

**CITY OF LAKE STEVENS  
LAKE STEVENS, WASHINGTON**

**RESOLUTION NO. 2018-20**

A RESOLUTION ADOPTING A COMPREHENSIVE POLICY FOR THE PURCHASE AND DISPOSITION OF GOODS, SERVICES, EQUIPMENT, SUPPLIES AND PROPERTY FOR THE CITY OF LAKE STEVENS; AND REPEALING RESOLUTION NO. 2018-15.

WHEREAS, on May 22, 2018 the City Council approved Resolution 2018-15 that adopted a Procurement Policy for the City of Lake Stevens which provided consistent procedures for all departments to procure goods and services in compliance with state law for City operations and to award contracts for public works projects in compliance with state law applicable to non-charter optional municipal code cities; and

WHEREAS, after adoption further edits that enhance clarity, provide greater consistency, and other minor non-substantive edits were determined to be necessary; and

WHEREAS, staff felt that in the interest of transparency that the edited policy be approved by a new Resolution and the former policy be revised; and

WHEREAS, the City Council authorizes staff to make additional revisions that do not change the substance or intent of the Policy without additional approval by the Council;

**NOW , THEREFORE, THE CITY COUNCIL OF THE CITY OF LAKE STEVENS, WASHINGTON, DOES RESOLVE AS FOLLOWS:**

SECTION 1 – REPEAL. Resolution No. 2018-15, is hereby repealed for the reason that it is replaced by this Resolution.


SECTION 2 – ADOPT. Comprehensive Procurement Policy P-2-2018, is attached as Exhibit “A” and is hereby adopted and incorporated herein by this reference as though fully set forth herein.

SECTION 3 – REVISIONS. The Finance Director is hereby authorized to make minor, non-substantive, and/or procedural changes to the Policy P-2-2018 without further approval of the council. However, no changes to Policy P-2-2018 shall be made, without the City Council’s approval, that change or modify contract approval authority as set forth in municipal code, or changes that limit, modify, or amend any other process or procedures which currently requires the City Council’s approval.

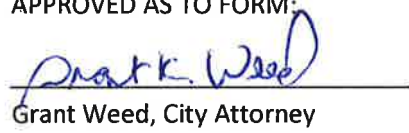
**PASSED** by City Council of the City of Lake Stevens this 12<sup>th</sup> day of June, 2018.

  
John Spencer, Mayor

ATTEST:

  
Kathy Pugh, City Clerk

APPROVED AS TO FORM:

  
Grant Weed, City Attorney



*POLICY NO.*

***P-2-2018***

# **COMPREHENSIVE PROCUREMENT POLICY**

ONE COMMUNITY AROUND THE LAKE

*Effective May 22, 2018*

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## I. P-2-2018 PROCUREMENT POLICY SUMMARY TABLE

Procurement Type	Requested (when included in budget)				
	Thresholds	Approval Staff	Approval DH	Award/ Approval CA/M	Award/ Approval Council
<b>PUBLIC WORKS</b>					
Public Works - Minimal	<10,000			X	
Public Works - (Single) - Day Labor	< \$40,000		X		
Public Works - (Multi) - Day Labor	< \$65,000		X		
Limited PW Process (Part of SWR - min 3 quotes)	\$10,000 - \$35,000			X	
Public Works - Small Works Roster (All or min 5 quotes)	\$35,001 - \$300,000			\$100,000	>\$100,000
Public Works - Formal Bid Process	> \$300,000				X
Public Works - Formal (If Not using Small Works Roster)	> \$40,000/ >\$65,000			\$100,000	>\$100,000
Procurement Type	Requested (when included in budget)				
	Thresholds	Approval Staff	Approval DH	Award/ Approval CA/M	Award/ Approval Council
<b>PROFESSIONAL SERVICES</b>					
Professional Services (Architect & Engineer) RCW39.80	Qualification Based			\$100,000	>\$100,000
<b>Non-Professional (Personal &amp; Purchase of Services)</b>					
Direct Selection/Negotiation	<\$15,000			X	
Informal (Minimum 3 Quotes)	\$15,000 - \$100,000			X	
Formal Bidding - (not sealed) Request for Proposals	>\$100,000				X
Procurement Type	Requested (when included in budget)				
	Thresholds	Approval Staff	Approval DH	Award/ Approval CA/M	Award/ Approval Council
<b>PURCHASING (NON PUBLIC WORKS RELATED)</b>					
Purchasing - Direct Purchase	<\$15,000	<\$1,000	X		
Purchasing - Informal (3 Quotes)	\$15,000 - \$150,000		\$50,000	>\$50,000	
Purchasing - Formal Bidding - Request for Bids (sealed or not)	>\$150,000			X	
<b>Council Reporting:</b> All purchases made and/or contracts executed over \$10,000 and less than Council approval threshold, must be reported to Council at their next Regular Council Meeting. These may be reported through "Department Report" or by other means.					
<b>Cooperative Purchasing:</b> There is no requirement for competition when purchasing from State Contracts or other contracts covered by an interlocal agreement. However, for other than State Contracts, Finance needs to be consulted to assure compliance with RCW 39.34. Purchasing approval thresholds apply.					
<b>Small Works Roster:</b> May be used for public works projects less than \$300,000. Participating pre-qualified contractors in appropriate work category are notified of bidding opportunities. There's no need to advertise projects or have public bid opening. Council awards contracts over \$100,000.					
<b>Federal Funding:</b> If any federal funds are used, including pass-thru grants/loans, please refer to the Federal Code of Conduct and Federal Award Standards sections of the Comprehensive Procurement Policy and follow the requirements set forth in the Federal Procurement table.					

## II. OVERVIEW

**Purpose:** The purpose of this document is to implement the requirements of state law regarding procurement and bidding on public contracts for public works, goods, services, supplies and materials. It is the City's policy to follow state requirements regarding the expenditure of public funds, to provide a fair forum for those interested in bidding on public contracts and to help ensure that public contracts are performed satisfactorily and efficiently at least cost to the public, while avoiding fraud and favoritism in their award.

**Controlling Laws:** The expenditure of public funds for the purchase of and contracting for, goods, services, supplies and materials shall comply with all applicable state law requirements as set forth in the Revised Code of Washington (RCW) and the Washington Administrative Code (WAC), in addition to any applicable local and federal laws and regulations.

**Monitoring and Compliance:** The department heads shall implement, monitor and enforce these policies. In the event of any conflict in procurement requirements or questions about proper procedure or other requirements, the matter shall be referred to the Finance Director for further action. Willful or intentional violations of public procurement requirements may result in personal penalties, financial liabilities, and/or discipline. See RCW 39.30.020.

**Proper Authorization:** Only authorized employees acting within the scope of their authority may obligate the City in the acquisition of goods or services. Any employee purchasing goods on behalf of the City without proper authorization may be personally liable to the vendor and the City, and subject to disciplinary action.

## III. DEFINING THE NEED

Before determining the procurement method and approval authority, the type of purchase must be established. The major categories of purchases include:

### **Public Works: ([RCW 39.04](#) )**

Includes all work, construction, alteration, repair or improvement other than ordinary maintenance, executed at the cost of the City:

- Examples: demolition, remodeling, renovation, road construction, building construction, and utilities construction;
- Ordinary maintenance is not specifically defined in RCW 39.04 but is generally considered to include work not performed by contract and performed on a regular basis to service, check or replace items that are not broken;
- For purposes of prevailing wage requirements, public works includes ordinary maintenance when performed by contract.

### **Materials, Supplies and Equipment**

Materials, supplies and equipment are considered tangible items which are manufactured and are moveable at the time of purchase. It is important to distinguish between materials, supplies and equipment used in public works contracts as opposed to non-public works contracts as different bidding requirements apply to each.

*Examples: Office supplies, off the shelf software, hardware, trucks, copy machines, auto parts, gravel, janitorial supplies.*

## **Services**

Services are the labor, time, or effort of a human being. Distinguishing between services and public work is also important, as services may also have different bidding requirements. The City has four classifications of services:

➤ **Professional Services:**

Services provided by independent consultants that require specialized knowledge, advanced education, professional licensing or certification and where the primary service provided is mental or intellectual, involving the consistent exercise of judgment and discretion.

