

CITY OF SHEBOYGAN

REQUEST FOR FINANCE AND PERSONNEL COMMITTEE CONSIDERATION

ITEM DESCRIPTION: Report of Officer No. 45-17-18 by the City Administrator submitting for information, an updated purchasing policy consistent with City Ordinances and/or State Statutes which he deems necessary for the efficient procurement of goods and services.

REPORT PREPARED BY: Nancy Buss, Finance Director

REPORT DATE: June 7, 2017

MEETING DATE: June 12, 2017

FISCAL SUMMARY:

Budget Line Item: N/A
Budget Summary: N/A
Budgeted Expenditure: N/A
Budgeted Revenue: N/A

STATUTORY REFERENCE:

Wisconsin Statutes: N/A
Municipal Code: N/A

BACKGROUND / ANALYSIS:

Report of Officer No. 290-15-16 submitted to the Common Council in March, 2016 for informational purposes an updated purchasing policy consistent with City Ordinances and/or State Statutes. The attached policy updates the thresholds for competitive bid purchases and authorizations to enter into contract.

STAFF COMMENTS:

Gen. Ord. No. 8-17-18 recommends authorizing the City Administrator to establish, maintain, and, from time to time, amend a policy regarding purchases and contracts for goods and services. The City Administrator shall notify the Common Council in writing of the establishment of and any amendments to the policy. The attached policy establishes revised purchasing and contracting levels.

ACTION REQUESTED:

Motion to recommend the Common Council accept and file Report of Officer No. 45-17-18 an updated purchasing policy consistent with City Ordinances and/or State Statutes which he deemed necessary for the efficient procurement of goods and services.

ATTACHMENTS:

- I. Report of Officer No. 45-17-18
- II. Purchasing Policy

II

4.5

R. O. No. 45 - 17 - 18. By City Administrator. June 5, 2017.

Submitting for information, an updated purchasing policy consistent with City Ordinances and/or State Statutes which I deem necessary for the efficient procurement of goods and services. Pursuant to sec. 2-338(e), a copy of such policies, rules and regulations shall be filed with the City.

Finance & Personnel

City Administrator

PURCHASING POLICY

Pursuant to Section 2-338 of the Sheboygan Municipal Code, entitled "Purchasing procedure," the following policy is established regarding purchases and contracts for goods and services.

I. PURPOSE

To allow the City to acquire, on a competitive basis, all goods and services at the best value possible and operate in a manner than maximizes the effectiveness and efficiency of services provided by the City.

II. POLICY

This policy establishes a Purchasing Office and a Purchasing Agent. The Purchasing Office will have the responsibility to institute and maintain an effective and economical program for the purchase of goods and services. The Purchasing Agent, reporting to the Finance Director, will ensure the proper and efficient administration of this program, and monitor compliance with these procedures, rules and regulations throughout City operations.

The purpose of the purchasing program is to enable departments to acquire needed equipment, materials, supplies and services of suitable quality for the purpose intended from the lowest priced responsible and responsive bidder while enhancing competition and providing fair opportunity and equitable treatment for all vendors.

This will be accomplished by utilizing a combined effort between City departments and the Purchasing Office. The Purchasing Office will concentrate efforts on standardizing and centralizing purchases of common use items among all departments while enlisting individual department's expertise in purchasing specialized items unique to their departments. When purchasing these specialized items, the individual departments become responsible for ensuring that the provisions of this policy are followed.

The policy pertains to all agencies, departments or offices of the City and, when applicable unless otherwise provided by statute, those committees, boards or commissions which manage or operate other City properties, installations or activities.

Failure to comply with this policy may result in loss of individual purchasing authority and/or disciplinary action up to and including discharge.

III. DEFINITIONS

Auction Administrator. The Purchasing Agent shall be assigned by the City to assist departments in selecting an auction type and venue, establish procedures and responsibilities, and conduct online auctions for the sale of surplus supplies or equipment.

Bid. A formal price solicited from a vendor for a good or service. Bids are required to conform to specific terms and well defined specifications contained in the solicitation documents. A sealed written bid is required with public notice setting a specific time and place to open all bids received for any project defined as public construction.

City. The City of Sheboygan, WI

Contract. An agreement between one or more parties to do something or provide specific goods or services.

Contract Cost. Total cost of a contract, whether for one or more years.

Contractual Services. Includes, but may not be limited to: telephone, gas, water, electric light, power and heating services; towel and cleaning services; leases for grounds, buildings, equipment, maintenance, office or other space required by the using department; and the rental, repair or maintenance of equipment, machinery or other property owned by the City.

Council. The Common Council of the City of Sheboygan.

Department. All agencies, departments or offices of the City and, when applicable unless otherwise provided by statute, those committees, boards or commissions which manage or operate other City properties, installations or activities.

