

# Purchasing Policy Manual

## (Procurement Rules and Regulations)



# City of DeLand

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## PURCHASING POLICY

This Manual is a controlling policy document for City of DeLand (the “City”) as a Florida municipal government and contains the procurement rules and regulations as required by the *City Charter* and was adopted by means of a resolution approved by the City Commission.

It is important to review the Introduction of this Manual to ensure that the Manual is properly used as guidance for City personnel in implementation of the City’s purchasing practices and procedures.

## INTRODUCTION

It is important to note that the expenditures authorized by the City are appropriated during the annual budget process. The budget for each fiscal year, running from October 1 through September 30, is established in the prior year after appropriately noticed budget workshops and City Commission meetings/public hearings at which the budget adoption resolution is considered and funding is approved such as by the levying of ad valorem taxes. The public is notified of all public meetings and is encouraged to participate in the transparent and open budget making process.

Section 62 of the *City Charter* makes it clear that the City Manager or the City Manager’s appointed purchasing agent(s), shall implement the purchasing of goods and service required by City government in accordance with the rules and regulations established by ordinance or resolution. Section 63 of the *City Charter* mandates certain competitive bidding requirements. The policies and regulations published in this Manual implement the provisions of the *City Charter* and other controlling law as well as establishing the process of checks and balances to assure previously approved, allocated and appropriated funds are spent in accordance with the budget. The City Manager and staff are charged with the responsibility to use City funds only as authorized by the City Commission and as set forth in the City budget.

With regard to controlling law that regulates the purchasing system, the statutes that impact City activities will be addressed in a general manner. Inasmuch as statutes are regularly amended it is always the best practice to ensure that the dollar thresholds, timelines, procedures, etc., being applied are the current ones mandated in law. The purchasing professionals of the City as well as the City Attorney can assist in ensuring that the current law is being used by the City.

The terms purchasing and procurement are used interchangeably in this Manual and both are defined as the studied and established process by which the City acquires goods, services and interests in real and personal property. The term “bid” shall be used generically in this Manual and shall include submissions to the City in the context of cost proposals, price quotes, competitive bidding, competitive proposals, submission or qualifications or any other form of submission to provide goods or services to the City. The use of the term “vendors” in this Manual included persons or entities from whom the City has procured goods or services and persons or entities who are bidding or otherwise proposing to provide goods or services to the City. Thus, a “vendor” may be a proposer or respondent or other person or entity soliciting the sale of goods or services to the City.

When the phrase “goods or services” or like terminology is used in this Manual, reference is made to any and all types of commodities, equipment, material, supplies and personal services that the City may procure of whatsoever type or nature to include, but not be limited to, matters which involve City construction projects.

This Manual is intended to provide general orientation information for the operational activities of the City. It is not intended to be a detailed guide describing each aspect of the City procurement procedures or for any specific project. However, this Manual is intended to provide sufficient procedural detail and rules and regulations to enable City personnel and the vendor community to:

- 1) Be fully aware of, and comply with, City purchasing rules, regulations policies and procedures, and
- 2) Effectively participate in the City's purchasing program.

In any situation where compliance with this Manual will place the City in conflict with State or Federal law, or other controlling legal requirements, those requirements will prevail over the provisions of this Manual. When a procurement involves the expenditure of grant funds, the procurement shall be conducted in accordance with the requirements of the grant and any applicable mandatory laws and regulations of the granting agency, whether or not they are reflected in the *City Code* or this Manual. Nothing in this Manual shall prevent the City or any agency to which the City grants funds from complying with the terms and conditions of any grant, gift or bequest which are otherwise consistent with law.

The basic purchasing policy of the City is that its processes are conducted on the basis of full and open competition to the greatest extent possible, with award being made to:

- 1) The lowest price from the responsive and responsible vendor with the quality, performance and delivery requirements of the City being attained.
- 2) The best value vendor under qualitative solicitations that involve pricing as a competitive selection factor.
- 3) The highest ranked technical vendor with which a fair and reasonable price may subsequently be negotiated under solicitations that do not involve pricing as an initial competitive selection factor.

Further, the basic purchasing policy of the City is to ensure that processes conducted provide that:

- 1) All specifications or statements of work included in the City purchasing actions accurately describe the essential needs of the City, and contain no artificial or arbitrary requirements that limit competition.
- 2) Each purchasing action is conducted in accordance with the best interests of the City and with the highest level of integrity and fairness to all involved parties throughout the acquisition cycle.
- 3) All City purchasing operations be conducted in compliance with federal, state and local laws as applicable and ensure the highest degree of ethical standards.
- 4) Each vendor is dealt with fairly and equitably by the City.
- 5) The maximum savings of City funds is achieved through innovative procurement practices and the application of value analysis techniques.
- 6) Contracts are administered with internal efficiency and with post performance evaluations being conducted in a professional manner.

- 7) Transparency and community inclusion be sustained throughout the purchasing process.

It has been said that public purchasing is getting the right item to the right place at the right time and at the right price. While that is an oversimplification of the role of the City, it is the essence of the process and the City implements a professional purchasing system consistent with sound and generally public management practices and principles to ensure that:

- 1) Public funds that have been entrusted to the management of the City are appropriately and effectively administered and that no indebtedness beyond the budgeted amount is created;
- 2) Economies of scale are achieved by the City being able to buy, in bulk, many of its day-to-day necessities through quantity purchases for several departments or by piggybacking the contracts of other jurisdictions;
- 3) Vendors are timely paid for the products or services that have been sold to the City by providing the means to account for each purchase that has been made; and
- 4) The potential for vendors trying to establish unethical relationships with City personnel is reduced to the maximum extent.

The *City Charter* provides that the City Manager is the purchasing agent for the City and that all purchases and sales conform to such regulations as the City Commission may from time-to-time prescribe. This Manual is adopted by the City Commission to meet the requirements of the *City Charter* and to inform the public and those involved in carrying out the business of the City of the regulations in place. The City Commission may amend, revise or replace these rules and regulations from time-to-time and to waive any requirement or process herein as the City Commission deems appropriate with a finding that such waiver is in the public interest.

The provisions of this Manual are intended to provide a comprehensive, but general, set of rules and regulations for application to the City's purchasing process for use by City personnel and others involved in the City's processes and procedures. That being said, there will be situations which arise that, due to the uniqueness of each procurement, require guidance from the Finance Director, the City Attorney or other City management personnel. And, of course, overall policy issues are matters that are vested in the legislative authority of the City Commission.

Again, when statutory provisions are referenced in this Manual, the details of such statutes are not outlined with any specificity as statutes are amended from time-to-time and it is important that the current provisions of each controlling statute be adhered to. Accordingly, guidance may be provided by the Finance Director and City Attorney to ensure that the City attains statutory compliance with the current terms and provisions of statutes.

This Manual also contains provisions relating to the management of City assets whether real or personal property and disposing of City interests in real or personal property when such property is determined to be surplus. Both functions are a part of the overall business of the City and relate to the purchasing process.

## DUTIES AND RESPONSIBILITIES IN THE CITY PURCHASING PROCESS

The City operates a decentralized purchasing function where each department makes purchases in accordance with purchasing policies and the Finance Department serves as the purchasing gateway to assist departments and provide technical expertise in purchasing procedures for overall accounting, budgeting and internal control while also coordinating purchases that occur by multiple departments insofar as practicable.

## *City Manager Responsibilities*

As noted in the Introduction, Section 62 of the City Charter provides that the City Manager or the City Manager's appointed purchasing agent(s), shall implement the purchasing of supplies, materials and equipment required by City government in accordance with the rules and regulations established by ordinance or resolution.

## *Finance Director Responsibilities*

The Finance Director is responsible for implementing, under the delegation and direction of the City Manager, the provisions of this Manual and other controlling law, and coordinating the purchasing procedures within the City.

The Finance Director, or designee, shall:

- 1) Determine if any purchases fall outside the requirements of this Manual or other controlling law.
- 2) Develop purchasing objectives, policies, programs and procedures for the acquisition of goods and services.
- 3) Coordinate and assist with purchasing processes procedures of all City departments.
- 4) Consolidate the purchase of like or common items or services and apportion costs therefor.
- 5) Ensure all purchases are made in accordance with Federal, State and City laws, rules and regulations.
- 6) Provide training and guidance to ensure an understanding of sound purchasing policies and procedures throughout all departments of the City and establish and maintain active communication with all departments in order to meet their purchasing requirements.
- 7) Work with the originating department to ensure the procured goods or services meets the requirements of the department and is the best value of the City.
- 8) Develop manuals, provide training and be a resource to all departments in meeting their purchasing needs and, to that end, in consultation with other department directors, under the direction of the City Manager, shall review the provisions of this Manual annually and submit recommendations to the City Manager for review and submission to the City Commission. If a change is recommended for approval by the City Manager, the Finance Director will prepare and submit the agenda item to the City Commission for final approval.
- 9) Establish and maintain highly functional and positive relationships with vendors for the benefit of the City.
- 10) Inform City personnel of market changes, new products and other such factors that may assist them in economically accomplishing their missions.
- 11) Exchange ideas and information with other public purchasing agencies for the benefit of the City.

- 12) Develop standardized specifications for use by all departments, improve the purchasing practices, understand piggyback procedures and apply them where feasible to include maximizing the piggybacking of contracts when beneficial to the City.
- 13) Maintain expertise in procurement laws and practices.
- 14) Review draft specifications or requests for responses relative to bids.
- 15) Determine dates/times for advertising and submissions for bids and ensure compliance to all legal requirements.
- 16) Assist the City Manager in resolving, monitoring and negotiating contract disputes regarding contract compliance.
- 17) Engage in pre-audit and post-audit activities relative to the purchasing activities of the City.

## *Requesting Department Responsibilities*

Requesting departments, shall:

- 1) Initiate purchases, as outlined in this Manual, allowing sufficient lead time for City personnel to process the order and for the vendor to deliver the goods or services. The lack of prior planning is not a legitimate basis for deviation from the requirements of this Manual or other controlling law.
- 2) Adhere to the provisions of this Manual and other controlling law.
- 3) Prepare clear and unrestrictive technical specifications when needed for products or services.
- 4) Review bid tabulation sheets and other submissions to determine the department's recommendation for award.
- 5) Provide complete and proper specifications for bid solicitation, or proper documentation to waive bidding, when exercising an option to "piggyback", declaring sole/single source procurement or to deal with emergencies.
- 6) Promptly inform the Finance Director of any contract compliance issues or when any vendor or the public raise issues of concern relative to the City's purchasing processes or procedures or a particular procurement.

## Vendor Responsibilities

The City is committed to conducting a procurement process under the highest ethical standards and enjoys the complete confidence of the public. To achieve this, each vendor must subscribe to the following Vendor Code of Ethics and by doing business with the City or bidding to do business with the City, a vendor shall be conclusively deemed to have agreed to the following ethical standards as well as those otherwise applicable under controlling law and the following provisions shall be deemed to be a part of every City contract and procurement document:

- 1) Submitted bids shall be competitive, consistent and appropriate to the solicitation documents and, upon executing a City contract, vendors certify and affirm the truthfulness and accuracy of each statement of its communications with the City and the certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into by the City and shall be a representation to the City that vendors are not excluded, debarred or disqualified from entering into a contractual relationship with the City. A vendor must disclose any preclusion to bid result from Section 287.133, *Florida Statutes*, dealing with vendors convicted of "public entity crimes such as bid rigging, price fixing, bribery, fraud and theft and must certify that it and any of its affiliates are not scrutinized companies as identified in Section 287.135, *Florida Statutes*. The Florida Legislature regularly adds prohibitions with regard to the nature and types of vendors with which local governments may engage in business and such legislative enactments should be evaluated in a routine manner in order for the City to remain current in statutory compliance.
- 2) Vendors shall not discuss or consult with other vendors intending to respond to the bid in a manner which limits competition. Moreover, vendor shall not attempt to induce any individual or entity to submit or not submit a bid.
- 3) Vendors shall not disclose the terms of its solicitation submittal, directly or indirectly, to any other vendor prior to the solicitation submittal deadline.
- 4) Vendors shall completely perform any contract awarded to them at the contracted price pursuant to the terms set forth in the contract.
- 5) Vendors shall submit timely, accurate and appropriate invoices for goods or services actually performed under the contract.
- 6) Vendors shall not offer or give any gift, item or service of value, directly or indirectly, to a City employee, employee family member or other vendor.
- 7) Vendors shall adhere to the cone of silence and shall not communicate with any officer, elected official (including Mayor and City Commission), department, division, office, City employee or any selection committee members during an active solicitation from the date of issuance through award, unless specifically authorized in the City's solicitation. Vendors shall utilize the request for information and guidance through the bid addendum process.
- 8) Vendors shall not cause, influence or attempt to cause or influence, any City employee or official, which might tend to impair objectivity or independence of judgment; or use, or attempt to use, official position to secure any unwarranted privileges or advantages.

- 9) Vendors shall not allow City employees or former City employees to work on City projects or provide services to the City under agreements or sub-agreements without express written consent from the City.
- 10) Vendors shall not draft contract documents absent precise authorization from the City or submit contractual provisions which deviate from City standard provisions such as:
  - a) Provisions which relate to insurance coverage requirements for vendors which deviate from City norms.
  - b) Indemnification, hold-harmless clauses, or other terms, which would waive the City's sovereign immunity protection as provided by Section 768.28, *Florida Statutes*, or which are averse to the City.
  - c) Requiring the application of the law of any state other than Florida in interpreting, governing or enforcing the contract or requiring or permitting that any dispute under the contract be resolved in the courts of any venue other than the Seventh Judicial Circuit in and for Volusia County, Florida.
  - d) Automatic renewals without the inclusion of a cancellation or termination clause.
  - e) Requiring or stating that the terms of the vendor's terms and conditions prevail over the City's. The attempt to add any provision of that nature by the vendor via a quotation, proposal, scope of work or insertion or other attachment is a breach of contract.
  - f) Binding the City to any arbitration or to the decision of any arbitration board, commission, panel or other entity.
  - g) Bestowing any right or incurring any obligation that is beyond the duly granted authority of the City employee to bestow or incur on behalf of the City.
  - h) Providing that the intellectual property resulting from a relationship is not owned by the City. All materials purchased by or developed for the City becomes property of the City with all rights owned by the City.
  - i) Any alteration of any City form by the vendor (without the express written consent of the City which the City shall not give absent extraordinary circumstances with the approval of the Finance Director and City Attorney) shall constitute a breach of contract and a default. Only City forms may be used in contract implementation with regard to any manner proposed to be binding upon the City.
- 11) Vendors shall not use the City's seals, logos, crests, or reproductions of flags or likenesses of City officials without specific written City pre-approval.
- 12) Vendors shall not commence the performance of work or the provision of goods prior to any authorization of the City and no payment from the City will be sought until all required proof or evidence of insurance has been provided and approved by the City's Risk Manager.

