the estimated cost of the public works project is \$250,000 or greater and funded in whole or in part by Federal funds, then the formal competitive bidding process outlined in Section 6.0 is required. This threshold is set by the federal government at 2 CFR § 200.88 and 48 CFR § 2.101 (“Simplified acquisition threshold”) and is subject to periodic adjustment for inflation pursuant to 41 U.S.C. § 1908.

5.7 \$350,001 or Greater – Formal Competitive Bids Required

If the estimated cost of the public works project is \$350,001 or greater, then the formal competitive bidding process outlined in Section 6.0 is required.

5.8 FEDERAL FUNDS - \$250,000 or Greater – Formal Competitive Bids Required

If the public works project is \$250,000 or greater and is funded in whole or in part with federal funds, a formal bid process is required. This threshold is set by the federal government 48 CFR § 2.101 (“Simplified acquisition threshold”) and is subject to periodic adjustment for inflation pursuant to 41 U.S.C. § 1908.

5.9 Small Works Roster Process

Under RCW 35.23.352 and RCW 39.04.155, the City is authorized to use the small works roster process to award public works contracts estimated to cost less than \$350,000. As described in Section 5.6 above, the City will use the small works roster process outlined in RCW 39.04.155(2) to award contracts for public works projects estimated to cost between \$50,001 and \$350,000, except as otherwise stated in Section 5.6.

Under RCW 39.04.155, a small works roster consists of all responsible contractors who have requested to be listed and are properly licensed or registered to perform such work in the State of Washington. As an alternative to creating and maintaining the City's own small works roster for construction of public works projects, the City Administrator is authorized to enter into agreements with the Municipal Research and Services Center (MRSC) or any other agency for use of their small works roster, as long as such small works rosters are in compliance with the latest State of Washington rules, regulations, requirements, and laws regarding the establishment, maintenance, and use of small works rosters for public works projects.

A contract awarded from a small works roster need not be advertised. Invitations for quotations shall include an estimate of the scope and nature of the work to be performed, as well as materials and equipment to be furnished. However, detailed plans and specifications need not be included in the invitation. This does not eliminate other requirements for architectural or engineering approvals as to quality and compliance with building codes.

The Public Works Director shall post a list of the contracts awarded using the small works roster at least once a year. The list shall contain the names of the contractors awarded the contracts, the amount of the contracts, a brief description of the type of work performed under the contracts, and the date the contracts were awarded. The list shall also state the location where the bid proposals for the contracts are available for public inspection.

5.10 Unit Price Contracts

Under RCW 35.23.352(13), the City is authorized to procure public works with a unit priced contract, also known as an "On-Call" public works contract. Unit priced contracts allow the City to contract for anticipated types of public works projects on a recurring basis, where the contractor agrees to supply an indefinite quantity of work at a defined unit price over a fixed period of time.

Unit priced contracts may be executed for an initial contract term not to exceed three years, with the city having the option of extending the contract for one additional year.

Unit priced contracts must be awarded to the lowest responsible bidder, and unit price contractors must pay prevailing wages in accordance with RCW 35.23.352(13)(e). The City shall

comply with all of the requirements of RCW 35.23.352(13) when soliciting bids for and awarding unit price contracts.

5.11 Public Works Performed by City Employees

RCW 35.23.352(1) allows City employees to perform public works projects as long as the project's estimated cost is lower than the bidding limits (\$75,500 single craft/trade or \$ 116,155 multiple craft/trade).

Work performed within the City by other public employees under an interlocal agreement shall also be included in these limits.

The City is required to provide a report to the state auditor of the costs of all public works in excess of \$5,000 that are not let by contract (RCW 35A.40.200 and 35.23.352(4)). For any project using City employees in excess of \$25,000, the City must publish a description of the project and its estimated cost in the official newspaper at least fifteen days before beginning the work (RCW 39.04.020), except that in circumstances where an emergency is declared, publication of the description and estimate may be made within seven days after the commencement of the work.

5.12 Prevailing Wages

The City is required by RCW 39.12.040 to require contractors to pay prevailing wages on all public works contracts.

A "Statement of Intent to Pay Prevailing Wages" must be received from a contractor before any payment is made, and an "Affidavit of Wages Paid" must be received following final acceptance of the work. As for RCW 60.28.011, all projects funded with Federal transportation funds (whole or in part), must have an "Affidavit of Wages Paid" submitted to the City prior to final acceptance of the project.

