

**Providence City Corporation
Procurement Policy
(Approved January 23, 1996; amended October 28, 1997; amended June 24, 2008)**

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1. Purpose:

The purpose of this policy is to prescribe simplified procedures in order to acquire goods and/or services at the best possible cost, in the appropriate quantity and quality, at the proper time and place, for the benefit and use of the City. Specifications shall seek to promote overall economy and best use for the purposes intended and encourage competition, and shall not be unduly restrictive (Utah Code 63-56-301)

2. Compliance – Exemptions:

This policy shall not prevent the City from complying with the terms and conditions of any grant, gift, or bequest that is otherwise consistent with law.

When a procurement involves the expenditure of federal assistance funds, the City shall comply with applicable federal law and regulations.

3. Definitions:

Business, means any corporation, partnership, individual, sole proprietorship, joint stock company, joint venture, or any other private legal entity.

Capital Asset, means a fixed asset purchased for or valued at five thousand dollars (\$5,000) or greater.

Change Order, means a written order signed by the purchasing agent or his/her designee directing the contractor to suspend work or make changes, which the appropriate clauses of the contract authorizes the purchasing agent or his/her designee to order without the consent of the contractor or any written alteration in specifications, delivery point, rate of deliver, period of performance, price quantity, or other provisions of any contract accomplished by mutual action of the parties to the contract.

City, means Providence City.

Contract, means any City agreement for the procurement or disposal of supplies, services, or construction.

Cooperative Purchasing Contract, means an order for supplies or services placed against an established statewide or similar type requirements contract including Federal Government sources of supply, i.e., (GSA).

Department Head, means the person who administers a department or his/her designee as specified in writing to the Purchasing Agent or, in the absence of a department head, the City Administrator.

Emergency Condition, means a situation that creates a threat to public health, welfare, or safety.

Formal Bids and Proposals Purchase, means purchases exceeding \$25,000.

Governing Body, means the Providence City Council.

Invitation for Bids, means all documents, whether attached or incorporated by reference, used for soliciting bids.

Limited Solicitation Purchase, means purchases exceeding \$5,000 up to and including \$25,000.

Person, means any business, individual, union, committee, club, other organization, or group of individuals.

Procurement, means buying, purchasing, renting, leasing, leasing with an option to purchase, or otherwise acquiring any supplies, services, or construction.

Purchasing Agent, means the person duly authorized by the governing body of the City to enter into and administer contracts and make written determinations with respect thereto.

Purchasing Description, means the words used in a solicitation to describe the supplies, services or construction to be purchased, and includes specifications attached to or made a part of the solicitation.

Purchase Order, means an offer by the City to buy certain supplies or nonpersonal services and construction from commercial sources, upon specified terms and conditions.

Purchase Requisition, means a request to purchase certain supplies or nonpersonal services and construction from commercial sources, upon specified terms and conditions.

Request for Proposals (RFP), means all documents, whether attached or incorporated by reference, used for soliciting proposals.

Small Purchase, means an acquisition of supplies, non-personal services, and construction in the amount of less than \$5,000 using the procedures as prescribed here in.

Routine Expenses, means expenses such as payroll, payroll taxes and related expenses, utility bills and similar expenses, payment for previously approved leases, contracts.

Specification, means any description of the physical or functional characteristics, or of the nature of a supply, service, or construction item. It may include a description of any requirement for inspection, testing, or preparing a supply, service, or construction item for delivery.

4. Office of the Purchasing Agent:

The City Financial Officer, or his/her designee, is hereby authorized to perform the duties of the Purchasing Agent. The Purchasing Agent shall be responsible to make procurements, solicit bids and proposals, enter into and administer contracts, and make written determinations for the City.

5. Purchasing Procedures:

Buyer shall not limit solicitations to suppliers of well-known and widely distributed makes or brands, nor shall quotations be solicited on a personal preference basis. New supply sources, disclosed through the trade journals or other media, shall be continuously reviewed and, if appropriate, added to the list of available sources.

Buyer should make every effort to obtain trade and prompt payment discounts. However, prompt payment discounts may be considered in the evaluation of quotations.

Buyer should evaluate the quotations inclusive of transportation charges from the shipping point of the supplier to the delivery destination.

