

Memo

To: Roseville Finance Commission
From: Michelle Pietrick, Finance Director
Date: April 13, 2021
Re: Item #5: Review and discuss the draft Purchasing Policy.

Background

Best practices require that a City have various financial policies and periodically review and update those policies. City Code section 103.05 states that the City Manager has the authority to approve purchases and contracts of \$5,000 or less. The City has a professional services policy which was adopted August 17, 2009. The draft purchasing policy outlines the parameters for the procurement process for the City of Roseville and incorporates the prior professional services policy into this document.

The Uniform Municipal Contracting Law, Minnesota State Statute Section 471.345 and the Federal OMB 2CFR200 (Uniform Guidance) rules were used to insure that the City policy is in conformance with State and Federal requirements. The City code authorizes the City Manager to approve purchases and contracts of \$5,000 or less. Purchases greater than \$5,000 require council approval.

The City has a professional service policy which has been incorporated into the draft purchasing policy with one change. The current term of professional service contracts is three years and best practices usually allow a one-time extension, so that has been incorporated into the policy for discussion.

The Finance Commission discussed the draft policy on February 9, 2021. Changes were made based on the discussion which included moving the definitions to the front of the document. When the policy is incorporated into the financial policies manual it will be indexed.

The Finance Commission is asked to review the draft purchasing policy to provide any additional recommendations and determine whether they endorse forwarding the draft purchasing policy to the City Council for approval.

Staff Recommendation

Staff recommends that the Commission discuss and recommend the draft purchasing policy..

Requested Commission Action

Motion to approve forwarding the draft purchasing policy to the City Council for approval.

Prepared by: Michelle Pietrick, Finance Director
Attachments: A: Draft purchasing policy.

Purpose

The purpose of the Purchasing Policy is to ensure the procurement process complies with all applicable legal requirements and federal and state regulations; is fair to all participants; is as efficient as possible without eliminating needed controls; is understandable to all users; is administratively consistent with other City policies and procedures; and maximizes the use of disadvantaged business whenever possible. The City's policy is to purchase goods and services at the most cost effective and competitive rates, yielding the desired service, turnaround and value for the dollar. This policy has the following objectives:

1. Ensure that all purchases comply with applicable laws, in particular the Uniform Municipal Contracting Law, Minnesota State Statute Section 471.345
2. Comply with Minnesota Public Purpose Doctrine and City Policy on Public Purpose Expenditures.
3. Make the best possible use of tax dollars by purchasing goods and services economically.
4. Provide clear and consistent guidelines for City staff to follow in making purchasing decisions.

For purchases made under Federal or State grant funded programs, additional restrictions are identified within the uniform grant guidance regulations (2 CFR 200.318).

Definitions

Contract – refers to a written document that establishes the rights and responsibilities of two or more parties and includes the consideration for each party to enter into the contract. Contracts include all City agreements, no matter what they are called, for the procurement of commodities, materials, equipment, real or personal property, labor, work, services or construction, including an amendment to or extension of a contract. While a purchase order is a contract, it is distinguishable from other written contracts by the brevity and commercial nature of its terms and the application of Article Two of the Uniform Commercial Code to supplement its written terms.

Cooperative Purchasing Agreement - refers to a contract for the purchase of supplies, materials, equipment and certain specified services (i) that are available through a State of Minnesota cooperative purchasing venture authorized by Minnesota Statutes 16C.11, or (ii) available through a national municipal association's purchasing alliance or cooperative created by a joint powers agreement that purchases items from more than one source on the basis of competitive bids or competitive quotations. Cooperative Purchase Agreements cannot be used for the construction or alternation of real or personal property.

Joint Powers Agreement – refers to a written contract governed by Minnesota Statutes Section 471.59 where two or more governmental units, working together by agreement to exercise any power common to them; or an agreement between governmental units where one unit performs a service or activity on behalf of another unit(s).

Open Market Purchase – refers to a purchase, usually of a limited monetary amount, from any available source.

Request for Proposals (RFP) – refers to both formal (including a public notice) and informal procurements

requesting vendors, contractors or consultants to submit proposals to provide goods and/or services to the city when a quote or sealed bid is not required and is not advantageous to the City. The City is not required to select the lowest cost proposal however many take into consideration all identified relevant criteria that will result in the best overall value to the City. The City and the selected contractor often engage in detailed contract negotiations to further define the goods and/or services that will be provided and the price and obligations of each party.

Sealed Bid – refers to a bid that is sealed by the contractor prior to submission to the City and which will not be opened until the date and time for the public bid opening. Public openings are not required for Requests for Proposals.

