

POLICY/PROCEDURE

TITLE PURCHASING GUIDELINES		NUMBER 400-12-06
EFFECTIVE DATE April 10, 2012	SUPERCEDES #400-06-01	PAGE NUMBER 1 OF 26

Section Index:

- 1.0 General
- 2.0 Policy Guidance
- 3.0 Public Work Projects
- 4.0 Professional and Personal Services
- 5.0 Procurement of Insurance or Bonds
- 6.0 Competitive Bidding
- 7.0 Competitive Negotiation (Requests for Proposals)
- 8.0 Interlocal Cooperative Purchasing Agreements
- 9.0 Uniform Exceptions
- 10.0 Procurement Records and Reporting
- 11.0 Vendor Relations
- 12.0 Contracting with Small and Minority Firms, Women Business Enterprises, Labor Surplus Area Firms, and Veteran-Owned Businesses
- 13.0 Local Business Encouragement
- 14.0 Bid Protest Procedures
- 15.0 Sale of the City's Personal Property
- 16.0 Monitoring and Compliance
- 17.0 Revisions

SECTION 1.0 – GENERAL

1.1 – Purpose

This document establishes the City of Everett's (the "City") policies and procedures for purchasing supplies and materials and for contracting for services. The policies and procedures detailed in this document are mandatory and City staff risk disciplinary action for unauthorized departure from these guidelines.

This document does not create any enforceable rights or causes of action in third parties and does not in any way limit the City's ability to procure goods or services in accordance with State laws.

1.2 – Goals

The City's contracting and purchasing goals include:

- Maintaining the quality and integrity of the City's purchasing system;
- Maximizing the purchasing value of City funds;
- Providing a uniform Citywide purchasing system to the extent practical and feasible; and
- Assuring fair and equitable treatment of people who deal with the City's purchasing system.

1.3 – Scope

These guidelines apply to public work projects; the procurement of professional and personal services, including architectural and engineering design services; the acquisition of supplies, equipment, and materials; and the acquisition of services through competitive negotiation, including telecommunication and data processing services.

These guidelines do not apply to the acquisition, sale, conveyance, license, or lease of real property.

If federal or state funding, financial assistance, or grant funding is involved in the proposed acquisition and/or contract, the program management requirements should be obtained from the appropriate agency and all required grant management procedures must be followed.

1.4 – Controlling Laws

All purchases shall comply with the appropriate and relevant federal, state, and City regulations and policies. If, and to the extent, the appropriate and relevant federal or state laws, regulations, grant requirements, or other requirements then existing vary

from these guidelines, such laws, regulations, grant requirements, or other requirements should be followed. Contact the City Attorney's Office when questions regarding potential conflicts arise.

1.5 – Proper Authorization

Only authorized individuals may obligate the City to acquire goods and services. Individuals purchasing goods on behalf of the City without proper authorization may be personally liable to the vendor, the City, or both and may be disciplined.

Purchase orders commit City funds for the acquisition of goods or services. In their capacity as the City's purchasing agents, the Purchasing Manager and buyers are authorized to issue purchase orders on behalf of the City in accordance with applicable regulations and this policy.

1.6 – Purchase Requisition

The purchase requisition is the first step in the purchasing procedure. The requisition should be submitted to the Purchasing Division (Purchasing) in a timely fashion to allow adequate time for review, price quotations, and the preparation of a purchase order. The length of time needed to obtain an item or service will depend upon several factors, such as the characteristics of the product or service sought, the number of alternative vendors or contractors, and the availability of the product or service.

A purchase requisition is an internal instrument that communicates a department's needs to Purchasing. A purchase requisition should not be conveyed directly to a vendor. Individuals must submit a computer access request form, signed by their department director, to gain access to enter, edit, and approve purchase requisitions for a specific budget. Requisitions entered into the City's Purchasing software are presumed to be properly authorized and it is the department director's responsibility to insure that *proper procedures are followed and that total annual expenditures do not exceed the authorized budget appropriation.*

If you have questions regarding how to complete a purchase requisition, please contact Purchasing.

Authorization of Special Categories

Electronic Data Processing Systems . The Information Technology Director shall approve requisitions for electronic data processing systems.

Telecommunication Systems . The Telecommunication Manager will approve requisitions for telecommunication systems.

Vehicles . The Motor Vehicle Superintendent will approve requisitions for vehicles.

Public Communications . The Public Information Director will approve all requisitions for printing, signage, and promotional items which are intended for distribution to the public.

Security Access . The Facilities Director will approve requisitions for changes or additions to the card access system.

Green Purchasing . Whenever practicable City departments shall choose electronics or appliances bearing the Energy Star label.

1.7 – Contracts

All contracts entered into for public work projects, the procurement of professional and personal service, and the acquisition of supplies, equipment, and materials, must be on forms approved by the City Attorney. All variations from the standard forms must be approved by the City Attorney.

SECTION 2.0 – POLICY GUIDANCE

2.1 – Selecting the Proper Procedure

SUBJECT MATTER	EXPECTED TOTAL COST (Including sales tax, freight, etc.)	PAGE
Public Work Projects		8
Public Work Projects (Using City Forces)	\$45,000 or less, Single Craft \$90,000 or less, Multiple Crafts	9
Public Work Projects (Using Small Works Roster)	\$300,000 or less	9
Public Work Projects (Bidding)	All Other	11
Professional and Personal Services	No Limit	12
Competitive Bidding (Other Than Public Work Projects)	\$100,000 or more	15
	\$10,000-99,999	16
	Less than \$10,000	16
Small Purchases	\$2,000 or less	17
Competitive Negotiation	\$100,000 or more	19
	Less than \$100,000	19
Interlocal Cooperative Purchasing Agreements	No Limit	20
Exemptions (All Procurements)		
Emergency Procurements	No Limit	21
Sole Source Procurements	No Limit	21

2.2 – Definitions

2.2.1 – Bidder . As used in this policy, **bidder** means any vendor, supplier, contractor, person, or entity that seeks to enter into a commercial relationship with the City, including, but not limited to, those who respond to requests for bids and proposals. Bidder, includes, but is not limited to, one or more principals, owners, officers, directors, shareholders, partners, members, managers, or control persons of the person submitting the bid, and persons associated or affiliated with the person submitting a bid or proposal.

