

City of Marshall

Policy Number: Chapter 1 Section 308 (1-308)

Marshall, Minnesota

Adopted: May 22, 1973

ADMINISTRATIVE POLICY

Revised: May 27, 2005  
July 13, 2010  
November 1, 2011  
March 22, 2016  
July XX, 2021

**PURCHASING POLICY AND PROCEDURES**

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**Section I – A Statement of Philosophy Introduction**

1.1 ~~The purpose of this policy is to establish uniform and consistent guidelines with respect to purchasing and the authority to purchase on behalf of the City within the parameters of the Uniform Municipal Contracting Law, Minnesota State Statute Section 471.345. The purpose of the Purchasing Policy and Procedures is to provide a legal process for the purchase of supplies, materials, or equipment as well as services at the highest quality and lowest possible price.~~

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~~For an expenditure of public funds to qualify as a lawful expenditure, the Minnesota Supreme Court has followed a liberal approach to define "public purpose." When the activity in question meets all the following, it would be considered a lawful expenditure.~~

- ~~• The activity will benefit the community as a body.~~
- ~~• The activity directly relates to functions of government.~~
- ~~• The activity does not have, as its primary objective, the benefit of a private interest.~~

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~~1.2 The City declares its intention to purchase competitively without prejudice and to seek maximum value for supplies, materials, equipment and services. Methods to obtain lowest responsible bids or quotes are encouraged to be pursued including, but not limited to, bulk purchasing and cooperative purchasing agreements. Local purchasing options are encouraged to be solicited when available.~~

**Section II - Responsibilities**

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2.1 The acquisition of supplies, materials, equipment and services is primarily decentralized where each department handles procurement of supplies, materials, equipment and services needed for their respective operations. The responsibility lies with each department to obtain bids or quotes, place actual orders, receive deliveries, and approve invoices for submission of payment to the Finance Department.

2.2 The ~~Finance~~ Director of Administrative Services shall be responsible for developing and administering the purchasing procedures program for the City.

~~2.3 The Accounting Technician shall be assigned as the Purchase Order Clerk that holds responsibility for the processing of purchase orders.~~

**Section III – Uniform Municipal Contracting Law**

- 3.1 The City of Marshall shall follow the Uniform Municipal Contracting Law (M.S.A. 471.345) and the Charter of the City of Marshall (Sections 6.05, 6.06 ~~should this language be added in the policy?~~) in all City purchasing. The City of Marshall’s Purchasing Policy shall automatically follow the Uniform Municipal Contracting Law changes (M.S.A. 471.345) without need to change the City’s Purchasing Policy as written and adopted.
- 3.2 Competitive bids or quotations shall be solicited in connection with all purchasing whenever possible. Contracts ~~shall~~ may be awarded to the lowest responsible bidder complying with specifications and with other stipulated bidding conditions. The following requirements shall apply:
- a. Purchases and contracts of \$10075,000 or more: If the amount of the purchase or contract is estimated to exceed \$10075,000, sealed bids shall be solicited by public notice in the manner and subject to the requirements of the law governing contracts by the City.
  - b. Purchases and contracts from \$25,000 ~~to but not~~ \$99,999,175,000: If the amount of the purchase or contract is estimated to exceed \$25,000 but not to exceed \$99,999,175,000, the purchase or contract ~~shall~~ may be made upon sealed bids or by direct negotiation, by obtaining two or more quotations for the purchase or sale when possible, and without advertising for bids or otherwise complying with the requirements of competitive bidding. All quotations obtained shall be kept on file for a period of at least one year after receipt thereof. ~~written quotation either by public notice or direct solicitation.~~
  - c. Purchases and contracts from \$1,000 up to under \$24,999,5,000: If the amount of the contract is estimated to ~~exceed be~~ exceed \$1,000 ~~25,000 or less, but not to exceed \$24,999,~~ the contract shall be made either upon ~~written~~ quotation or in the open market, in the discretion of the governing body. If the contract is made upon quotation, it shall be based, so far as practical, on at least two quotations which shall be kept on file for a period of at least one year after their receipt.