- 13) Vendors shall not submit false claims and any vendor who submits a false claim shall be liable to the City and shall reimburse the City when such a claim is found to have been submitted by a controlling legal authority as well as for any and all statutory penalties set forth in controlling law. A vendor will be deemed to have submitted a false claim to the City if the vendor:
- a) Knowingly presents or causes to be presented to an officer or employee of the City a false claim or request for payment or approval.
  - b) Knowingly makes, uses, or causes to be made or used a false record or statement to get a false claim paid or approved by the City.
  - c) Conspires to defraud the City by in any way causing a false claim allowed or paid by the City.
  - d) Knowingly makes, uses, or causes to be made or used a false record or statement to conceal, avoid, or decrease an obligation to pay or transmit money or property to the City.
  - e) Is a beneficiary of an inadvertent submission of a false claim to the City, subsequently discovers the falsity of the claim, and fails to disclose the false claim to the City within a reasonable time after discovery of the false claim.
- 14) Vendors shall be responsible for the professional quality, accepted standards, technical accuracy, neatness of appearance of employees, employee conduct, safety, and the coordination of all goods or services furnished by vendors under the City's contract documents as well as the conduct of its staff, personnel, employees and agents.
- 15) Vendors shall pay all royalties and assume all costs arising from the use of any invention, design, process, materials, equipment, product or device in the performance of services or the provisions of goods which is subject to patent rights of copyrights. Vendors shall, at their own expense, hold harmless and defend the City against any claim, suit, or proceeding brought against the City, which is based upon a claim, whether rightful, or otherwise, that the goods or services, or any part thereof, furnished to the City, constitutes an infringement of any patent or copyright and, further, vendors shall pay all damages and costs awarded against the City.
- 16) Vendors shall advise the City of any violations of the City contract documents. Adopt and implement security systems that protect the City's computer systems such as, by way of example and not limitation, the protection of passwords, encryption of data during transmission and at rest, the implementation of firewalls, the use of intrusion detection tools, use of appropriate internet protocols, adhering to patch management and the use of software to detect and eliminate malware, spam and spyware. Vendors shall also take other security measures, as needed, to wipe hard drives, shredding before recycling and related measures. Vendors shall advise the City of any security breaches relative to which a vendor becomes aware.

- 17) Vendors shall, at all times, maintain complete loyalty to the City and disclose any circumstance that could be detrimental to the City or advantageous to the City regardless of any representation or, or services performed to, or goods provided to, any other client of a vendor. Any representation or work performed to another client of the vendor after the occurrence of an event that could result in a detriment to the City or the failure to provide to the City any information to the City that could be, in any way, of benefit to the City or which could result in a detriment to the City shall be an irrebuttable conflict of interest. The word “client” means and includes customers of any type or nature whatsoever.
- 18) Vendors shall comply with Section 448.095, *Florida Statutes*, including, but not limited to, registration and use of the E-Verify system to verify the work authorization status of all newly hired employees. Vendors shall require all subcontractors to provide an affidavit attesting that the subcontractor does not employ, contract with, or subcontract with, an unauthorized alien. Vendors shall maintain a copy of such affidavit for the duration of the contractual relationship with the City.
- 19) Vendor shall not discriminate against any person in its operations, activities or delivery of services. Vendor shall affirmatively comply with all applicable provisions of Federal, State and local equal employment laws and shall not engage in or commit any discriminatory practice against any person based on race, age, religion, color, gender, sexual orientation, national origin, marital status, physical or mental disability, political affiliation or any other factor which cannot be lawfully used as a basis for disqualification.

### *City Clerk Responsibilities*

The City Clerk acts as custodian of all contracts as the custodian of public records and shall attest to the appropriate signatory for purchasing documents.

### *City Attorney Responsibilities*

The City Attorney shall provide legal direction and guidance, as needed, in order to lawfully implement the procurement activities of the City. The City Attorney shall provide legal review of any proposals to amend this Manual and recommend any other changes that may be required by controlling law.

## ETHICS AND THE PROCUREMENT PROCESS

The City rigidly adheres to the *Code of Ethics for Public Officers and Employees* as set forth in Part III of Chapter 112, *Florida Statutes*. Also, Florida’s Constitution clearly states that “A public office is a public trust” and the City is committed to that principle. Other statutes pertain to ethics in government. Furthermore, the Finance Director promotes the *Code of Ethics* as adopted by the National Institute of Governmental Purchasing Officers and the Florida Association of Public Procurement Officials, Inc. Further, the City is careful to ensure that it deters vendors and other from knowingly causing or assisting in causing the City to pay contract claims that are false or fraudulent.

All City employees involved in any part of the procurement process shall act in an ethical manner. No officer or employee of the City shall have any personal beneficial interest, either directly or indirectly, in any expenditure, purchase, sale (not including items auctioned by the City) or contract for goods or services procured by the City. Additionally, they shall not have personal or financial interest in any firm, corporation or association furnishing or bidding on goods or services.

All City employees shall keep themselves free of obligations and the appearance of obligations to vendors by refusing to accept any gifts or entertainment, other than advertising materials such as pens, note pads, calendars, baseball caps, t-shirts or other inexpensive office supplies advertising the vendor's name or product, offered by any vendor.

It is prohibited for officer or employee of the City, acting as agent for the City, to directly or indirectly, purchase, rent, lease any supply or service from a business entity in which he/she or his/her immediate relative owns a material interest. A public officer or employee acting in a private capacity shall not rent, lease or sell any goods or services to the City.

A vendor should not be allowed to gain an upper hand over other vendors by making presentations on goods or services outside of the normative procurement processes. Presentations on new strategies, techniques, products (goods or services) should be made by City personnel or consultants and not prospective vendors.

The City is also committed to government transparency and adherence to all laws that relate to open records and the openness of government proceedings and actions.

All solicitations, once advertised and until the appropriate authority has approved an award recommendation, are under the "Cone of Silence." The Cone of Silence prohibits certain oral communications regarding a particular solicitation during the period the Cone is in effect. The Cone of Silence is designed to protect the professional integrity of the procurement process by shielding it from undue influences prior to the recommendation of the contract award. The Cone of Silence is intended to prevent purchasing decisions from being influenced by lobbying which is intended to influence or attempting to influence action or non-action in a purchasing or attempting to obtain the goodwill of a City employee or office or, selection committee member relating to the selection, ranking or contract award in connection with the purchasing decision through direct or indirect verbal or written communication. This type of activity included actions whether performed by the vendor itself, any employee of the vendor, the vendor's attorney, agent, or other paid or non-paid representative; or any person who performs such actions on behalf or at the behest of the vendor.

Written communications between potential vendors or vendors on City solicitations, the City's professional staff, and the City Commission members are permitted only through addendums described below.

A violation of the Cone of Silence shall result in the disqualification of the vendor from the bid relative to which the violation occurs.

## EXCEPTIONS TO QUOTES AND FORMAL SOLICITATIONS

Certain purchases made by the City are authorized for direct purchases. The current list of purchases authorized for direct payment are as follows:

## *Alternate Source Contracts (Cooperative/Intergovernmental/ Piggyback Agreements)*

Procurement procedures allow for purchases in any amount against an established, active alternate source contract, provided they are in the best interest of the City. Alternative source contracts consist of Federal General Services Administration contracts, Florida governmental contracts, governmental joint agreements, any Florida local or county governmental agency contract, cooperative purchasing organizations, joint bids, or purchasing associations, non-profit organizations and any other entities allowed by law and policy determination of the City. The City considers alternate source contracts as an acceptable source selection method provided they mirror the City's procurement policies and generally accepted governmental best practices related to competition, award selection and contract requirements.

Piggybacking is a procedure of procuring goods or services without the formal solicitation process by means of utilizing another public entity's award under an authorized process. The award must be in accordance with all the terms and conditions, prices, time frames and other criteria as included in the other public entity's awarded contract. Additional options may be included in a procurement unless the total dollar value of the options is in excess of the City's bid limit (\$50,000). Expired contracts cannot be piggybacked and piggybacking can only last for as long as the piggybacked contract is in effect. Contracts procured under the Consultants Competitive Negotiations Act may not be piggybacked.

Cooperative procurement is a procurement by a public entity with one or more other public entities, for the purpose of combining requirements for the purchase of like goods or services in order to increase efficiency and/or reduce administrative expenses.

Alternative source contracts in the amount of \$50,000 and above do not require City Commission approval, but require City Manager approval.

All sole source procurements \$50,000 and above require City Commission approval, but all such procurements must be well documented and implemented in accordance with controlling law.

## *Single/Sole Source and Standardization*

The City attempts to purchase non-proprietary product/services when possible. Sometimes, however, single, sole source and product/services standardization purchases are justified. Sole source procurements are defined as the acquisition of goods or services that (1) is the only good or service that will produce the desired results or is the most appropriate for the given situation; or (2) is available from only one source of supply or the use of such source is both economically and operationally in the City's best interests. Sole source services must be available only from vendors who are uniquely qualified to perform such services.

Single source procurements occur when there is more than one viable supplier, but the City determines it is in the best interest to select a particular manufacturer/service provider based on significant business reasons. Legitimate reasons to single source a purchase may involve the vendor's special ability to provide unique spare parts, unique emergency repair service or unique knowledge and qualifications, etc.; provided, however, that the planning activities of the City shall consider avoiding long term adhesive contractual relationships with vendors that are disadvantageous to the City.

Sole source procurements include the purchase of goods or services which are proprietary or only available from one source from which there are no competitive alternative sources. On occasion, equipment parts for replacement or repair services for equipment can only be obtained from the manufacturer or local area sales and service outlets of the particular manufacturer.

Upon receipt of a document's justification for a sole source procurement with signatory recommendations by all appropriate City staff, the Finance Department shall determine through review of the material and appropriate market research. If it is determined that more than one source is present in the market, the Finance Department will provide the requesting department with a written market research summary and a recommendation on the appropriate procurement process to follow.

Standardization of approved brands or services is based on compatibility of goods or services, cost savings, ease of maintenance, safety factors or any other grounds to make standardization in the City's best interest. The standardization of goods or services is to support cost reduction and effective maintenance, training, integration and economies of scale.

Upon receipt of a signed memorandum from the department head for a City standardization purchase, the Finance Department shall issue a written decision after review of the materials submitted and appropriate market research.

Care should be taken to ensure that the procurement of goods and services do not adhere the City to long term relationships that eliminate or severely limit the ability of the City to engage in competitive procurement such as being tied to certain software or design configurations which result in the elimination of the ability of the City to utilize goods or service provided by other, competing, vendors who may be able to offer the City better pricing, higher quality or more modern goods or services.

## *Emergency Purchases*

### **Mission Critical**

An emergency purchase is those that result from an unforeseen or unanticipated urgent and immediate need for equipment, supplies or services where the protection of life, health, safety or welfare of the community or the preservation of public properties would not be possible using normal purchasing procedures, but which are critical to attaining the mission of a department.

Before any purchase controlled by this section is made, the requesting department shall contact the City Manager for concurrence, explain the nature of the emergency, and provide a written certification, including the department's justification and/or explanation of circumstances for the emergency purchase, along with the City Manager written approval to the Finance Department. Unless precluded by the nature of the emergency situation, vendors shall comply with all City purchasing requirements including, but not limited to, City affidavits, prior to recommendation of approval by the Finance Director, City Manager or the City Commission. The City Attorney may be required to provide guidance as to the effect of controlling provisions of law upon the procurement.

Emergency purchases are limited to the purchase of items and qualities needed during the emergency event and for a time-period sufficient to meet the immediate threat or emergency situation and are not to be used to meet long-term requirements. If such conditions exist, the City will proceed with the procurement of good or services

without competition and issuance of an emergency purchase order the same day or next working day if the emergency occurs after hours, on weekends or on a holiday.

The Finance Director shall report to the City Manager any emergency procurement practices that reflect poor operational planning or management and have the potential effect of defeating the purpose of the procurement process.

## Declared Emergencies

Emergency disaster purchases are those needed due to unforeseen acts of nature to include, but not be limited to, hurricanes, tornados, floods, fire, etc., but may occur only when the Mayor of the City, or a state of emergency has been declared in accordance with the controlling provisions of law. The City Attorney may be required to provide guidance as to the effect of controlling law upon these purchases as State law regulates the actions of local governments with regard to situations when a declaration of emergency has been declared. State law limits the duration of each state of emergency declared locally to 7 days which may be extended, as necessary, in 7-day increments. State law allows the City to waive the procedures and formalities otherwise required pertaining to:

- 1) Performance of public work and taking whatever prudent action is necessary to ensure the health, safety and welfare of the community.
- 2) Entering into contracts.
- 3) Incurring obligations.
- 4) Employment of permanent and temporary workers.
- 5) Utilization of volunteer workers.
- 6) Rental of equipment.
- 7) Acquisition and distribution, with or without compensation, of supplies, materials and facilities.
- 8) Appropriation and expenditure of public funds.

For acquisitions of this type, the following procedures apply:

- 1) The City Manager shall have the authority to enter into any contract when it is determined that such work is necessary to protect the life, health, safety or welfare of City residents and the wider community or preserve public property.
- 2) The requesting department director, or designee, shall first procure goods or services from vendors which have existing City contracts for the goods or services needed.
- 3) All disaster purchases that are required without full and open competition or under an existing contract by a department director must be subsequently ratified by the City Manager or City Commission, as appropriate.

