

Purchasing Policies and Procedures (Administrative Regulations)

SECTION 6: PURCHASING PROCEDURES

Date: 03/2009

6-1. The following procedures are established to provide efficient methods for purchasing supplies and services.

6-2. Submittal of Requisitions

6-2.1 Department heads or their designees shall submit requests for goods, services, supplies and equipment to the Purchasing division electronically. This is done by entering a purchase requisition into the "Integrated Financial Accounting Software" (IFAS) system.

6-2.2 Estimates, quotes, executed service agreements and all supporting documentation related to the requisition should be submitted to the Purchasing division when the requisition is submitted.

6-2.3 The Purchasing division saves the documentation (from 6-2.2) as part of the PDF copy of the resulting Purchase Order.

6-3. Method of Purchasing to be Used

Purchase of goods, services, supplies, and equipment shall be made by purchase order, Cal-Card or payment request, depending on the nature of the acquisition or service. Except as otherwise provided, no purchase order shall be issued unless the prior approval of the Purchasing Manager or his/her designated representative has been obtained.

6-4. Purchases to be Made Only Against Unencumbered Funds

Except in cases of emergency or in cases where specific authority has been first obtained from the City Manager, the Purchasing Manager or his/her designated representative shall not issue any purchase orders for goods, services, supplies or equipment unless there exists an unencumbered appropriation in the fund account against which such purchase is to be charged.

6-5. Bidding Limits - Supplies and Technical/Maintenance Services

6-5.1 Bidding limits are "per order" and are not to be split to circumvent the specified limits. Departments should contact Purchasing to coordinate volume bids of repetitive requirements (i.e., frequent purchases of chemicals, repairs, etc.).

6-5.2 Bidding limits refer to supplies and technical/maintenance services and do not include professional/consultant services.

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The bidding limits are summarized as follows:

- 6-5.3 **UNDER \$ 6,000.00 - Nominal Purchases** *{pursuant to City Code §22-26}*
- A.) Operating departments may make direct recommendations as to the suggested vendor on the requisition submitted to Purchasing.
 - B.) Competitive quotations are not required, but are encouraged, especially when more than one local vendor exists.
- 6-5.4 **\$6,000.00 - LESS THAN \$ 29,999.00 - Informal Bids** *{pursuant to City Code §22-25}*
- A.) Operating departments must submit three quotations upon submittal of a requisition to Purchasing. Sealed bids are not required.
 - B.) A minimum of three competitive open market quotations are required whenever possible.
- 6-5.5 **\$ 30,000 AND ABOVE - Formal Bids & Contracts** *{pursuant to City Code §22-24}*
- A.) Bids and Requests for Proposals shall be processed and administered by the Purchasing Manager, with direct input from the operating department, especially as it relates to the technical specification section of the bid.
 - B.) Bids and Requests for Proposals are posted in an online electronic bidding system administered by Planet Bids, may require a participation in a pre-bid conference, and must be awarded by City Council.

6-6. Late Formal Bids/Proposals

- 6-6.1 Formal bids or proposals submitted after the designated closing time shall not be accepted and shall be returned to the submitting vendor unopened. Due to the confidential nature of the proposal process, late proposals shall only be accepted upon recommendation of the Purchasing division and with the approval of the City Attorney.

6-7. Blanket Purchase Orders

- 6-7.1 Blanket Purchase Orders (BPO'S) may be issued at the discretion of the Purchasing division for certain repetitive-use items which may be uneconomical or unfeasible to stock in Central Stores, or the need for which may be better met purchased on an annual contractual basis. This is a means by which operating departments can contact the designated supplier directly to place orders, and/or pick up supplies per the BPO instructions.

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6-8. Change Orders and Termination of Purchase Orders

6-8.1 All requests for change orders or termination of purchase orders should be coordinated with the Purchasing Division. Only the Purchasing Division may authorize change orders and/or terminate purchase orders.

6-9. Professional Services

6-9.1 Definitions

Those services by independent contractors such as legal, information systems, programming, planning, environmental, economic, financial, testing, specialized temporary employee services, medical, accounting, surveying, landscape architecture, advertising, design, etc. This may also include services requiring peculiar or other specialized abilities.