2.2.2 – Person . **Person** as used herein includes both natural persons, corporations, partnerships, sole proprietorships, limited liability companies, and any other business entity, combination or association, whether for profit or non-profit.

2.2.3 – Public Work . **Public work** is defined in RCW 39.04.010, but generally means all work, construction, alteration, repair, or improvement other than ordinary maintenance, executed at the cost of the City.

2.2.4 – Responsible

- (1) For public work contracts, a bidder is determined to be responsible as provided in RCW 39.04.350, including those supplemental criteria identified in the bidding documents.
- (2) For all other projects, bidders are determined to be responsible as provided in the bidding documents or request for proposals. If no criteria are provided in the bidding documents or request for proposals, the determination will be made through consideration of the following factors, any one of which will suffice to determine a bidder is either not the lowest responsible bidder or the bidder's proposal is not the most advantageous to the City.
 - A. The ability, capacity, and skill of the bidder to perform the contract or provide the service required.
 - B. The character, integrity, reputation, judgment, experience, and efficiency of the bidder.
 - C. Whether the bidder can perform the contract within the time specified.
 - D. The quality of performance of previous public and private contracts or services, including, but not limited to, the bidder's failure to perform satisfactorily or complete any written contract. The City's termination for default of a previous contract with a bidder shall be deemed to be such a failure.

- E. The previous and existing compliance by the bidder with laws relating to the contract or services.
- F. Whether the bidder, under the same or different names, submitted more than one proposal for the same project.
- G. Evidence of collusion with any other bidder, in which case colluding bidders will be restricted from submitting further bids on the subject project or future tenders.
- H. The bidder is not qualified for the work or to the full extent required by the bid.
- I. The bidder has uncompleted work with the City or others or an outstanding dispute on a previous or current contract that might hinder, negatively affect, or prevent the prompt completion of the work bid upon.
- J. The bidder failed to settle bills for labor or materials on past or current public or private contracts.
- K. The bidder has been convicted of a crime arising from a previous public contract, excepting convictions that have been pardoned, expunged, or annulled.
- L. The bidder has been convicted of a crime of moral turpitude or any felony, excepting convictions that have been pardoned, expunged or annulled, whether in this State, in any other state, the United States, or in a foreign country, province, or municipality. Bidders shall affirmatively disclose to the City all such convictions, especially of management personnel or the bidder as an entity, prior to notice of award or execution of a contract, whichever comes first. Failure to make such affirmative disclosure shall be grounds, in the City's sole option and discretion, for termination for default subsequent to award or execution of the contract.
- M. The bidder will be, more likely than not, unable, financially or otherwise, to perform the work.
- N. The bidder is not authorized, at the time of bid opening, to do business in Washington, is not registered as a contractor in Washington, or otherwise lacks a necessary license, registration, or permit.
- O. Other information as may be secured having a bearing on the decision to award the contract.
- P. Any other factor deemed proper by the City.

2.3 – Determining the Expected Total Cost of the Purchase

2.3.1 – Anticipated Cost

The anticipated annual need for a particular good or service should be used to determine the appropriate threshold.

2.3.2 – Avoiding Thresholds

Requirements must not be divided so as to constitute a lesser threshold under this section.

2.3.3 – Annual Cost

Closely related goods will be considered as one purchase on an annual basis when determining which threshold applies.

2.3.4 – Total Cost

The total cost of goods or services, including any applicable taxes, freight, set-up, or die charges, shall be considered when determining which threshold applies.

2.3.5 – Total Quantity

Requirements for the total quantity of an item shall be considered together when determining which threshold applies.

Example:

If one pump is to be purchased now at an estimated cost including sales tax and delivery of \$8,959, but a total of three pumps are expected to be purchased during the year at an aggregate cost of \$26,877 (\$8,959.00 times three), then the procurement of the first pump falls within the \$10,000 to \$99,999 category.

2.3.6 – Items Used in Conjunction

If two or more items are designed or intended to be used in conjunction with each other, the total accumulated costs of all such items shall be considered together to determine which threshold applies, unless these components are not available from a single supplier.

Example:

Water meter covers and lids are usually used in conjunction with each other. Estimated requirements for the calendar year are:

Quantity expected to be acquired over the year	Description	Unit Price	Total
250	Standard water meter covers with small insert lids	\$50.00	\$12,500.00
250	Heavy duty water meter covers with small insert lids	\$39.46	\$9,865.00
250	Small insert lids for standard and	\$3.75	\$937.50

	heavy duty meter covers		
	Tax		\$1,840.90
Total			\$25,143.40

The total accumulated cost of these items used in conjunction with each other should be handled as a purchase costing between \$10,000 and \$99,999, even if a smaller quantity is later purchased.

2.3.7 – Multiphase Programs

If the total, overall objective of any specific program over a calendar year’s time is to be completed in phases, the total accumulated cost for all phases will be considered when determining which threshold applies.