5.13 FEDERAL FUNDS – Prevailing Wage

For public works contracts, paid in whole or in part with federal funds, the City must include the entire language of 29 CFR 5.5 Contract Provisions and Related Matters. Contract is not complete if only brief or generic language is included, such as "the contractor must comply with the Davis Bacon Act." The federal clause includes the requirement for submitting the certified payroll reports.

5.14 Performance and Payment Bonds

Under RCW 39.08.010, payment and performance bonds are required for every public works contract, except as described below. This ensures that the job will be completed and that all workers, vendors, and subcontractors will be paid.

The bonds shall be executed by a surety company authorized to do business in Washington State, in an amount equal to 100% of the price specified in the contract. The bonds shall be issued on a form approved by the City Attorney's Office.

Payment and Performance bonds are required on small works roster projects. However, for small works roster projects estimated to cost \$150,000 or less, the City is allowed, at the option of the contractor, to forego requiring payment and performance bonds and instead retain 10% of the contract for 30 days after final acceptance, or until receipt of all necessary releases from the Department of Revenue, Department of Labor & Industries, and Employment Security Department, and settlement of any liens filed under Chapter 60.28 RCW, whichever is later (RCW 39.08.010(3)). The intent of this exception is to assist small contractors who may have difficulty securing bonds.

The City may waive the payment and performance bond requirements of Chapter 39.08 RCW and the retainage requirements of RCW 60.28.011(1)(a) for contracts awarded through the limited public works process, described in Section 5.7.

RCW 39.08.015 subjects the City to claims of laborers, materialmen, subcontractors, and mechanics if the required payment and performance bonds are not obtained.

Under RCW 60.28.011(1)(b), the City is prohibited from withholding retainage on public works projects funded in whole or in part by federal transportation funds. Instead, agencies must rely on the contractor's payment and performance bonds.

5.15 Public Works over \$1 Million

Under RCW 39.30.060, for all public works projects expected to cost one million dollars or more, the City must require each prime contract bidder to submit as part of the bid, or within one hour after the published bid submittal time, the names of the subcontractors with whom the bidder, if awarded the contract, will subcontract for performance of the work of: HVAC (heating, ventilation, and air conditioning); plumbing as described in chapter 18.106 RCW; and electrical as described in chapter 19.28 RCW, or to name itself for the work. Failure of the prime contract bidder to submit as part of the bid the names of such subcontractors or to name itself to perform such work or the naming of two or more subcontractors to perform the same work shall render the prime contract bidder's bid nonresponsive and, therefore, void.

5.16 Construction Change Orders

Change orders are to be approved in accordance with the cost thresholds outlined in this section, provided that the changes do not increase the project's cost in excess of previously approved budget appropriations.

Unless authorized by the City Council for a specific project (i.e., resolution delegating authority to manage a project), the City Council must approve any change order that increases a project's cost beyond previously approved budget appropriations.

5.16.1: Public Work Contract total remains below \$350,000 – Change orders are to be approved by the Public Works Director or City Administrator.

5.16.2: Public Work Contract total moves to \$350,000 or more, but the total cumulative amount of change orders is 10% or less – Change orders are to be approved by the Public Works Director or City Administrator.

5.16.3: Public Work Contract total moves to \$350,000 or more and the total cumulative amount of change orders is more than 10% – Council must authorize the Public Works Director or City Administrator to approve the revised contract.

Additionally, the Director of Public Works may execute construction change orders that change the time for performance but do not increase the construction contract amount.

In the event unforeseen conditions necessitate an immediate change to avoid a contractor's claim against the City for delays, the City Administrator may authorize and direct work irrespective of the limits above, provided any work change directive issued in excess of the City Administrator's authority shall be incorporated into a change order and presented to the City Council as soon as practicable.

5.17 Project Acceptance

At the completion of a public works project, as confirmed by the Director of Public Works or designee, the City Administrator is authorized to accept the work.

The Director of Public Works and the Director of Finance, or their designees, are further authorized to sign exoneration and release forms for bonds and other security devices submitted with respect to project completion.

6.0 Formal COMPETITIVE BIDDING PROCEDURES

6.1 Public Notice

Whenever the cost of the public work or improvement, including materials, supplies, and equipment, will exceed the amounts outlined in RCW 35.23.352(1), or the threshold in Federal law where applicable, or when required by these policies, the same shall be done by contract after competitive bid. All such contracts shall be let at public bidding. For contracts that require a formal competitive bidding process, a notice shall be published in the official newspaper at least 13 days prior to the due date for bids. For all Federal Aid projects as per the LAG Manual Chapter 46.24, an advertisement must run for a three-week period prior to opening of the bids. They must run at least twice, 20 calendar days prior to the last date upon which the bids will be received.