## *Respect & Pride Statutory Programs*

Items purchased from these agencies are exempt from competitive bidding:

RESPECT of Florida (Florida Association of Rehabilitation Facilities, Inc.) is a program established under Sections 413.032 through 413.037, *Florida Statutes*, which directs State and local government agencies to purchase certain products and services from qualified, nonprofit, community-based organizations employing persons with disabilities.

PRIDE (Florida Prison Industries) is a program established under Section 946.006, *Florida Statutes*, which relates to the manufacture, processing or production of “such items as are ... needed and used in the state institutions and agencies and in other governmental jurisdictions of the state.”

## *Owner (City) Direct Purchases (ODPs)*

It may be to the City's advantage to directly purchase materials, components or systems to be used in a City construction project. The advantages are a savings in sales tax (the City is tax-exempt, contractors are not), and the contractor's markup. If the City desires to engage in ODPs, the construction contract must contain language to make the contractor responsible for expediting, receiving, storing, protecting, installing the goods, arranging for training of staff by the supplier, and providing the vendors' and manufacturers' warranties. Also, long-lead-time items may be ordered by the City, while the bidding/contract negotiation process is ongoing. This process recovers or saves funds which would otherwise be expended for sales tax. The City 's tax recovery is based on the Volusia County and Florida sales tax rates.

When the City elects to use this option, the vendor shall comply with the following procedures. It is noted that the term vendor as used herein includes subcontractors of the vendor as a contractor.

In order to provide real time response(s) to sustain the vendor's schedule and to maintain the integrity of interfacing and warranty considerations, the City shall have the contractual; right to issue a deductive change order to remove any and all materials associated with a contract and purchase those items directly from the manufacturer or supplier using sole source procedures. The materials shall be purchased from the manufacturers or vendors originally selected by the vendor, for the price originally negotiated by the vendor including special terms and conditions agreed upon by the vendor.

It is recognized that the vendor has used a competitive process to establish procurements applicable to the contract. Also, the fact that the contract was competitively established satisfies the considerations of obtaining competition to ensure a prudent expenditure of funds. The vendor shall, within 21 calendar days from the date of the notice to proceed, prepare a complete list of materials, supplies and equipment applicable to the project. The list must include the delivered cost (including but not limited to applicable taxes) of each item, time-frame for delivery from supplier ARO, and information relevant to maintaining timely scheduling of the project. The City will advise the vendor within 10 days which items from the list the City wishes to purchase directly.

In the event the City elects to make direct purchases, the responsibilities of both, the City and the Vendor, relative to direct purchase items shall be governed by the terms and conditions set forth in the solicitation and the implementing contract.

## *Additional Exemptions*

Purchases of the following goods and services are exempt from competitive quotes and formal solicitations:

- 1) Water, sewer, gas, electrical and other utility services; telecommunication services including, but not limited to, cable television, telephone lines, internet connectivity, data and voice circuits, voice over internet protocol, cellular/wireless phones, wide area network connectivity, pagers and wireless adapters for cellular data ("air cards").
- 2) Casualty and property insurance.
- 3) Life, health, dental and vision insurance.
- 4) Employee benefits/contracts with third parties for payroll deduction.
- 5) Services procured with non-City funds that are a "pass-through" (developer deposits, etc.)
- 6) Debt service payments.
- 7) Pension payments.
- 8) Unemployment compensation.
- 9) Tax withholding payments.
- 10) Retirement plans and section 457 (deferred compensation) contributions.
- 11) Memberships, dues, books, subscriptions and publications.
- 12) Any items covered under the City's travel policy (seminars, travel expenses, etc.)
- 13) Investments.
- 14) Postage.
- 15) Recording fees.
- 16) State or County licenses, permits or auto tags.
- 17) Advertisements.
- 18) Legal services, expert witnesses, court reporter services and all other related expenses of claims and/or litigation.
- 19) Items purchased for re-sale.
- 20) Recreational programs provided by independent contractors.

- 21) Lobbying services.
- 22) Training (when a provider is contracted by the City to provide the training).
- 23) Art and talent/artistic services.
- 24) Medical services.
- 25) Food and beverage.
- 26) On-going maintenance, support and upgrades to existing information technology software, hardware or firmware, where the initial purchase was competitively sourced.
- 27) Acquisition of real property, such as land, easements, rights-of-way, existing buildings, structures, or improvements, resulting from negotiations and approved by the City Commission,
- 28) Court-ordered fines, fees and judgments, resulting from litigation.
- 29) Consulting services, other than those regulated by Section 287.055, *Florida Statutes*.
- 30) Purchases made from other governments or public entities.

## UNAUTHORIZED PURCHASES

Except for emergencies or other authorized exemptions stated in this Manual, no purchase of goods or services may be made without authorization as required in this Manual. In general, it is prohibited to make a purchase of goods or services over \$5,000 without an approved purchase order.

No representative of the City shall enter into a verbal agreement or make any arrangements until final purchasing approval is granted. In the event that an unauthorized purchase is made, the following may apply:

- 1) Such purchases are void and not considered an obligation of the City; and
- 2) The person ordering the unauthorized purchase may be held personally liable for the total costs of the purchase and may be subject to disciplinary action.

Unless specifically approved in writing by the City Manager, no City employee may purchase City property unless it is purchased through the City's public auction or through sealed bid procedures of the City. This includes, but is not limited to, new and used equipment and materials or supplies.

City employees are prohibited from, directly or indirectly, using the purchasing power of the City to make private purchases and City employees are prohibited from having private purchases delivered to the City C.O.D. to be paid for by the employee.

It is the vendor's responsibility to ensure receipt of all addenda, and any accompanying documentation. The vendor is required to submit a signed "Acknowledgement of Addenda" form with each bid when any addenda have been issued.

# COMPETITIVE PURCHASING PROCESSES

## *General Matters Relating to Submissions*

The role of the City's purchasing process is to meet the valid needs for goods and services by providing the right products or services, in the right quantity, at the right price, at the right time and at the right place.

The purchasing process begins with a "need" by a using department. For all persons and entities involved in the process (users, vendors and the Finance Director, or designee) to efficiently and effectively manage City procurements, users must logically and timely plan to meet needs. This should occur as far in advance as possible. Each need must be thoroughly reviewed as to the type of purchasing process that will best facilitate the delivery of the goods or services required. It is recommended that users review the adopted budget at the beginning of each fiscal year to plan purchasing strategy and timetables. Planning must include coordination with other departments, as necessary or beneficial for the City, and with the Finance Director, or designee. The Finance Director, or designee, must be prioritized by time of need. The Finance Director, or designee, will work closely with each department, providing whatever level of service is required to ensure the purchase is made in a timely manner.

Generally, the City engages in a competitive purchasing process to attain goods and services at the best price and with the highest quality. When competition occurs, the City will use the following services:

- 1) **DemandStar**: All competitive bids, proposals and sealed quotes are posted on DemandStar, the City's current online bidding service provider. Registration may be implemented at [www.demandstar.com/registration](http://www.demandstar.com/registration). On the registration form, the vendor shall enter the required information and should be sure to select City as your Free Agency Registration.
- 2) **VendorLink**: VendorLink is a vendor management notification system and an internet portal where businesses may register to receive electronic email notification of upcoming solicitations as they become available. This online registration service allows vendors to provide basic information about their business and to select specific commodity codes for the goods and services they provide. When a solicitation matching those selections become available, the VendorLink system automatically sends an email notification to the email address provided during the registration process. The email notification contains the link and information necessary for the solicitation to be viewed and downloaded from any computer. Completing the registration information allows potential vendors to receive solicitation announcements from the City.

Electronic bid submittals will be available for use through VendorLink & DemandStar for vendors that are registered users. Vendors will have access to electronically submit proposals or bids instead of mailing paper or electronic files to our physical address. Vendor registration instructions can be found at [www.myvendorlink.com/common/register.aspx](http://www.myvendorlink.com/common/register.aspx) and [www.demandstar.com/registration](http://www.demandstar.com/registration). There is NO COST to vendors to register or to submit bids or proposals using VendorLink. Vendors should register as soon as possible to allow uninterrupted access to the City's bids and the notification of solicitations.

Some procurement activities of the City require specific advertising and notice such as construction contracts. The Finance Director will provide guidance as to the particular type of public notice and advertising that is required for various projects. For example Section 255.0525, *Florida Statutes*, requires a City construction project that is projected to cost more than \$200,000 be publicly advertised at least once in a newspaper at least 21 days prior to

the established bid opening and at least 5 days prior to any scheduled Prebid conference and Section 180.24, *Florida Statutes*, provides that the City when seeking utility construction contracts in excess of \$25,000 publish notice in a newspaper at least once each week for 2 consecutive weeks or post 3 notices in 3 conspicuous places and that contracts for the purchase, lease, or renting of materials or equipment to be used in a City utility in excess of \$10,000 also be noticed.

## *Issuing Addenda*

Vendors may request information, clarification and guidance from the City's Finance Department which may issue an addendum in response to any inquiry received, prior to the close of the solicitation period, which changes, adds or clarifies the terms, provisions or requirements of the solicitation. The vendor should not rely on any representation, statement or explanation, whether written or verbal, other than those made in the solicitation document or in the addenda issued. If there appears to be a conflict between the solicitation and the addenda, the last addendum issued shall prevail.

Once procurement activity has been initiated by the City, no changes in the specifications can be made unless all prospective vendors are notified by means of an addendum which clearly points out such changes.

All Addenda shall be issued at least 7 calendar days prior to bid opening date. If there is not sufficient time, the bid date will be changed.

## *Competition Thresholds*

The City contracts for millions of dollars in supplies and services each year, which has a tremendous impact on State and local economies. The competitive process ensures contracts go to the most responsive, responsible vendor who complies with the specifications, terms and conditions. It is the intention of the City to obtain the "best value" for the City and its citizens through a competitive process, unless otherwise exempt or waived by the City's resolution, policies and/or procedures.

### **Purchases of \$0.01 to \$1,499.99**

All purchases in this category require the approval of the department director, or designee. Prior to purchase, the department director, or designee, must verify funds are available within the respective budget line. No quotations, requisition or respective purchase order is required.

### **Purchases of \$1,500.00 to \$4,999.99**

All purchases in this category require the approval of the department director, or designee. Prior to purchase, the department director, or designee, must verify funds are available within the respective budget line. Two quotations, preferably three quotations, are required to ensure best possible pricing. The department making the purchase is responsible for maintaining a file on the quotations in anticipation of a possible internal audit. No requisition or respective purchase order is required.

**Purchases of \$5,000.00 to \$9,999.99**

Purchases in this category are required to be made on a purchase order and, therefore, require a purchase requisition with documentation of best attempts to obtain at least three quotations. If at least three quotations cannot be obtained, or if other than the lowest quote is being recommended for purchase, the reasons shall be documented in a memorandum and attached to the purchase requisition. All purchases in this category require the approval of the department director. Appropriate staff in the Finance Department will review the availability of funds and compliance issues. At this level vendors shall provide confirmation of registration and use of the E-Verify system to verify the work authorization status of all newly hired employees.

**Purchases of \$10,000.00 to \$34,999.99**

Purchases in this category are required to be made on a purchase order and, therefore, require a purchase requisition with documentation of best attempts to obtain at least three quotations. If at least three quotations cannot be obtained, or if other than the lowest quote is being recommended for purchase, the reasons shall be documented in a memorandum and attached to the purchase requisition. All purchases in this category require the approval of the department director. Appropriate staff in the Finance Department will review the availability of funds and compliance issues with final review and approval is required by the Finance Director. At this level vendors shall provide confirmation of registration and use of the E-Verify system to verify the work authorization status of all newly hired employees.

**Purchases of \$35,000.00 to \$49,999.99**

Purchases in this category are required to be made on a purchase order and, therefore, require a purchase requisition with documentation of best attempts to obtain at least three quotations. If at least three quotations cannot be obtained, or if other than the lowest quote is being recommended for purchase, the reasons shall be documented in a memorandum and attached to the purchase requisition. All purchases in this category require the approval of the department director. Appropriate staff in the Finance Department will review the availability of funds and compliance issues with final review and approval is required by the Finance Director and the City Manager. At this level vendors shall provide confirmation of registration and use of the E-Verify system to verify the work authorization status of all newly hired employees.

**Purchases of \$50,000.00 or More**

All purchases in this category require a sealed formal competitive bid process and must be approved by the City Commission (unless a piggyback contract is awarded or a contract is awarded under a cooperative purchasing program, the procurement is made in the course of a declared emergency, the purchase is implemented under a direct purchase list, goods or services are provided under the provisions of an interlocal agreement or the procurement has been authorized under a documents sole source procurement scenario). At this level vendors shall provide confirmation of registration and use of the E-Verify system to verify the work authorization status of all newly hired employees. See pg. 14 for Exceptions to Quotes and Formal Solicitations.

## *Prohibition Against Subdivision, Splitting or Aggregation*

No contract or purchase shall be subdivided, split or aggregated to avoid the requirements of this Manual or other controlling law and it is prohibited to do so.

Delegated procurement authority is based on the total cost of anticipated goods or services.

## COMPETITIVE METHODS OF SELECTION

Each procurement method has advantages and disadvantages. The procedures for preparing and processing bids and other competitive methods of procurement are similar.

### *Competitive Sealed Bidding, Invitation to Bid (ITBs)*

ITBs, also known as sealed competitive bidding, is the generally preferred method of procuring a good or service. Award is made to the lowest responsive and responsible bidder, based solely on the specifications set forth, and may not involve negotiation or discussion with the vendor. Formal (sealed) bids and proposals are the most effective procedures for soliciting competitive prices from vendors in the public (governmental) purchasing sector.

#### Conditions for Use

Competitive sealed bidding is the preferred method for the procurement of goods and services once the financial threshold of \$50,000 is established. Award is made to the lowest responsive and responsible vendor and is based solely on the specifications set forth without negotiation or discussion with the vendor.