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- d. ~~Purchases and contracts under \$1,000: If the amount of the purchase or contract is estimated to be less than \$1,000, the purchase or contract may be made by written quotation or in the open market. If the contract is made upon the open market, multiple price comparisons shall be documented as the Finance Department determines appropriate.~~
- e. In accordance with Minnesota Statute 471.345 Subd.15, the City must consider the availability, price and quality of supplies, materials or equipment available through the state's cooperative purchasing venture before purchasing through another source when such items are estimated to exceed \$25,000.
- f. The City may contract for the purchase of supplies, materials, or equipment by utilizing contracts that are available through the state's cooperative purchasing venture without regard to the bid procedures authorized in this section. However, if said supplies, materials or equipment are known to be available for purchase locally the items shall be bid in accordance with this policy and considered in addition to the state cooperative purchasing venture. If the lowest local bidder is not lower than the state contract, the next lowest bidder shall be provided an opportunity to match the comparable price of the cooperative purchasing venture.
- g. The City may also consider the contracting of purchase of supplies, materials or equipment without regard to the competitive bidding requirements of this section if the purchase is through a national municipal association's purchasing alliance or cooperative created by a joint powers agreement that purchases items from more than one source on the basis of competitive bids or competitive quotations. However, if said supplies, materials or equipment are known to be available for purchase locally the items shall be bid in accordance with this policy and considered in addition to the state cooperative purchasing venture. If the lowest local bidder is not lower than the said contract, the next lowest bidder shall be provided an opportunity to match the comparable price of the cooperative purchasing alliance or cooperative.

**Change Order Administrative Procedure**

At the February 12, 2019, council meeting, the Council approved the following Administrative Procedure.

To allow change orders according to the following administrative procedure:

- A. Change orders, cumulatively or singly, that do not exceed the project's contingency funding may be approved by the department director or their designee.
- B. Change orders that cumulatively or singly increase the value of a contract to exceed the project's contingency funding by \$25,000 or less require the approval of the City Administrator. The City Administrator may choose to seek additional approval from the Council.
- C. The Council must approve change orders that increase the value of the contract to more than \$25,000 beyond the projects contingency funding.
- D. The Council approve the final reconciling change order and final payment.

**Add electronic bidding: Electronic Bidding Policy**

**PURPOSE**

The purpose of the Electronic Bidding Policy is to supplement the Purchasing Policy and Procedures (adopted 1973, latest revision 2016). The Public Works Department intends to

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accept electronic bids only for all capital improvement construction contracts.

The City of Marshall has historically accepted printed, sealed bids for Public Works Department capital improvement construction contracts. New technology is available to allow for sealed bids to be submitted to the City electronically. Uniform Municipal Contracting Law (MN Statute 471.345 subd. 18) allows for municipalities to accept bids, performance and/or payment bonds, or other security to be furnished electronically.

POLICY

The City of Marshall Purchasing Policy, as referenced above, is supplemented as follows:

A. Sections 3.2a and 3.2b: “Public Works Department capital improvement construction contracts will require that sealed bids be submitted electronically via the electronic bidding service of the Department’s selection. Currently, BidVAULT is the selected electronic bidding service.”

B. Section 4.4: “Public Works Department capital improvement construction contracts will require that sealed bids be submitted electronically via the electronic bidding service of the Department’s selection. Prospective bidders will be charged a nominal fee to have the opportunity to submit an electronic bid. Current fee is set at \$25 per bid plus 3rd party payment processing fees. Required bonds shall also be submitted electronically.”

C. Section IV is supplemented with the following bid opening procedures:

“Immediately following expiration of the time for receiving bids for Public Works Department capital improvement construction contracts, the City Clerk and Director of Public Works/City Engineer or their designee will publicly open bids via video conference through provided information in the Advertisement for Bid. Those unable to attend via video conferencing will be allowed the opportunity to join via phone through provided information in the Advertisement for Bid. This procedure is intended to ensure adherence to the public bid opening requirements as stated in MN Statute 429.041 subd. 1. Bid results will be posted to the City’s designated website immediately following bid opening.”

Summary:

This policy is designed to provide a more efficient procedure for soliciting, accepting and opening sealed bids for Public Works Department capital improvement construction contracts. This process also significantly limits the potential for human error in the bidding or bid opening process.

**Withholding Certificates**

Before the City makes the final payment to a contractor under a contract requiring the employment of employees for wages, it must make sure the contractor and any subcontractors

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have complied with withholding tax laws. Contractors and subcontractors show compliance by submitting a withholding affidavit to the Minnesota Department of Revenue. This can be done electronically or by mailing a completed Form IC134, "Withholding Affidavit for Contractors." If a contractor or subcontractor has withheld taxes as required, the Department of Revenue will return an electronic confirmation or sign and return the Form IC134, certifying compliance.