Advertisements for bids should include the following items:

- Title of the project
- Nature and scope of the work
- Materials and equipment to be furnished
- Where contract documents (plans, *specifications*) may be obtained
- Cost to obtain a set of contract documents
- Place, date, and time that bids are due
- Statement that a *bid bond* must accompany the bid
- Statements that the City retains the right to reject any or all bids, and to waive minor irregularities in the bidding process
- Title VI requirements and reference

6.2 Bid Specifications

Bid specifications should incorporate a clear and accurate description of the technical requirements for the material, product, or service to be provided. Such descriptions should not contain features that unduly restrict competition.

When it is impractical or uneconomical to make clear and accurate description requirements, a “brand name or equal” description may be used. The responsibility of demonstrating to the City’s satisfaction that a product is “equal” to that specified shall be on the vendor proposing the substitution.

Requests for approval of substitutions must be made with sufficient time to allow the City to adequately review the proposal, including time for vendors to respond to questions and requests for additional information or clarification. The City has no obligation to accept proposed substitutions.

Acceptance of a substitute product proposed as an “equal” to that specified will be made in writing. If this acceptance occurs prior to the bid, other bidders will be notified to the extent practical.

6.3 Award

The contract will be awarded to the lowest responsive and responsible bidder whose bid meets the requirements and criteria included in the invitation for bids, or all bids will be rejected. However, in accordance with RCW 35.23.352(2), if the City issues a written finding that the lowest responsive and responsible bidder has delivered a project to the City within the last three years which was late, over budget, or did not meet specifications, and the City does not find in writing that such bidder has shown how they would improve performance to be likely to meet project specifications, then the City may award the contract to the second lowest responsive and responsible bidder whose bid is within five percent of the lowest bid. If in any year a contract is awarded to the second lowest responsive and responsible bidder in this manner, the City will prepare an annual report as required under RCW 35.23.352(14).

RCW 39.04.350 establishes bidder responsibility criteria. Before the City may accept a Contractor’s bid, the contractor must:

- At the time of bid submittal, have a certificate of registration in compliance with chapter 18.27 RCW;
- Have a current state unified business identifier number;
- If applicable, have industrial insurance coverage for the bidder's employees working in Washington as required in Title 51 RCW; an employment security department number as required in Title 50 RCW; and a state excise tax registration number as required in Title 82 RCW;
- Not be disqualified from bidding on any public works contract under RCW 39.06.010 or 39.12.065(3);
- If bidding on a public works project subject to the apprenticeship utilization requirements in RCW 39.04.320, not have been found out of compliance by the Washington state apprenticeship and training council for working apprentices out of ratio, without appropriate supervision, or outside their approved work processes as outlined in their standards of apprenticeship under chapter 49.04 RCW for the one-year period immediately preceding the date of the bid solicitation;

- Have received training on the requirements related to public works and prevailing wage under this chapter and chapter 39.12 RCW. The bidder must designate a person or persons to be trained on these requirements. The training must be provided by the department of labor and industries or by a training provider whose curriculum is approved by the department. The department, in consultation with the prevailing wage advisory committee, must determine the length of the training. Bidders that have completed three or more public works projects and have had a valid business license in Washington for three or more years are exempt from this subsection. The department of labor and industries must keep records of entities that have satisfied the training requirement or are exempt and make the records available on its website. Responsible parties may rely on the records made available by the department regarding satisfaction of the training requirement or exemption; and
- Within the three-year period immediately preceding the date of the bid solicitation, not have been determined by a final and binding citation and notice of assessment issued by the department of labor and industries or through a civil judgment entered by a court of limited or general jurisdiction to have willfully violated, as defined in RCW 49.48.082, any provision of chapter 49.46, 49.48, or 49.52 RCW.

The City also requires that the contractor must:

- Have or agree to obtain a current City business license
- Be current with all applicable licenses, taxes, and fees owed to the City of Sedro-Woolley

In addition, the City adopts the following supplemental criteria which may be used in connection with specified projects:

- The ability, capacity, and skill of the bidder to perform the contract or provide the service required
- The character, integrity, reputation, judgment, experience, and efficiency of the bidder
- Whether the bidder can perform the contract within the time specified
- The quality of performance of previous contracts or services
- The previous and existing compliance by the bidder with laws relating to the contract or services
- Such other information as may be secured having a bearing on the decision to award the contract

When using the supplemental criteria described above, the City will include the supplemental criteria in the bidding documents, together with a basis for evaluation, deadline for bidder to

submit responsibility documentation, and deadline for bidder to appeal a “not responsible” determination.