*Examples: accountants, attorneys, consultants, graphic artists.*

➤ **Architectural and Engineering Services (A&E Services):**

These services are to be acquired under the authority and procedures outlined in RCW Chapter 39.80.

*Examples: Engineers, land surveyors, architects, and landscape architects.*

➤ **General Services/Purchased Services:**

All other service related work that is not considered a public work or professional service. Most often these are routine in nature (i.e.: yearly, monthly, weekly, etc.)

*Examples: Building maintenance, elevator maintenance, automotive services, and instructors.*

➤ **Technology Systems and Services:**

Any technology hardware or software system purchase, or maintenance agreement.

*Examples: Computers, tablets, servers, annual licensing agreements, custom or off the shelf software, technology consulting.*

## **Determining the Cost**

Once a need has been defined, the estimated cost of the goods and/or services will generally determine what competitive selection process you will need to follow. Estimated costs for competitive bidding purposes must include:

- All construction related work (but not engineering/architectural design fees, as all A&E must be selected based on qualifications before cost is negotiated);
- All phases of the project;
- Any internal permitting costs of the project;
- All applicable sales and use taxes;

The cost estimate should not include donated materials, labor, supplies, etc.

#### IV. PURCHASING CODE OF ETHICS

The public must have confidence in the integrity of its government. The purpose of this Code of Ethics is to apply and give guidance to all employees so that they may conduct themselves in a manner which will be compatible with the best interest of themselves and of the City of Lake Stevens.

To instill public confidence in the award of public contracts and the expenditure of public funds, the City adopts the following code of ethics regarding public contracting:

- Actions of City employees shall be impartial and fair.
- Government decisions and policies shall be made in compliance with required procedures and within the proper channels of government structure.
- Public employment shall not be used for personal gain, and City employees shall not solicit, accept, or agree to accept any gratuity for themselves, their families or others that would or could result in personal gain. Purchasing decisions shall be made impartially, based upon the City's specifications for the contract and the responses of those bidding on the contract.
- No employee, officer, or agent may participate in the selection, award, or administration of a contract supported by a federal award if he or she has a real or apparent conflict of interest. This conflict of interest extends beyond the individual employee, officer, or agent to include that individual's immediate family members, partner, and other employers.

#### V. PROHIBITED PRACTICES

- Collusion among bidders. Agreement or collusion among bidders or prospective bidders to either buy or sell in restraint of freedom of competition, be as agreement to bid a fixed price or otherwise, shall render the bids void. Such bidders may be subject to possible exclusion from future bidding with the City when determined by the City Administrator to be in the best interest of the City.
- Disclosure of Formal Bid Contents. Disclosure in advance of opening bids of any information contained in the sealed or formal bid made or permitted by a City Officer or employee may render each bid void by the City. Notwithstanding anything herein to the contrary, bids submitted by bidders taking advantage of any information revealed contrary to this section shall at once become null and void.
- Gratuities. Except for normal business and social courtesies, or donation publicly given and accepted, the acceptance of any gift or gratuity in the form of cash, merchandise or services of significant value by an official or employee of the City from any vendor or contractor in return for a commitment to continue or initiate a purchasing agreement is prohibited
- Employee Owned Businesses. Generally, City goods or services shall not be obtained from businesses in which City officials, employees or their immediate



family members have a majority ownership interest except as allowable by RCW 42.23.030.

- Sale of Materials and Supplies. The City shall not use its purchasing power or lend its credit to acquire goods or services for any private party, nor shall the City sell its materials or supplies to City officials, employees, or the public except when said materials have been declared surplus and disposed of as provided herein
- Conflict of Interest. An employee is not to participate directly or indirectly in a procurement when they are aware of or know there is a conflict of interest.
- Solicitation of Donations. The City will not accept donations of materials or services in return for a commitment to continue or initiate a purchasing agreement
- Bid Splitting: Issuing several PO's or orders under the dollar limit or breaking a project into phases to avoid bidding is against state law. Combine the total of foreseen identical items purchased at the same time or similar items (or items that are used together) within a calendar years' time, in which the cost exceeds competition limits or when it is determined that volume discounts can be obtained by combining City wide usage (i.e. office supplies, laundry services, janitorial paper products, etc.)

All local governments in Washington are subject to the state's Conflicts of Interest statute (Chapter 42.23 RCW). Generally, municipal officers are prohibited from having financial interests in contracts made by or under the officer's supervision or for the benefit of their office. RCW 42.23.020(2) defines "municipal officer" rather broadly and basically means any city employee acting on behalf of the City. RCW 42.23.020(3) defines "contract" as including any contract, sale, lease or purchase.

Violating these rules can bring serious penalties, including monetary fines, nullification of contracts, and possible forfeiture of employment. Common sense can be a good guide in this area of the law, but sometimes gray areas can create confusion and uncertainty. If you are concerned about a specific situation, consult with Legal Counsel.

## VI. SIGNATURE AUTHORITY

**Department Heads DO NOT have the authority to sign contracts** Only the Mayor, or the City Administrator, as authorized designee, have certain delegated authority to sign contracts. See Definitions Section to determine what constitutes a "Contract".

The Mayor has ultimate signature authority for the City of Lake Stevens. As authorized designee, the City Administrator has authority to sign contracts, including Interlocal Agreements, up to \$100,000 and approve all budgeted purchases without dollar limitation.

## VII. PURCHASE ORDERS & REQUISITIONS

Requisitions and Purchase orders are preferred for encumbering funds and determining budget prior to ordering goods or services, yet are not required by the City. Only Finance and select purchasers (as limited by system security set-ups) have the authority to produce Purchase Orders for the City of Lake Stevens. ONLY Finance has the authority to commit a Purchase Order within the system. If you need a hardcopy of a PO for any dollar amount, contact Finance and we will create one and email it to you.

## VIII. GRANT & FEDERAL FUNDING

Purchases made or work performed with Federal grant funds must follow the standards identified in the Federal Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards (OMB Title 2, Subtitle A, Chapter II, Part 200. See Federal Code of Conduct and Federal Award Standards sections for summary requirements.

Please note, the federal government does not recognize Washington State's Small Works alternative procedures or thresholds. **Do not use SWR procedures or thresholds if any federal funding is included or used.**

ALL GRANTS ARE DIFFERENT, so one size does not fit all. Some grants simply require you to use your own procurement rules, while others require you to insert their contracting clauses into your contract.

**Please note that all grant applications, without limitation, must be signed by the Mayor. Additionally, all Federal grant reimbursement requests must be signed by the Mayor, designees are not permitted.**

Prior to initiating any purchases or contracts with federal funds, the responsible administrator will document that the procurement complies with the requirements of RCW 57.08.050 and Uniform Guidance (note: the most restrictive procurement method will be used whether it be federal, state, or local law). A copy of the documentation shall be retained in the department files.

## IX. INSURANCE/LICENSES/PREVAILING WAGES

When hiring anybody to do anything for the City, there are FOUR requirements that need to be met.

### 1. Certificates of Insurance

Before any contractor is allowed to work on City property (no matter the dollar amount of the work), contact City Clerk or Risk Management to determine if a Certificate of Insurance is required. If required, the contractor must furnish the City with a Certificate of Insurance, naming the City of Lake Stevens as primary & noncontributory **additional insureds with an additional attached endorsement.**

Certificates of Insurance are a complex issue, so please contact the City Clerk or Risk Manager to discuss Insurance Requirements and what the limits of coverage should be, according to how much risk is involved (Insurance requirements are determined by the City Risk Manager).

**2. Responsibility Criteria for Contractors:**

- Washington State Contractor's License/Federal Registration –It is unlawful for the City to hire anyone to do construction work on our property that does not have a valid State of Washington Contractor's License. You may look up a Contractor, Electrician or Plumber at: <https://fortress.wa.gov/lni/bbip/>
- Department of Revenue Business Records Database: <https://secure.dor.wa.gov/gteunauth>
- Verify Workers' comp Premium Status: <https://fortress.wa.gov/lni/crpsi/>
- Check for debarment: **State of Washington**  
<https://secure.lni.wa.gov/debarandstrike/ContractorDebarList.aspx>

**FEDERAL CONTRACTS - Federal Debarment:**

It is unlawful to hire any firm to do business with the City that is not registered and in good standing with the US Government. You can check the status of an entity so see if they have been debarred at <https://www.sam.gov/portal/SAM/##11>. Print out the resulting page (even if no records were found) and file it with your paperwork for audit. Please contact Finance if assistance is needed.