Purchase requisitions and purchase orders are required for all procurements except the following:

- a. routine expenses
- b. purchases requiring sealed bids
- c. emergency condition purchases; however, as much competition as practical should be obtained, and such purchases should be limited to amounts necessary to the resolution of the emergency.

Purchase requisitions shall be used to obtain Department Head approval prior to creating a purchase order. Purchase requisitions shall specify the nature of the goods or services to be acquired, the listed price or estimate thereof, the date of the requisition, the date goods or services are needed, the preferred vendor, the department /division for whom the purchase is being made, the suggested general ledger number for the proposed purchase, signature of the requestor, approval signature of the Department Head or his/her designee, and other information that is pertinent to the clear understanding of the purchase.

Purchase requisitions and invoices for supplies, equipment, or services submitted at or near the close of the fiscal year (particularly during May and June) are to reflect essential requirements and are not to be used to exhaust appropriation balances.

Upon receiving an approved purchase requisition, the Purchasing Agent shall prepare a purchase order. The purchase order shall specify the nature of the goods or services to be acquired, the listed price or estimate thereof, freight charges, discounts (if applicable) the date of the requisition, the date goods or services are needed, the preferred vendor, the department /division for whom the purchase is being made, the suggested general ledger number for the proposed purchase, the signature of the Purchasing Agent or designee, and other information that is pertinent to the clear understanding of the purchase.

5.1 Small Purchase Procedure:

The procedures prescribed here in shall be used to the maximum extent practicable for all purchases of supplies or services not exceeding the small purchase limitation.

Small purchase procedures shall not be used in the acquisition of supplies and services initially estimated to exceed the small purchase limitation even though resulting awards do not exceed that limit. Requirements aggregating more than the small purchase dollar limitation shall not be broken down in to several purchases that are less than the limit merely to permit the use of the small purchase procedures.

Purchases not exceeding the small purchase limit may be made without securing competitive

quotations if the Buyer considers the prices to be reasonable.

Such purchases shall be distributed equally among qualified suppliers as considered practical. If practical, a quotation shall be solicited from other than the previous supplier before placing a repeat order.

The administrative cost of verifying the reasonableness of the price of purchases not exceeding \$5000 may more than offset potential savings from detecting instances of overpricing. Therefore, action to verify price reasonableness need be taken only when:

- a. the Buyer suspects or has information (i.e., comparison to previous prices paid or personal knowledge of the item involved) to indicate that the price may not be reasonable; or
- b. purchasing an item for which no comparable pricing information is readily available (i.e., and item that is not the same as, or is not similar to, other items that have been recently purchased on a competitive basis).

Purchases awarded using Small Purchase Procedures are not subject to appeal procedures.

5.2 Limited Solicitation Purchase Procedure

Buyers shall solicit quotations from a reasonable number of sources to promote competition to the maximum extent practicable and ensure that the purchase is advantageous to the City, price and other factors considered, including the administrative cost of the purchase. Solicitations may only be limited to one source if the Buyer determines that only one source is reasonably available.

Generally, quotations may be solicited orally except that written solicitations shall be used for agreements when: (amended 10/28/97)

- a. Large numbers of items are included in a single proposed acquisition; or
- b. Obtaining oral quotations is not considered economical or practical; or
- c. Special specifications are involved, i.e., the product is different from that normally or previously purchased.

For certain purchases, Buyers may wish to consider factors other than lowest bid. Buyers are authorized to use the following factors other than lowest bid to determine acceptability for making an award:

- a. qualifications, available staff, references, delivery date, inspections, testing, quality and workmanship, etc.

Buyers are not allowed to artificially divide requirements to keep the purchase price under the \$25,000 limit, simply to avoid procedures established for procurements with a higher dollar value.

Purchases awarded using Limited Solicitation Purchase Procedures are not subject to appeal procedures.

5.3 Formal Bids and Proposals Purchase, exceeding \$25,000.

Written solicitations shall be used for purchases of \$25,000 and over except when obtaining written quotations is not considered economical or practical.

Generally, solicitation of at least three sources may be considered to promote competition to the maximum extent practicable. If practicable, two sources not included in the previous solicitation should be requested to furnish quotations. Solicitations may only be limited to one source if the Buyer determines that only one source is reasonably available.