When a trade-in option exists and is in the City’s best interest, the price offered on the trade will be considered when determining the lowest responsive and responsible bid.

RCW 39.30.040 allows any local sales tax revenue generated by the purchase to be considered in determining the lowest responsive and responsible bid. Other preferences favoring local businesses are not permitted.

6.4 Cancellation

An invitation for bids may be cancelled. Additionally, the City (at its sole discretion) may choose to reject any or all bids, in whole or in part, except as otherwise provided under state or federal law or as conditions of receiving state or federal funding.

6.5 Submittal of Bids

Bids will be submitted as specified in the invitation for bid by the appointed date and time listed in the invitation. Each bid will be dated, and time stamped as it is received. Late bids will not be accepted. If the bid is a sealed bid, all qualified bids will be opened and read aloud publicly at the appointed time.

No City representative shall inform a contractor of the terms or amount of any other contractor’s bid for the same project prior to the bid opening date and time. Once bids have been submitted (and opened, if the bids are sealed), the City may not negotiate with bidders. The contract must be awarded to the lowest responsive and responsible bidder, or else all bids must be rejected.

A written record shall be made of each contractor’s bid on a project and of any conditions imposed on the bid. Immediately after an award is made, the bid quotations shall be recorded, open to public inspection, and available by electronic request.

Original specifications and the original bid responses will be retained for review and audit as required.

6.6 Bid Security

In accordance with RCW 35.23.352(1), each bid submitted through a formal competitive bidding process shall be accompanied by a bid security for a sum of not less than five percent of

the amount of the bid. The bid security may be in the form of a cashier's check, postal money order, or surety bond provided by a surety company that is authorized to do business in Washington State in a form approved by the City Attorney's Office. No bid solicited through a formal competitive bidding process shall be considered unless accompanied by such a bid security.

A bid security is only required for bids solicited through a formal competitive bidding process. A bid security is not required for bids solicited through the small works roster process, limited public works process, or through the procedures described in Sections 5.3, 5.3.1, 5.4, and 5.5.

However, if a public works project is estimated to be \$250,000 or greater and will be funded in whole or in part with federal funds, a formal competitive bidding process, that which requires a bid security, is required.

If a bidder is permitted to withdraw a bid before award, its bid security shall be returned.

6.7 Non-Collusion Affidavit

Each bidder shall be required to warrant that their bid is genuine, and that they have not entered into collusion with other bidders, by submitting with their bid an executed and notarized affidavit on a form approved by the City Attorney.

7.0 PROFESSIONAL SERVICES

Professional services are services which provide professional or technical expertise to accomplish a specific study, project, task, or other work statement.

Professional services include, but are not limited to:

- Accounting and auditing
- Bond or insurance brokerage
- Consulting services
- Legal services
- Real estate appraisal or title abstracts
- Relocation assistance
- Design
- Soils analysis or core testing

7.1 Summary – Professional Services Guidelines

Estimated Agreement Amount	Signing Authority	Recommended Solicitation Process
\$10,000 or Less	Directors	Minimal Solicitation. Contact 1-3 qualified firms.
\$10,001 or \$25,000	City Administrator or Mayor	Minimal Solicitation. Contact 1-3 qualified firms.
\$25,001 to \$100,000	Authorized by City Council	Informal Solicitation. Prepare RFQ/RFP and contact 3-5 qualified firms.
Over \$100,000		Formal Solicitation. Prepare RFP/RFQ and advertise.

7.2 Consultant Solicitation

The City may use, as the first step in the evaluation and hiring of a consultant to provide professional services, the Municipal Research and Services Center’s (MRSC) annual roster or advertise a Request for Qualifications (RFQ). By first reviewing qualifications of consultants on MRSC’s consultant roster, or reviewing qualifications from solicited consultants via an advertised RFQ, the City can narrow down and choose a consultant that is best qualified to provide the needed professional services. After firms are narrowed down, a Request for Proposal (RFP) is then requested. Each proposal should outline the firm’s scope of services that includes information on their recommended schedule and deliverables.

An RFP should include:

- a detailed scope of work describing the project tasks
- an estimated budget
- an estimated schedule
- evaluation criteria
- instructions regarding the submittal information (page limitations, number of copies, etc.)
- proposal deadline
- copy of agreement for professional services

A department director may evaluate proposals for smaller projects, but a review panel of at least three employees is recommended for more complex projects. City staff should review all submittals received prior to the deadline to ensure they comply with the requirements of the RFP. The director or review panel should then use evaluation criteria to score each firm's proposal.