Example:

A golf course is fertilized three times a year, and the material cost for each fertilization is \$9,000 (including tax and freight). The three-phase program then has a total material cost of \$27,000, and should be handled as a purchase costing between \$10,000 and \$99,999. Delivery times may be established for each phase.

2.3.8 – Multi-Department Requirements

To the extent practical, the requirements of separate departments and divisions for the same goods or services will be considered together when determining which threshold applies.

Example:

All City departments require miscellaneous paper products such as toilet paper, hand towels, garbage can liners, etc. Each department should provide an estimate of its needs to Purchasing so that Purchasing can aggregate the requirements to obtain the best price/delivery from vendors.

2.3.9 – Trade-Ins

The value of a trade-in will not be included when determining which threshold applies. However, the trade-in price will be considered when determining the lowest responsive and responsible bid.

SECTION 3.0 – PUBLIC WORK PROJECTS

Public work projects, sometimes referred to as public improvements, and defined by RCW 39.04.010, generally include qualifying work, construction, alteration, repair, or improvements. Public work projects do not include ordinary maintenance, engineering analysis and architectural design, or other professional services.

3.1 – Small Public Works Projects

Public work projects valued up to forty five thousand dollars (\$45,000) and involving only one craft or trade, or public work projects valued up to ninety thousand dollars (\$90,000) and involving more than one craft or trade, may be performed by City employees without competitive bidding, subject to the requirements of RCW 35.22.620.

3.2 – Small Works Roster

3.2.1 – Purpose

The City's Small Works Roster expedites the solicitation and award of bids on public work projects estimated to cost up to three hundred thousand dollars (\$300,000), or the current statutory limit in RCW 39.04.155, by reducing the requirements for advertising, receiving, and awarding bids.

3.2.2 – City's Small Works Roster

The City has created a small works roster for different categories of anticipated work. The categories on this roster may change as new categories are needed or existing categories are no longer needed.

Contents

This roster consists of all responsible bidders who have requested to be on the list, and where required by law, are properly licensed or registered to perform such work in this state.

Yearly Notice

The City shall publish, in a newspaper of general circulation within its jurisdiction, a notice of the existence of this roster and soliciting the names of bidders for such roster at least once a year.

Bidder Inclusion

The City shall add to the roster those bidders who fill out an application to be included on the roster and are deemed responsible. Bidders may submit applications to be included on the roster at any time during the year. The application is available on the Purchasing website: <http://www.ci.everett.wa.us/citybids>. Upon submission of a complete application, Purchasing will determine whether the bidder is responsible and, if so, will include the bidder on the Small Works Roster in the appropriate category or categories.

3.2.3 – Small Works Roster Contracting

Invitation to Bid

When the City's Small Works Roster will be utilized to contract for a public work project that is anticipated to cost less than \$300,000, all bidders included on the City's Small Works Roster in the appropriate category or categories shall be invited to bid. Invitations

to bid shall be in writing and may be faxed, mailed, electronically transmitted, or hand delivered to all applicable bidders.

Invitations to bid must provide an estimate of the scope and nature of the work to be performed, specify the materials and equipment to be furnished, and set the deadline for submitting bid responses to the City Clerk. The deadline established shall allow adequate time for bidders to prepare a bid in writing and return it to the City in the manner established in the invitation to bid. While detailed plans and specifications will usually be included in the invitation, their inclusion is not mandated.

Invitations to bid for public work projects over one hundred thousand dollars (\$100,000) shall specify that bid responses must be submitted to the City Clerk in sealed envelopes. Invitations to bid for public work projects under one hundred thousand dollars (\$100,000) may allow bid responses to be faxed, mailed, electronically transmitted, or hand delivered.

Bid Responses

Whenever possible, bid responses shall be submitted on a bid submittal form provided by the City to facilitate the comparison of bids received. Only firm bids will be accepted and the City reserves the right to reject any or all bids or waive any irregularities and informalities in the bids submitted and accepted by the City. No bidder may withdraw his bid after the hour set for the opening thereof unless the award is delayed for a period exceeding 60 days.

Award

The City will make an award to the lowest responsible and most responsive bidder(s) as deemed in the best interests of the City. When determining the lowest responsible and responsive bidder, the City may consider tax revenues that would be received by the City as permitted by RCW 39.30.040 as well as any other preferential treatment of local Everett businesses to the extent permitted by law.

Awards will be evidenced by the issuance of a Purchase Order and contract that incorporate the bid specifications and bid response as if set forth at length therein. The Purchasing Manager may sign such standard form contracts on behalf of the Mayor up to \$100,000; provided, however, that any deviation from the standard form contract shall be reviewed by the City Attorney's Office and signed by the Mayor.

A record of each and every bid received shall be recorded electronically with the Purchase Order. Immediately after an award is made, the bid responses received shall be recorded, open to public inspection, and available by telephone inquiry.

Failure to Respond

Any bidder who does not respond to an invitation to bid will be removed from that category of the City's Small Works Roster. A bidder's written response of "No Bid" is sufficient to remain on the City's Small Works Roster in the appropriate category or categories.

3.2.4 – Limited Public Work Projects

The limited public work project process may be used for public work projects under thirty-five thousand dollars (\$35,000). The City generally uses the full Small Works Roster process to invite bids for limited public work projects from all bidders in the relevant category. However, the City may invite bids from only three bidders, as allowed under RCW 39.04.155(3), if the Purchasing Manager determines that unique circumstances justify limiting bids.