The following factors influence the number of quotations required in connection with any particular purchase:

- a. The nature of the article or service to be purchased and whether it is highly competitive and readily available in several makes or brands, or is relatively non-competitive; and
- b. Information obtained in making recent purchases of the same or similar item; and
- c. The urgency of the proposed purchase; and
- d. The dollar value of the proposed purchase; and
- e. Past experience concerning specific dealers' prices.

If suppliers furnish standing price quotations on suppliers or services required on an intermittent and recurring basis, the information may be used in lieu of obtaining individual quotations each time a purchase is contemplated. The Buyer shall ensure that the price information is current and that the City obtains the benefit of maximum discounts.

Occasionally an item can be obtained only from a supplier who quotes minimum order price or quantity that either unreasonably exceeds stated quantity requirements or results in an unreasonable price for the quantities required. In these instances, the Buyer should be informed of all the facts regarding the quotation and request confirmation or alteration of the requirement. The file shall be documented to support the final action taken.

The determination that a proposed price is reasonable should be based on competitive quotations. If only one response is received, or the price variance between multiple responses reflects lack of adequate competition, a statement shall be included in the purchasing file giving the basis of the determinations of fair and reasonable price. The determination may be based on a comparison of the proposed price with prices found reasonable on previous purchases, current price lists, catalogs, advertisements, similar items in a related industry value analysis, or Buyer's personal knowledge as practicable of the physical and material characteristics and intended use of the item to be acquired.

6. Source Selection and Contract Formation - General Provisions

The following purchases do not require sealed bids:

- a. Purchases costing less than \$25,000 in total, shall not require bids of any type. (Purchases shall not be artificially divided so as to constitute a small purchase under this section.)
- b. Purchases made from a single-source provider.
- c. Purchases required during an emergency, i.e., an eminent threat to the public's health, welfare, or safety. However, as much competition as practical should be obtained; and, such purchases should be limited to amounts necessary to the resolution of the emergency.

6.1 Sole Source Procedures:

Buyers are advised to use this method sparingly in as much as it has an adverse effect on competitive procedures. When using this method, buyers must submit a statement justifying the sole source.

The following conditions must be met for sole source procurements:

- a. the compatibility of current services or equipment, accessories, or replacement parts
- b. there is not existing equivalent product
- c. only one source is acceptable or suitable for the supply or service item.

6.2 Contracts shall be awarded by competitive sealed bidding except as otherwise provided by this policy.

An invitation for bids shall be issued when a contract is to be awarded by competitive sealed bidding. The invitation shall include a purchase description and all contractual terms and conditions applicable to the procurement. Public notice of the invitation for bids shall be given at least ten (10) business days prior to the date set forth therein for the opening of bids. The notice may include publication in a newspaper of general circulation.

Any procurement in excess of \$75,000 shall require a legal notice in a local newspaper.

Bids shall be opened publicly in the presence of one or more witnesses at the time and place designated in the invitation for bids. The amount of each bid and any other relevant information, together with the name of each bidder, shall be recorded. The record and each bid shall be open to public inspection.

Bids shall be unconditionally accepted without alteration or correction, except as authorized in this policy. Bids shall be evaluated based on the requirements set forth in the invitation for bids.

Correction or withdrawal of inadvertently erroneous bids before or after award, or cancellation of awards or contracts based on such bid mistakes, shall be permitted. After bid opening no changes in bid prices or other provisions of bids prejudicial to the interest of the City or fair competition shall be permitted. All decisions to permit the correction or withdrawal of bids or to cancel awards or contracts based on bid mistakes shall be supported by a written determination made by the purchasing agent.

The contract shall be awarded with reasonable promptness, by written notice, to the lowest bidder whose bid meets the requirements and criteria set forth in the invitation for bids.

6.3 Cancellation and rejection of bids.

An invitation for bids, a request for proposals, or other solicitation may be canceled, or any or all bids or proposals may be rejected, in whole or in part, as may be specified in the solicitation, when it is in the best interests of the City. The reasons shall be made part of the contract file.