Council Report for General Purchases or Sale of Surplus Items Exceeding \$5,000 - State Statutes require the City Council to authorize the sale or disposal of surplus vehicles and equipment (capital assets). All capital improvement goods are on this report, unless the contract already was approved by the Council. This report is also utilized to bring purchases exceeding \$5,000 to the City Council for approval. Items that are not included on this report include:

- Expenditures where the City Council has already approved the contract for goods or services.
- Regular budget items that are based on previous decisions – examples include gas and electric payments, software maintenance support, lease or bonded debt payments, city attorney, workers comp reimbursements, payroll related items, State and local obligations, postage, etc.

Policy

To ensure that the goods and services required by the City are obtained using established procedures that comply with all legal requirements for public purpose expenditures while promoting fair and open competition to ensure public confidence in the procurement process, ensure fair and equitable treatment of vendors who transact business with the City, and provide safeguards for the maintenance of a procurement system of quality and integrity. The Minnesota Public Purpose Doctrine permits a governmental entity to expend public funds only when the primary purpose of the expenditure is public and the expenditure relates to the governmental purposes for which the entity was created. There must also be statutory authority allowing for the expenditure of such funds and there must be a benefit to the community. Proper documentation must be maintained by the City to establish that all expenditures serve a public purpose.

All federal grant expenditures will be in compliance with OMB 2CFR200 (Uniform Guidance). All federal grant expenditures must be reasonable, necessary, and adequately documented. All federal grant expenditures must be deemed to be allowable under specific grant agreements and in accordance with 2CFR200, subpart E.

The approved operating budget provides detail on goods and services that are expected in a given year. Any goods or services required that were not budgeted must be approved by the City Manager or the City Council, depending on the dollar amount of the purchase and the rationale behind the non-budgeted good or service.

The City of Roseville will use the following Methods of Procurement:

Micro Purchases

Procurements valued at less than \$25,000 (\$10,000 for federally funded) will be considered *Micro Purchases*, and can be made on the open market without obtaining competitive quotations or proposals. City staff will ensure that the price is fair and reasonable. Procurements will not be split to avoid competition.

Small Purchases

Procurements valued between \$25,000 and \$175,000 will be considered *Small Purchases*, and will be made after obtaining at least two (2) quotes or proposals from qualified sources, in accordance with City procurement procedures.

Major Purchases

Procurements valued at greater than \$175,000 will be considered *Major Purchases*, and will be made by publicly soliciting bids or proposals in accordance with City procurement procedures and as required by Minnesota Statutes 471.345. Procurements will not be split to avoid this policy. For Federally funded projects, the value is higher than the State limit, as such the City will follow the State limit of \$175,000 for federally funded purchases as well.

Joint Purchasing/Cooperative Purchasing Agreements

The City has the authority to enter into *Joint Purchasing or Cooperative Purchasing Agreements* with other governmental units as provided for in Minnesota Statutes. Procurements made through *Joint Purchasing or Cooperative Purchasing Agreements* will satisfy the City's competitive procurement requirements.

Contract Amendments

Contract amendments valued at greater than 25% of the original value of the contract will be considered separate procurements and the appropriate process above shall be utilized.

Noncompetitive Purchases

Noncompetitive Purchases can be made under the following circumstances:

- When the City Council has declared an emergency, in accordance with State Statute, City Policies and Procedures.
- When a sole source of the good or service exists and has been verified by City Manager
- When the procurement is for goods or services not available competitively, such as utilities, subscriptions, professional dues and memberships, insurance, conference and seminar registration, permits and licenses, advertisements in publications, taxes, required federal, state and local fees and charges, etc.

Disadvantaged Businesses

The City will utilize businesses owned and controlled by socially and economically disadvantaged individuals in the procurement of goods and services, and the award of contracts when possible. The City will, in accordance with authority granted by federal regulations, state statute, and local laws and

ordinances, act affirmatively to create a “level playing field” for women-owned, minority-owned and disadvantaged business enterprises to achieve the goal of equal opportunity.

Deviations

Approval to deviate from this policy must be documented and authorized by the City Manager, or by other City staff as delegated by the City Manager in accordance with City policies and procedures.

Prohibited Interest in Contracts

Minnesota State Statutes 471.87 and 471.88 prohibit the purchase of goods or services whenever a conflict of interest may exist. If any employee becomes involved in a possible conflict situation, the employee shall disclose the nature of the possible conflict to his or her supervisor and the City Manager.

The City cannot enter into any contract or purchase order for goods or services in which an employee, elected official, officer or agent, or their immediate family members, has an indirect or direct personal financial interest or will personally benefit financially from the contract or purchase. In exceptional cases and if permitted by applicable law or regulation, this policy may be waived by the City Manager for employees for good cause after consulting with the City Attorney. The City Manager shall promptly notify the employee in writing of the decision.