The ITB shall include specifications and pertinent attachments, shall clearly define the items or services needed in order for the vendors to properly respond to the Invitation. It shall include the following:

- 1) Instruction and information to vendor concerning the bid submission requirements including, but not limited to, the time and date for receipt of bids, the address of the office to which bids are to be delivered, and any other special information.
- 2) The purchase description, evaluation factors, delivery or performance schedule and such inspection and acceptance requirements as are not included in the purchase description.
- 3) The contract terms and conditions including, but not limited to, warranty and bonding or other security requirements, as applicable, to the procurement. These terms and conditions can be published on the City's website or otherwise made available to vendors, but, in such circumstances, the vendors shall be responsible for a full and complete review of the terms and conditions.

## Life Cycle Cost or Total Cost Bid

A Life Cycle Cost or Total Cost Bid may be used when it is desirable to award on the basis of the cost to the City to acquire and use the goods or services over a period of time. An example would be a copier. The ITB would require vendors to supply the price per copier, its electronic usage, the cost of maintenance, and the cost for supplies for five years usage, or for making a specific number of copies. The lowest cost is determined by adding together the costs of each of these components.

## Public Notice

Prior to publication; bid advertisements, specifications, budgeted cost, and general ledger account number must be submitted to the Finance Department for review, at which time a bid number will be assigned by the Finance Department as a reference number to be used throughout the purchasing process. The bid advertisement and specifications will be forwarded by the Finance Department to the City Manager for authorization and approval which must be obtained prior to proceeding with the competitive bid process.

When a specific statutory or other legal process is not mandated upon the City, notice of requests for competitive bid shall be advertised in a local publication of record and shall appear not less than 10 days prior to bid opening, and shall be placed in a newspaper published or distributed in the City. Currently the Daytona Beach News Journal is the locally distributed newspaper. The Purchasing Coordinator is responsible for placing the advertisement.

## Bid Format

The Finance Department shall implement the format in which bids are to be received. Care is taken that appropriate protection is afforded the City through requirements for bid bonds, insurance and performance and payment bonds. Deletion of these items may result in loss of any meaningful protection for the City in the event of a vendor default or non-compliance.

## Bid Conditions

In addition to the general conditions or “boilerplate,” most bids require special conditions, which pertain specifically to the bid in question. Conditions differ from specifications in that conditions refer to requirements, which must be met by the vendor before specifications of the bid item are even considered. For example, a supplier of furniture who cannot meet the required condition of a 30-day delivery will be eliminated, even though the furniture may meet all physical specifications.

Conditions allow the City a high level of protection by the inclusion of various clauses relative to renewal of contract, cancellation, settlement of disputes, payment terms, delivery schedules, etc. Procurement staff should remember that, by referencing the bid in their purchase order, they effectively bind the vendor to the terms, conditions and specifications of that document. Therefore, should disputes arise, the written contract (bid and purchase order) will prevail.

## Price Increases

Price Increase language must be discussed for every bid or proposal individually in concert with the Finance Director, or designee. Price Increases can be very complicated and unique but for most bids the language below will be used if price increase language is deemed best for the good or service being procured:

Bid prices shall remain firm for the initial term of the Contract. The Vendor may request a price adjustment for each renewal period of the Contract. The request for price adjustment must be submitted in writing no later than 90 calendar days prior to the expiration of the term. The request for price adjustment must include a detailed written justification for the increase and a copy must be provided to the City's Finance Department. Any approved request for price adjustment will not take effect until the contract renewal start date and any such granted price adjustment will be in effect for the renewal period. Written request for price adjustments shall not exceed the rate of inflation determined by the Consumer Price Index (CPI) determined to be applicable by the City's Finance Director, or designee, and established in writing in a renewal document.

## Bid Specifications

The department wishing to purchase under competitive bidding is responsible for the initial drafting of bid specifications. The City Engineer shall review all bid documents that are of a technical nature prior to the bids being released. The City may cause other City personnel or consultants to review specifications, but not a vendor who will bid on the project. A copy of the specifications and bid advertisement shall be sent to the Purchasing Coordinator who will be responsible for all bid openings.

Bid specifications are the foundation upon which the entire competitive bid process rests. Good specifications will prevent misunderstanding, delay, change orders and errors in delivery or performance. They shall not contain unnecessary features that will unduly restrict competition.

The use of abbreviations shall be restricted to those in common usage and not subject to possible misunderstanding. Wherever used, the meaning should be clear from the context and a genuine saving in space effected.

When possible, specifications shall describe energy efficient materials and equipment. When practical, specifications shall describe the use of recycled materials in products or services.

If the bid includes additive or deductive bid items, the specifications shall include the procedure to be used in making an award. **Since additive and deductive items can affect or change which is the lowest bid they should be avoided when possible.**

Below are the basic types of specifications used to describe what is to be purchased:

- 1) Performance. Specifications which describe the characteristics and capabilities that are pertinent to the intended use of the item. This specification is less concerned as how a product is made, and more concerned as to how well it performs, and at what cost.

- 2) Design. Specifications which employ dimensional and other physical requirements of the item being purchased. This type of specification concentrates on how a product is to be fabricated or constructed and is used when a structure or product has to specially made to meet the purchaser's unique need.
- 3) Approved Products List. Specifications based on manufacturers' names, brand names and model or catalog numbers which have been tested or examined and approved, prior to seeking prices.
- 4) Sample. Specifications requiring the vendors to furnish representative samples of products offered for the purchaser's comparison and evaluation in determining the successful vendor.
- 5) Name Brand "Or Equal". Specification wherein the exact product of one or more vendors or typical workmanship is designated as the level of quality desired, and the purchaser reserves the right to approve any other as equal or acceptable.

The following guidance is provided for the preparation of a specification:

- 1) State exactly what is wanted clearly, definitively and completely.
- 2) Provide the means or basis for testing deliveries for conformance with the specifications. Without this check, the specification loses much of its force as a purchasing tool.
- 3) Avoid non-essential quality restrictions that add to cost and difficulty in procurement without adding to utility and value.
- 4) Avoid definitions that unnecessarily restrict competition.
- 5) Conform, as far as possible, to establish commercial and industrial standards.
- 6) State what you want the good or service to do or provide.
- 7) State what the good or service will be used for.
- 8) State any particular concerns for the item or project.

## Insurance

Insurance is required to safeguard the City from any claims resulting from damage to property and/or injury to persons caused by the vendor or their actions. The vendor, at their own cost, must secure insurance policies that name the City as an "additional insured" party. A certificate of insurance is not adequate to protect the City. The City requires that it be named as an additional insured in a policy document. Also, each policy shall provide for 30 days prior notice of cancellation to the City's Risk Manager.

Vendors shall submit proof of insurance to the City with their submittal including the types and dollar amounts of coverage they currently maintain.

Requirements include:

- 1) Indemnification. The vendor shall defend, indemnify and hold harmless the City, its representatives, employees and elected and appointed officials, from and against any and all liability, losses, damages, claims, demands, expenses, fees, fines, penalties, suits, proceedings, actions and costs of actions (including, but not limited to, attorneys' fees), of whatsoever kind or nature arising out of or in any way arising out of the agreement or any act or omission of Vendor or its agents, servants, employees, independent contractors, customers, patrons or invitees, unless such claims are as a result of the City's sole negligence.
- 2) Commercial General Liability. The vendor shall secure and maintain, at its own expense at all times during the term of this contract, a comprehensive public liability insurance policy issued by a responsible insurance company, and in a form acceptable to the City, protecting and insuring against all of the following: claims, demands, damages, fees, fines, penalties, suits, proceeding, actions, and cost of actions, etc. coverage limits of not less than \$1,000,000 for bodily injury to or death to one or more person(s), and \$1,000,000 for damage to any property, or a combined single limit of \$2,000,000 for any occurrence of bodily injury to persons or damage to property, which insurance shall be issued on the occurrence basis.
- 3) Business Auto Policy. The vendor shall secure and maintain, at its own expense at all times during the term of this contract an automobile liability coverage policy with a minimum of a \$1,000,000 combined single limit per occurrence.
- 4) Worker's Compensation. The Vendor shall secure and maintain, at its own expense at all times during the term of this contract, worker's compensation and employer's insurance covering all the persons employed by the vendor in connection with this contract. Worker's compensation shall be the statutory limits in accordance with Chapter 440, *Florida Statutes*.
- 5) Sex Abuse Insurance. The Vendor shall secure and maintain, at its own expense at all times during the term of this contract, if the City's Risk Manager determines that the vendor will be in contact with children or other vulnerable persons (such as, by example only, the aged), sex abuse insurance in such amounts as the Risk Manager may deem appropriate under the circumstances of the goods or services being provided to the City.
- 6) Professional Liability Insurance. The Vendor shall secure and maintain, at its own expense at all times during the term of this contract, if the City's Risk Manager determines that the vendor is providing a professional service to the City, professional liability insurance in such amounts as the Risk Manager may deem appropriate under the circumstances of the services being provided to the City.
- 7) Cyber Liability Insurance. The Vendor shall secure and maintain, at its own expense at all times during the term of this contract, if the City's Risk Manager determines that the vendor will interact with the information technology systems of the City, cyber liability insurance in such amounts as the Risk Manager may deem appropriate under the circumstances of the goods or services being provided to the City.

- 8) Subcontractors. It shall be the responsibility of the vendor to ensure that all subcontractors comply with the same insurance requirements that are applicable to the vendor.

Insurance Deductible Amounts shall be paid for and be the responsibility of the vendor for any and all claims under this contract.

Coverage limits are set at the advice of the City's Risk Manager and shall not be changed without approval. The Risk Manager may review and reject any insurer providing coverage.

The vendor shall not commence the provision of goods or services to the City until all insurance required has been obtained and proof of such coverage is submitted to the City's Risk Manager for approval.

## Bonds

Bonds offer tangible protection in the form of monetary assurances that the vendor will meet their obligations. Bonds must be secured by the vendor at their own cost, and generally may be classified as follows:

- 1) Bid Bond. This bond, usually in an amount of 5% of the bid, which guarantees that the vendor will enter into a contract with the City if they are determined to be the lowest responsive and responsible vendor. Bid bonds protect the City from erroneous or deliberate low bids which the vendor has no intention of honoring. Should they fail to enter into a contract, the bid bond is forfeited. Bid bonds must be submitted with the bid.
- 2) Performance Bond. This bond is a surety instrument guaranteeing that the vendor will perform according to the terms of the contract and is generally in an amount of 100% of the bid. This bond affords protection from non-performance and non-completion of major contracts, the effect of which would result in considerable injury to the City. Should the vendor default, the bond is cashed, and the City may then utilize the funds to complete the contract with another vendor. Performance bonds are submitted with the bid/submission. Some performance bonds are required relative to construction on City public buildings such as by Section 255.05, *Florida Statutes*.
- 3) Cash Bond. A bond which is in the form of cash as opposed to a surety instrument.
- 4) Letter of Credit. A letter issued by a bank to serve as a guarantee for payments made to a specified person under specified conditions and this form of security is preferred in the case of certain construction projects or multi-year contracts. All letters of credit are subject to review and approval by the City Attorney.
- 5) Payment Bond. This bond guarantees payment of sub-contractors and vendors providing goods and services to the general contractor, who is under contract with the City. The payment bond relieves the City of financial liens against a project should the general contractor fail to pay his vendors and sub-contractors. These creditors will look to the bond for payment. Performance bonds are submitted with the bid/submission. Some bonds to protect subcontractors are required relative to construction on City public buildings such as by Section 255.05, *Florida Statutes* (which process is in lieu of the notice of commencement process that is required for construction on private property).

- 6) Labor and Material Bond. Same requirements as the Payment Bond.
- 7) Appeal Bond. When a vendor submits an unsuccessful bid and desires to appeal, a bond equal to 5% of the bid amount that has been determined to be the lowest bid amount from a responsive and responsible bidder or the amount of \$25,000, whichever is greater, shall be required. Bid bonds protect the City from frivolous appeals or appeals designed to cause delays. Should an appeal be unsuccessful, the appeal bond is forfeited. Bid bonds must be submitted when the appeal is tendered to the City.

All bond guaranties may, at the discretion of the City, be in the form of a cashier's check, bank money order, bank draft of any national or state bank, certified check, or surety bond, payable to the City. The surety on any bid bond shall be a company recognized to execute bid bonds for contracts under controlling law. Safekeeping procedures for custody of bonds and bid deposits will be determined by the Finance Department.

## Pre-Bid Conference

A pre-bid conference may be held with all vendors and concerned project personnel on complex procurement projects. The primary objective of such a pre-bid conference is to provide a clear understanding of instructions to vendor relative to drawings, specifications, local conditions, location of work, and basic construction methods or work requirements. A site visit may be scheduled following the pre-bid conference if the project personnel feel it would be beneficial for clarification of specifications. Pre-bid conferences may be optional or mandatory as determined by the City.

In addition to avoiding quality assurance problems and contingency items in quotations, other benefits that may be derived from pre-bid conference are:

- 1) The number of changes in specification can be reduced.
- 2) Competition may be stimulated by interesting more prospective vendors.
- 3) Pre-bid conferences tend to ensure that qualified vendors will submit participate and tend to discourage submission by vendors who are not qualified.
- 4) An opportunity is given to discuss schedules which is particularly valuable when hard to get or special materials and equipment is involved.
- 5) An opportunity is given to explain policies and requirements with respect to procurement methods, competitive bidding and negotiation, quotation qualifications and conditions, price provisions and any resulting contractual agreements and the determining factor in making awards.

The pre-bid conference must be a formally announced meeting with vendors. An announcement of the pre-bid conference shall be included with the ITB. The announcement will state when and where the pre-bid conference will be held. In order to derive the greatest benefit from a pre-bid conference, adequate time should be provided for the prospective vendors to review the plans and specifications prior to the pre-bid conference. The pre-bid conference should be attended by City personnel qualified to answer completely and accurately all questions relating to matters such as contract provisions, design and specifications and production techniques that are expected to be discussed. A formal record shall be made of the persons attending and the organizations represented through the use of a sign-in sheet.

During the pre-bid conference, the specifications are reviewed and discussed with all vendor representatives in attendance. Care shall be taken to clarify the specifications as requests so as to ensure that a vendor is not written out, thereby, eliminating them from bidding with due cause. Only in those instances where a vendor requests a change in the specifications that would result in compromising the intended use quality of the equipment are such requests denied.