Professional Services. Services, the value of which are substantially measured by the professional competence of the persons performing them and which are not susceptible to realistic competition by cost alone. Such services include, but shall not be limited to those customarily rendered by architects, engineers, surveyors, real estate appraisers, certified public accountants, attorneys, financial advisors, medical and social service providers, computer software applications, systems development/implementation, management and other consultants, promotional programs such as marketing and advertising, and such other specific services as determined by the Mayor or his/her designee.

Proposal. A plan received from a vendor and the related cost of implementing the plan. Proposals are usually requested when the specifications or scope of the

services needed cannot be adequately prepared to provide all prospective vendors a complete and accurate description of the work to be performed. Vendors are asked to propose their best solution to the needs defined in the solicitation. Proposals are often requested when soliciting costs for professional services, high-tech equipment, other specialized equipment and research and development expenditures.

Public Construction. Substantial repairs, remodeling, construction or other changes to any City owned land or building (Wisconsin Statute 62.15).

Quotation. An informal type of bid received from a vendor offering to sell a product or service. The quotation will contain specified pricing, terms and conditions of sale. The quotation may be either in writing (including a price list or catalog) or verbal, depending upon the dollar value as outlined in IV.C (2)(3).

Request for Proposal (RFP). All documents, whether attached or incorporated by reference used for soliciting proposals for professional services.

Service. The furnishing of labor, time or effort by a contractor, usually not involving the delivery of specific goods or products other than usual reports, materials or drawings which are the end result of and incidental to the required performance.

IV. PROCEDURES

A. PURCHASING MANUAL

The Purchasing Agent shall be responsible for updating and maintaining the procurement policy, which set forth the authorized purchasing procedures and the rules and regulations in connection therewith which shall be approved by the Common Council.

B. DEPARTMENT SPECIFIC PURCHASES

In order to take advantage of the technical expertise within the various City departments, department personnel will have the authority to purchase specialized items unique to their operations. The Purchasing Office will be available to serve in an advisory capacity. However, if the department wishes, the responsibility for the purchase of these specialized items may be turned over to the Purchasing Office. The individual coordinating the purchase will be responsible for ensuring that all provisions of the procurement policy are followed. Upon request of the Purchasing Agent, departments will furnish copies of quotes and other documentation to show compliance with the procurement policy.

If a question arises over the categorization of a purchase as specialized or non-specialized, the City Administrator will make the final determination.

C. PURCHASING AND CONTRACTING LEVELS

The City Administrator shall establish, maintain, and from time to time amend, the policy regarding purchases and contracts for goods and services, except as otherwise provided by resolution of the common council, and subject to all relevant state and federal statutes and regulations and to subsection 4 below. The City Administrator shall notify the Common Council in writing of the establishment of and any amendments to the policy.

Purchases of and contracts for supplies, materials, equipment and contractual services shall be based on competitive bids/quotations whenever practical subject to the following spending guidelines. However, for all purchases the Purchasing Agent reserves the right to coordinate the purchase of like items where such purchase is beneficial and practical to the City.

1. Purchases up to \$1,000 may be made based on the best judgment of the department making the purchase, except as section IV.D (Standard Contracts) and Information Technology related equipment, section IV.S. However, it is recommended to seek competition for these purchases for the lowest prices within the parameters of quality and delivery. Accordingly, the department is encouraged to seek competition from as many sources as reasonable to assure best price and delivery.
2. Purchases of \$5,000 or more (other than Public Works Construction Projects) require that written quotations be solicited. Additionally, any new contracts or agreements for services or equipment with an anticipated contract cost of \$50,000 or more require the approval of the Common Council prior to execution. New contracts or agreements shall be defined as those which:
 - a) Are for services or equipment procured on a special or one-time basis; or
 - b) Are not for the renewal or re-award of existing, previously approved and budgeted, ongoing operational requirements (i.e. existing maintenance agreements); or
 - c) Are not defined by either (a) or (b), but have an anticipated total contract cost in excess of \$100,000 (i.e. janitorial, etc.).
3. Competitive bids:
 - a) Issuance of an invitation for bids, with purchase description and all contractual terms and conditions applicable to the procurement.
 - b) Public, contemporaneous opening of bids at a predesignated time and place.

- c) Unconditioned acceptance of a bid without alteration or corrections, except as authorized in Section M.
- 4. Waiving the competitive bid process. The purchasing agent may waive the requirement for competitive purchase where he deems an alternative procedure to be in the best interests of the city.
- 5. Public Works Construction Projects. In accordance with Wisconsin Statute 62.15, all such projects for which the cost is expected to be greater than \$25,000 must be competitively bid. The City Attorney's Office will determine the applicability of this statute to individual projects.