Substantial state and federal requirements exist pertaining to standards of conduct and conflict of interest. It is the intent of the City for all employees, officers, or agents to conduct all activities associated with procurements in compliance with the highest ethical standards, including the avoidance of any real or perceived conflict of interest. It is also the intent of the City to impose appropriate sanctions or disciplinary actions, including but not limited to termination and/or prosecution, for any employees or officers who violate any of these requirements.

Implementation

See Purchasing Procedures.

Purchasing Procedures

By City Code, the City Manager is the Chief Purchasing Officer of the city and has delegated purchasing and budgetary control to each department. The department head may designate other staff within their department to purchase goods and services in compliance with the annual budget. The City Council has delegated authority to staff to make usual and customary purchases as approved in the annual budget in compliance with all bidding requirements and the City’s purchasing policy. Formal Council approval of budgeted, routine purchases is not necessary. Council approval is required on capital improvement projects of \$5,000 or greater, and transactions involving purchases over \$175,000 (or a lower amount if so deemed necessary). The Finance Director will report budget status to the City Council on a quarterly basis. Payment details for all goods and services will be listed on check registers and presented to the City Council for review twice a month.

The Uniform Municipal Contracting Law, Minnesota Statutes Section 471.345 outlines certain quotation/bid requirements based on the amount of the purchase. Purchases under \$25,000 may be

made on the open market. Purchases from \$25,000 to \$175,000 may be made by obtaining 2 or more written quotations. Purchases over \$175,000 must follow the competitive bidding process. Usual and customary purchases must have sufficient funds available within the approved department budget.

Purchase Orders and Contracts

The Assistant Finance Director will issue purchase orders for items over \$5,000 that are not handled via a contract situation. All contracts issued for goods or services are reviewed and approved by the City Council. Per City Code Section 103.05, the City Manager has the authority to approve purchases and contracts of \$5,000 or less. All claims are approved by the City Council through the Accounts Payable payment approval report at each regular council meeting. The City Council has requested that an additional report for the approval of general purchases or sale of surplus items exceeding \$5,000 be on the council agendas, see definitions page for more information on this report.

Reviewing for Contractors under Suspension or Debarment

In all cases the City will review the excluded parties list (<https://www.sam.gov>), to ensure that no tentative parties, suspended and/or debarred contractors are contracted with when using federal or City dollars.

Professional Service Contracts

Professional service contracts such as those provided by engineers, lawyers, architects, accountants and other services requiring technical, scientific, or other professional training, do not require competitive bidding. Selection of firms shall be through a competitive process, using a “best overall value” approach, whenever applicable and appropriate. Contracts for professional services shall be for terms of not more than three (3) years with a one-time extension of not more than three years, based on satisfactory performance. All professional service contracts shall be approved by the City Council. The City Council should be represented in the interviews and evaluation of candidate firms for Civil Attorney services, including the determination of evaluation criteria.

Firms selected to provide professional services to the City of Roseville:

- Will avoid any conflicts of interest and commit to the principles of the Professional Code of Ethics for their profession and the City of Roseville Code of Ethics for Public Officials.
- Will conduct their business through designated Roseville City staff as approved by the City Manager.
- Will not represent any individual or corporation involved in litigation against the City of Roseville.
- Will comply with all applicable state and federal laws and local ordinances.

Exceptions

Minnesota State Statute 12.37 gives the City the ability to declare an emergency situation for a limited period of time. During such an emergency, the City is not required to use the typical mandated procedures for purchasing and contracting. Emergency purchases require approval by the City Manager, Finance Director and when necessary because of the dollar amount, formal City Council action. An emergency purchase is defined as one where an immediate response is required to protect the health, welfare or safety of the public or public property.

Credit Card Use

The use of credit cards (purchasing cards) is an authorized payment method. These purchases must follow the purchasing policy and are a more efficient method of paying vendors than the check payment process. See the purchasing card policy for detailed procedures.

Ethics and Acceptance of Gifts

Employees shall not make any purchases for personal use utilizing City funds. Employees shall not be allowed to take advantage of special pricing offered to the City by vendors to make personal purchases. Employees may not take advantage of government discounts for non-city related purchases, including bidding on city auctions. The general rule to be applied is if a discount is not available to a member of the public, the employee should not take advantage of it. Gifts offered by vendors to staff responsible for making purchasing decisions may only be accepted if they are considered to be a trinket or memento costing \$5 or less.

Authority for Implementation and Enforcement

All employees are responsible for adhering to this policy when purchasing goods or services. Department heads are responsible for monitoring performance within their areas of jurisdiction.

Responsibility for administering established purchasing policies and procedures has been delegated to the Finance Director in conjunction with the City Manager who is the Chief Purchasing Officer of the City.