**3. City of Lake Stevens Business License**

A City of Lake Stevens Business License is also required for any business working inside the City limits. The vendor may contact the Department of Revenue at [www.dor.wa.gov](http://www.dor.wa.gov)

**4. Prevailing Wage Requirements**

Chapter 39.12 RCW is the **Washington State Public Works Act**, also known as the Prevailing Wage Law. This law requires that workers be paid certain hourly wages for all public work and public service maintenance contracts, no matter what the dollar amount!

This Prevailing Wage law was enacted to protect the employees of contractors performing public works construction/maintenance from substandard earnings, and to preserve local wage standards.

The Department of Labor and Industries administers the law; the Attorney General prosecutes violators; and the State Auditor ascertains if our policies, practices and procedures meet the requirements of the law.

**Owner/Operators** that do not have any employees do not need to pay themselves prevailing wages, however, they do still need to file Intentions and Affidavits with the Department of Labor and Industries and list in section 3 of the form that they are Owner/Operator.

Any worker, laborer or mechanic performing public work must be paid prevailing wages. It does not usually apply to work that is clerical, executive, administrative or professional (grant funded projects may be an exception).

## X. CONTROLLED COMMODITIES

The following items require approval from designated people. They are:

- Computers and related equipment, cell phones, fax machines, printers, scanners and copiers, software or systems - **IT Manager**.
- Anything Technology Services is requested or required to install, connect, service, maintain or support – **IT Manager**

### New Procurement - Technology

The purchasing of hardware, software, licensing, and technical services carries a set of unique requirements, risks, and challenges.

Types of technology (IT) purchases:

Purchase Type	Definition	Taxable
Hardware	Purchase of computer hardware components.	Yes
Software- Off the Shelf w/Installation	Purchase of off-the-shelf software including installation. See <u>RCW 39.04.270</u>	Software – Yes Installation - No
Software – Customized	Purchase of software with programming and customization. See <u>RCW 39.04.270</u>	No
Annual Maintenance Agreements	Agreement to maintain City systems	Yes
Hosted Software (SaaS)	IT services and software provided in a hosted, or cloud, environment.	Varies
Technical/Professional Services	Professional services in support of hardware, software, and networks	No

### Telecommunications and Data Processing

When purchasing telecommunications and data processing (computer) equipment or software costing above \$15,000, the City may follow a “competitive negotiation” process as an alternative to the bid process. RCW 39.04.270(3) allows purchases through use of an alternative competitive negotiation process requiring, at a minimum, the following steps:

- A request for proposals (RFP) must be published in the newspaper of general circulation at least 13 days before the last date on which the proposals will be received.

- The RFP must identify significant evaluation factors, including price, and their relative importance.
- The City must provide reasonable procedures for technical evaluation of the proposals, identification of qualified sources, and selection for awarding the contract.
- The award must be made to the qualified bidder whose proposal is “most advantageous” to the City. The City may reject all proposals for good cause and request new proposals.

### **Technology Software & Services – Competitive Process**

Technology Systems and Services Purchases include any technology hardware or software system purchase or maintenance agreement.

### **Hardware/Software Annual Maintenance Agreements**

There are two types of annual maintenance agreements:

#### *Sole Provider*

When annual maintenance of a City system is performed by the sole proprietor/vendor of that hardware/software, and there are no other maintenance providers available, a competitive process is not reasonable. For these situations, annual maintenance agreements are treated as standalone agreements (costs are not aggregated to the original purchase agreements).

If the first year of annual maintenance costs are included in the original purchase, the costs should be aggregated together, because we would not be paying for the annual maintenance without the purchase of the software. The reference to the annual maintenance costs should be included in the Council Agenda when Council approval is required.

#### *Multiple Providers*

When there are multiple maintenance providers available for a particular system, and competition clearly exists for the service, a quote or RFP process may be required depending on the dollar amount.

### **SaaS (Software as a Service) and Hosted Software Agreements**

SaaS (Software as a Service) and Hosted Software agreements are IT services and software provided to the City in a hosted, or cloud environment, versus provided on the City’s own computer infrastructure (e.g. servers and networks).

Because City data may be handled, accessed, or stored by the SaaS application provider, the security of this data is very important. It is imperative that IT be contacted prior to purchasing

any SaaS product. In addition, these agreements may result in a long term solution for the City and a competitive process may be required regardless of initial cost.

When the department receives an invoice for annual (or periodic) payment, the invoice(s) will be processed through the typical invoice approval/process.

SaaS agreements are treated the same as other standard contract agreements.

## XI. PURCHASE OF MATERIALS, SUPPLIES, EQUIPMENT

### Unrelated to Services, A&E or Construction/Public Work

It is the Department Heads responsibility to appoint who shall make purchases for their department on the City's behalf under the respective quote limits.

Only authorized purchases used to conduct City business, consistent with the City priorities and state and local laws that are within predetermined budgets, are allowed.

**THRESHOLDS – (per calendar year for one or more identical, similar or like items, and items used in conjunction with one another):**

PURCHASING		
\$ -0- to \$14,999	Competition is not required. Department is encouraged to determine price is fair and reasonable and document in department files.	Staff may approve purchases up to \$1,000; Department Directors may approve purchases up to \$49,999
\$15,000 to \$150,000	3 Documented Quotes <i>Phone quotes are acceptable up to \$35,000. Written quotes are required over \$35,000.</i>	Department Directors may approve purchases up to \$49,999; City Administrator/Mayor may approve all purchases
Over \$150,000	Formal Bid or RFP <i>Sealed bids may be required over \$150,000</i>	City Administrator/Mayor may approve purchases
Council approves purchases through the expenditure authorization process. City Council pre-approval is not required for <i>budgeted</i> purchases at any dollar amount. Department Directors are <b><u>required</u></b> to notify City Council of all purchases made above \$10,000 <b>at the next Regular City Council meeting, via staff report, as part of the Department Report, or by other acceptable means.</b>		

All dollar limits **include** freight, handling, and set-up cost, plus appropriate sales tax. If there will be a trade-in, the dollar limit is of the gross purchase, not the net purchase after trade-in.

**Local Business Open Accounts:** The City may establish open accounts at local businesses, and purchases on these accounts may be made only by authorized City employees.

**A. HOW TO OBTAIN A VENDOR NUMBER**

Vendor numbers are assigned through the City's accounting software. Vendors must be in the system prior to making purchases. To create a new vendor, you must provide Finance with the vendor's completed W9. If the vendor is already in the system or is a City employee or a Board or Commission member, a W9 is not needed.

**B. PAYMENTS**

Specify where the vendor needs to send an invoice at time of the order. Utilize the city's mailing address or for electronic invoices, use the city's specified "invoicing" email address.

**All questions regarding payments should be directed to the Finance Department's Accounts Payable staff.**

**CITY CREDIT CARDS PURCHASES:**

- **All procurement policies still apply**
- Cash advances are prohibited.
- Expenditures paid with a City credit card shall be made in the amount of actual expenditures.
- The Finance Director or designee shall serve as the custodian of the City's credit cards.
- Employee's not assigned a credit card and desiring to utilize a City credit card shall request the card through their Department Director. The Department Director shall request an additional account for the employee through the Finance Director.
- Any employee using the City's credit card to make a City purchase shall submit receipts for said purchases to the Finance Department the next business day that the employee is back in the office.
- **In no event, shall the City's credit card be used for the acquisition of alcohol or personal goods or services of any kind.**

**PCARD (VISA):** A PCard is an alternative way to make a payment, the use of which may be authorized by Finance. All procurement policies still apply.

**C. TRAVEL & REIMBURSEMENT POLICY: See - PERSONNEL RULES AND POLICIES**

**D. PROCEDURE TO OBTAIN QUOTES (\$15,000 to \$150,000):**

Department personnel may obtain phone quotes up to \$35,000. Written quotes are required above \$35,000.