**Wastewater Spending Authority**

Wastewater invoices above \$25,000 that are general operating in nature are an exception to this policy. Product and equipment maintenance are frequently above the \$25,000 and disruption would occur if council approval were needed prior to the purchase of the supply or equipment part.

If the purchase is not related to general operations and included in the budget (ex. capital need item) the purchasing policy would be followed unless an emergency purchase has been authorized by the City Administrator to ensure operation continuity.

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- 3.3 All purchases or contracts of \$25,000 or more shall be awarded by the City Council. The City Administrator or their designee shall submit recommendations for the award of all such contracts to the City Council.
- 3.4 Items commonly used in all departments shall be standardized whenever it is consistent with departmental goals and is in the interest of efficiency of economy.
- 3.5 A statement of "General Conditions" shall be included with all specifications submitted to supplier for their bids. These general conditions shall be incorporated in all contracts awarded for the purchase of supplies, materials, equipment or services.
- 3.6 All purchases of on-road or off-road vehicles and related power driven equipment (i.e. riding mowers, cars, trucks, ATVs, etc.) shall first receive approval of General Conditions as recommended by the City Council Equipment Review Committee and approved by City Council. Award of these contracts shall be made by the City Council regardless of the amount of the contract.

~~3.7 Opportunity shall be provided to all reasonable vendors to do business with the City. To this end, the Finance Director shall develop and maintain, with the assistance of each department, a list of potential bidders for the various types of supplies, materials, equipment, and services. The list of bidders shall be used in the development of a mailing list for distribution of specifications and invitations to bid. Qualified vendors may be included in the list upon request.~~

~~3.8 Selecting new vendors is at the discretion of the “requisitioner” as defined in Section 5.1. The requisitioner is required to obtain an IRS Form W-9 as provided by the Finance Department before payment can be processed for the new vendor.~~

#### **Section IV—Purchasing Procedures**

~~4.1 The supplies, materials, equipment and services to be purchased shall be of a quality required to serve the function in a satisfactory manner, as determined by the requisitioner and the Finance Director.~~

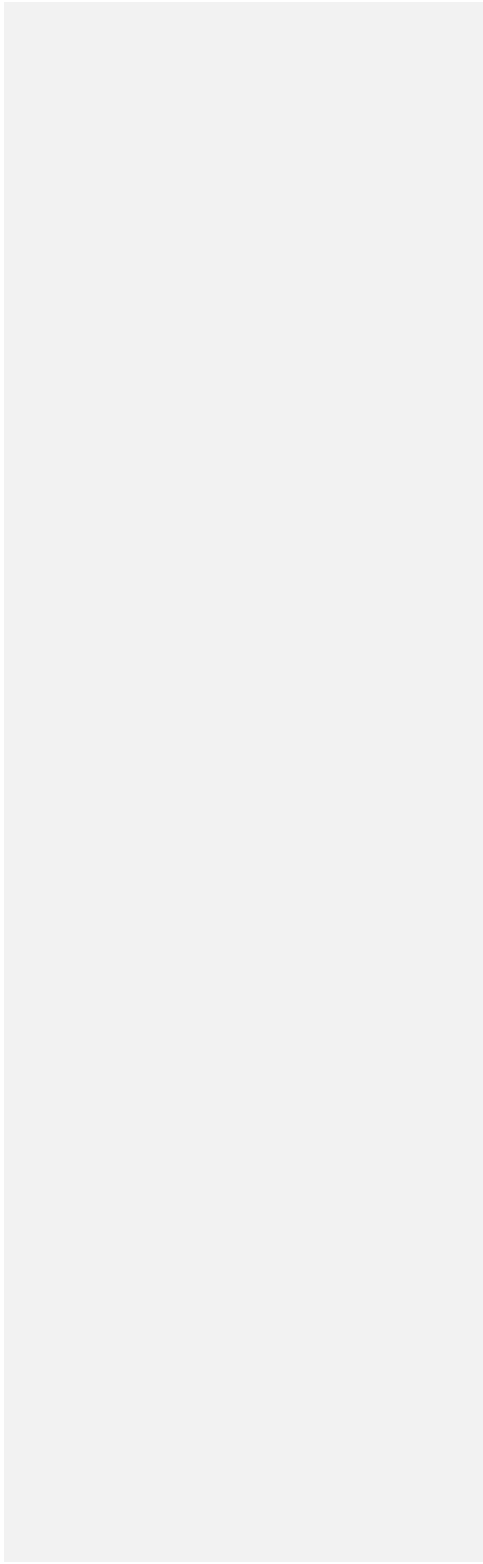
~~4.2 It is the responsibility of the Finance Director to make alternate suggestions to the requisitioner, if, in the judgment of the Finance Director, the specifications would restrict competition or otherwise preclude the most reasonable purchase of the required items. In the event of disagreement, the City Administrator shall arbitrate any disputes.~~