It is important that persons attending be clearly informed that no oral statement from any person which modifies plans and specifications will in any manner or degree, be considered official until covered in an addendum to the bid.

## Receiving Bids

Control of the bid document is essential. Bidders will submit their bid in a sealed envelope with the following information clearly marked on the outside:

- 1) Vendor Name
- 2) Opening Due Date (month, day, year)
- 3) Opening Time Due (hour/ a.m. or p.m.)
- 4) Bid Number
- 5) Bid Title

On occasion, an envelope will be received with proper information on the outside identifying it as a bid reply and opened inadvertently by mistake. After the envelope has been opened, the appropriate bid information will be written on the outside of the envelope, time stamped, reason it was opened accidentally, and resealed for re-opening on bid closing date.

All sealed bids shall be received at the City, Finance Department, 2<sup>nd</sup> Floor Receptionist, 120 South Florida Avenue, DeLand, Florida 32720. Electronic submittals will only be accepted through VendorLink & DemandStar on specified solicitations. Vendors should be cognizant that submittals to VendorLink & DemandStar are not accepted after the submittal deadline has passed.

In accordance with Section 255.0518, *Florida Statutes*, the City shall, when opening sealed bids or the portion of any sealed bids that include the prices submitted that are received pursuant to a competitive solicitation for construction or repairs on a public building or public work, open the sealed bids at a public meeting conducted in compliance the Florida Open Meetings Law and announce at that meeting the name of each vendor and the price submitted in the bid and make available upon request the name of each vendor and the price submitted in the bid. And, Advisory Legal Opinion Number AGO 2013-30 issued by the Florida Attorney General has determined that such bid openings require the taking and maintaining of minutes as with any other meeting to which the Sunshine Law would be applicable.

## Late Bids

The City will not accept late bids. All late bids will be rejected and returned to the vendor unopened and shall merely photocopy the outside envelope of the late submission for the purpose of maintaining a public record and evidence of the rejection.

## Correction or Withdrawal of Bids

Correction or withdrawal of inadvertently erroneous bids before bid opening may be permitted where appropriate. Mistakes discovered before bid opening may be modified or withdrawn by the vendor who submitted the ITB by written notice delivered and received by the City prior to the time and date set for bid opening. After bid opening, corrections in bids shall not be permitted. No changes in bid prices or other provisions of bids prejudicial to the interest of the City or fair competition shall be permitted.

## Variations, Alternates and Multiple Bids

Unless specifically provided for in the specification, variations, alternates and multiple bids shall not be accepted. Any such bid shall be rejected as non-responsive, provided that if a vendor clearly indicates a base bid, it shall be considered for award as though it were the only bid or proposal submitted by the vendor.

Multiple and alternate bids, and variations to specifications are acceptable, provided they are requested in the specifications, and the method of selection and award is clear in the specifications. A performance specification should be used in such instances when alternate or variations are acceptable.

## Options

When options to a bid are requested, the lowest responsible base bid will be combined with such options, applied in such order as elected by the City that will produce a sum which is within the amount of funds available to finance the contract.

The City reserves the right to award any and/or all bids on an item-by-item basis or in the aggregate, whichever is deemed in the best interest of the City. The City also reserves the right to award a portion of a quantity requirement to multiple vendors. Such incremental awards may be desirable for the City when the City determines that a single vendor may not reasonably be able to supply the total required quantity, or if it is in the best interest of the City to have multiple vendors because of commodity shortages, emergency contingency planning, rationing or the like.

## Bid Opening

A sealed bid opening is a formal, official event and shall be carried out in a professional, business-like manner. Procurement staff should be on guard not to make frivolous, or preferential statements, which might compromise the City's position and the reputation of the City.

Unless conditions demand another site, bids should be opened at the DeLand City Hall Commission Chambers. Bid openings are open to the public and all interested vendors. The bid opening date and time shall be strictly adhered to.

Bids will be opened by the Purchasing Coordinator or designee and recorded by another member of City staff. As each bid is read aloud, the name of the vendor and the dollar amount should be repeated clearly twice.

The use of electronic media, including acceptance of electronic signatures and proposal, is authorized as long as such system provides for:

- 1) Appropriate security to prevent unauthorized access to the bidding, approval and award processes.
- 2) Accurate retrieval or conversion of electronic forms of such information into a medium which permits inspection and copying.

After the last bid is opened, attending vendors should be advised that an award decision will be made after review of the submitted proposals, and thanked for attending the bid opening. To avoid possible tampering, bids should not be distributed for general investigation by the vendors present. Under no circumstances will vendors or the general public be allowed to privately review bids.

All bids are tabulated by the Purchasing Coordinator in the Finance Department. Bid tabulations will be posted no later than 5 business days after the opening. The original copy of the tabulation is kept on file in the Finance Department along with the original bid documents.

## Public Disclosure

All provisions of controlling State law shall be adhered to. Exemptions relating to public records pertaining to bids and like matters shall be also adhered to.

## Single Bid Received

When only one bid is received, the following steps shall be taken:

- 1) Communicate with department to see if bid opening date is to be extended. The one bid response will be returned unopened if the option is accepted.
- 2) Inquire of those who did not bid to determine the reason for lack of response.
- 3) Accept or reject the bid based on information received and taking into consideration the City's position favoring competition.
- 4) Accept the bid if time is crucial and cost is reasonable, as the opportunity for competition was afforded by initial competition.
- 5) Reject the bid if time permits for re-solicitation.
- 6) Review specifications and bid list, revise if necessary and rebid per regular procedures.

- 7) The City may negotiate with the one vendor if the price is over the approved budget or the City determined that it would be advantageous and in the public interest for the City to attempt to procure the goods or services from the bidding vendor.

## No Bid Received

On occasion, the ITB will receive no responses. In those cases, these follow actions may be taken:

- 1) Extend the bid opening date.
- 2) Contact potential vendors on bid list to determine reason for lack of response.
- 3) Contact the user department to determine if a rebid is desired, using information obtained from a vendor survey.
- 4) Close the ITB if the decision is made not to rebid.
- 5) Review specifications and bid list if decision is made to rebid.
- 6) Revise bid documents where appropriate.
- 7) Re-initiate the bidding process.
- 8) Contact interested vendor or vendors and begin direct negotiations if in the public interest.

## Tie Bids

Tie bids are offers where one or more responsive and responsible vendors offer the same lowest price for an item or group of items, depending on the method of award. In such instances, tie bids will be awarded using the following process:

- 1) If a tie occurs between a local vendor and a non-local vendor, the local vendor is awarded the bid.
- 2) If a tie occurs between 2 local vendors a coin flip will determine the awardee.
- 3) If a tie occurs between 2 non-local vendors a coin flip will determine the awardee.
- 4) If a tie occurs between more than 2 vendors, numbers will be drawn to determine the awardee by lot (unless local preference can be applied).

Any vendor involved in a tie shall be notified and given the opportunity to attend the tie-breaker.

## Local Preference

In compliance with Section 25A.5-2 of the City Code, local preference shall be weighed on all bids over the amount established by the City Commission pursuant to Article VIII, Section 63, of the City Charter.

**Preference** - Where the lowest bid is submitted by a vendor which is not a Local business, and a bid is submitted by a local business which is within five percent (5%) of the lowest bid, then the local business submitting the lowest bid amongst all local business submitting bids, and the vendor submitting the lowest bid, shall each have the opportunity to submit, within five (5) working days of the bid opening, a best and final bid equal to or lower than the amount of the lowest bid. The contract shall be awarded to the vendor submitting the lowest final bid. In the case of a tie between a local business and a vendor which is not a local business, the contract shall be awarded to the local business.

## Waiver of Informalities

Bids may be defective in that they fail to give certain information requested by the invitation. For example, a bid may fail to furnish required catalogs or descriptive data. These “minor” informalities may be corrected by allowing the vendor to furnish the information prior to award, or by waiving them if time does not permit their correction.

The difference between a minor informality and a failure to conform to the essential requirements of the ITB may require advice from the City Attorney. Nevertheless, the decision to allow the defect to be corrected will be judged according to the fundamental principle: Is it in the best interest of the City to do so and will it be prejudicial to the interests of the other vendors?

The City reserves the right to waive any bid informalities when deemed to be in the best interest of the public.

## Bid Award

Bids shall be awarded to the lowest responsible and responsive vendor whose bid meets the requirements and criteria set forth in the specifications.

**Responsive vendor** - A vendor determined by the City to have submitted a bid or proposal that fully conforms in all material respects to a City solicitation and all of its requirements including form and substance. Vendor responsiveness refers to a vendor’s unequivocal promise, as shown on the face of its offer, to provide the goods or services called for by the material terms of the solicitation. A responsive bid means one submitted at the correct time and place, in the correct format, containing all required information, signatures, and affidavits. A bid that deprives the City of the assurance that the contract will be entered into in accordance with its terms is not responsive. Any omission is normally not curable, as a vendor submitting an incomplete or qualified bid could opt in or out of the process at its will, depriving the City of a valid offer and placing that vendor at a material advantage over other vendors who have made firm offers. The determination of responsiveness is based on the application of bid requirements and legal precedent to facts provided by City staff or developed in the course of a bid protest. In consultation with the City Attorney, the Finance Director has the authority to decide whether a bid is responsive or non-responsive.

**Responsible vendor** - A vendor determined by the City to be capable of meeting all of the requirements of the solicitation and subsequent contract. The vendor must possess the capability, including financial and technical, to perform as contractually required. Vendor must be able to fully document the ability to provide good faith performance. The requesting department must thoroughly review each bid for compliance with all conditions and requirements of the specifications. In addition to price, all bids awards may take the following into consideration:

- 1) The character, integrity, reputation, judgment, experience, previous performance and efficiency of the vendor.

- 2) The ability, equipment, capacity, financial strength, personnel resources and skill of the vendor to perform the contract.
- 3) The quality, availability and adaptability of the supplies or contractual services to the particular use required.
- 4) The ability of the vendor to provide future maintenance and service for the use of the subject of the contract.
- 5) The quality of performance of previous contracts and whether the vendor can perform the contract within the time specified, without delay or interference.

In making the determination of whether the vendor has the capability to perform the contract the City may consider factors including, but not limited to, the following:

- 1) Past performance of the vendor, its principals, affiliates, or supervisory personnel in the execution of prior City contracts.
- 2) Any information which the City may obtain relating to the performance of the vendor, its principals, affiliates, or supervisory personnel on contracts with third parties, including without limitation, contracts with other governmental entities.
- 3) Financial performance and capability, including without limitation, pending and unsatisfied claims.
- 4) Qualifications and past performance of the personnel who will have supervisory responsibility for the performance of the specific City contract.
- 5) Licensing, certifications and other permits.
- 6) Any significant changes in the vendor's financial position or business organization.

In making the determination whether the vendor has a satisfactory record of integrity and business ethics, the City may consider factors including, but not limited to, the following:

- 1) Pending criminal charges against the contractor, its principals, affiliates, or supervisory personnel.
- 2) Criminal conviction of vendor, its principals, affiliates, or supervisory personnel;
- 3) Debarment of the vendor, its principals, affiliates, or supervisory personnel in any jurisdiction.
- 4) Pending disciplinary proceedings against the vendor, its principals, affiliates, or supervisory personnel.
- 5) Pending enforcement cases, civil judgments, citations, or notices of violation of regulatory authorities with jurisdiction over the goods or services to be rendered, or any adverse determination resulting therefrom, including, but not limited to, those related to environmental protection, the health and safety of labor and determinations by any government entity.
- 6) Pending investigation related to, or arising from allegations of dishonesty illegal or fraudulent business practices.

- 7) Efforts by the vendor to redress any breach of prior contracts and compliance with settlement agreements to redress any contract deficiency.
- 8) Inaccurate, incomplete or fraudulent accounting practices.
- 9) Efforts by the vendor to remediate any of the adverse conditions mentioned herein, including compliance with the terms and conditions of any compliance agreement.
- 10) The preponderance of the evidence, nature and credibility of any and all facts underlying any of the above-cited investigations, allegations, charges, accusations, proceedings or indictments.

In evaluating the factors above, the City shall give priority to acts or legal proceedings occurring within the past 5 years, and any violation or deficiency that is continuous or uncured. Additionally, at any time, the City may require that the vendor submit documentary evidence and other proof necessary to evaluate the factors identified above.

The City shall be entitled to rely on information of the type and nature that a reasonable person would rely on in evaluating the conduct of business affairs. If the vendor is unable to furnish such documentary evidence or other proof, or if the City is otherwise unable to make an affirmative determination that the vendor is responsible to perform the work as required, the vendor shall be determined non-responsible. Failure of the vendor to provide requested information to determine responsibility in response to a solicitation may cause such bid or proposal to be rejected.

Generally, prospective prime contractors are responsible for determining the responsibility of their prospective subcontractors. Determinations of prospective subcontractor responsibility may affect the City's determination of the prospective prime contractor's responsibility. A prospective contractor may be required to provide written evidence of a proposed interest to do so, and the City may directly determine a prospective subcontractor's responsibility. In this case, the same standards used to determine a prime contractor's responsibility shall be used.

All meetings considering the responsibility determination shall be recorded. Specific questions relevant to the unique responsibility issues of the procurement will be developed in advance. In the event a vendor is determined to be non-responsible, the Finance Director shall make, sign, and place in the contract file a determination of non-responsibility, which shall state the basis for the determination. All documents, reports, recordings of meetings, supporting a determination of non-responsibility shall also be included in the contract file.

### **Award to Other than the Low Bidding Vendor**

If award of bid is made to other than the low bidding vendor, justification for doing so shall be completely documented in writing and included in the bid file. Justification for awarding to other than the low bidding vendor includes, but is not limited to: does not meet specifications (must specify how bid does not meet specifications), unsatisfactory performance on previous City contracts, unfavorable references, unable to meet project time or delivery requirements, etc.

### **Negotiation of Bids**

The City reserves the right to negotiate prices with the vendor that provides the best value to the City provided that the scope of work of the solicitation remains the same. The City may terminate negotiation if unsuccessful and begin negotiations with the next vendor that provides the best value to the City.