Agency guidelines for RFPs and RFQs are as follows:

Estimated Cost for Services: \$0 to \$25,000

Process: Minimal Solicitation

Major Activities:

- RFQ: Select 1-3 qualified firms based on established criteria from MRSC roster or from the consultants who responded to a RFQ, if advertised.
RFP: Ask for proposals from the selected firm(s).
- Select most qualified firm.
- Negotiate a contract with the firm deemed the most highly qualified.
- Document the process.

Estimated Cost for Services: \$25,001 to \$100,000

Process: Informal Solicitation

Major Activities:

- RFQ: Select 3-5 qualified firms based on established criteria from MRSC roster or from consultants who responded to an RFQ, if advertised.
- RFP: Prepare an RFP, including, at a minimum: description of services required, project schedule, estimated budget, instructions on submittal information, and due date for the responses. Send RFP to the 3-5 qualified firms previously identified.
- Evaluate responses and select most qualified firm
- Negotiate a contract with most qualified firm

- Document the process for file, including selection criteria, names of firms considered, all responses to RFP, basis for award decision, and copy of contract

Estimated Cost for Services: Over \$100,001

Process: Formal Solicitation

Major Activities:

- RFQ: Prepare a formal RFQ, and advertise the RFQ by, at a minimum, publishing legal notice in the City's newspaper of record and by posting the RFQ on the City's website.
- RFQ: Develop score sheets for use by evaluators and evaluate responses to RFQ.
- RFP: Issue RFP to a minimum of six firms.
- Conduct pre-proposal conference, if required in RFP.
- Provide answers to consultant questions via addenda and post on website.
- Date and time stamp proposals received by the due date.
- Evaluate proposals strictly against criteria set forth in the RFP and score. Use 3 evaluators for scoring and score proposals using score sheets. Tabulate scores and determine ranking of consultants.
- Schedule and conduct oral interviews of top finalists, if desired.
- Determine final scoring and select most qualified firm.
- Notify successful and unsuccessful firms.
- Negotiate a contract with most qualified firm.
- Conduct debriefing conferences with unsuccessful proposers, if requested.

7.3 FEDERAL FUNDS

If federal funds are used for a RFP/RFQ process, the City must publicize the evaluation factors and have a written method for conducting technical evaluations of the proposals received and for selecting recipients.

8.0 ARCHITECTURAL, ENGINEERING, AND SURVEYING SERVICES

Services for professional architectural (including landscape architectural), engineering, or surveying services are procured using the qualifications-based selection requirements in Chapter 39.80 RCW. Examples include architectural blueprints, road design, and sewer and water system design. The requirements outlined in that chapter, as stated in these guidelines, or as may be amended by the State Legislature, must be carefully followed.

8.1 Annual Roster

As an alternative to the City's solicitation of qualifications and an annual publication, the City Administrator is authorized to enter into agreements with the Municipal Research and Services Center (MRSC) and/or any other agencies for use of their annual rosters as long as such rosters are in compliance with the latest state of Washington rules, regulations, requirements, and laws regarding the procurement of architectural, surveying, and engineering services.

The City encourages architectural, engineering, and surveying firms to submit to MRSC a statement of qualifications and performance data annually. When services are needed, the City may as an alternative evaluate current statements of qualifications and performance data on file. The City continues to have the option to formally advertise for consultant qualifications aside from using the MRSC roster.

8.2 Contract Negotiations

Discussions will be conducted with one or more firms regarding anticipated concepts and the relative utility of alternative methods of approach for furnishing the required services. Using criteria established by the City for the project, category, or type of services needed, a professional services contractor will be selected that is deemed to be the most highly qualified to provide the services required for the proposed project. See Section 7.2 for the RFQ and RFP process. RFPs for architectural, engineering, and surveying services may not request a price. The City must select the most qualified firm and then negotiate a price for the project.

The City will negotiate a contract with the most qualified firm at a price that the City determines is fair and reasonable. In making its determination, the City will consider the estimated value of the services to be rendered as well as the scope, complexity, and professional nature of the service to be provided. If the City is unable to negotiate a satisfactory contract with the firm selected at a price that is determined fair and reasonable, negotiations with that firm will be formally terminated. Another firm will then be selected, and the process continued until an agreement is reached or the process terminated.

8.3 FEDERAL FUNDS

If federal funds are used for an RFP/RFQ process, the City must publicize the evaluation factors and have a written method for conducting technical evaluations of the proposals received and for selecting recipients.