For limited public work projects, the City may waive the payment and performance bond requirements of Chapter 39.08, RCW, and the retainage requirements of Chapter 60.28, RCW. In such event, the invitation to bid shall so specify. Further, the City shall thereby assume liability for the bidder's non-payment of laborers, mechanics, subcontractors, materialpersons, suppliers, and taxes imposed under Title 82, RCW that may be due from the limited public work project. However, the City shall have a right of recovery against the bidder for any payments made by the City on the bidder's behalf.

3.2.5 – Posting of Small Works Roster Awards

The City shall make available a list of the contracts that have been awarded as a result of using the Small Works Roster. The list shall contain the name of the bidder, the bidder's registration number, the amount of the contract, a brief description of the type of work performed, and the date it was awarded. Requests for the list may be made to the City Clerk.

3.2.6 – Change Order Authority

The Purchasing Manager is authorized to sign change orders on Small Works projects directing contractors to perform additional necessary work to the extent the additional work was unanticipated at the project's inception, is deemed necessary by the Project Manager, and is within the scope of the original Small Work project.

3.3 – Public Work Project Contracting

Public work projects that are not performed by City employees under Section 3.1 and are not contracted out under the Small Works Roster, as provided under Section 3.2, will be awarded by competitive bidding.

3.3.1 – Call for Bids

Where competitive bidding is used, the City Council must approve the call for bids. Upon approval, the lead department will generate written plans and specifications, which specifications should not contain features that unduly restrict competition. Advertisement of the call for bids should occur a minimum of thirteen (13) days prior to bid opening and notice should be published, at least once, in the City's official

newspaper. Other methods may be used to attract potential bidders in addition to, but not in place of, publication in the City's official newspaper. For example, notices may be placed on the City's Website or advertised in trade papers or magazines.

Sealed bids shall be submitted to the City Clerk at the location and in the manner specified in the invitation or call for bids. At the appointed time, according to a clock selected by the City Clerk, all bids will be opened and publicly read aloud. Bid openings are usually scheduled for 2:00 p.m., Tuesdays.

Original specifications and the original bid responses will be retained in the City Clerk's vault for review and audit as required.

3.3.2 – Award

The contract shall be awarded by City Council to the lowest responsive and responsible bidder whose bid meets the requirements and criteria set forth in the invitation for bids. If there are questions or concerns regarding whether a bid is responsive or whether a bidder is responsible, seek the assistance of the City Attorney.

3.3.3 – Cancellation

The City may cancel a call for bids, may reject any and all bids submitted in whole or in part, and may waive any irregularities or informalities in the bids submitted at its sole discretion and option.

3.3.4 – Variation

Variation from the competitive bidding requirements, either by the use of the design-build alternative contracting procedures or the use of emergency or sole source procurement, require Council action and must be authorized pursuant to law.

SECTION 4.0 – PROFESSIONAL AND PERSONAL SERVICES

Professional or personal services are those services involving specialized skill, education, and special knowledge. These services include, but are not limited to, architectural, engineering, design services, accounting, art, bond brokerage, insurance brokerage, legal, real estate appraisal, relocation assistance, title abstracts, surveying, soils analysis, and core testing.

Professional or Personal Services Contracts Using Federal Transit Administration (FTA) Funds: FTA funded professional or personal services contracts shall comply with Federal Transit Administration procurement rules. All FTA contract clauses and certifications will be included in any professional/personal service agreement as required by the FTA master agreement.

4.1 – Architectural and Engineering Services

The City must utilize competitive selection for the procurement of professional engineering and architectural services.

Professional engineering or architectural services may be selected either from a pre-qualified list or by advertising a request for qualifications for the specific project. Each department may maintain its own pre-qualified list and may utilize the lists maintained by other departments, if practicable.

Pre-qualification

The City may advertise, in the City's official newspaper and any other media reasonably likely to attract a sufficient number of potential service providers, a general announcement of the City's projected requirements for any category or type of engineering or architectural services. Such announcement shall specify the manner of submitting a statement of qualifications and performance data and engineering and architectural firms are encouraged to pre-qualify. When services are needed, the City will evaluate current statements of qualifications and performance data on file with the City, together with those that may be submitted by other firms regarding the proposed project.

Advertisement

With regards to a particular project, the City may advertise, in the City's official newspaper and any other media reasonably likely to attract a sufficient number of potential service providers, an announcement of its need for professional engineering or architectural services. Where a particular project is identified, the announcement should state concisely the general scope and nature of the project or work for which the services are required and the address of a City representative who can provide further details.

Contract Negotiations

Discussions will be conducted with one or more firms regarding anticipated concepts and the relative utility of alternative methods of approach for furnishing the required services. Using criteria established by the City for the project, category, or type of services needed, a professional services contractor will be selected that is deemed to be the most highly qualified to provide the services required for the proposed project.

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

The professional services agreement must be approved by the City Council, signed by the Mayor, attested by the City Clerk, and approved as to form by the City Attorney.

4.2 – Non- Architectural and Engineering Services

In general a competitive process, generally competitive negotiation, is encouraged, but not required, for the City's procurement of professional or personal services which are not classified as architectural or engineering services.

Where a competitive process is utilized, it should be administered by Purchasing, if feasible, and should comply with the City's competitive negotiation requirements, specified in Section 7. Otherwise, procurement and administration of such contracts are usually the responsibility of the Mayor/designee or the department director. Regardless of the process utilized, care should be taken to assure that the selected provider is responsible under the factors established in Section 2.2.2(3).

The City Attorney should be consulted prior to contracting to determine whether a particular procurement requires approval by the City Council. When City Council approval is not required, the Mayor shall sign professional or personal service contracts where sufficient funding exists in the annual budget or plans and systems ordinance.