- Department contacts three vendors for quotations. Be sure technical information defines acceptable quality and insure vendors are quoting on equal and comparable items. All vendors must be provided the same information. If one vendor offers an acceptable alternative, **new quotes must be requested, using the alternate specifications.**
- The City will not pay for any technical information from the vendor. If the information is to be shared with other vendors, it must be stated so up front. If you use a vendor's technical information without their approval, you may find yourself in a legal tangle.
- On-site demonstrations or delivery of preview/trial merchandise does not constitute a purchase. Competition may still be required.
- Document Quotes: Obtain freight pricing (FOB Destination), if not indicated by vendor. Include vendor contact information in case we need to get a hold of them.
- Vendor selection is made based on the recommendation of the requesting department personnel, considering price, quality and product availability.
- Quote documentation is attached to purchase order or invoice and filed in Finance for auditing and document retention.

**E. PROCEDURE FOR FORMAL BIDS or RFP's - Over \$150,000:**

Bids/RFP's are required whenever the cost of materials, supplies, equipment or *ordinary* services exceeds \$150,000.

Responsibilities for the Bidding/RFP process are that of the Department. The responsibilities are as follows:

- Determine the need.
- Notify the Finance Department regarding any budget transfers to cover funding.
- Create technical specifications, bid package, and check for legalities.
- Arrange pre-bid conference, if necessary to invite contractors to discuss bid requirements.
- Advertise the Bid
- Distribute bid packages to vendors and maintain accurate vendor records.
- *If Bids are Sealed: Conduct bid opening with Clerk.*



- *If not Sealed: Document bids and do not reveal the contents to other bidders until awarded.*
- Tabulate bids and verify responsiveness.
- **AWARD:** After bids have been opened, recommend award. Bid must be awarded for the most responsive bid from a responsible bidder. If recommendation for award is being made to anyone other than the low bidder, attach memo stating specific reasons why the low bid is not acceptable. RFP's are awarded to the vendor who scored the most points on predetermined criteria. Don't reveal status of your recommendation to the vendor.

## F. COOPERATIVE PURCHASING

Bids and/or contracts by municipalities and cooperative organizations can be used to acquire goods and services. When using a cooperative option we are, in essence, "piggybacking" off of the original entity's competitive process thus eliminating the need to perform our own.

Examples include the Washington State Department of General Administration and the Department of Information Services (DIS), which both offer existing contracts for goods and services that the City may use. The City pays an annual fee to the state for the ability to piggyback off of their contracts and encourages the use of these contracts whenever possible.

Other cooperating purchase options include, but are not limited to, Sourcewell (formally National Joint Powers Alliance (NJPA)), U.S. Communities, King County Cooperative, and Interlocal agreements with other governmental agencies.

### The Competitive Process

#	Task	Action
1	Confirm the City has a signed Cooperative Purchasing Agreement/Interlocal Agreement with the municipality or agency.	Work with Finance. Execute agreement if necessary.
2	Review cooperative contract/ website for piggyback requirements	Work with cooperative agent.
3	Contact vendor to verify if vendor will honor the cooperative organization's contract pricing	Obtain details regarding all aspects of purchasing including invoicing, availability, delivery, etc.
4	Contact vendor to place order	Place order and process invoice for payment.
5	Compile all bid, award, contract documents and save electronically for future audit	Documentation of compliance with State and City procurement policies

### Completing the Purchase

- State contracts include standard terms and conditions. When piggybacking off of a state contract, all of the state contract terms and conditions apply.
- Occasionally, the City may opt to change the state's contract requirements which will require the City to utilize its own Goods & Services Contract identifying those requirements that are unique to the City's purchase.

### Approval Process

The use of a cooperative purchase allows the City to utilize another entity's competitive process, it does not change the authorized levels for procurement and approvals. The procurement and approval process will be determined by the purchase type, as defined in this manual.

**POOR PERFORMANCE?** When things go wrong, don't remain silent! Remember to **DOCUMENT!!** Even if you have had on-going problems with a vendor, we will have a very hard time canceling a contract or not awarding them a new contract, unless we have proper documentation of the problem.

## XII. PURCHASE OF PUBLIC WORK CONSTRUCTION ACTIVITIES

Public Work is all work, construction, alteration, repair, maintenance or improvement that the City has performed or contracted. It includes, but is not limited to:

- Demolition
- Remodeling
- Renovation
- Painting
- Road Construction
- Utilities Construction
- Offsite prefabrication of ducts, liners & steel products for Public Work
- Production & delivery of gravel, rock, concrete & asphalt (to a construction site)

Dollar thresholds of when competition is required are summarized below. It is the Department Heads responsibility to appoint who shall order work for their department on the City behalf under the respective quote limits.

## THRESHOLDS FOR PUBLIC WORKS:

Public Works		
\$ -0- to \$9,999	Competition not required. Prevailing Wage and Insurance still required!	Awarded/Approved by Mayor or City Administrator
\$10,000 to \$34,999	Utilize "Limited Public Work" process as described in <a href="#">RCW 39.04.155</a> (3). (See procedure below)	Awarded/Approved by Mayor or City Administrator
\$35,000 to \$299,999	Utilize " <a href="#">Small Works Roster</a> " process as described in <a href="#">RCW 39.04.155</a> .  <i>If not using SWR, formal competitive bidding is required for Single Craft over \$40,000, and for Multi Craft over \$65,000</i>	Up to \$100,000 Awarded/Approved by Mayor or City Administrator; More than \$100,000 City Council must award/approve
Over \$300,000	Formal competitive bidding is required as described in <a href="#">RCW 39.04; 35.23.352</a> .	Awarded/Approved by City Council

### A. CITY LABOR FORCE

The City may use Public Work employees to perform and execute all projects not exceeding sixty-five thousand dollars (\$65,000) if more than one craft or trade is involved, or not exceeding forty thousand dollars (\$40,000) if a single craft or trade is involved. These projects include equipment, supplies, and labor costs. All projects conducted with City Labor Force must be documented in a list format for future audit.

### B. ON-CALL/UNIT PRICED CONTRACTS

On Call (Work Order) Contracts (OC/WO Contracts) are bid and awarded without a specific public works project or scope of work in mind, but rather are categorized around general types of anticipated work or trades. When a specific scope of work is identified, individual work (or task) orders are authorized based on either a not to exceed time and materials basis or on a negotiated lump sum amount, using the unit prices bid by the contractor and the contractor proceeds to complete the work. Most typically, OC/WO Contracts are used for repair, renovation, and maintenance, of public facilities, all of which are included in the definition of public works in RCW 39.04.010. These contracts are typically on an annual basis, with optional renewals, (up to the maximum contract amount).

Bidding and approval thresholds apply toward the total "master" on-call contract amount. The City Administrator approves individual task/work orders up to \$100,000 with notification to City Council via City Council Agenda Packet. Task/work orders exceeding \$100,000 must be approved by City Council.

- OC/WO contracts should be limited to a total dollar amount over the life of the contract to an amount less than an agency's bid limits when possible.

- Requests for bids under an OC/WC contract should incorporate unit price and lump sum price bid items as much as is practical.
- Award of an OC/WO contract should be to a responsible contractor with the lowest total price based on the sum of the unit price and lump sum bid item extensions.
- Task orders (work orders) shall be completed by the Department for each new project.
- All other public work requirements apply based on contract amount and on an individual task order basis.
- If the original unit/lump sum bid items will not cover work to be accomplished, new line items may be added by change orders or the work may be accomplished under a time and materials work order if the total contract amount will not be exceeded.

### **c. SMALL WORKS ROSTER**

RCW 39.04 provides small works roster provisions to award contracts for construction, building, renovation, remodeling, alteration, repair, or improvement of real property. The Small Works Roster may be used for public works projects below three hundred thousand dollars (\$300,000.00).

The Small Works Roster maintained by the Municipal Research and Services Center ([www.mrscrosters.org](http://www.mrscrosters.org)) allows the City to evaluate the professional qualifications on file when a proposed project is scheduled. Use of the Small Works Roster allows the City to preclude the advertisement requirements of the formal competitive process.

Vendors/contractors selected from the Small Works Roster are not relieved from City's contract requirements.