## **Best and Final Offer**

The City reserves the right to negotiate with all vendors for the purpose of obtaining best and final offers. Vendors shall be accorded fair and equal treatment with respect to any opportunity for discussion and revision of proposals. Any such revisions may be permitted through negotiations after submissions and prior to award for obtaining best and final offers. Any revisions to scope or work will be offered to all vendors for the purpose of obtaining the best and final offer. The City, at any time during these negotiations, may request a "best and final offer" from any or all of the responsive and responsible vendors that submitted proposals. By the date and time established by the City, the "best and final offer" will be provided in a sealed envelope and opened at a public meeting that follows the same procedure as a formal bid opening.

## **Rejection of Bids**

After bids are received, they must be presented to the City Commission for disposition. The authority to accept and reject bids rests with the City Commission. There is no Commission action required if no bids are received.

The City reserves the right to reject any or all bids or parts of bids. The City also reserves the right to reject any unit prices, for additions to or deductions from the scheduled amount of work as given in the bid, if they are considered excessive or unreasonable, or to accept any or all such unit prices that may be considered fair and reasonable. If any unit price is rejected for the reasons stated herein, the work governed by such unit prices, if required, shall be treated as a change in the work as specific in the general conditions, or may be cause for rejection of the entire bid.

Bids may be rejected if they show any alterations of form, additions not called for, conditional bids, incomplete bids, erasures, or informalities of any kind. If a bid amount is changed after the amount is originally inserted, the change should be initialed by the person signing the Bid Proposal.

The following reasons may be considered causes for rejection:

- 1) All prices too high or unbalanced.
- 2) Sufficient funds not budgeted or available.
- 3) An error in the specification sufficient to have caused confusion and/or misunderstanding amount vendors.
- 4) The item on which bids were received is not needed.
- 5) Lack of adequate competition.
- 6) Noncompliance of specifications.
- 7) Submission of more than one bid in response to a single invitation.
- 8) Lack of adequate work history and/or work experience.

## Request for Commission Action

After completion of the bid review, the requesting department must complete a “Request for Commission Action” (RCA) recommending for award the lowest bid meeting specifications, if it provides the best value to the City. The RCA should also state the amount of funds budgeted, and if the bid exceeds the budget, how the excess funds needed will be appropriated. The requesting Department Director shall make the recommendation of bid award; however, the final decision remain with the City Commission.

The Purchasing Coordinator shall notify the successful vendor(s) in writing of the intent to award. Until a Purchase Order is issued, funds have not been encumbered and the awarded vendor shall not perform.

## *Multi-Step Sealed Bidding*

Multi-step sealed bidding is a 2-phase process consisting of a technical first phase including vendors submitting un-priced technical offers to be evaluated; and a second phase in which those vendors whose technical offers are determined to be acceptable during the first phase have their price bids considered. It is designed to obtain the benefits of competitive sealed bidding by award of a contract to the lowest responsive, responsible vendor, and at the same time obtain the benefits of the competitive sealed proposals procedure through the solicitation of technical offers and the conduct of discussions to evaluate and determine the acceptability of technical offers.

When it is not possible to write specification with a description sufficient to award based on price, an RFQ may be issued requesting the submission of un-priced offers, followed by the second step of issuing an ITB to only those vendors whose offers have been qualified under the criteria set forth in the first step. The specifications may, instead, require submittal of a second sealed envelope within the main sealed bid envelope. The second sealed envelope shall contain the prices, and only those bids of the vendors whose offers have been qualified will be opened.

Multi-step sealed bidding may be used when it is considered desirable to:

- 1) Invite and evaluate technical offers to determine their acceptability to fulfill the purchase description requirements.
- 2) Conduct discussions for the purposes of facilitating understanding of the technical offer and purchase description requirements and, where appropriate, obtain supplemental information, permit amendments of technical offers, or amend the purchase description.
- 3) Accomplish the preceding prior to soliciting bid prices.
- 4) Award the contract to the lowest responsive and responsible vendor in accordance with the competitive sealed bidding procedures.

It may be beneficial to conduct a pre-bid conference or a conference during the evaluation of the technical offers.

The policies applying to ITBs shall apply to multi-step sealed bidding.

## OTHER COMPETITIVE PROCUREMENT METHODS AND PROCEDURES

The following methods of procuring goods and services provide the City with alternatives to the mere competitive pricing of goods or services and allow the City to explore diverse ways and means to obtain high quality goods and services often in ways that address unique needs of the City. Many of the administrative procedures noted above with regard to competitive price bidding such as public noticing, timeliness of submissions, form and method of submissions to the City, insurance and bond requirements, pre-bid conferences, modifications of submissions apply to the following methods of procuring goods and services and shall be used by the City, as determined to be appropriate by the City.

### *Request for Competitive Sealed Letters of Interest (RLIs)*

A Request for Letters of Interest (RLI) is used when there is no expert on staff to write technical specifications, evaluate technical bids or proposals, or keep up with changing technology, and when the City is willing to consider many different approaches. It allows the purchase of complex and often expensive goods and systems without large investments in specifications development. It helps to develop knowledge, allowing some latitude in changing the requirements to obtain the most suitable goods or systems. It begins when a using department provides a succinct, clear explanation of the results they desire from a technology system (this is sometimes called a performance specification). That explanation along with standard language that advises each interested party of the job's basic requirements, and a detailed list of evaluation factors by which each response will be judged, shall be advertised, and mailed to known providers. Each respondent shall provide evidence of their capability and past experience to meet the desired results. The respondents are then short-listed, and those on the short-list are invited to provide additional evidence through interview or demonstrations before a Selection/Negotiation Committee. The Committee then decides whether they recommend inviting bids from or beginning negotiations with the selected firms. Each firm deemed capable of meeting all requirements shall submit a detailed bid or proposal, including costs, for evaluation. The firm with the bid or proposal that is most advantageous to the City will then be offered a contract. If it is bid, this would be a form of multi-step bidding.

### *Competitive Sealed Information, Request for Information (RFIs)*

A Request for Information (RFI) is a written solicitation prepared and issued for the purpose of seeking information, comments or reactions from the industry by a certain date and time. An RFI may be used during market research phase of an acquisition to assist the City in identifying potential vendors, approaches, prices, or other relevant information. The RFI precedes the issuance of a Request for Qualifications or Request for Proposals. Contract award cannot be made on response to an RFI.

## *Competitive Sealed Qualifications, Request for Qualifications (RFQs)*

A Request for Qualifications (RFQ) is used to obtain statement of qualifications from vendors when the scope of services cannot, or has not, been completely established by the City. That situation requires the identification of specific qualifications in order to evaluate responding vendors. A Request for Qualifications includes, but is not limited to, a brief explanation of the purpose of the Request for Qualifications, a description of the service to be purchased, required qualifications, instructions for response, and evaluation and selection criteria. These types of contract awards are generally not based solely upon price. Instead, there is an extensive evaluation, which may include such criteria as qualifications and experience of principals and staff, technical superiority, financial stability, experience and history of the firm, and references.

## *Competitive Sealed Proposals, Request for Proposals (RFPs)*

A Request for Proposal (RFP) is a solicitation whose associated award evaluation and vendor selection process is predicated on a best value evaluation, rather than strictly upon award to the lowest priced responsive and responsible vendor. This type of evaluation is a sensitive and demanding process, and detailed guidelines have been developed to ensure such evaluations are conducted in an appropriate and accurate manner.

An RFP, by nature, is more general than bids, thus it is vital to provide the correct parameters within which vendors are to operate. Otherwise, confusion and misinterpretation may result in proposals which do not address the matter in question. The RFP must specifically define the good or service needed by the City and clearly specify the criteria that will be used by the City to determine the most qualified vendor(s).

The RFP shall include specifications and pertinent attachments, shall clearly define the items or services needed in order for the vendors to properly respond to the Invitation. It shall include the following:

- 1) Instruction and information to vendors concerning the bid submission requirements, time and date for receipt of bids, the address of the office to which bids are to be delivered, and any other special information.
- 2) The purchase description, evaluation factors, delivery or performance schedule, and such inspection and acceptance requirements as are not included in the purchase description.
- 3) The contract terms and conditions, including warranty and bonding or other security requirements, as applicable to the procurement.

After the last proposal is opened, attending vendors should be advised that an award decision will be made after review and evaluation of the submitted proposals, and thanked for attending the proposal opening. At this time, no attempt should be made to read or compare the proposals. Proposals shall be viewed and reviewed only City personnel having legitimate interest in them.

## *Vendor Pool Contracts*

Vendor pool contracts are contracts that have been awarded to multiple vendors which have met the basic qualifying requirements established for the contract, but do not contain within the contract itself all of the data needed to establish form pricing for a specific product or specific service to be provided under the contract. Examples of these contracts include, but are not limited to:

- 1) Pre-qualification contracts awarded by the City. These contracts simply specify a pool of contractors who are authorized to provide the required product or service to the City;
- 2) Contracts awarded by the City that include pricing information relating only to hourly rates, or discount rates from catalogs or otherwise established commercial pricing sources, may be determined to be vendor pool contracts. Contracts structured in this manner often do not include all the information necessary to determine the firm price for a given product or service from the information contained in the contract. Contracts that do not contain sufficient information in that regard are considered to be vendor pool contracts;
- 3) Contracts awarded by other government agencies and not-for-profit organizations that include pricing information relating only to hourly rates, or discount rates from catalogs or otherwise established commercial pricing sources, may be determined to be vendor pool contracts.

Vendor pool contracts require additional competitive action prior to award of a specific purchase to a specific vendor listed on the contract. Specific quoting and award procedures (i.e. a “road map”) for use of each vendor pool contract will be developed on a case-by-case basis by the Finance Department in coordination with the requesting department. These procedures shall be structured to provide the competitive structure and documentation necessary to clearly support the award of a specific purchase to a specific vendor.

A pre-qualification contract that establishes a pool of vendors based on minimum requirements may allow for additional vendors to be added to the pool at any time during the contract term. If this is allowed, it must be specifically stated in the contract terms and conditions. Additional qualified vendors must meet the minimum qualifications established in the original solicitation to be added to the pre-qualified vendor pool.

## *Consultant's Competitive Negotiation (CCNAs)*

The City's selection process for professional engineering, architectural, landscape architectural, and surveying or mapping services and design building professionals shall be governed by Florida Statutes Section 287.055, commonly known as the “Consultants’ Competitive Negotiation Act” (CCNA). Per the Act, the City shall publicly announce, in a uniform and consistent manner, each occasion when professional services must be purchased for a project where the basic construction cost is estimated by the City to exceed the threshold amount provided in Florida Statutes Section 287.017 for CATEGORY FIVE (\$325,000) or for a planned or study activity when the fee for professional services exceeds the threshold amount provided in Florida Statutes Section 287.017 for CATEGORY TWO (\$35,000), except in cases of valid public emergencies. A project means that fixed capital outlay study or planned activity described in the public notice of the City. A project may include: (1) A grouping of minor construction, rehabilitation or renovation activities or (2) A grouping of substantially similar construction, rehabilitation or renovation activities. The public notice must include a general description of the project and must

indicate how interested consultants may apply for consideration. The City shall provide a good faith estimate in determining whether the proposed activity meets the threshold amounts.

The City shall encourage firms engaged in the lawful practice of their professions that desire to provide professional services to the City to submit statements of qualifications and performance data annually. Any firm or individual desiring to provide professional service to the City must first be certified by the City as qualified pursuant to the law and the regulations of the City. The City must find that the firm or individual to be employed is fully qualified to render the required service. Among the factors to be considered in making this finding are the capabilities, adequacy of personnel, past record, and experience of the firm or individual. The City shall evaluate professional services, including capabilities, adequacy of personnel, past record, experience, whether the firm is a certified minority business enterprise as defined by the Florida Small and Minority Business Assistance Act, and other factors determined by the City to be applicable to its particular requirements. When securing professional services, the City must endeavor to meet the minority business enterprise procurement goals under Florida Statutes Section 287.09451.

For each proposed project, the City shall evaluate current statements of qualifications and performance data on file with the City, together with those that may be submitted by other firms regarding the proposed project, and shall conduct discussions with, and may require public presentations by, no fewer than three (3) firms regarding their qualifications, approach to the project, and ability to furnish the required services. The City shall select in order of preference **no fewer than three** (3) firms deemed to be the most highly qualified to perform the required services. In determining whether a firm is qualified, the City shall consider such factors as the ability of professional personnel; whether a firm is a certified minority business enterprise; past performance; willingness to meet time and budget requirements; location; recent, current and projected workloads of the firms; and the volume of work previously awarded to each firm by the City, with the object to effecting an equitable distribution of contracts among qualified firms, provided such distribution does not violate the principle of selection of the most highly qualified firms. The City may request, accept and consider proposals for the compensation to be paid under the contract only during competitive negotiations.

The Act does not apply to a professional service contract for a project where the basic construction cost is estimated by the city to be not in excess of the threshold amount provided in Florida Statutes Section 287.017 for CATEGORY FIVE (\$325,000) or for planning or study activity when the fee for professional services is not in excess of the threshold amount provided in Florida Statutes Section 287.017 for CATEGORY TWO (\$35,000). However, if, in using another procurement process, the majority of the compensation proposed by firms is in excess of the appropriate threshold amount, the City shall reject all proposals and reinstate the procurement pursuant to this section. Nothing in this section shall be construed to prohibit a continuing contract between a firm and the City.

The City shall negotiate a contract with the most qualified firm for professional services at compensation which the City determines is fair, competitive and reasonable. In making such a determination, the City shall conduct a detailed analysis of the cost of the professional services required in addition to considering their scope and complexity. For any lump-sum or cost-plus-a-fixed-fee professional service contract over the threshold amount provided in Florida Statutes Section 287.017 for CATEGORY FOUR (\$195,000), the City shall require the firm receiving the award to execute a truth-in-negotiation certificate stating that wage rates and other factual unit costs supporting the compensation are accurate, complete and current at the time of contracting. Any professional service contract under which such a certificate is required must contain a provision that the original contract price and any additions thereto will be adjusted to exclude any significant sums by which the City determines the contract price was increased due to inaccurate, incomplete or noncurrent wage rates and other factual unit costs. All such contract adjustments must be made within one (1) year following the end of the contract.