9.0 CONTRACT AMENDMENTS

The City Administrator may execute an amendment to a contract without City Council approval, provided that the amendment:

- Simply extends the time of completion for a project;
- Provides for a cost increase that does not exceed 10% of the original contract cost (up to \$50,000), and is within the approved budget; or
- Is solely for “On-Call” services to ensure compliance with City Codes and regulations by development applications and studies associated with development applications, when the cost of the work performed is recovered from applicant reimbursements or application fees. Examples include agreements for geotechnical studies and traffic impact analysis.

The Public Works Director may execute an amendment to a contract without City Council approval for Public Works related Professional Services Agreements, provided that the amendment:

- Simply extends the time of completion for a project;
- Provides for a cost increase that does not exceed 10% of the original contract cost (up to \$25,000), and is within the approved budget; or
- Is solely for “On-Call” services to ensure compliance with City Codes and regulations by development applications and studies associated with development applications, when the cost of the work performed is recovered from applicant reimbursements or application fees. Examples include agreements for geotechnical studies and traffic impact analysis.

All changes to the scope of work must be done by contract amendment. Substantial changes to the scope of work must be submitted to the City Attorney for a determination as to whether the work should be a new contract.

This section does not apply to contracts for public works projects. Amendments to contracts for public works projects shall be in the form of a change order approved in accordance with Section 5.16.

10.0 COMPETITIVE BIDDING EXEMPTIONS AND EMERGENCIES

Under RCW 39.04.280, competitive bidding requirements may be waived for:

- a. Purchases that are clearly and legitimately limited to a single source of supply;
- b. Purchases involving special facilities or market conditions;
- c. Purchases in the event of an emergency;
- d. Purchases of insurance or bonds; and
- e. Public works in the event of an emergency.

Purchases may be made from a *sole source* vendor without soliciting other quotes or bids. In non-emergency situations, written documentation demonstrating the appropriateness of a sole source purchase shall be submitted to the Finance Department in advance of the purchase. Finance (and the City Attorney, when needed) will evaluate whether a vendor can legitimately be defined as a sole source and shall provide written concurrence to be maintained in the purchasing file. Council action is not required, but may be requested by the Finance Director.

Purchases involving special facilities or market conditions may be made without soliciting quotes or bids. In non-emergency situations, written documentation demonstrating the appropriateness of a purchase involving special facilities or market conditions shall be submitted to the Finance Department in advance of the purchase. Finance (and the City Attorney, when needed) will evaluate whether special facilities or market conditions legitimately exist and shall provide written concurrence to be maintained in the purchasing file. Council action is not required, but may be requested by the Finance Director.

In accordance with RCW 39.04.280 and Chapter 2.40 SWMC, if an *emergency* exists, the Mayor, the City Council, the City Administrator, Department Directors, or the person(s) designated by the Mayor (or by Chapter 2.40 SWMC) to act in the event of an emergency may:

- Declare that an emergency situation exists.
- Waive competitive requirements.
- Award, on behalf of the City, contracts necessary to address the emergency (including, but not limited to, contracts for architectural and engineering services).

Chapter 2.40 SWMC contains additional provisions relating to emergency management and Section 2.40.140 contains specific provisions for public works emergencies. RCW 39.04.280 requires that a written finding of the existence of an emergency be made and entered into the public record no later than two weeks following the award of the contract. Such written findings authorizing the emergency procurement shall be presented to the City Council for ratification and confirmation, modification or rejection. However, all emergency procurements

under this section shall be considered to be in full force and effect until the City Council acts otherwise.

See the Emergency Operations Plan for additional information on the resource request process used in the Emergency Operations Center during emergencies. Nothing in this Section 10.0 is intended to supersede the City's adopted Emergency Plan and procedures as outlined in Chapter 2.40 SWMC.

11.0 INTERGOVERNMENTAL COOPERATIVE PURCHASING AGREEMENTS

RCW 39.34.030 allows the City to join with other governmental agencies for the purchase of supplies, equipment, or services. This is done by entering into a written Intergovernmental Cooperative Purchasing Agreement (also known as an “Interlocal Agreement”).

Prior to making a purchase under such an agreement, the City must ensure that the procedure used by the agency that originally awarded the bid, proposal, or contract is allowable with the City’s purchasing policy. The originating agency must also have fulfilled one of two additional public notice requirements:

- Posted the bid or solicitation notice on a web site established and maintained by a public agency, purchasing cooperative, or similar service provider, for purposes of posting public notice of bid or proposal solicitations.
- Provided an access link on the state’s web portal to the notice.

The City may also make a bid call with another government entity as a joint purchase that complies with the procurement requirements of both jurisdictions.