- For contracts \$150,000 - \$300,000: If the City solicits bids from less than all the contractors listed under the appropriate category on the small works roster the City will notify the remaining contractors that quotations on the work are being sought. The City may notify the remaining contractors using any of the following options: publishing notice in a legal newspaper in general circulation in the area where the work is to be done; mailing a notice; or sending a notice by facsimile or other electronic means.
- For contracts < \$150,000: Proposals will be solicited from a minimum of five (5) qualified contractors in a specific category on the small work roster. If the roster includes less than five (5) qualified contractors, then all contractors for the category will be solicited.
- For limited public works contracts < \$35,000, electronic or written quotations will be solicited from a minimum of three (3) contractors on the small work roster.
- The contract must be awarded to the contractor submitting the lowest responsive quote.
- Contract award and purchases over one hundred thousand dollars (\$100,000) requires approval and award of the City Council.

**D. PROCEDURE FOR “LIMITED PUBLIC WORK” per RCW 39.04.155(3)  
- \$10,000 to \$34,999**

For Limited Public Work (\$10K to \$34,999K), contractors must be given a packet of information ahead of time with requirements about Responsible Bidder’s Criteria, Prevailing wage, Insurance, and some general protective clauses. (See Project Coordinator for Packet)

- Department utilizes Small Works Roster at [www.mrscrosters.org](http://www.mrscrosters.org) to obtain vendor list (obtain sign in and password from Finance).
- Department solicits at least 3 informal bids (can notify all on roster).
- No advertisement required.
- Bid Bonds Optional.
- Payment/Performance Bonds Can Be Waived.
- Retainage Can Be Waived.
- Prevailing Wage Intents/Affidavits required.
- Insurance required.

**E. PROCEDURE FOR COMPETITIVE BIDS - Over \$300,000 (Also applies to Single Craft projects over \$40,000 and Multiple Craft projects over \$65,000 if alternative SWR process is not used)**

- Authorization Request. Request for authorization from City Administrator to call for bids is required except for items identified in the current approved budget. In special circumstances, the City Administrator may waive portions of the bid procedures. The “special circumstances” are limited to items where publication of bids may impinge on the safety of staff or City assets (ie: Drug Task Force vehicles).
- Publication of Notice. After authorization is received, the requesting department director or designee will publish the Call for Bids in the official newspaper or a newspaper of general circulation most likely to bring responsive bids at least fourteen (14) days prior to bid submittal deadline.
- Notice Contents. Call for bids should contain a summary of the project and a link to the full definite specifications and procedures for bidders to use to estimate their bids.
- Bid Submittal and Opening. Bids are submitted to the City Clerk, for date stamp and processing. Bid opening will be announced to the Mayor, City Administrator and department heads by department head or designee responsible for the project.
- Award of Bid. Except as otherwise provided herein, the City shall accept the bid of the lowest responsive bidder. Bid awards for contracts and purchases over one hundred thousand dollars (\$100,000) require award by the City Council.
- Award to other than Low Bidder. When the bid award is not given to the lowest bidder, a statement of the reasons for not selecting the lowest bid shall be prepared by the responsible department head for the bid and submitted to the City Administrator and filed with the records relating to the transaction.

- **Rejection of Bids.** The City Administrator or designee may reject without cause any and all bids and may re-advertise for bids pursuant to the procedures herein described. If no bids are received, the City Administrator or designee may negotiate the purchase with a vendor at the lowest possible cost. If the negotiate bid exceeds the current approved budget, the bid will be brought before the City Council for approval of award.
- **Performance Bonds.** On public works projects a performance bond in an amount as determined necessary by the assigned responsible department head to protect the best interests of the City and to assure compliance of the contract.
- **Retainage:** [RCW 60.28.011](#) requires agencies to withhold up to 5% of the value of a public improvement contract, not including sales tax according to Department of Revenue [ETA 3024.2013](#), as retainage until the project is completed and the contract is accepted. This provides a financial incentive for contractors to finish a project, as well as a limited amount of financial protection for the involved parties.
- **Retainage Bonds:** Instead of having retainage withheld from the contract payments, a contractor may opt to submit a retainage bond instead covering any or all of the amount. Retainage Bonds are recommended for City of Lake Stevens projects.

**F. DEPARTMENT RESPONSIBILITIES TO ENSURE PREVAILING WAGE LAW IS FOLLOWED:**

- ***Prior to Getting an Estimate or a Quote*** – Notify vendor that they are to pay prevailing wages. More information may be obtained by the vendor from the Department of Labor and Industries). The list can also be obtained online at: [www.lni.wa.gov/TradesLicensing/default.asp](http://www.lni.wa.gov/TradesLicensing/default.asp)
- ***After a Vendor has been selected*** – The vendor is required to file a “Statement of Intent to Pay Prevailing Wages” with the Department of Labor and Industries PRIOR TO STARTING WORK. Most vendors file online at: <http://www.lni.wa.gov/TradesLicensing/PrevWage/default.asp>

There is a fee that the Vendor will have to Pay L & I, and the completed Intents are also available online. **Note:** The vendor must insert the City Contract number in the contract number box on the Statement form.

- ***After the work is completed*** – The vendor must also file an “Affidavit of Wages Paid” with the Department of Labor and Industries. There is another fee that the Vendor will have to pay to L & I (**L & I has waived this for work <\$750.00**), and completed Affidavits are also available online. **Note:** The vendor must insert the City Contract number in the contract number box on the Statement form.

Final Payment must not be released until certified intents and affidavits have been received (and for contracts over \$35,000, Notice of Project Completion has been submitted to DOR, ESD, and L&I through Secure Access Washington (or

other acceptable means) and releases have been received from all three agencies. Call Finance if you need help looking them up.

**NOTE: PREVAILING WAGES FOR PROJECTS UNDER \$2,500**

The City of Lake Stevens has the option to administer the intents and affidavits ourselves, for projects under \$2,500 (including tax). **There is no filing fee to the vendor.** All combined intent and affidavit forms for the City must be submitted within 30 days by the Project Administrator.

**G. CHANGE ORDERS**

A purchaser's written authority to the supplier to modify or add to a purchase/project. Change orders are created by Department/Project designee.

The City Administrator may authorize individual change order increases up to 20% or \$100,000, whichever is less, over the amount of the originally approved contract. Change order must not increase total contract amount to more than the approved budget without Council approval. Change orders more than 20%/\$100,000, and/or those that cause the project to go over the budgeted amount, must receive pre-approval from City Council. Should a change order be required in the field, the Public Works staff person acting as project manager, may authorize the change if necessary. It must then be dually signed by the City Administrator in a timely manner. If the change order would cause the contract to go over budget or is more than a 20%/\$100,000 increase, the request must be pre-approved by Council and an amended contract may be necessary.

**H. FINAL PROJECT ACCEPTANCE**

The City Administrator is authorized to formally accept all projects as Final. The City Administrator may discretionarily defer any final project acceptance to City Council for approval.

### **XIII. PURCHASE OF ARCHITECT AND ENGINEERING SERVICES**

Architectural and Engineering consultants are initially selected based upon their qualifications, rather than price (see RCW 39.80.050). The City will negotiate a contract with the most qualified firm at a price which the City determines is fair and reasonable. In making its determination, the City shall take into account the estimated value of the services to be rendered as well as the scope, complexity, and professional nature. If the City is unable to negotiate a satisfactory contract with the firm selected at a price the City determines to be fair and reasonable, negotiations shall be terminated and the City shall begin negotiations with the next highest qualified firm. These services are to be acquired under the authority and procedures outlined in chapter RCW 39.80. Procedures set forth in RCW 39.80 shall be followed for contracts for architectural and engineering services.

The City may use MRSC Consultant Roster for architectural, engineering, and surveying services.