Consultant services in the area of general services which include all consultant and service providers in the area of general government, including general management consultants, personnel consultants, studies of governmental operations, etc.

6-9.2 Decentralized

Contracting for professional services is decentralized (Not usually handled by the Purchasing division) and shall be the responsibility of the Department Head and/or City Manager. When deemed beneficial or desired, the Purchasing Manager may review proposal for bid compliance, etc.

6-9.3 Solicitation of Proposals

The Purchasing division shall post the invitation to bid and the bid or proposal specifications on the City's website via the BidsOnline software program from PlanetBids. It is the responsibility of the operating department to ensure that the Purchasing division has received all pertinent information and files necessary to solicit the bid or proposal.

It is the responsibility of the operating department to post the bid in newspapers, etc., if the bid solicitation requires it.

6-9.4 Selection of Consultant

Contracts negotiated by the City for professional services must be based on demonstrated competence, professional qualifications for the services required, availability, and fair and reasonable cost, rather than competitive bidding.

6-9.5 Contracts

When professional services contracts equal \$6,000.00 or more, departments shall use the "Standard Form Contract for Professional Services." Professional services contracts up to \$30,000.00 require a professional services contract approved as to

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form by the City Attorney and signed by the City Manager. Contracts for services at or above \$30,000.00 require the approval of the City Council and the signature of the Mayor.

6-9.6 **City Attorney Review and Approval**

The City Attorney shall review and approve as to form (1) all professional services contracts (2) all professional services contracts which are to go to City Council for approval, or are to be signed by the City Manager, (3) all additions/deletions/changes to the "Standard Form Contract for Professional Services".

6-9.7 **Dollar Limits - Professional/Consultant Services**

Dollar Limits specified are per contract and are not to be split to circumvent the specified limits.

6-9.7.1 **\$30,000.00 and over:**

Whenever possible, operating departments shall solicit written proposals and negotiate with a minimum of three (3) consultants/firms. Selection shall be based on demonstrated competence, professional qualifications, availability, and fair and reasonable cost.

Written justification shall be provided regarding the selection of the successful bidder.

When firms submitting proposals have been previously interviewed, selection may be made based on the City's previous knowledge of the firm's qualifications and experience.

Approval of City Council

Professional services contracts for this dollar amount require the approval of the City Council and the signature of the Mayor.

6-9.7.2 **Less than \$30,000.00:**

Operating departments should, whenever possible, contact three (3) consultants/firms and select the most qualified firm based on demonstrated competence, professional qualifications, availability, and fair and reasonable cost. Departments are advised to coordinate their bid solicitations with the Purchasing division.

Written justification shall be provided to the City Manager regarding the selection of the successful bidder.

Approval of the City Manager

Professional services contracts totaling \$6,000.00 to \$29,999.99 shall be signed by the City Manager.

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Approval by the Head of the Department

Department Heads may be authorized to sign Professional services contracts that are less than \$6,000.00 with contract documents approved as to form by the City Attorney.

6-9.7.3 The operating department contracting for professional services is responsible to:

- a. Prepare specifications, scope of work.
- b. Solicit, review and select qualified consultant/firm.
- c. Maintain records with written documentation justifying selection of the successful consultant/firm.
- d. Prepare a City professional services contract. Use a professional services agreement that is approved as to form by the City Attorney's office.
- e. Submit the contract to the City Attorney for review and approval, if applicable.
- f. Secure and review required insurance certificates for conformance to City contract requirements.
- g. Secure all necessary signatures on the contract.
- h. Compile all exhibits/attachments described or referenced in the contract.
- i. The original copy of the signed contract, complete with exhibits and attachments, must be submitted to the City Clerk.

6-10. Technical/Maintenance Services

Services of a more technical nature (as opposed to professional/consultant services) involve limited discretionary judgment and shall require competitive bids or proposals. Such services would include preventive maintenance services, janitorial services, uniform/linen rental services, mail services, etc.

Dollar limits and signature rights are the same as 6-9.7.