Should the City be unable to negotiate a satisfactory contract with the firm considered to be the most qualified at a price the City determines to be fair, competitive and reasonable, negotiations with that firm must be formally terminated. The City shall then undertake negotiations with the second most qualified firm. Failing accord with the

second most qualified firm, the City must terminate negotiations and shall undertake negotiations with the third most qualified firm. Should the City be unable to negotiate a satisfactory contract with any of the selected firms, the City shall select additional firms in the order of their competence and qualification and continue negotiations in accordance with this section until an agreement is reached.

Each contract entered into by the City for professional services must contain a prohibition against contingent fees as follows: "The architect (or registered surveyor and mapper or professional engineer, as applicable) warrants that he or she has not employed or retained any company or person, other than a bona fide employee working solely for the architect (or registered surveyor and mapper, or professional engineer, as applicable) to solicit or secure this agreement and that he or she has not paid or agreed to pay any person, company, corporation, individual or firm, other than a bona fide employee working solely for the architect (or registered surveyor and mapper or professional engineer, as applicable) any fee, commission, percentage, gift or other consideration contingent upon or resulting from the award or making of this agreement." For the breach or violation of this provision, the City shall have the right to terminate the agreement without liability and, at its discretion, to deduct from the contract price, or otherwise recover, the full amount of such fee, commission, percentage, gift or consideration.

Any individual, corporation, partnership, firm or company, other than a bona fide employee working solely for an architect, registered surveyor and mapper or professional engineer, who offers, agrees or contracts to solicit or secure City contracts for professional services for any other individual, corporation, partnership, firm or company and to be paid, or is paid, any fee, commission, percentage, gift or other consideration contingent upon, or resulting from, the award or the making of a contract for professional services shall, upon conviction in a competent court of this State, be found guilty of a first degree misdemeanor, punishable as provided in Florida Statutes Sections 775.082 or 775.083.

Any architect, registered surveyor and mapper or professional engineer, or any group, association, company corporation, firm, or partnership thereof, who offers to pay, or pays, any fee, commission, percentage, gift or other consideration contingent upon, or resulting from, the award or making of any City contract for professional services shall, upon conviction in a State court of competent authority, be found guilty of a first degree misdemeanor, punishable as provide in Florida Statutes Sections 775.082 or 775.083.

Any City official who offers to solicit or secure, or solicits or secures, a contract for professional services and to be paid, or is paid, a fee, commission, percentage, gift or other consideration contingent upon the award or making of such a contract for professional services between the City and any individual person, company, firm, partnership or corporation shall, upon conviction by a State court of competent authority, be found guilty of a first degree misdemeanor, punishable as provided in Florida Statutes Sections 775.082 or 775.083.

## *Design-Build Contracts*

A design-build project combines the design and construction of a building or structure in a single contract performed by one firm. The City shall award design-build contracts by use of competitive proposal selection process or by the use of a qualifications-based selection process for entering into a contract whereby the selected firm will, subsequent to competitive negotiations, establish a guaranteed maximum price and guaranteed completion date. If the City elects the option of qualifications-based selection, during the selection of the design-build firm, the City may employ or retain a licensed design professional appropriate to the project to serve as the City's representative. Procedures for the use of a competitive proposal selection process must include as a minimum the following:

- 1) The preparation of a design criteria package for the design and construction of the public construction project.
- 2) The qualification and selection of no fewer than three (3) design-build firms as the most qualified, based on the qualifications, availability, and past work of the firms, including the partners or members thereof.
- 3) The criteria, procedures, and standards for the evaluation of design-build contract proposals or bids, based on price, technical and design aspects of the public construction project, weighted for the project.
- 4) The solicitation of competitive proposals, pursuant to a design criteria package, from those qualified design-build firms and the evaluation of the responses or bids submitted by those firms based on the evaluation criteria and procedures established prior to the solicitation of competitive proposals.
- 5) For consultation with the employed or retained design criteria professional concerning evaluation of the responses or bids submitted by the design-build firms, the supervision or approval by the City of the detailed working drawings of the project; and for evaluation of the compliance of the project construction with the design criteria package by the design criteria professional.
- 6) In the case of public emergencies, for the Mayor of City to declare an emergency and authorize negotiations with the best qualified design-build firm available at that time.

## *Auditor Selection Procedures*

Contracts for the performance of services in connection with the annual financial audits shall be procured in accordance with the provisions of Florida Statutes Section 218.391. The City Commission shall establish an auditor selection committee, whose primary purpose is to assist the City in selecting an auditor to conduct the annual financial audit required in Florida Statutes Section 219.39. However, the committee may serve other audit oversight purposes as determined by the City Commission. The auditor selection committee must consist of at least three (3) members and one (1) member must be a member of the City Commission, who shall serve as chair of the committee. An employee, a City Manager or a Finance Director of the City may not serve as member of an auditor selection committee; however, an employee, a City Manager or a Finance Director of the City may serve in an advisory capacity.

The auditor selection committee shall:

- 1) Establish factors to use for the evaluation of audit services to be provided by a certified public accounting firm duly licenses under Florida Statues Chapter 473, and qualified to conduct audits in accordance with the government auditing standards as adopted by the Florida Board of Accountancy. Such factors shall include, but are not limited to, ability of personnel, experience, ability to furnish the required services, and other factors as may be determined by the committee to be applicable to its particular requirements.
- 2) Publicly announce requests for proposals. Public announcement must include, at a minimum, a brief description of the audit and indicate how interested firms can apply for consideration.
- 3) Provide interested firms with a request for proposal. The request for proposal shall include information on how proposals are to be evaluated and such other information the committee determines is necessary for the firm to prepare a proposal.

- 4) Evaluate proposals provided by qualified firms. If compensation is one of the factors established, it shall not be the sole or predominant factor used to evaluate proposals.
- 5) Rank and recommend in order of preference no fewer than three (3) firms deemed to be most highly qualified to perform the required services after considering the factors established. If fewer than three (3) firms respond to the request for proposal, the committee shall recommend such firms as it deems to be the most qualified.

The City Commission shall inquire of qualified firms as to the basis of compensation, select one of the firms recommended by the auditor selection committee, and negotiate a contract, using one of the following methods:

- 1) If compensation is not one of the factors established and not used to evaluate firms, the City Commission shall negotiate a contract with the firm ranked first. If the City Commission is unable to negotiate a satisfactory contract with that firm, negotiations with that firm shall be formally terminated, and the City Commission shall then undertake negotiations with the second-ranked firm. Negotiations with other ranked firms shall be undertaken in the same manner. The City Commission, in negotiating with firms, may reopen formal negotiations with any one of the three (3) top-ranked firms, but it may not negotiate with more than one firm at a time.
- 2) If compensation is one of the factors established and used in the evaluation of proposals, the City Commission shall select the highest-ranked qualified firm or must document in its public records the reason for not selecting the highest-ranked qualified firm.
- 3) The City Commission may select a firm recommended by the audit committee and negotiate a contract with one of the recommended firms using an appropriate alternative negotiation method for which compensation is not the sole or predominant factor used to select the firm.
- 4) In negotiations with firms, the City Commission may allow a designee to conduct negotiations on its behalf.

The method used by the City Commission to select a firm recommended by the audit committee and negotiate a contract with such firm must ensure that the agreed-upon compensation is reasonable to satisfy the requirement of Florida Statutes Section 218.391, and the needs of the City. If the City Commission is unable to negotiate a satisfactory contract with any of the recommended firms, the committee shall recommend additional firms, and negotiations shall continue until an agreement is reached.

Every procurement of audit service shall be evidenced by a written contract embodying all provisions and conditions of the procurement of such services. An engagement letter signed and executed by both parties shall constitute a written contract. The written contract shall, at a minimum, include the following:

- 1) A provision specifying the services to be provided and fees or other compensation for such services
- 2) A provision requiring that invoices for fees or other compensation be submitted in sufficient detail to demonstrate compliance with the terms of the contract.
- 3) A provision specifying the contract period, including renewals, and conditions under which the contract may be terminated or renewed.

Written contracts entered into may be renewed. Such renewals may be done without the use of the auditor selection procedures and shall be in writing.

If the City fails to select the auditor in accordance with the requirements of Florida Statutes Section 218.391, the City must again perform the auditor selection process in accordance with this section to select an auditor to conduct audits in subsequent fiscal years.

## SELECTION COMMITTEES

### *Selection Committee Team Members*

In consultation with the Purchasing Coordinator, the requesting department will request the number and makeup of the Selection Committee. The Finance Director has final authority on the member selections and can add or delete members if deemed in the best interest of the City. The members should have some knowledge of the RFP's subject matter; however, this is a Selection Committee, so every member does not need to be knowledgeable in every aspect of the RFP. It is required that the Selection Committee be made up of at least three (3) people and always an odd number to avoid tie votes during the selection process. Each Selection Committee Team Member must have:

- 1) No personal or financial interest in any vendor or firm which has submitted a proposal to the City for the project to be evaluated.
- 2) A professional interest that the recommendations of the Selection Committee can be supported and defended legally and ethically.
- 3) A professional interest that the recommendations of the Selection Committee will lead to the selection of a vendor who will provide goods and services that are the best value for the City.

The Purchasing Coordinator, or designee, shall serve as the Selection Committee Chairperson, and may not award points for proposals.

### *General Principles Relating to Open Government*

A selection committee is subject to the Sunshine Law (noticed and open meeting required) because its function is to evaluate the various proposals, to determine which were acceptable and to rank them accordingly. When individual selection committee members submit written evaluations of a proposal, the scores of which are compiled and ranked, the selection committee must meet and rank the proposals at a public meeting. Section 286.0113(2)(b)1. and 2., *Florida Statutes*, provide that any portion of a meeting at which a negotiation with a vendor is conducted pursuant to a competitive solicitation, at which a vendor makes an oral presentation as part of a competitive solicitation, or at which a vendor answers questions as part of a competitive solicitation, is exempt from the Sunshine Law. In addition, any portion of a team meeting at which negotiation strategies are discussed is also exempt. The term "competitive solicitation" means "the process of requesting and receiving sealed bids, proposals, or replies in accordance with the terms of a competitive process, regardless of the method

of procurement.” Section 286.0113(2)(a)1., *Florida Statutes*. The term “team” means a group of members established by the City for the purpose of conducting negotiations as part of a competitive solicitation. Section 286.0113(2)(a)2., *Florida Statutes*.

A complete recording must be made of the exempt meeting; no portion of the exempt meeting may be held off the record. Section 286.0113(2)(c), *Florida Statutes*. The recording and any records presented at the exempt meeting are exempt from public disclosure until the City provides notice of an intended decision or until 30 days after opening the bids, proposals, or final replies, whichever occurs earlier. Section 286.0113(2)(c)1. and 2, *Florida Statutes*. And see Section 286.0113(2)(c)3., *Florida Statutes* (exempt status of recording if the City rejects all bids, proposals, or replies, and concurrently provides notice of its intent to reissue a competitive solicitation).

### *Initial Meeting of the Selection Committee*

The Purchasing Coordinator, or designee, shall conduct an initial meeting (kick-off meeting) with the selection committee to ensure that each member has a clear understanding of their duties and responsibilities in the selection process. A copy of these guidelines, the solicitation and any addenda, each vendor’s submittal, and a copy of the evaluation criteria will be distributed to committee members.

### *Conflicts of Interest*

Once proposals have been received, a copy of the list of competing vendors shall be provided to each member of the selection committee. Each member will be asked if the member has a personal or financial interest in any competing vendor, and if the member understands and can perform impartially with the selection committee guidelines. If a conflict of interest exists or appears to exist, that member will be disqualified from the selection committee. An “Evaluator’s Statement of Independence and Non-Conflict of Interest” form shall be signed by each selection committee team member prior to the commencement of the evaluation of the proposals.

### *Committee Rules and Procedures*

All members on the selection committee shall apply sound and unbiased judgment in scoring and awarding points for each competing submission.

It is essential that all selection committee team members read the solicitation thoroughly and have a clear understanding of the requirements and evaluation criteria before attempting to evaluate the proposals. All questions shall be directed to the Purchasing Coordinator and not the chairperson of the selection committee as communications between members of a selection committee requires strict compliance with the Sunshine Law.

The following are basic requirements of each selection committee:

- 1) Prior to receiving proposals, the selection committee members should familiarize themselves with the released responses to the solicitation and all issued addenda.

- 2) After proposals have been received, each selection committee member should be given one copy of each proposal to review. The selection committee member must read and review each proposal and, if necessary, take individual evaluation notes. Individual notes will assist the selection committee member in remembering items for the purpose of discussion during the selection committee meeting. Individual notes should highlight significant points in the proposals (for example, strengths/weaknesses) and note any questions to be discussed.
- 3) Selection committee members are prohibited from communicating with anyone, either verbally or in writing, regarding the proposals, outside of the scheduled and publicly noticed Selection committee meetings. Violations of Section 286.011, *Florida Statutes*, or this Manual are extremely serious and have personal, as well as organizational, legal and ethical ramifications. If a vendor contacts a selection committee member, the member must refer the vendor to the Purchasing Coordinator. Selection committee members are prohibited from participating in individual meetings, informal consultations, lunches, entertainment or any other direct or indirect contact with a proposing vendor or a vendor who is likely to propose.
- 4) Prior to the selection committee meeting in a public forum, any questions, clarifications or additional information requested from a member must be submitted in writing through the Purchasing Coordinator, or designee. The Purchasing Coordinator, or designee, is responsible for obtaining a written response from the vendor and sharing the response with the selection committee.
- 5) Selection committee meetings must follow the requirements of Section 286.011, *Florida Statutes*, for public meetings and meetings must be noticed at least 72 hours in advance. Except as specifically exempted under a controlling provision of law, these meetings are open to the general public, which may include vendors which have submitted responses to the City's solicitations. Meetings will be recorded and all recordings are available for the general public to listen to upon making such a request.
- 6) After all discussions and questions have been completed, evaluations of the proposals begin.
- 7) Evaluations must be based on the criteria established in the solicitation and all criteria must be scored. There are two acceptable approaches to the evaluations:
  - a) **Individual Approach** - Each selection committee member evaluates each proposal independently on score sheets, without discussing their evaluation with other selection committee members. Each member is required to sign the score sheet and any note pages and submit them to the Chairperson as part of the public record.
  - b) **Consensus Approach** - Instead of individual members evaluating and scoring proposals, the entire Selection Committee will arrive at a consensus as to the assignment of points on each evaluation criterion of each proposal. The Purchasing Coordinator, as Chairperson and non-decision maker, will act as facilitator to assist the committee in developing consensus. If the Purchasing Coordinator or other non-decision-maker is available to facilitate, the designated lead evaluator will conduct the meeting but should not unduly influence other evaluators. Each member is required to sign the final score sheet and any note pages should be submitted to the Chairperson as part of the public record.