When practical, the City should include language in its solicitations that allows other public agencies to purchase from City of Sedro-Woolley’s contracts or purchase orders, provided that other agencies provide similar rights and reciprocal privileges to the City of Sedro-Woolley.

Pursuant to RCW 39.34.030, the City may make purchases through state contracts including, for example the Department of Enterprise Services (“DES”). The City has signed a Master Contracts Usage Agreement with DES. The DES’ webpage provides information and instructions for making purchases with the state contract.

The City Council shall approve all Intergovernmental Cooperative Purchasing Agreements.

12.0 VENDOR RELATIONS

12.1 Code of Ethics

Employees will follow Chapter 2.62 SWMC in this subject area.

12.2 Quote or Bid Revisions

If a vendor is permitted to submit a revised quote or bid, other competitors will be given the same opportunity. Bidders are expected to offer their best bid first and offering an opportunity to re-quote should be done only when necessary.

12.3 Samples

When vendors offer samples for evaluation, they will be accepted only under the following conditions:

- The sample is accepted as property of the City.
- The product is of a type presently in use by the City or is of potential use. Samples of goods not likely to be purchased are not to be accepted.
- The quantity or size of the sample is relatively small and of minimal value.
- Any chemicals offered as vendor samples shall not be accepted unless accompanied by an OSHA product safety data sheet or material safety data sheet (MSDS).
- If vendor samples are accepted, they must be sent to the appropriate location or department for testing.
- Samples that are requested for evaluation must be purchased.

12.4 Local Business Participation

The City will take affirmative steps not only to encourage local businesses to apply to participate in the procurement process, but to the extent legally possible, the City will consider the use of those local businesses.

13.0 Bid Protests

A bidder wishing to protest the City's award of a contract for a public works project that was the subject of competitive bidding must strictly follow the procedures described below. To the extent that these procedures are not followed, the City will not review a bid protest submitted by a bidder.

13.1 Requests for Copies of Bids Received by City

In accordance with RCW 39.04.105, within two business days of the bid opening on a public works project that is the subject of competitive bids, the City will provide, if requested by a bidder, copies of the bids the City received for the public works project. The City will not execute a contract for the public works project for two full business days from the date that copies of the received bids were provided. Intermediate Saturdays, Sundays, and legal holidays are not counted as "business days."

13.2 Procedure for Submission of a Bid Protest

All bid protests must be filed in writing with the City Clerk and must be submitted no later than: two full business days following bid opening, if no bidder requested copies of the bids received for the project; or two full business days following the date on which the City provided copies of the bids to requesting bidders. The City may provide copies of the bids by posting them to the City's website. Intermediate Saturdays, Sundays, and legal holidays are not counted as "business days."

All bid protests must:

- Be submitted in writing;
- Explicitly identify itself as a bid protest;
- Explicitly identify the bid/project/request for which the protest is made;
- Explicitly state all reasons and bases in law and fact supporting the protest; and
- Include any and all supporting documents.

13.3 Consideration of a Bid Protest

Submitted bid protests complying with the requirements outlined above will be reviewed by the Mayor, the City Attorney, and the Public Works Director, or their designees.

The bid protest will be decided based upon the written materials, supporting documents, and other information submitted with the bid protest as well as other records or information known to the City relating to the public works project in question. In the event that a meeting or conference with the protesting bidder would materially assist the City in making its decision, a meeting may be scheduled at the discretion of the Mayor or their designee.

Only those issues identified by the bidder in the written protest filed with the City Clerk will be considered. The City Attorney or their designee will issue a written decision no later than 10 business days after the filing of the bid protest with the City Clerk, which shall be the final decision of the City on the bid protest.

14.0 SALE OR DISPOSAL OF CITY Personal PROPERTY

14.1 Authorization

The City Administrator may authorize the sale or disposal of personal property owned by the City, provided that the property is no longer needed and that notice of intention to sell is given as provided in this section. The personal property will be deemed as surplus or scrap.

Permission must be obtained from the grantor before selling or disposing of any personal property which was purchased with grant funding. Failure to obtain permission could obligate the City to repay grant funding used to purchase the personal property.

Section 14 does not address the sale or disposal of real property owned by the City.

14.2 Sale versus Disposal

Sales of surplus items to other governmental agencies may occur via private sale. Other sales of surplus items shall be sold via public auction. It is the City's policy to utilize third-party auction services rather than conduct the auction itself.

Scrap may be sold via public auction, via private sale at prices established by current market conditions or may be disposed of if there is not a viable market. The City Administrator may donate items with a nominal value to a charitable organization which is tax exempt pursuant to Internal Revenue Code Section 501(c)(3).