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6-11. Bidding May Be Dispensed With When:

{Pursuant to City Code §22-27}

6-11.4.1 Sole Source Purchases

- A.) Commodities and services which can be obtained from only one vendor are exempt from competitive bidding. Sole source purchases may include proprietary items as well as standardization requests. Sole source purchases shall be supported by a Sole Source Request form signed by the requester's division head and forwarded to the Purchasing Division.
- B.) Sole source specifications should be avoided whenever possible as they minimize or eliminate competition.
- C.) If the Purchasing Manager does not support the justification, the department head may appeal to the Director of Finance. In cases of impasse, the City Manager shall decide.

Sole Source Definitions:

Sole Source: Only one vendor possesses the unique and singularly available capability to meet the requirement of the solicitation, such as technical qualifications, matching to currently owned equipment or supplies, the ability to deliver at a particular time, or services from a public utility. (Compare to Single Source).

Single Source: A contract for the purchase of goods or services entered into after soliciting and negotiating only with one source, usually because of the technology required or uniqueness of the product or service provided. (Compare to Sole Source).

Sole Brand: Only one brand possesses the unique and singularly available capability to meet the requirement of the solicitation, but there are multiple suppliers that can competitively bid the product itself. (An example would be Caterpillar snow graders.)

Proprietary: An item that is held under exclusive title, trademark or copyright by a private person or company; a proprietary distributorship would also apply.

Standardization: An established proven standard based on a necessary design, quality and physical characteristic of a product.

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Council Approval

Sole Source Request forms for purchases of \$30,000.00 or more require the approval of the City Council.

6-11.4.2 Emergency Purchases

Definition: The existence or threatened existence of conditions of extreme peril to the safety of persons and property within the city that may vitally affect the life, health or convenience of citizens.

Events of: (1) disaster such as caused by fire, flood, storm, epidemic, riot, earthquake, drought, energy shortage, the existence or threatened existence of which has been proclaimed by the city council or the director of emergency services; or (2) the existence of a breakdown in machinery, equipment or essential governmental services which requires the immediate purchase of materials, supplies, equipment or services to protect the public health, safety or general welfare of the residents of the city; or (3) where an essential governmental operation affecting the public health, safety or general welfare could be greatly hampered or disrupted by following the standard procurement procedures.

- (a) Purchasing should be contacted as soon as possible for an emergency purchase order number.
- (b) If the Purchasing Manager does not support the justification for the emergency request, the department head may appeal to the Director of Finance. In cases of impasse, the City Manager shall decide.
- (c) An Emergency Purchase form shall be signed by the division and department heads and forwarded to Purchasing with the requisition/purchase order form. Any pertinent correspondence should be attached.
- (d) The completed requisition/purchase order form should be submitted to Purchasing within 48 hours of the emergency, bearing authorized signature(s).

6-11.4.3 Urgent Purchases

Urgent purchases are not valid for contrived urgencies resulting from lack of planning and organizations. An urgent order differs from an emergency in that there are no threats to public safety, etc. This is an order that may hold up repair of a vehicle, equipment, or other pertinent department operation should the regular purchase order process be followed.

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Urgent purchase orders do not normally provide the City an opportunity to obtain competitive quotes. They also do not allow the City time to properly encumber funds. These requests should be the exception and not the rule, and reserved only for truly urgent needs.

- (a) Purchasing should be contacted as soon as possible for an urgent purchase order number.
- (b) If the Purchasing Manager does not support the justification for the urgent request, the department head may appeal to the Director of Finance. In cases of impasse, the City Manager shall decide.
- (c) An Urgent Purchase form shall be signed by the division and department heads and forwarded to Purchasing with the requisition/purchase order form. Any quotations and pertinent correspondence should be attached.
- (d) The completed requisition/purchase order form should be submitted to Purchasing within 48 hours of the urgent need, bearing authorized signature(s).

City Manager Approval of Emergency and Urgent Orders of \$30,000.00 or more

Emergency and Urgent purchases for \$30,000.00 or above require the approval signature of the City Manager and the award by City Council at their next regularly scheduled meeting.