SECTION 5.0 – PROCUREMENT OF INSURANCE OR BONDS

The City procures insurance and bonds through the use of an insurance or bond broker. For more information on the procurement of insurance, contact the City's Risk Manager. For more information on the procurement of bonds, contact the City's Finance Manager.

SECTION 6.0 – COMPETITIVE BIDDING

The competitive bidding method is the preferred method to acquire equipment, material, supplies, and services (other than public work projects and professional and personal services). Where competitive bidding is utilized, the City will select the lowest responsive and responsible bidder.

6.1 – Bid Specifications

Bid specifications should incorporate a clear and accurate description of the technical requirements for the material, product, or service to be purchased. Such descriptions should not contain features that unduly restrict competition. When it is impractical or uneconomical to make a clear and accurate description of the technical requirements, a "brand name or equal" description may be used. The responsibility of demonstrating to the City's satisfaction that a product is ~~equal~~+to that specified shall be on the vendor proposing the substitution. Requests for approval of substitutions must be made with sufficient time to allow the City to adequately review the proposal, including time for vendors to respond to questions and requests for additional information or clarification. The City has no obligation to accept proposed substitutions or engage outside consultants or experts to evaluate proposed substitutions. Acceptance of a substitute product proposed as ~~equal~~+to that specified will be made in writing and, if made prior to bid, other bidders will be notified if practical and convenient.

Competitive Bids for Procurements Utilizing FTA Funds: All procurements utilizing FTA funding will be required to follow FTA guidelines on each negotiated contract or professional services contract. Purchasing will utilize the third-party contract clauses, provisions, and certifications at each step of the procurement process including the bid process as well as in the contract phase. These clauses will be provided to Purchasing by the Grants Program Manager in Transportation Services for each FTA funded procurement.

Buy America on FTA Funded Procurements: All FTA funded contracts or procurements that are covered items—including rolling stock, steel, iron, manufactured products, and construction contracts must comply with the Buy America provision as in 49 CFR Part 661 and 49 USC § 5323(j). Certification forms will be provided to Purchasing by the Grants Program Manager in the Transportation Services Department.

6.2 – Award

When purchases and contracts are obtained by competitive bidding, they shall be awarded to the lowest responsive and responsible bidder whose bid meets the requirements and criteria set forth in the invitation for bids. If there are questions or concerns regarding whether a bid is responsive or whether bidder is responsible, refer to Section 2.2.2 and the City Attorney.

Any recommendation that uses life cycle costing to determine the lowest responsive and responsible bidder must be approved by the Finance Director. Local taxes generated by the purchase may be considered when determining the lowest responsive and responsible bid as permitted by RCW. 39.030.040. When a trade-in option is in the City's best interests, the price offered on the trade will be considered when determining the lowest responsive and responsible bid.

6.3 – Cancellation

An invitation for bids may be cancelled or the City, at its sole discretion, may reject any or all bids in whole or in part.

6.4 – Competitive Bidding - \$100,000 or more

City Council approval of a call for bids will be sought in response to a properly authorized purchase requisition, submitted to Purchasing, which includes clear, concise written specifications. Once approved, Purchasing will solicit sealed bids.

At least one notice of the call for bids will be published in the City's official newspaper, a minimum of thirteen (13) days prior to bid opening. Other methods may be used to attract potential bidders in addition to, but not in place of, publication in the City's official newspaper. For example, notices may be placed on the City's Website or advertised in trade papers or magazines.

Sealed bids shall be submitted to the City Clerk at the location and in the manner specified in the invitation or call for bids. At the appointed time, according to a clock selected by the City Clerk, all bids will be opened and publicly read aloud. Bid openings are usually scheduled for 2:00 p.m., Tuesdays.

City Council will make all bid awards. Once an award is made, Purchasing will issue a purchase order to the successful bidder. Such purchase orders will be signed by the Purchasing Manager or designated buyer and reference the City Council's award.

Original specifications and the original bid responses will be retained in the City Clerk's vault for review and audit as required.

6.5 – Competitive Bidding - \$10,000 to \$99,999

Within this dollar range, Council approval of bid calls is not required. Purchase requisitions must contain clear and concise written specifications. Upon receipt of purchase requisition, Purchasing will solicit written bids.

Within this dollar range, bid calls are not required to be advertised in the City's official newspaper, but they may be so advertised. Other methods may be used to attract potential bidders. For example, notices may be placed on the City's Website or advertised in trade papers or magazines.

Bids do not need to be sealed, but must be in writing. Use of the City's standard forms is encouraged and may be required at the discretion of Purchasing. Written bids may be delivered by fax, mail, hand delivery, or e-mail.

Upon receiving all bids, Purchasing will award the bid and will issue a purchase order, signed by the Purchasing Manager or designated buyer, to the successful bidder.

Original specifications and the original quotes will be retained in Purchasing's procurement file for review and audit as required.

6.6 – Competitive Bidding – Less than \$10,000

In response to receipt of a purchase requisition that includes clear, concise written specifications, buyers will use their knowledge of supplies, vendors, costs, and the market to issue purchase orders as appropriate. Buyers will assure that goods and services are obtained as economically as possible, even where the expense of the procurement is small.

When the order is over five thousand dollars (\$5,000), an effort will be made to solicit three written quotes from vendors. Verbal quotes are discouraged, but may be used at Purchasing's discretion. Care should be taken to provide that quotes are comparable between vendors (e.g., all quotes should include shipping, installation, tax, and delivery time).