~~4.3 All written quotations shall be solicited by the department requesting the supplies, materials, equipment or services the bid with documentation provided to the Finance Department as in a form and procedure as the Finance Department determines appropriate. If the contract is made upon written quotation it shall be based, so far as is practicable, on at least two quotations.~~

~~4.4 All purchases or contracts requiring written quotations shall be received through the City Clerk in a sealed envelope, facsimile, or other format as pre-authorized by the Finance Director. All written quotations shall be kept on file for a period of at least six years after receipt thereof.~~

~~4.5 When a bidder proposes an alternative as “an equal” to the bid or quoted materials or service, the Finance Director and the requisitioner must determine whether the proposed substitution is in fact “equal” and suitable to the City’s needs. Any disputes between the Agent and the requisitioner shall be arbitrated by the City Administrator.~~

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~~6.6 — Confirmation orders (verbal orders) are subject to subsequent confirmation by a filed purchase order form. Such verbal purchase orders can only be issued when a bona fide emergency situation exists which can only be handled by an emergency verbal purchase order.~~

~~a. — A written or online requisition shall be completed immediately thereafter. The confirmation requisition shall be marked as "Confirmation" and shall list all the specifications and information required for a purchase order.~~

~~b. — A copy of the purchase order will be forwarded to the vendor confirming the verbal order placed for the emergency.~~

### **Section VII — Receiving: Inspection and Confirmation**

~~7.1. — Items purchased by the City of Marshall will, in most cases, be shipped directly to the location that initiated the requisition. The responsibility for receiving delivered items will be assigned to the requisitioner's department.~~

~~7.2 — Inspection of items to be received shall consist of the following:~~

~~a. — Verification of quantity by comparing the purchase order, or other purchase authorization, and packing slip to count of items received.~~

~~b. — Verification of quality by comparing purchase order, or other purchase authorization, specifications to quality of items received and noting any differences.~~

~~c. — Verification of damages to requisitioned items shall be reported on the receiving slip to the Finance Department.~~

~~d. — Any discrepancies discovered in the inspection of items received, the date items were received and inspected, and the signature of the receiving/inspecting person shall be recorded on the receiving copy of the purchase order, or other purchase authorization.~~

~~e. — All packing slips and the purchase order shall be filed timely with the Finance Department.~~

~~f. — Any discrepancies or other legal dispute with the inspection of items received shall be brought to the attention of the Finance Director and, if deemed appropriate by the Finance Director, the City Attorney for further direction to resolve the dispute if deemed unresolved or appropriate.~~

### **Section VIII – Emergency Purchases**

8.1 Occasions arise where an immediate purchase is necessary to protect the life, health, safety, or convenience of the citizens or to preserve the property of the City or its citizens. To the greatest extent possible, normal purchasing procedures shall be followed. However, when expediency is required to rectify an emergency situation, any or all of these procedures may be waived. If possible, the City Administrator shall be contacted to approve the purchase. In the absence of the City Administrator, the Director of Administrative Services ~~Finance Director~~ shall approve the purchase and notify the City Administrator at the earliest opportunity. A report to the City Council

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shall be made at the next regular City Council meeting.

### Section IX – Payment Methods

~~9.1~~ A list of checks paid will be submitted for approval by the City Council at each regular City Council meeting. Any checks paid by means of Direct Expense Authorization since the previous City Council meeting will also be listed. ~~By resolution, Add in Yearly Resolution to pay bills prior to council approval annually, the City Council authorize the Finance Director to pay certain types of claims made against the City prior to council approval.~~

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~~9.19.2~~ Employees receiving payments from the City must be by direct deposit.