## THRESHOLDS FOR ARCHITECT AND ENGINEERING SERVICES:

Architect and Engineering Services	
\$ - 0 - to \$100,000	Awarded/Approved by Mayor or City Administrator
Over \$100,000	Awarded/Approved by City Council

## XIV. PURCHASE OF ORDINARY OR “PURCHASED” SERVICES

“Ordinary/Purchased Services” are those provided by vendors for routine, necessary and continuing functions of a local agency, mostly relating to physical activities. **There are lots of ordinary services that require prevailing wages - - Check with L&I.**

Repetitive, routine, or mechanical in nature - following established or standardized procedures

- Contribute to the day-to-day business operations
- Completion of assigned and specific tasks,
- Decision-making is routine or perfunctory in nature.
- May require payment of prevailing wages

### Examples include:

- Delivery/courier service
- Building maintenance (janitorial)
- Landscaping
- Herbicide application service
- Vehicle inspection, lubricating and repair services
- HVAC system maintenance service (without repair)

## THRESHOLDS FOR ORDINARY OR “PURCHASED” SERVICES:

PURCHASE OF ORDINARY OR “PURCHASED” SERVICES		
\$ -0- to \$14,999	Competition is not required. Department is encouraged to determine price is fair and reasonable and document in department files.	City Administrator/Mayor award and approve
\$15,000 to \$100,000	3 Written Quotes	City Administrator/Mayor award and approve
Over \$100,000	Formal RFP -May be Sealed or Not-	City Council award and approve
Department Directors are <b><u>required</u></b> to notify City Council of all services purchased over \$10,000 <b>at the next Regular City Council meeting, via staff report, as part of the Department Report, or by other acceptable means.</b>		



## XV. PURCHASE OF PROFESSIONAL SERVICES

“Professional Service Contract” means an agreement with an independent contractor for providing professional services to the City.

There is not a state law requiring competition when procuring Professional Service Contracts, however it is at the City Council’s discretion to direct. On-call contracting may be used for all type of professional services. A minimum of three quotes must be solicited for Professional Services estimated between \$15,000 and \$100,000. An RFP/RFQ process is required when the total cost in a calendar years’ time exceeds \$100,000. The City may use MRSC Consultant Roster for professional services.

**The Risk Manager and Attorney must review and the City Administrator or Mayor must sign all Professional Service Contracts, regardless of dollar amount in accordance with the previously stated Authorization levels set forth below.**

**Examples include:**

- Legal Services
- Management Consulting
- Accounting and Auditing
- Real Estate Broker

### THRESHOLDS FOR PROFESSIONAL SERVICES:

PURCHASE OF PROFESSIONAL SERVICES		
\$ -0- to \$14,999	Competition is not required. Department is encouraged to determine price is fair and reasonable and document in department files.	City Administrator/Mayor award and approve
\$15,000 to \$100,000	3 Written Quotes	City Administrator/Mayor award and approve
Over \$100,000	Formal RFP -May be Sealed or Not-	City Council award and approve
Department Directors are <b><u>required</u></b> to notify City Council of all services purchased over \$10,000 <b>at the next Regular City Council meeting, via staff report, as part of the Department Report, or by other acceptable means.</b>		

## XVI. PURCHASE OF PERSONAL SERVICES

A "Personal Service Contract" is an **employment contract** with an independent contractor for providing personal services to the City. Personal Service means hiring a consultant to provide professional or technical expertise to accomplish a specific study, project, task or other work statement according to RCW 39.29.006.

A minimum of three quotes must be solicited for Professional Services estimated between \$15,000 and \$100,000. An RFP/RFQ process is required when the total cost in a calendar years' time exceeds \$100,000. The City may use MRSC Consultant Roster for professional services.

**The Risk Manager and Attorney must review, and the City Administrator or Mayor must sign all Personal Service Contracts, regardless of dollar amount in accordance with the Authorized levels set forth below.**

**Examples include:**

- Artistic Designs
- Class Instructions for Parks Department Activities

### THRESHOLDS FOR PERSONAL SERVICES:

PURCHASE OF PERSONAL SERVICES		
\$ -0- to \$14,999	Competition is not required. Department is encouraged to determine price is fair and reasonable and document in department files.	City Administrator/Mayor award and approve
\$15,000 to \$100,000	3 Written Quotes	City Administrator/Mayor award and approve
Over \$100,000	Formal RFP -May be Sealed or Not-	City Council award and approve
Department Directors are <b><u>required</u></b> to notify City Council of all services purchased over \$10,000 <b>at the next Regular City Council meeting, via staff report, as part of the Department Report, or by other acceptable means.</b>		

## XVII. HOW TO LEASE

1. Bids are *not* required on equipment leases, however Legal must review and the City Administrator must approve all equipment leases.
  - a. Legal Review - Send to Legal for review.
  - b. Fiscal Approval - Review proposals with the Finance Dept. prior to budgeting the expense. Lease-to-own purchases are to be budgeted and accounted for as if the total expense is to be incurred when the item is purchased.

- c. Lease Approval - City Administrator must approve all Equipment Leases and may opt to send lease to Council for approval if he so desires.
- 2. A lease of property (equipment) with **option to purchase** that is valued at more than \$15,000 is subject to competitive bidding. See “purchasing” thresholds for bidding requirements.
- 3. **Lease vs. Rent:** Leasing is generally used for mid to long-term contracts. Renting is usually a short-term solution that is more casual and can be approved by the Department Head.

## XVIII. EXEMPTIONS TO COMPETITIVE BIDDING REQUIREMENTS

- **Sole Source Vendor.** Purchases which by their nature are not adapted to competitive bidding, such as items which, as to meet a specific need or criteria as determined by the City, may only be purchased from a single source, shall not be subject to the competitive bidding requirements of this policy. Purchases above the threshold requiring multiple quote or bids, from a sole source vendor require prior approval of the City Administrator or designee. Follow procedures for declaring Sole Source.
- **Repair and Ordinary Maintenance.** Purchases for ordinary maintenance, repairs, or additions to City equipment which may be more efficiently added to by a certain person or firm, shall not be subject to the competitive bidding requirements of this policy.
- **Purchasing Involving Special Facilities or Market Conditions.** The City Administrator may waive established bidding requirements if an opportunity arises to purchase favorably-priced equipment at an auction, or supplies or used goods that will be sold before the City can conduct the bid process when over bid thresholds. Written documentation of the special condition must be prepared for justification of the purchase and waiver of bidding requirements and approved by Council via Resolution.
- **Purchase of insurance or bonds**
- **Surplus Property.** The City may by agreement acquire surplus property from another government without the use of bids (RCW 39.33.010).
- **Inter-local Agreements in Letting of Contracts for Commodities or Services (Piggybacking).** RCW [39.34.030](#) permits governmental agencies to utilize other entities' contracts without going to bid. Contact Finance to determine if interlocal purchasing is feasible for your department's particular need. The following criteria must first be met:
  - There must be an Interlocal Agreement, approved by Council and/or Mayor, and signed by both parties, on file with the City Clerk.
  - It must be a current contract with interlocal language included.
  - It must have been advertised on the entity's web page and competitively bid.
  - The government entity, and the vendor, must be willing to share their contract pricing.
  - A complete copy of the contract must have been reviewed by Finance.
  - Department will set up a bid file and track as if it were our own bid process.
- **Emergency Purchases.** In the event of an emergency, the City Council, City Administrator or designee may declare an emergency situation exists, waive competitive bidding requirements, and award necessary contracts on behalf of the municipality to address the

emergency situation. If a contract is awarded without competitive bidding due to an emergency, a written finding of the existence of an emergency must be made by the governing body or designee and duly entered of record no later than two weeks following the award of the contract.

- **Real Property.** Acquisition of real property is exempt from the competitive bidding requirements of this policy. Upon approval of the City Council, the City Administrator may proceed to acquire real property through negotiation. Such negotiations shall be based upon an independent fee appraisal of the property. The City shall not pay more than fair market value for real property without prior Council approval. If the property is acquired in part or in whole with Federal Funds, such acquisition shall additionally comply with the Uniform Real Property Acquisition and Relocation Assistance Act of 1970, as amended.

## XIX. HOW TO DECLARE A SOLE SOURCE (or Single Source):

**FINANCE DEPARTMENT INVOLVEMENT REQUIRED.** On a case by case basis, the bid or quote requirement may be waived and a sole/single source purchase approved, in accordance with RCW 39.04.280. There should be careful deliberation before going to a sole/single source as this type of purchase eliminates competition and tends to drive prices up.

### **Authority to Approve Sole/Single Source Purchases**

City Administrator or Mayor..... \$15,000 to \$150,000

City Council..... Over \$150,000

A **sole** source is where there is only ONE supplier of the product or service. A **single** source is where the vendor is “one vendor amongst others”, when other competitive sources may be available.