6.7 – Small Purchases

6.7.1 – Open Supply Purchase Orders

The open supply purchase order system was established to facilitate small purchases from local suppliers. Open supply purchase orders are meant to provide small, varied, and unpredictable items needed for the day-to-day operations of City work crews. Purchases over two thousand dollars (\$2,000) may not be made with open supply purchase orders. An open supply purchase order should not be used to acquire items that should otherwise be formally or informally bid. Inappropriate purchases appearing on open supply purchase orders will be referred to the department director for review and appropriate action.

Establishing an Open Supply Purchase Order

Open supply purchase orders may be established when there are a sufficient number of small purchases from a local supplier. City employees should contact Purchasing to inquire about establishing open purchase orders.

Procedures

Only permanent employees or 9-month seasonal laborers may use the open supply purchase orders. When using open supply purchase orders, the City employee must show employee identification to the supplier and sign and print his/her name on the packing list. The City employee's supervisor must also sign and write the account code on the packing list. Prior to payment, the packing lists will be matched to the supplier's invoices.

Returns

Upon return of an item purchased with an open supply purchase order the vendor must generate credit paperwork for processing by Accounts Payable. Returns for cash are not allowed. Exchanges must be documented on invoice and credit paperwork. Returns and exchanges are subject to the signature requirements outlined above.

Credit Cards

Some open supply purchase order vendors accommodate the City by providing the use of a supplier-specific credit card. All such credit cards are held in Purchasing. Purchasing will release the card to an eligible employee, as defined above, upon receipt of a purchase requisition which includes a description and estimated cost of the goods or materials to be purchased. Both the card and a signed receipt must be returned to Purchasing immediately following the purchase. Supervisors will be notified if there are any discrepancies between the pre-authorization and the store receipt.

6.7.2 – Petty Cash

The purchase of small incidental items, under two hundred dollars (\$200), may be made using petty cash in accordance with the City's current Petty Cash Policy (currently 400-96-02).

SECTION 7.0 – COMPETITIVE NEGOTIATION (REQUESTS FOR PROPOSALS)

The City is not obligated to utilize competitive negotiation. However, competitive negotiation can be used, except where constrained by State law, as an alternative to the competitive bidding procedures outlined under Section 6.0 or for the provision of services when the Purchasing Manager determines that the use of competitive negotiation is more practicable or more advantageous to the City than the use of competitive bidding.

Where competitive negotiation is used, a request for proposals should be prepared and submitted to an adequate number of qualified sources, as determined by the City, at its sole discretion, to permit reasonable competition consistent with the requirements of the purchase. The request for proposals should identify significant evaluation factors, including price, should provide an indication of their relative importance, and should specify the procedures to be utilized in evaluating proposals. The City may then select the vendor whose proposal is most advantageous to the City, with price and other factors considered.

Competitive Negotiations for Procurements Utilizing FTA Funds: All procurements utilizing FTA funding will be required to follow FTA guidelines on each negotiated contract or professional services contract. Purchasing will utilize the third-party contract clauses, provisions, and certifications at each step of the procurement process including the bid process and the contract phase. These clauses will be provided to Purchasing by the Grants Program Manager in Transportation Services for each FTA funded procurement.

Buy America on FTA Funded Procurements: All FTA funded contracts or procurements that are covered items—including rolling stock, steel, iron, manufactured products, and construction contracts must comply with the Buy America provision as in 49 CFR Part 661 and 49 USC § 5323(j). Certification forms will be provided to Purchasing by the Grants Program Manager in the Transportation Services Department.

7.1 – Cancellation

A request for proposals may be cancelled at any time at the City's sole discretion and option. The City may reject individual proposals in whole or in part for cause.

7.2 – Award

The City may select the vendor whose proposal is most advantageous to the City, with price and other factors considered. The City will then negotiate a contract with the selected proposer and is not limited in those negotiations by the scope of the original request for proposals but may follow the flow of negotiations to the most advantageous outcome for the City. If the City is unable to negotiate a contract successfully with the selected proposer, the City may terminate negotiations and proceed to negotiate with the second most advantageous proposer and so on.

7.3 – Competitive Negotiation – \$100,000 or more

City Council approval of a request for proposals will be sought in response to a purchase requisition, submitted to Purchasing, which includes a description of the requirements and identifies significant evaluation factors and their relative importance. Once approved, Purchasing will solicit sealed proposals.

At least one notice of the request for proposals must be published in the City's official newspaper a minimum of thirteen (13) days prior to the proposal deadline. Other methods may be used to attract potential proposers in addition to, but not in place of, publication in the City's official newspaper. For example, notices may be placed on the City's Website or advertised in trade papers or magazines.

Sealed proposals will be submitted to the City Clerk. At the appointed time, a register of proposals shall be prepared containing the name of each proposer and a description identifying the item offered. Proposal deadlines are generally scheduled for 2:00 p.m., Tuesdays.

Following evaluation of proposals by City staff, and negotiations with the selected proposer, the City Council will make an award. When an award is made, either a contract or a purchase order will be issued to the successful proposer. In general, contracts are issued when services are predominant and purchase orders are issued when goods are predominant. When a purchase order is used, it will be signed by the Purchasing Manager and reference City Council's award. Contracts must be signed by the Mayor.

The original request for proposals and the responses will be retained for review and audit as required in the City Clerk's vault.

7.4 – Competitive Negotiation – Less than \$100,000

Council approval is not required for a request for proposals in this dollar range. Upon receipt of a properly authorized purchase requisition, which identifies significant evaluation factors and their relative importance, Purchasing will obtain sealed proposals.

Within this dollar range, requests for proposals are not required to be advertised in the City's official newspaper, but they may be so advertised. Other methods may also be used to attract potential bidders. For example, notices may be posted on the City's Website or advertised in trade papers or magazines.