14.3 Trade-Ins

Trade-in of old equipment to upgrade similar or reasonably related equipment is permitted when it is in the best interest of the City. The requesting Department Director shall be responsible for the sale, trade, or other disposition of surplus property and scrap belonging to the City of Sedro-Woolley when used for a trade-in.

14.4 Public Notice of Sale

If the City opts not to use a third-party auction service and instead chooses to conduct an auction itself, the notice of intent to sell surplus or scrap at a public sale shall be published once a week for two consecutive weeks in the City's official newspaper immediately prior to the sale. The notice shall state the time and place at which the property will be sold. Any other reasonable means to attract potential buyers to the sale may be used in conjunction with the notice posted in the official newspaper.

14.5 Conflict of Interest

Because City employees have more information than the general public about City property to be auctioned and an appearance of fairness is necessary to maintain the public trust, employees, their spouses, and their agents are not permitted to bid on or buy personal property auctioned or sold directly by the City.

14.6 Inventoried Items

Surplus, scrap, or trade-in of any inventoried item will be confirmed by the employee responsible and approved by the Department Director. A Property Disposition form will be completed and submitted to the Finance Department.

Each Department will be responsible for storing and retaining an inventory of such property until issued disposition instructions.

15.0 ADDITIONAL SIGNING AUTHORITY

15.1 Grants

If a grant would require the City to contribute more than \$50,000 in material matching dollars, then City Council approval is required prior to applying. The City Council may also initiate the process of pursuing a grant. If other entities, such as non-profit organizations or community interest groups, wish to apply for a grant on behalf of the City, the group must first obtain the approval of City Council.

The City Administrator, or designee, is authorized to execute all required agreements and documents with a grant-issuing agency to effectuate any grant approved or accepted by the City Council.

Amendments to grants that simply extend the term of the grant may be approved by the City Administrator.

15.2 Interlocal Agreements

All interlocal and interagency agreements must be approved by City Council. Amendments to interlocal agreements that simply extend the term of the agreement may be approved by the Mayor.

15.3 Real Property

Contracts and agreements that relate to real property (other than as described below) must be approved by the City Council.

The Mayor is authorized to enter into leases of real property where the rent does not exceed \$50,000 total over the term of the lease; Provided, that the City Council's approval is required for all leases of real property that are for a term of more than five (5) years.

The Mayor is authorized to enter into licenses, permits, or other agreements in order to manage the use of the City's right-of-way.

The Mayor is authorized to accept dedications, easements, rights-of-way, fee estates, or other interests in real property for use by or on behalf of the city. Pursuant to this authority, the Mayor is authorized to sign and accept delivery of real property acquisition documents on behalf of the City.

The Director of Planning is further authorized to sign and accept documents relating to any notice to title recorded with Skagit County in connection with the Critical Areas ordinance.

15.4 Settlement Authority

The City Council shall approve all agreements intended to resolve and settle any damage claims or suits against the City.

16.0 COMPLIANCE WITH POLICY

A violation of any of the provisions of this policy may result in discipline to the individual employee involved where, in the opinion of the Mayor, such discipline is in the interest of the public and good government.

Officers and employees should be aware of possible personal penalties, termination, and financial liability for intentional or willful violation of competitive bidding laws. RCW 39.30.020 states (emphasis added):

In addition to any other remedies or penalties contained in any law, municipal charter, ordinance, resolution, or other enactment, any municipal officer by or through whom or under whose supervision, in whole or in part, any contract is made in willful and intentional violation of any law, municipal charter, ordinance, resolution, or other enactment requiring competitive bidding upon such contract shall be held liable to civil penalty of not less than three hundred dollars and may be liable, jointly and severally, with any other such municipal officer for all consequential damages to the municipal corporation. If, as a result of a criminal action, the violation is found to have been intentional, the municipal officer shall immediately forfeit their office. For purposes of this section “municipal officer” shall mean an “officer” or “municipal officer” as those terms are defined in RCW 42.23.020(2).

17.0 Standards of Conduct

Federal requirements in 2 CFR 200.318 outline the below that covers conflicts of interest and govern the performance of City employees engage in the selection, award, and administration of federal contracts/purchases.

- The officers, employees, and agents may not participate in the selection, award, or administration of a contract supported by a Federal award if they have a real or apparent conflict of interest.
- The officers, employees, and agents may neither solicit nor accept gratuities, favors, or anything of monetary value from contractors or parties to subcontracts.
- Must include or disciplinary actions for violations of such standards.