6-12. Justification

Whenever the bidding/proposal process is dispensed with or the lowest bidder is not used, recommendation and justification for doing so shall be written, signed by the department or division head involved and sent to the Purchasing Manager within 48 hours. If the Purchasing Manager does not support the justification, the department head may appeal to the Director of Finance. In cases of impasse, the City Manager shall decide.

6-13. Lowest Responsible Bidder/Best Value

6-13.1 Bids will be awarded to the responsive bidder who submits the lowest responsible bid that is most advantageous to the City. The term "lowest responsible bidder" as used in the City's bidding documents shall mean the lowest bidder whose offer best responds in quality, fitness and capacity to the requirements of the proposed work or usage.

6-13.2 In determining the "lowest responsible bidder", in addition to price, the following elements shall be given consideration:

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- (a) The ability of the product offered to provide the quality, fitness and capacity for the required usage.
- (b) The ability, capacity and skill of the bidder to perform the contract or provide the service required.
- (c) The character, integrity, reputation, judgment, experience and efficiency of the bidder, particularly with reference to past purchases by the City.
- (d) Whether the bidder can perform the contract and/or deliver the materials within the time required.
- (e) The quality of performance and/or quality of products provided in previous contracts or services.
- (f) Such other information as may be secured having a bearing on the decision to award the contract.

6-13.3 Responsiveness

A responsive bid is defined as a bid which is in substantial conformance with the requirements of the invitation to bid, including specifications and the City's contractual terms and conditions. Bidders who substitute terms and conditions or who qualify their bids in such a manner as to nullify or limit their liability may be considered non-responsive bidders.

Conformance with the requirements of the invitation to bid may also include, but not be limited to, completion of quotation forms, inclusion of references and attachments, and completion of required responses.

6-14. Rejection of Bids/Proposals

The Purchasing Manager may make a recommendation to Council that they reject any or all bids/proposals, or to reject all bids/proposals and re-bid at the earliest opportunity, if it is determined to be in the City's best interest. Justification of bids/proposals may be for such reasons as, but not limited to:

- (a) A bid is determined to be non-responsive
- (b) The number of bids submitted is inadequate
- (c) All bids are uniform in price
- (d) The price submitted by the lowest bidder is considered too high.

At the Council's discretion, the Purchasing Manager may be directed to negotiate for the best price under the circumstances.

6-15. Determination of Irresponsible Bidder

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A bidder may be found to be irresponsible, and his/her bid may be rejected upon determination that any or all of the following circumstances exist:

- (a) A bid submitted by a bidder did not strictly conform to the required bid specifications; provided that the City Council, Purchasing Manager, or department bid coordinator shall have the authority to waive non-substantial deviations from such specifications.
- (b) A bidder has previously demonstrated that he is unable to satisfactorily meet the responsibilities required of a successful low bidder. The City shall have documented past unsatisfactory performance by the vendor through prior dealings with the City or by other unsatisfactory performance by the bidder in their respective industry.
- (c) The bidder's product has been demonstrated, through documented past performance in the industry or through prior use by the City, to be incapable of satisfactorily meeting the accepted demands to be placed upon such product.
- (d) Any contractor or consultant who fails to comply with the terms of its contract with the City.

6-15.1 Determination of irresponsibility of a bidder shall be made by the City Council in any formal bid process requiring City Council award of contract

6-15.2 The Purchasing Manager shall, in consultation with the City Attorney, review the bidder's qualifications and the reason(s) for which they believe the bidder should be deemed irresponsible. In any case where the bidder is so deemed irresponsible, the bidder shall be disqualified from consideration on the subject bid, and the Purchasing Manager shall, on the next available City Council agenda, request that the Council make a formal determination as to the bidder's irresponsibility. In the event the City Council finds a bidder to be irresponsible, the bidder shall be excluded from future City bidding procedures until such time as the bidder has obtained consent from the City Council to resume his active status to bid.

6-15.3 Requests for reinstatement for active bidder status may be made no sooner than one year following the determination that a bidder has been irresponsible. All such requests shall be made directly to the City Council, and shall be granted only upon a determination by the City Council that the bidder's status should be reinstated for future bids.