The bidding and awarding processes are detailed in Wisconsin Statute 66.0901. All public works bids and staff recommendations will be submitted through the Public Works Committee for Common Council approval.

D. STANDARD CONTRACTS

When the Purchasing Agent has standardized the purchasing of a good or service and has issued standard purchase orders or contracts for these goods or services, such goods or services shall be purchased from the agreed upon vendor for the length of the agreement. The standard contracts will usually be let on an annual basis. Each department will be supplied with a catalog. Departments will forward requested purchases to the Purchasing Office, where requisitions to the supplier will be issued. Exceptions will be made only when the requisition clearly states the reason for which the standard item is unacceptable.

E. COOPERATIVE PURCHASING

The Purchasing Agent shall have authority to join with other units of government, with quasi-governmental agencies funded in whole or in part by the City, and with other purchasing associations in cooperative purchasing plans when the best interest of the City would be served. Competitively bid cooperative purchasing contracts onto which the City "piggybacks" are considered to have met competitive requirements, and no additional quotes are necessary. Additionally, if identical products can be obtained at a lower price than current cooperative purchasing contracts, no additional quotes are required.

F. PURCHASING FROM GOVERNMENT UNITS

Materials, supplies, machinery and equipment offered for sale by the federal, state, county government or by any municipality may be purchased without bids at prices to be agreed upon between the Purchasing Agent and the respective department for

which the item is to be acquired. Expert assistance for appraisal of such items may be employed at the discretion of the Purchasing Agent.

G. SOLE SOURCE

Purchases of goods or services under \$50,000 may be made without competition when it is agreed in advance between the department and the Purchasing Office that there is a valid reason to purchase from one source or that only one source is available.

1. For sole source purchases less than \$5,000, departments other than Public Works, shall obtain verbal approval from the Purchasing Office, and document the reasons and agreement at the department level. The Purchasing Agent may suggest or assist in locating additional competitive sources.
2. For sole source purchases over \$5,000 but less than \$50,000 other than Public Works Construction Projects, a written justification shall be forwarded to the Purchasing Agent, who will either concur with the sole source or assist in locating additional competitive sources.
3. Any sole source purchase over \$5,000 must be approved by the City Administrator.
4. The use of the sole source exception to the competitive bidding process will expire on an annual basis.

H. EMERGENCY PURCHASES

For emergency purchases greater than \$1,000, but less than \$5,000, all City departments shall enter and complete a purchase requisition in the MUNIS system and "release" for approvals. The requisition number should be provided to the vendor when placing an order. The following situations constitute an emergency under this provision of the policy:

1. Any situation in which there exists immediate and substantial danger to the health, life or property of any person or any situation in which there exists potential for increased damage to City property if the situation is not immediately remedied:
2. Any situation where the normal operation of any City department is seriously impaired or is in jeopardy of being seriously impaired; or
3. When the Mayor's Office declares an emergency.

I. PURCHASE OF RECYCLED MATERIALS

The Purchasing Agent will ensure that the average recycled content of all paper purchased by the City measured as a proportion by weight, of the fiber content of all paper products purchased in the year is not less than those percentages specified in

Wisconsin Statute 66.0131 (3) (a) (2). If at all possible, when purchasing chemicals, the Purchasing Agent shall purchase non-toxic, green chemicals.

J. PURCHASE ORDER

The routine purchase of goods and services between \$1,000 and less than \$50,000 will be processed by entering a purchase order requisition into the MUNIS system. After required approvals the purchase requisition will be converted to a purchase order. The purchase order will be emailed or faxed to the vendor for processing. In no case, will goods and services be delivered prior to the vendor receiving a purchase order. Purchases under \$1,000 do not require a purchase order unless the department deems it would be beneficial.

K. SERIAL CONTRACTING

No contract or purchase shall be subdivided to avoid the requirements of this policy. Serial contracting is the practice of issuing a series of purchase orders to the same vendor for the same community or service in any 90 day period in order to avoid the requirements of the procurement policy.

L. APPROPRIATIONS

All purchases shall be made in accordance with the appropriations (budget) that have been approved by the Common Council for the operation of the respective City departments. The responsibility for not exceeding existing appropriations rests with the department head making the requisitions or purchases.

M. LOWEST RESPONSIBLE BIDDER AND BEST VALUE CONCEPT

All purchases shall be made in accordance with the following procedures, except as otherwise provided by resolution of the Common Council:

1. Award to a responsible bidder who submits the responsive bid which is most advantageous to the City, based on quality, price and delivery. An award shall not be made without authorization of the Common Council, following a prior recommendation by the Purchasing Agent. When an award is not made to the lowest bidder, a complete statement of the reasons shall be prepared and retained in the permanent bid file.
2. When all other factors are comparable, the award shall be made to a responsible bidder whose materials are manufactured to the greatest extent in the United States. Award shall not be made on the basis if the Purchasing Agent or other person having contracting authority in respect to the purchase determines that the materials are not manufactured in the United States in sufficient or reasonably

available quantities or the quality of materials is sufficiently less than the quality of similar available materials manufactured outside the United States.