Sealed proposals must be submitted to Purchasing by the deadline specified in the request for proposals. At the appointed time, all proposals will be opened and a register of proposals shall be prepared containing the name of each proposer and a description identifying the item offered.

Following evaluations of proposals by City Staff, and negotiations with the selected proposer, Purchasing will make an award and issue either a contract or purchase order to the successful proposer. In general, contracts are used when services are predominant and a purchase order is issued when goods are predominant. When a purchase order is used, it will be signed by the Purchasing Manager or a designated buyer. Contracts must be signed by the Mayor.

Original specifications and the original quotes will be retained in Purchasing's procurement file for review and audit as required.

SECTION 8.0 – INTERLOCAL COOPERATIVE PURCHASING AGREEMENTS

Pursuant to Chapter 39.34, RCW, the City may enter into an Interlocal Cooperative Purchasing Agreement (Interlocal Agreement) with any public agency (the State of Washington, a political subdivision thereof, another state or a political subdivision of that state, an agency of the Federal Government, or a Federally Recognized Indian Tribe). Interlocal Agreements may be utilized to jointly make bid calls, for a joint purchase, or to purchase equipment, materials, supplies, or services on terms contained in a proposal or contract offered to another public agency. Where the City utilizes an Interlocal Agreement, the Agreement must comply with the procurement requirements of both the City and the other public agency. Firm written quotes shall be obtained in advance to document pricing and terms of all interlocal purchases.

All Interlocal Agreements must be approved by the City Council and signed by the Mayor.

Interlocal Agreement purchases may be made without advertising in the City's official newspaper.

When practical, the City should include language in its solicitations that allows other public agencies to purchase from the City's bids, quotations, or contracts, provided that the other agencies allow similar rights and reciprocal privileges to the City.

SECTION 9.0 . UNIFORM EXCEPTIONS

Occasions may arise when competition among potential vendors is not possible for a particular procurement. These situations may occur: (a) in the event of emergencies and (b) where a sole source of procurement is available. In these situations, purchases may be made directly from a vendor with limited competition or without soliciting other bids or quotes, as the situation requires.

9.1 – Emergencies

Competitive bidding is not required when an emergency exists; however, in making emergency purchases, an effort will be made to include the level of competition that is practical under the circumstances.

An emergency means unforeseen circumstances beyond the control of the municipality that either: (a) present a real, immediate threat to the proper performance of essential functions; or (b) will likely result in material loss or damage to property, bodily injury, or loss of life if immediate action is not taken.

9.1.1 – Declaration of Emergency

If an emergency exists, and time permits, the Mayor/designee or department director will seek a resolution from Council that will: (a) declare an emergency situation exists; (b) waive competitive requirements; and (c) authorize the award, on behalf of the City, of all contracts necessary to address the emergency situation, including, but not limited to, architectural and engineering services.

If an emergency exists and time does not permit seeking the City Council approval, the Mayor or his/her designee may declare an emergency situation to exist, waive competitive requirements, and award contracts on behalf of the City.

If an emergency exists and both the Mayor/designee and the City Council are not available to declare an emergency a department director may declare an emergency situation to exist, waive competitive requirements, and award contracts on behalf of the City.

9.1.2 – Ratification of All Emergency Procurements

The department director will submit a memo to Administration, reciting the facts that constituted the emergency, enumerating the purchases and their costs, and requesting that the waiver of competitive bid requirements be ratified. Acceptance of the ratification is subject to the approval of the Mayor/designee and the City Attorney.

9.1.3 – Ratification of Emergency Procurements of \$100,000 or More

Within fourteen (14) days of the award of an emergency procurement contract over \$100,000, which has been approved by the Mayor/designee and the City Attorney, the department director will seek further City Council ratification. The department director will present City Council with a resolution reciting the facts constituting the emergency, enumerating the purchases and their costs, and ratifying the waiver of competitive requirements.

9.2 – SOLE SOURCE OR PROPRIETARY PROCUREMENTS

Sole source procurements may be made directly from a sole source vendor without soliciting other bids or quotes where (a) there is clearly and legitimately only one source

capable of supplying the subject matter in a timely fashion or (b) there are special facilities or market conditions that result in only one source.

In the event the equipment, materials, supplies, or services are available from only one supplier, a complete Request for Sole Source Form should be submitted to Purchasing, providing written documentation demonstrating the appropriateness of sole source procurement.

For proposed purchases up to five thousand dollars (\$5,000), the Mayor/designee or department director may make the determination that there is only one source available. Every justification for sole source procurement over five thousand dollars (\$5,000), must be approved by the Purchasing Manager. When a proposed sole source purchase exceeds one hundred thousand dollars (\$100,000), the Purchasing Manager must seek the City Council's approval, by resolution, that there is only one source and authorizing the Purchasing Manager to conduct negotiations as appropriate as to price, delivery, and terms. The resolution will recite the factual basis for the exception from competitive procurement.

To the extent possible, the contract and the basis for the exception from competitive procurement should be recorded and open to public inspection immediately after its award.

SECTION 10.0 – PROCUREMENT RECORDS AND REPORTING

Purchasing shall maintain all records necessary to adequately establish compliance with this Policy and state law.

Purchasing shall make a regular report to the Finance Director detailing all instances where the City's public work project contracting, the procurement of professional and personal service, and the acquisition of supplies, equipment, and materials did not comply with this Policy or state law.

SECTION 11.0 – VENDOR RELATIONS

City employees should direct all vendors and suppliers to Purchasing for information concerning the possible sale of goods and services to the City. Purchasing may direct a vendor to call on an employee who has requested information about a particular product.