6.4 Use of competitive sealed proposals in lieu of bids.

When the purchasing agent determines in writing that the use of competitive sealed bidding is either not practicable or not advantageous to the City, a contract may be entered into by competitive sealed proposals. Competitive sealed proposals are most appropriately used for professional service-type contracts.

- a. Proposals shall be solicited through a request for proposals. Public notice of the request for proposals shall be given at least days prior to the advertised date of the opening of the proposals.
- b. Proposals shall be opened so as to avoid disclosure of contents to competing offerors during the process of negotiation. A register of proposals shall be prepared and shall be open for public inspection after contract award.
- c. The request for proposals shall state the relative importance of price and other evaluating factors.
- d. Offerors shall be accorded fair and equal treatment with respect to any opportunity for discussion and revisions of proposals, and revisions may be permitted after submissions and prior to award for the purpose of obtaining best and final offers. In conducting

discussions, there shall be no disclosure of any information derived from proposals submitted by competing offerors.

- e. Award shall be made to the person whose proposal is determined, in writing, to be the most advantageous to the District, taking into consideration price and the evaluation factors set forth in the request for proposals. No other factors or criteria shall be used in the evaluation. The contract file shall contain the basis on which the award is made.

6.5 Exceptions to Competitive Procedures:

The following items are exempt from the competitive procedures and do not require sole source justification:

- a. salaries, retirement and social security payments
- b. training, travel and per diem
- c. freight
- d. landfill charges
- e. professional licenses, dues to associations
- f. renewal of software license agreements, purchase or renewal of maintenance agreements for software and hardware
- g. advertising placed in publications or on radio, television, or other electronic means.
- h. subscriptions, publications, trade books only available from a single supplier (includes related videos, movies, and recordings)
- i. supplies or services whose prices are regulated by the public service commission or other governmental authority.
- j. Architect-Engineer services are qualification-based procurements. Requests for such services should be publicly announced. Contracts should be negotiated by the City based on demonstrated competence at fair and reasonable prices. See *Utah Code* Section 63-56-701 through 705.

Determination of non-responsibility of a bidder or offeror shall be made in writing. The unreasonable failure of a bidder or offeror to promptly supply information in connection with an inquiry with respect to responsibility may be grounds for a determination of non-responsibility with respect to the bidder or offeror. Information furnished by a bidder or offeror pursuant to this section shall not be disclosed outside of the purchasing division without prior written consent by the bidder or offeror.

Subject to the limitations of this section, any type of contract which will promote the best interests of the City may be used, provided that the use of a cost-plus-a-percentage-of-cost contract is prohibited. A cost-reimbursement contract may be used only when a determination is made in writing that such contract is likely to be less costly to the City than any other type or that it is impracticable to obtain the supplies, services, or construction required except under such a contract.

The following are required contract clauses.

- a. The unilateral right of the City to order, in writing, changes in the work within the scope of the contract and changes in the time of performance of the contract that do not alter the scope of the contract work.
- b. Variations occurring between estimated quantities of work in a contract and actual quantities.
- c. Suspensions of work ordered by the City.

7. Specifications

All specifications shall seek to promote overall economy and best uses for the purposes intended and encourage competition in satisfying the City's needs, and shall not be unduly restrictive. Where practical and reasonable, and within the scope of this article, Utah products shall be given preference.

8. Appeals:

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Any actual or prospective bidder, offeror, or contractor who is aggrieved in connection with the solicitation or award of a contract may appeal to the Purchasing Agent. An appeal shall be submitted in writing within 5 working days after the aggrieved person knows or should have known of the facts.

The Purchasing Agent shall promptly issue a written decision regarding any appeal, if it is not settled by a mutual agreement. The decisions shall state the reasons for the action taken and inform the protestor, contractor, or prospective contractor of the right to appeal to the governing body.

The City's governing board shall be the final appeal on the City level.

All further appeals shall be handled as provided in the *Utah Code* Section 63-56-811 through 820.

9. Ethics in Public Contracting:

No person involved in making procurement decisions may have personal investments in any business entity which will create a substantial conflict between their private interests and their public duties.

Any person involved in making procurement decisions is guilty of a felony if the person asks, receives, or offers to receive any emolument, gratuity, contribution, loan, or reward, or any promise thereof, either for the person's own use or the use or benefit of any other person or organization from any person or organization interested in selling to the City.