3. The purchasing agent may reject any or all bids or may waive informalities in the bidding process.

N. PROCUREMENT OF SERVICES

Whenever practical, the purchase of all services should be based on competitive bids/quotations/proposals subject to the spending guidelines noted in Procedure IV (C) of this policy. This includes, but is not limited to, the following categories of services:

Professional Services. Consulting and expert services provided by an organization or individual.

Contractor Services. The furnishing of labor, time or effort by a contractor, usually not involving the delivery of specific goods or products other than those that are the end result of and incidental to the required performance.

Client Services. Those services provided directly to individuals on behalf of the City.

Construction Services. Services provided in the construction of roads, buildings or other facilities.

Technology Services. Services provided in the design, development, installation, and/or operation or maintenance of automated computer systems, including hardware and software.

If it is estimated that the service being solicited has a total cost of over \$15,000 and the value of the service is substantially measured by the professional competence of the providers rather than cost alone, it is recommended that a Request for Proposal (RFP) be used to solicit vendor responses or quality based selection criteria. The Purchasing Office is available to assist in these situations.

O. PROHIBITED BUSINESS TRANSACTIONS

Employees are not allowed to participate directly or indirectly in a purchase when the employee, or a member of the employee's family, has a financial interest in the purchase or the employee, or a member of the employee's family, is negotiating or has an arrangement concerning prospective employment with the supplier.

Purchases for services or goods should not be made from employees of the City unless the employee can be considered an independent contractor as defined by the Internal Revenue Service.

Employees of the City are not allowed to use City negotiated discounts or the City's tax exempt status to purchase goods or services for their own personal use or gain.

The City of Sheboygan Code of Ethics Policy shall be reference regarding receipt of gifts. Employees who receive offers of gifts or other improper attempts to influence purchasing decisions should report this to their supervisor and/or the Purchasing Agent, who will in turn consult with the City Attorney's Office to determine the appropriate course of action.

P. SURPLUS OR OBSOLETE SUPPLIES OR EQUIPMENT

The Purchasing Agent shall be responsible for and shall have the authority for the disposal of obsolete, excess, unused or scrap materials, supplies and equipment. All revenues shall be deposited with the Finance Department.

Q. INSURANCE REQUIREMENTS

The Purchasing Agent shall have the authority to require a performance bond or other similar instrument or surety in such amount as is reasonably necessary to protect the best interest of the City before entering into a contract.

R. OPEN RECORDS/PUBLIC INFORMATION

With few exceptions, records related to governmental purchasing are subject to public access under Wisconsin's Open Records Law. This includes, but is not limited to, quotes, bids, proposals, purchase orders and related correspondence. While employees may ask that open records requests be made in writing, the requestor is not required to do so.

1. When conducting public bid openings, the names of the bidders and certain bid details, including price shall be read aloud. In the case of RFP openings, only the names of the proposers shall be read aloud. In either case, copies of the bids or proposals are not made available, nor is inspection of the documents permitted, until contract award has been submitted for approval to the Common Council.
2. Vendors requesting confidentiality of their quotes, bids, proposals or portions thereof must identify the confidential materials as such and state the specific, legitimate reason(s), i.e. trade secret, propriety customer list.
3. Questions regarding compliance with an open records request should be referred to the City Attorney's Office.

S. INFORMATION TECHNOLOGY RELATED EQUIPMENT AND SUPPLIES

In order to ensure compatibility and maintain standards for the City's information system, all purchases of information technology equipment, supplies and services

must be initiated by and acquired through the Information Technology Department. This includes, but may not be limited to, computers, software, printers, copiers, ink, toners, repair parts, support and maintenance services, telephone equipment, scanners or any peripheral device which interfaces with any part of the City's information systems. Information Technology staff should be the primary vendor point of contact for all information technology needs. In turn, the Information Technology Department is responsible for adhering to the provisions of this policy when conducting such procurement activities.

T. SHORELINE METRO

Procurement activities by or for Shoreline Metro are subject to the provisions of the Federal Transit Administration "Appendix A of Procurement Policies." A current version of this Appendix is available upon request to Shoreline Metro administrative staff. In addition, agencies issuing paratransit service contracts through Shoreline Metro will complete a procurement checklist, attach the appropriate documentation and submit it to the Shoreline Metro Manager or his/her designee for review to ensure federal compliance.