Section 4.12 of the Everett City Charter provides:

No elected official or appointed City officer or employee of the City shall have a financial interest, directly or indirectly, in any contract, sale, lease, or purchase with or for the use of the City; or accept, directly or indirectly, any compensation, gratuity, or reward from any other person who is financially interested therein. Provided, however, an officer or employee

does not have a prohibited interest if the officer or employee has a remote interest as defined by state law. Violation of any provision of this section may be grounds for a forfeiture of employment or of the office of the person violating the same and the contract, sale, lease, or purchase shall be void.

Any employee who is offered or receives a payment or gift of more than a nominal value should refuse it or return it to the giver in a tactful and dignified manner, advising the giver of the City's policy prohibiting its acceptance and advising his/her supervisor that this has occurred.

11.1 – Samples

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

- (1) The sample is accepted as property of the City.
- (2) The product is one which is of a type presently in use or is of potential use to the City. Samples of goods not likely to be purchased are not to be accepted.
- (3) The quantity or size of the sample is relatively small and the sample is of low monetary value.
- (4) Any chemicals offered as vendor samples shall not be accepted unless accompanied by an OSHA Product Safety Data Sheet.
- (5) If vendor samples are accepted, they must be sent to the appropriate shop or department for testing.
- (6) Samples that are requested for evaluation must be purchased.

11.2 – Fairness to Vendors

If there are irregularities during a competitive procurement process necessitating a requote, the preferred correction is to terminate the process and reinitiate a new procurement process. Bidders are expected to offer their best bid first and offering an opportunity to requote should be done only when absolutely necessary. If, for any reason, one supplier is permitted to requote, all competitors will be given the same opportunity.

11.3 –Public Records Act

The City is subject to the Washington State Public Records Act. Bidders should be aware that any materials submitted to the City, whether as an inquiry, bid, or other submission, will constitute public records and will be subject to disclosure unless protected by a specific exemption.

SECTION 12.0 – CONTRACTING WITH SMALL AND MINORITY FIRMS, WOMEN BUSINESS ENTERPRISES, LABOR SURPLUS AREA FIRMS, AND VETERAN-OWNED BUSINESSES

The City shall neither discriminate against, nor give preferential treatment to, small and minority firms, women-owned business enterprises, labor surplus area firms, or veteran-owned firms. Such entities shall be afforded the maximum practicable opportunity to compete for and obtain public contracts for services and the City shall passively encourage participation consistent with such businesses general availability within the professional communities involved.

SECTION 13.0 – LOCAL BUSINESS ENCOURAGEMENT

The City will take affirmative steps to ensure that businesses situated within the City limits are encouraged to participate in its procurement process to the extent permitted by federal, state, and local laws and regulations.

SECTION 14.0 – BID PROTEST PROCEDURES

Vendors may appeal or protest an invitation, solicitation, or award of contract issued by the City by following the requirements of Chapter 3.46, Everett Municipal Code.

SECTION 15.0 – SALE OF THE CITY'S PERSONAL PROPERTY

Sale of the City's personal property is governed by Ordinance No. 2963-06; Chapter 3.88, Everett Municipal Code.

SECTION 16.0 – MONITORING AND COMPLIANCE

Purchasing will be responsible for monitoring and evaluating compliance with these guidelines. The Purchasing Manager will first attempt to resolve departures from the guidelines with the department director. In the event an initial attempt to resolve the problem is unsuccessful, the departure will be referred to the Finance Director for further action.

A summary of quotes, bids and proposals received for all procurements over \$5,000 will be recorded with the purchase order. Additionally, a quarterly report of all procurements over \$5,000 will be submitted to the Mayor, City Council and finance director.

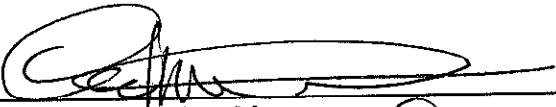
As it relates to these guidelines, a violation of any of the provisions of Section 4.12 of the Everett City Charter will result in disciplinary action where, in the opinion of the Mayor in the case of employees, or in the opinion of a majority of the Council in the case of an elected official, such discipline is necessary in the interest of the public and good government.

Officers and employees should be aware of possible personal penalties, termination, and financial liability for intentional and willful violation of competitive bidding laws. RCW 39.30.020 provides:

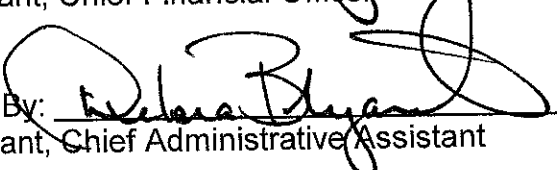
In addition to any other remedies or penalties contained in any law, municipal charter, ordinance, resolution or other enactment, any municipal officer by or through whom or under whose supervision, in whole or in part, any contract is made in willful and intentional violation of any law, municipal charter,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

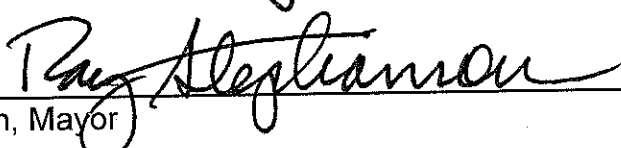
SECTION 17.0 – REVISIONS

The Mayor or the Mayor's Chief Administrative Assistant may approve revisions, additions, or deletions to these guidelines.

Issued By:  3/23/12
Clark Langstraat, Purchasing Manager

Approved By: 
Debra Bryant, Chief Financial Officer

Approved By: 
Debra Bryant, Chief Administrative Assistant

Approved By: 
Ray Stephanson, Mayor