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~~9.29.3~~ The Finance Director is authorized to approve immediate payment of invoices, without waiting for Council approval, in cases where it is necessary to avoid penalties, secure discounts, or avoid disruption of city business. These payments will be duly noted and approved in the next City Council payment list.

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~~9.39.4~~ Each Department Head or Division Director identified by the City Administrator as being responsible for a department budget shall report to the Finance Director any designees they are authorizing to approve invoices for payment. All authorized persons shall submit a sample of their signature or initials to the Finance Department for verification of invoice approvals.

~~9.5~~ The City Council may authorize the issuance of credit cards to a limited number of city employees per Minnesota Statutes Chapter 471.382. ~~Credit cards will be issued to the Finance Director.~~ Credit cards may be used to make purchases in instances where payment by check and extension of credit by the vendor isn't available. ~~The Department Head needing to make such purchases shall request approval from the Finance Director for processing.~~ Detailed documentation shall be secured either at the time of order or the time of receipt for the service or product purchased. All provisions of the purchasing policy apply to credit card purchases.

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~~9.59.6~~ The petty cash fund is used for the purchase of small items needed immediately. The Finance Director shall authorize the number and location of petty cash funds and the amount of cash deposited in each. To be reimbursed, an employee must fill out documentation as required by the Finance Department.

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~~9.69.7~~ In certain cases, it will be advantageous to open charge accounts with local businesses and vendors which allow employees to purchase needed materials and services with period billing (customarily monthly) to the City. The Finance Department shall establish the documentation required for use of charge accounts.

#### Purchasing Card Policy

In certain situations, efficiencies in the City's purchasing process are gained through the use of purchasing cards. Department heads in consultation with the Finance Director and City Administrator, will determine which department or personnel will be assigned a purchasing card. Cards will only be issued when it creates efficiencies in the normal purchasing process.

Only full time or permanent part time employee's may be eligible to use or be issued a purchasing card.

It is the responsibility of the individual cardholder to:

- Ensure that only authorized staff use the card.
- Ensure that the card is used only for legitimate City business expenditures.
- Ensure that City purchasing guidelines with respect to quotations and bids are followed.
- All supporting documentation associated with the purchase, including original invoices and receipts for items charged on the monthly statement are submitted to the finance department by the due date with proper approvals.
- Contact the bank immediately, if the card is lost or stolen.
- Cardholder must sign a statement agreeing to the terms of the Purchasing Card prior to being issued a card

Credit limits will be established by the Finance Director in conjunction with the City Administrator for each cardholder on an individual basis. No cash withdrawals will be allowed with the card.

The finance department, together with the City Administrator, will administer the issuance of the cards and compliance with the purchasing policy and procedures. Policy violations may result in the cancellation of an individual's card. Employees may be subject to disciplinary action for misuse of the cards and wages may be subject to garnishment, if necessary to recover City funds. Cards must be returned to the City at the time of employment separation.

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#### **Section X – Professional Services**

- 10.1 Professional services apply to all advisory, auditing, engineering, financial, legal, personnel, technical, training or other services.
- 10.2 All professional services of \$25,000 or more shall require a contract agreement that is provided reasonable advance review by the City Attorney and approved by the City Council. Professional service agreements less than \$25,000 may be in the form of a written quotation, including terms

and conditions, complying with specifications and with other stipulated bidding conditions. The written quotation shall be authorized consistent with the other sections of this policy.

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10.3 Contracts shall be made only with responsible consultants who have the capability to successfully fulfill the contractual requirements. Consideration shall be given to their past performance, experience, financial capacity to complete a project, availability of qualified personnel, cost of services and other appropriate criteria.

10.4 The nature of the professional service shall be illustrated in a request for proposals for services of greater magnitude or in a description of work for services of lesser magnitude. The city encourages seeking proposals from multiple providers. This shall be advertised or otherwise distributed to likely or potential service providers commensurate with the value of the contract. Request for proposal for services in excess of \$25,000 shall be authorized by the City Council upon recommendation of the appropriate staff requesting the letting of proposals.

10.5 Professional service providers shall be selected so as to provide the best value to the City considering the difficulty of the work proposed, its value to the City, the expertise and capacity of the consultant and cost of services.

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