A sole/single source purchase may be approved if one or more of the following conditions are met:

- **Standardization or compatibility** to existing City standard or to existing equipment, inventory, systems, data, programs or service. Must be evaluated for cost benefit and/or safety.
- **Licensed or patented** product with only one dealer (and the license or patent is paramount to your procurement).
- **Only** authorized Service Provider, Repair and/or Warranty Services, e.g. warranty may be negated if you let someone else work on it.
- **Unique design:** Requires unique features that are essential, aesthetic requirements, or not practical to match to existing design or equipment. Document the unique specifications that are needed, which will drive the research in finding a product that fits the specific needs of your department.
- **Special Market conditions:** Can be used to purchase items at auction (RCW 39.30.045) or other items that are offered at a very favorable price and will

be sold before an entity will have a chance to complete the bidding process (e.g. a flood is coming and you must obtain sandbags immediately) or perhaps funds must be expended immediately, or there is a critical delivery date.

**NOTE:** Any sole/single source utilizing **Federal Grant money** must also include 1) Written responsibility determination for the successful contractor and; 2) Basis for contract price (**Cost Price Analysis**). Each Grantee must evaluate and state its justification for the contract cost or price.

## XX. DISPOSAL OF SURPLUS PROPERTY (Reference LSMC 2.92)

Upon recommendation of a Department Head, property with an estimated value under \$15,000, may be declared surplus by the Mayor or City Administrator as designee, or by City Council for property with an estimated value of \$15,000 or greater, upon one or more of the following criteria:

- The City has or soon will have no foreseen practical and efficient use for the property.
- The purpose served by the property can be accomplished by use of a better, more effective or more efficient alternative.
- The purpose serviced by the property no longer exists as determined by a change of policy evidenced by an ordinance or resolution of the City Council.
- The property is damaged, worn out, otherwise inoperable and the cost of repairing the same is unwise or impractical
- If the value of the property, the City is seeking to surplus is greater than \$50,000, then pursuant to RCW 39.33.020 a public hearing is required.
- Additionally, RCW 35.94.040 requires that a public hearing be held if property (real estate or personal property) originally purchased for utility purposes is no longer needed for that use and the city desires to lease, sell or convey the property. A hearing is required regardless of the value of the property.

## XXI. TRADE-INS

Trade-Ins are allowed on new purchases if approved by Finance in advance. Trade-Ins must be negotiated, documented at "Fair Market Value" by the Department, and declared surplus ahead of time (through Finance) by the Mayor, or City Administrator as designee, if under \$15,000 and City Council if over \$15,000.

Fair Market Value can be obtained by finding comparable units that have been sold at online auctions, e.g. [www.publicsurplus.com](http://www.publicsurplus.com), [www.Ebay.com](http://www.Ebay.com), [www.rockanddirt.com](http://www.rockanddirt.com), [www.ironplanet.com](http://www.ironplanet.com) or other online sources such as Edmonds.com, Kelley Blue Book, or NADA. [www.govdeals.com](http://www.govdeals.com) is a good place to find auction results for comparable products.

## XXII. FEDERAL CODE OF CONDUCT

**PURPOSE** -- The purpose of the Code of Conduct is to ensure the efficient, fair and professional administration of federal grant funds in compliance with 2 CFR §200.112, 2 CFR §200.318 and other applicable federal and state standards, regulations, and laws.

**APPLICATION** -- This Code of Conduct applies to all elected officials, employees or agents of the City of Lake Stevens engaged in the award or administration of contracts supported by federal grant funds

**REQUIREMENTS** -- No elected official, employee or agent of the City of Lake Stevens shall participate in the selection, award or administration of a contract supported by federal grant funds if a conflict of interest, real or apparent, would be involved. Such a conflict would arise when any of the following has a financial or other interest in the firm selected for award:

- The City employee, elected official, or agent; or
- Any member of their immediate family; or
- Their partner; or
- An organization which employs, or is about to employ any of the above.

The City of Lake Stevens's elected officials, employees or agents shall neither solicit nor accept gratuities, favors, or anything of monetary value from contractors, potential contractors or subcontractors.

**REMEDIES** -- To the extent permitted by federal, state or local laws or regulations, violation of these standards may cause penalties, sanctions or other disciplinary actions to be taken against the City of Lake Stevens's elected officials, employees or agents, or the contractors, potential contractors, subcontractors or their agents. Any potential conflict of interest will be disclosed in writing to the Federal awarding agency or pass-through entity in accordance with applicable Federal awarding agency policy.

## XXIII. FEDERAL AWARD STANDARDS

### **PURPOSE**

Establish and maintain internal controls that provide reasonable assurance that Federal awards are being managed in compliance with all Federal regulations and with the terms and conditions of the award. The City of Lake Stevens will follow the Uniform Guidance, the Local Agency Guidelines (LAG) distributed by The Washington State Department of Transportation (WSDOT), Government Accountability Office Standards for Internal Control in the Federal Government (the Green Book) and the Committee of Sponsoring Organizations of the Treadway Commission's (COSO) Internal Control – Integrated Framework Principles.

## **INTERNAL CONTROLS**

The City of Lake Stevens will maintain effective internal control over the Federal award providing reasonable assurance that the City of Lake Stevens is managing the Federal award in compliance with Federal statutes, regulations, and the terms and conditions of the Federal award.

- Take prompt action when instances of noncompliance are identified including noncompliance identified in audit findings.
- Take reasonable measures to safeguard protected personally identifiable information and other information the Federal awarding agency or pass-through entity designates as sensitive.

## **CERTIFICATION**

To assure that expenditures are proper and in accordance with the terms and conditions of the Federal award and approved project budgets, the annual and final fiscal reports or vouchers requesting payment under the agreements must include a certification, signed by an official who is authorized to legally bind the non-Federal entity, which reads as follows: "By signing this report, I certify to the best of my knowledge and belief that the report is true, complete, and accurate, and the expenditures, disbursements and cash receipts are for the purposes and objectives set forth in the terms and conditions of the Federal award. I am aware that any false, fictitious, or fraudulent information, or the omission of any material fact, may subject me to criminal, civil or administrative penalties for fraud, false statements, false claims or otherwise."

## **ADVANCE PAYMENTS AND REIMBURSEMENTS**

Payment methods must minimize the time elapsing between the transfer of funds from the United States Treasury or the pass-through entity and the disbursement by the City of Lake Stevens whether the payment is made by electronic funds transfer, or issuance or redemption of checks, warrants, or payment by other means.

- Advanced payments must be limited to the minimum amounts needed and be timed to be in accordance with the actual, immediate cash requirements of the City of Lake Stevens to carry out the purpose of the approved program or project. Any advanced payments must be consolidated to cover anticipated cash needs.
- The City of Lake Stevens shall minimize the time elapsed between receipt of federal aid funds and subsequent payment of incurred costs.

## **ALLOWABLE COSTS**

Federal awards will meet the following general criteria in order to be allowable except where otherwise authorized by statute;

- Be necessary and reasonable for the performance of the Federal award;
- Conform to any limitations or exclusions set forth in these principles or in the Federal award as to types or amount of cost items;
- Be consistent with policies and procedures that apply uniformly to both Federally- financed and other activities of the City of Lake Stevens;

- Be accorded consistent treatment. A cost may not be assigned to a Federal award as a direct cost if any other cost incurred for the same purpose in like circumstances has been allocated to the Federal award as an indirect cost.;
- Not be included as cost or used to meet cost sharing or matching requirements of any other Federally-financed program in either the current or a prior period;
- Be adequately documented.

## **PROCUREMENT**

When procuring property and services under a Federal award, the City of Lake Stevens will follow 2 CFR §200.318 General procurement standards through §200.326 Contract provisions or City of Lake Stevens purchasing procedures whichever is more restrictive.

Contracts for more than the simplified acquisition threshold currently set at \$150,000 must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.

Contracts and sub-grants of amounts in excess of \$150,000 requires that the City of Lake Stevens will comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act and the Federal Water Pollution Control Act.

Verify and document that vendors are not suspended or debarred from doing business with the Federal government. Federal guidelines require grant recipients to ensure vendors with contracts or purchases exceeding \$25,000 are not suspended or debarred from participating in federal programs. All City purchases and contracts issued from federal resources that exceed \$25,000 are subject to these guidelines.