6-16. Tie Bidders

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If two or more bids received are for the same total amount or unit prices, quality and service being equal, and if the public interest will not permit the delay of re-advertising for bids, the City Council may, at its discretion, accept the one it chooses, or accept the lowest bid made by and after negotiation with the tie bidders at the time of consideration by the City Council of such tie bids.

6-17. Bid Protest Procedures

6-17.1 Any bidder wishing to file a bid protest, prior to bid opening, concerning the specifications or the bid procedure must do so in writing. This written protest must be received by the Purchasing division no later than 72 hours prior to bid opening.

6-17.2 If protests are received that cannot be resolved by the designated time of the bid opening, the City of South Lake Tahoe may delay the bid opening until the protest is resolved.

6-17.3 If anyone wishes to protest some aspect of this procurement that only becomes evident after the bid opening, they must file this protest in writing. This written protest must be received by the City of South Lake Tahoe no later than five (5) working days after the City of South Lake Tahoe notifies all bidders of their contract award decision.

6-17.4 The protester may contact the City Clerk within five (5) working days to have their protest heard by the City Council following an adverse decision by the Purchasing division.

6-17.5 The City Council's decision shall be final and binding on all parties.

6-18. Liquidated Damages (Sample Language)

"Time is of the essence. If delivery is not completed by the time stated previously for delivery, Contractor acknowledges and agrees that such delay would seriously affect the public welfare and the operation of the City and the damages for such delay would be impracticable or extremely difficult to determine. The parties agree that the sum of \$XXX.XX per calendar day for each day of delay for each unit shall be fixed as liquidated damages (and not as a penalty or forfeiture for breach). Liquidated damages shall apply where delivery is delayed beyond the time stated and where delivery of materials to replace materials deemed substandard or nonconforming if the City is delayed beyond the time specified for such replacement. Liquidated damages shall not apply to the time between the date Contractor delivers the unit(s) and the date the City notifies Contractor that the City has rejected the units due to substandard or nonconforming materials.

"Should the successful Contractor be obstructed or delayed in the work required to be done hereunder by changes in the work or by any default, act, or omission of the City, or by strikes, fire, act of God, or by the inability to obtain materials, equipment, or labor

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due to Federal Government restrictions, then the time of completion shall be extended for such period as may be agreed between the City and Contractor. The City may, at the time of acceptance of the work, waive liquidated damages which may have accrued for failure to complete on time due to any of the above reasons after hearing evidence to the reasons for such delay and making a finding as to the cause of same."

6-19 Joint Power Cooperative Purchases

The Purchasing division may participate in purchases and contracts established by other political jurisdictions, such as, but not limited to:

- (a) Counties within the State of California
- (b) Other Cities or Public Agencies within the State of California
- (c) Public Agencies within the State of Nevada if doing so does not violate any applicable state of California or City regulations
- (d) The State of California Department of General Services
- (e) Western States Contract Alliance (WSCA)
- (f) U.S. Communities
- (g) Other programs that competitively bid for goods or services in a manner proscribed by the City

6-20 Contract Review

6-20.1 The City Attorney shall review and approve as to form all professional services contracts prior to City Council approval and all professional services contracts. The City shall, whenever possible, use a City contract/agreement form as approved by the City Attorney.

6-20.2 City Attorney shall review and approve as to form prior to signature all other contract/agreements that were not previously approved as to form by the City Attorney including vendor's contracts/agreements.

6-21 Maintenance Contracts and Purchase Orders

The following services are defined as "maintenance":

6-21.1 Routine, recurring and usual work for the preservation, protection and keeping of any publicly owned or publicly operated facility for its intended purposes in a safe and continually usable condition for which it has been designed, improved, constructed, altered or repaired.

6-21.2 Janitorial or custodial services of a routine, recurring or usual nature.

6-21.3 Services provided by guards or other security forces (maintaining safety).

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6-21.4 Landscape maintenance of a routine, recurring or usual nature (maintaining the existing landscape, bike trails, etc.)

6-21.5 Labor contracts fitting the above definitions (1) are excluded from requiring prevailing wages, and (2) may be bid through the Purchasing Division.