Before initiating any purchases or contracts with federal funds that exceed, or **may potentially exceed \$25,000 within the fiscal year**, the responsible administrator shall verify that the vendor is not listed on the System for Award Management (SAM) Exclusion list by checking at <https://www.sam.gov/portal/SAM/##11>. If the vendor is listed on the EPLS the administrator shall not complete the purchase or contract with the vendor. If the EPLS shows no records for the vendor, print the screen, retain a copy in the department files and proceed to process a requisition.

**NOTE: Washington State Department of Enterprise Services (DES) does not check for suspension or debarment on State bid contracts.**

## **SINGLE AUDIT ACT**

The City of Lake Stevens, as a recipient of Federal funds, shall adhere to the Federal regulations outlined in 2 CFR §200.501 as well as all applicable Federal and State statutes and regulations.

## **CLOSURE**

A project agreement end date will be established in accordance with 2 CFR §200.309. Any costs incurred after the project agreement end date are not eligible for Federal reimbursement.



The following table outlines procurement requirements when using Federal funds.

Procurement Method	Goods	Services
Micro-Purchase – No required quotes. However, must consider price as reasonable, and, to the extent practical, distribute equitably among suppliers.	\$14,999 or less \$9,999 or less (PW)  <b>Must use more restrictive \$3,000 federal threshold (\$2,000 in the case of acquisition for construction subject to the Davis-Bacon Act)</b>	\$14,999 or less \$9,999 or less (PW)  <b>Must use more restrictive \$3,000 federal threshold (\$2,000 in the case of acquisition for construction subject to the Davis-Bacon Act)</b>
Small Purchase Procedures (Informal) – Obtain/document quotes from a reasonable number of qualified sources (at least three).	\$10,000 - \$40,000 (Single trade) \$10,000 - \$65,000 (Multi trade) \$15,000 - \$150,000 (Non-Public works projects)  <b>Must use more restrictive City threshold instead of \$150,000 Federal threshold</b>	\$10,000 - \$40,000 (Single trade) \$10,000 - \$65,000 (Multi trade) \$15,000 - \$100,000 (Non-Public works projects)  <b>Must use more restrictive City threshold instead of \$150,000 Federal threshold</b>
Sealed Bids / Competitive Bids (Formal)	\$40,000 or more (Single trade) \$65,000 or more (Multi trade) \$150,000 or more (Non-Public works projects)  <b>Must use more restrictive City threshold instead of \$150,000 Federal threshold</b>	\$40,000 or more (Single trade) \$65,000 or more (Multi trade) \$100,000 or more (Non-Public works projects)  <b>Must use more restrictive City threshold instead of \$150,000 Federal threshold</b>
Competitive proposals	Used when conditions are not appropriate for the use of sealed bids. <ul style="list-style-type: none"> <li>• Must publicize request for proposals soliciting from an adequate number of qualified sources</li> <li>• Maintain written method for conducting technical evaluations</li> <li>• Contract must be awarded to the responsible firm whose proposal is most advantageous to the program</li> </ul>	
Non-competitive proposals	Appropriate only when: <ul style="list-style-type: none"> <li>• Available only from a single source; or</li> <li>• Public emergency; and</li> <li>• Expressly authorized by awarding or pass-through agency in response to written request from the City of Lake Stevens; or</li> <li>• After soliciting a number of sources, competition is deemed inadequate.</li> </ul>	

## XXIV. DEFINITIONS

**Adequate Appropriation Balance** -- Sufficient balance existing in the appropriation line item against which the purchase order is to be charged.

**Appropriation** -- City Council authorization to expend funds for a specific purpose

**As Is** -- A term indicating that goods offered for sale are without warranty or guarantee. The purchaser has no recourse on the seller for the quality or condition of the goods.

**Bid** -- A written proposal submitted by a bidder to furnish supplies, materials, equipment and other property in conformity with the owner's specifications and conditions included in a request for bids by the City.

**Bidding** -- Procedure used to solicit quotations on price from various prospective providers of supplies, materials, equipment, and other property.

**Budget** -- A legal planning document that forecasts the financial resources of a government and authorizes the spending of those resources for a fiscal period.

**Budget Amendment** -- A mechanism used to revise the legally binding appropriations of budgeted funds.

**Budget Adjustment** -- A mechanism for the Finance Director to transfer legal appropriations within a fund. Legal appropriations are not budgeted by line item, so City Council approval is not required. City Council must be notified of adjustments of more than \$10,000 per item.

**Capital Equipment** -- Equipment of the City having an initial value of five thousand dollars (\$5,000.00) or more and an estimate useful life or more than three years (3) year.

**Cash Discount** -- A discount offered to the City to encourage payment of an invoice on or before its due date.

**Change Order** -- A purchaser's written authority to the supplier to modify or add to a purchase/project

**Contract** -- A contract is a legally binding and enforceable agreement between two or more parties stating the terms and conditions for an exchange of something of value (usually money, goods, or services) between the parties. A contract can take many different forms, ranging from major, heavily negotiated written contracts to a simple PO or telephone order for goods or services. Legal Counsel should be contacted if there is uncertainty as to the need for a written contract and how to go about it. Only the Mayor and City Administrator, as designee, of the City of Lake Stevens have the authority to sign contracts UNLESS they have delegated their authority over to an individual via approved Resolution.

**Controlled Commodity** -- Items which may fall under the quote dollar limit that require approval from designated people, i.e. office products, communication equipment and computer equipment.

**Emergency** -- Unforeseen circumstance beyond the control of the City that (a) present a real, immediate threat to the proper performance of the essential functions; and/or (b) may result in material loss, damage to property, bodily injury, or loss of life, if prompt action is not taken.

**Expediting** -- Attempt to reduce the contractually agreed upon delivery time of a product.

**Final Project Acceptance** -- Formal acceptance that the work on a project is complete. Needed prior to completed Notice of Completion and triggers dates for release of bonds, etc.

**Ordinary Maintenance** -- The furnishing of labor, time, or effort by a contractor or vendor not performed by contract and that is performed on a regularly scheduled basis, to service, check, or replace items that are not broken; or work performed by contract that is not regularly scheduled but is required to maintain the asset so that repair does not become necessary, and not involving the delivery of any specific end product, other than reports that are incidental to the required performance

**Payment Discount** -- See Cash Discount.

**Personal Service Contract** -- An employment contract with an independent contractor for the rendering of personal services to the City. The Mayor or City Administrator, as designee, must sign all Personal Service Contracts.

**Prevailing Wage Rate** -- The rate of hourly wage, usual benefits, and overtime paid in the locality, to the majority of workers, laborers, or mechanics, in the same trade or occupation; required to be paid on all public work and public building service maintenance contracts.

**Professional Service Contract** -- An agreement with an independent contractor for the rendering of professional services to the City. The City does not provide direction to the provider. The City states a goal and objective and the provider, under his own direction, accomplishes the goal.

**Public Work** -- A project including all work, construction, alteration, repair or improvement other than ordinary maintenance executed at the cost of the City.

**Purchase Order (PO)** -- Official document used in authorizing the encumbrance of City funds toward a purchase.

**Request For Proposals** -- Similar to the formal bid process, except that factors other than price are used to award the contract.

**Requisition** -- A standard form providing detailed information as to quantity, description, estimated price, possible vendors, fund account, signature and other information necessary to make a purchasing decision.

**Responsible Bidder** -- Contractor, supplier, or vendor, qualified on the basis that it (1) has adequate financial resources to perform a contract, (2) is able to comply with the associated legal or regulatory requirements, (3) is able to deliver according to the contract schedule, (4) has a history of satisfactory performance, (5) has good reputation regarding integrity, (6) has or can obtain necessary data, equipment, and facilities, and (7) is otherwise eligible and qualified to receive award if its bid is chosen.

**Sealed Bid (Formal Bid)** -- An advertised solicitation for a requirement in which the cost exceeds the bid limit. The bids are opened during a public opening.

**Simplified Acquisition Threshold** -- The dollar amount below which a non-Federal entity may purchase property or services using small purchase methods.

**Small Works Roster** -- A process through which there is competition following notification to some or all public works contractors who have requested placement on a roster kept by the local

government agency, or a contracted service agency, in which price is the primary basis for consideration and contract award.

**Specification** -- A clear, complete, and accurate statement of the technical requirements descriptive of a material, an item, or a service.

**Standardization** -- When it is necessary to standardize to one type of item because of uniformity or interchangeable parts issues. Authorization for standardization is obtained from Purchasing.