- c) It is important to note that, with regard to either of the above approaches, the actions of the section committee are subject to the provisions of the Sunshine Law unless a specific exemption is applicable.
- 8) The order of review of proposals is a random selection. It is recommended that the selection committee review and assign points to only one proposal at a time. This approach works best when proposals are reviewed and scored by proceeding through each of the evaluation criteria of the solicitation in numerical order. After completing the review and assigning points to an entire proposal, the team then moves on to the next proposal and so forth.
- 9) Responses must be evaluated against the criteria of the solicitation and members shall not evaluate or compare proposals to each other except when evaluating for cost.
- 10) Points for each factor should be awarded only one time and care should be given to ensure that points are not assigned for the same factor in more than one evaluation criterion. For example, if it is believed that “quality assurance” should be taken under consideration and evaluated under the solicitation criterion, care should be given to ensure to not also evaluate “quality assurance” under another criterion.
- 11) In determining how well a proposal scored, the recommended approach for selection committee members is to determine how many points for the section being evaluated did the proposal “earn.” With this approach, all proposals start with zero points and are awarded points based on how well they responded to the criteria of the solicitation. Selection committee members can also set a minimum threshold amount, such as awarding half the available points in a particular section to those proposals which only met the minimum requirements. Proposals which exceed the minimum requirements would receive higher scores. This approach not only allows a clear indication of which proposal met the minimum requirements, it also allows for a natural separation between outstanding, adequate and substandard proposals.
- 12) Scoring of the cost proposal information should be in accordance with specifications within the solicitation. Price will be objectively scored, as shown when applicable and where able to do so:
- a) The lowest proposal will receive the maximum cost points. If two or more vendor has submitted the exact same lowest price, then they all receive the maximum cost points.
- b) Vendors that have not submitted the lowest price will be assigned points based on the following formula:

(Lowest submitted cost proposal / Cost of proposal being scored) x (Total cost points available) =  
 Pro-Rated Score (Recommended to round decimals to the nearest whole number)

Vendor	Price	% Awarded	X	Weight	=	Weighted Score
A	\$20,000	100%	X	30	=	30
B	\$25,000	80%	X	30	=	24
C	\$30,000	67%	X	30	=	20

- 13) Depending on the outcome of the scoring, the selection committee may recommend one of the following:
  - a) Award the contract to the highest ranked vendor; or
  - b) Short-list the top ranked vendors and request scheduling of oral presentations.
- 14) If the selection committee recommends awarding the contract to the highest ranked vendor, no further action is required by the selection committee.
- 15) If oral presentations are requested, the selection committee shall identify which vendors will be asked to provide oral presentations. The selection committee may request oral presentations from as many vendors as necessary. However, it is recommended that the selection committee come to a consensus and request presentations only from the top-ranked vendors.
- 16) When oral presentations are requested by the selection committee, the members shall submit a written request to the chairperson for specific areas needing additional explanation and/or clarification or any other information the Selection committee would like the vendors to provide during the oral presentations.
- 17) All vendors selected for oral presentations will be notified in writing of the publicly noticed meeting by the selection committee with the following information being provided: the name of chairperson, the date, time, location, time allotted each vendor and specific questions or information, if any, requested by the selection committee to be addressed at the presentation.
- 18) Prior to oral presentations, the chairperson will provide the evaluation criteria and score sheets to the selection committee.
- 19) During the oral presentations, selection committee members may ask germane questions of the vendors for a clear understanding of each vendor's position.
- 20) After oral presentations are completed, the selection committee will have an opportunity to continue discussions. After discussions are completed, the selection committee will finalize its scores in a similar way as discussed above. Each member is required to sign the final score sheet and any note pages are collected by the chairperson as part of the public record.
- 21) Score sheets will be tabulated and ranked from highest to lowest by the chairperson. The award recommendation will be to the vendor with the highest ranked score.
- 22) Selection committee members should not discuss the solicitation with any person outside of a selection committee meeting until the selection committee has completed its work and all vendors have been officially notified of the final selection.

## *Recommendation of Award*

The award recommendation will be to the vendor with the highest ranked score. The Selection Committee Chairperson shall work with the requesting City department on a recommendation to award for processing through the City Manager and the City Commission.

The requesting department must complete a "Request for Commission Action" (RCA) recommending for award the proposal most advantageous to the City considering the evaluation factors specified. The RCA should give the criteria used, members of the selection committee and why the recommended award is in the "best interest" of the City. The RCA should also state the amount of funds budgeted, and if the bid exceeds the budget, how the excess funding needed will be covered. The requesting Department Director shall make the recommendation of RFP award; however, the final decision remains with the City Commission.

The Purchasing Coordinator shall notify the successful vendor(s) in writing of the intent to award. Until a Purchase Order is issued, the awarded contractor shall not perform as the funds have not been encumbered.

## *Rejection of Proposals*

After responses are received, they must be presented to the City Commission for disposition. The authority to accept and reject proposals ultimately vests in the powers of the City Commission. There is no Commission action required if no proposals are received.

The following reasons, by way of example only and not as a limitation, may be considered causes for rejection:

- 1) The response to the solicitation does not conform to the technical specifications and/or solicitation documents.
- 2) Insufficient financial resources or lack of technical ability, physical capacity or skill of the vendor to perform the contract or the service required.
- 3) Inability of the vendor to perform the contract or provide the service within the time specified without delays or interference.
- 4) Previous and existing non-compliance by the vendor with laws and ordinances relating to the contract of services.
- 5) Inadequate quality or performance on previous contracts for goods and/or services.
- 6) The vendor has been declared to be in default on any City or public entity contract, or debarred or suspended by any public entity.
- 7) Taking exceptions to the terms, conditions and specifications of the solicitation or any proposed contractual provisions of the City.
- 8) Non-conformance with minority business and/or disadvantaged business enterprise provisions and requirements, where applicable.

- 9) When the City determines that the price quoted is not fair and reasonable.
- 10) Insufficient competition.
- 11) Inability to adhere to grant conditions.
- 12) Any other cause found to be in the best interest of the City.

## POST AWARD AND OTHER MATTERS

### *Post Award Vendor Evaluations*

In addition to responsiveness and responsibility determinations, the Finance Department, in collaboration with the requesting department, shall ensure that the goods or services to be procured are technically compliant with the specifications and requirements of the City's solicitation and the awarded contract. The requesting department shall act as subject matter experts in determination whether the offered goods or services are technically compliant with the specifications of the solicitation and the awarded contract. A vendor review shall be completed and placed in the contract file and may be used in future solicitations to determine vendor responsibility. Further, the evaluation may be used as evidence in any vendor debarment proceeding. A report of unsatisfactory materials or services may be provided to the Finance Director at any time documenting contract difficulties due to poor service, performance, quality, or materials that do not meet contract requirements. This report will be placed in the contract file and may be used to evaluate the vendor who may respond to future solicitations of the City.

### *Disqualification of Vendors*

A vendor may be disqualified temporarily or permanently and their bid(s) rejected by the City for:

- 1) Poor performance or default, based upon documented evaluation(s), on previous contracts with the City.
- 2) Poor performance or default, based upon documented evaluation(s), on previous contracts with other public entities.
- 3) Insufficient financial or company size, based upon documented evaluation(s), to perform the requirements of the contract.
- 4) Being otherwise found not to be a responsible vendor.

Vendor performance is any action or inaction by a vendor under a contract, purchase order or other binding agreement with the City. Any action or inaction by a vendor, which does not comply with the contractual terms and conditions, will be considered nonperformance and is to be documented and reported to the Purchasing Department. Nonperformance includes, but is not limited to, late or non-deliveries, substandard or unacceptable goods and/or service levels, habitual under or over shipments, and unauthorized subcontracting or contract assignments.

The requesting department shall appoint project managers, who shall be responsible for monitoring vendor performance as it relates to the terms and conditions of the contract(s) or purchase order(s) issued. Vendor nonperformance actions are to be documented and reported to the Purchasing Department for appropriate action aimed at correcting vendor performance, placing the vendor on probation for a period of time, suspension from bidding on City contracts, vendor debarment or contract termination.

The non-performing vendor should first be contacted by telephone to discuss the problems being experienced. A mutual understanding should be reached, if possible, and a time frame for corrective action established. All such communications should be adequately documented.

The requesting department should convene a meeting with the vendor to help resolve problems, whenever possible. Should the vendor continue to not meet the requirements, the requesting department should submit a memo to the Finance Director, attach any available documentation to substantiate the problem, including a copy of any letters sent to the vendor or records of meetings (as applicable).

After receiving the vendor nonperformance, the Finance Director will review the documentation to determine the appropriate course of action. This action may include: calling the vendor, sending vendor a "Notice to Cure", or scheduling a meeting with the vendor.

Where progressive steps aimed at correcting vendor performance have proven futile, the Finance Director may hold a hearing to determine the next course of action. The vendor and the requesting department will be invited to this meeting, where the Finance Director, or designee, will act as a hearing officer. After considering the presentation of all parties, the hearing officer may:

- 1) Establish a probation period for the vendor to correct all noncompliance problems;
- 2) Recommend termination of the contract for default to the City Manager;
- 3) Recommend termination of the contract for convenience to the City Manager; or
- 4) Find no action necessary.

A copy of all written actions or documents will be provided to the requesting department. The final decision and formal action will be filed in the contract e-folder for future use in determining vendor responsibility in future award recommendations.

The City Manager may act within any authority vested in the position of City Manager or recommend to the City Commission the best course of action to safeguard the interests of the City.

The City Attorney shall be consulted, as necessary, during this process.

## *Debarment or Suspension*

A vendor may be temporarily or permanently barred or suspended from doing business with the City for the following reasons:

- 1) Misstating any information submitted to the City.
- 2) Committing a fraudulent act against the City.
- 3) Entry of a plea of guilty, no contest, or nolo contendere to, or conviction for, commission of a criminal offense as an incident to obtaining or attempting to obtain a public or private contract or subcontract or in performance of such contract.
- 4) Entry of a plea of guilty, no contest, or nolo contendere or conviction under a state or Federal law of embezzlement, theft, forgery, bribery, falsification or destruction of records, anti-trust statutes arising out of submission of bids or proposals, receiving stolen property or any other offense indicating lack of business integrity or business honesty which currently, seriously and directly affects responsibility as a City vendor.
- 5) Failure, without good cause, to perform in accordance with specifications or within the time limits provided in a City contract.
- 6) Refusal to enter into a contract with the City by failing to provide bonds, insurance or other required certificates within the time periods as specified in the bid.
- 7) Refusal to accept a purchase order, agreement, or contract or to perform thereon, provided such order was issued timely and in conformance with the offer received.
- 8) Presence of principals or corporate officers in the business or concern who were principals within another business at the time when the other business was suspended or debarred within the preceding 3 years.
- 9) Violation of the ethical standards set forth in State law.
- 10) Providing anything of value including, but not limited to, a gift, loan, reward, promise of future employment, favor, or service to any City employee to influence the award of contract or purchase of goods or services from the City.
- 11) Any other cause the City determines to be serious and compelling as to affect the credibility as a City vendor including, but not limited to, suspension or debarment by another government entity for any cause set forth in this Manual.

Non-permanent debarment allows a vendor to be reinstated as an allowable City vendor after no more than 3 years.

The Finance Director shall issue a notice letter that advises a vendor that is has been debarred. The notice shall state the reasons for the action taken and inform the vendor of its rights to an appeal to the City.

Any vendor dissatisfied or aggrieved with the notification of the Finance Director's determination regarding debarment must, within 10 calendar days of such notification, appeal the determination in writing to the City Manager.

Upon receipt of the request for hearing, the City Manager, or designee, shall give all parties prior notice of a hearing date and time at least 5 calendar days before the hearing date. The vendor shall be given the opportunity at such hearing before the City Manager, or designee, to demonstrate decision of the Finance Director should be reversed. The designee of the City Manager may be a hearing officer appointed by the City Manager.

Any vendor dissatisfied or aggrieved with the City Manager's determination regarding debarment must, within 10 calendar days of such notification, appeal the determination in writing to the City Commission which shall hear the matter as soon as practicable. The decision of the City Commission shall be final City action.

Any appeal filed by a vendor in an untimely manner shall be summarily denied.

The written appeal by a vendor shall state all reasons to support the appeal and provide all evidence that is intended to support the appeal and the vendor shall not provide any additional argument or evidence in any judicial proceeding and shall be bound by the argument and evidence submitted to the City.

## *Reinstatement Process*

A vendor who has been permanently debarred may not be reinstated and it may not be a subcontractor to another firm having a contract with the City. If a principal or officer of the debarred or suspended vendor becomes a principal or officer of another vendor, that vendor firm shall also be debarred or suspended. If a principal, officer or employee of the debarred or suspended vendor become an employee of another firm, the City may require that employee have no part in any work for the City.

A vendor who has been temporarily barred or suspended from doing business with the City must appeal to the Finance Director, to be reinstated. Any vendor dissatisfied or aggrieved with the notification of the Finance Director's determination regarding debarment must, within 10 calendar days of such notification, appeal the determination in writing to the City Manager whose decision shall be final City action.

A vendor may be reinstated to do business with the City under the following conditions:

- 1) Discovery of new and material evidence not previously available.
- 2) Dismissal of indictment or reversal of conviction.
- 3) Bona fide change in ownership or management sufficient to justify a finding of present responsibility.
- 4) The expiration of the debarment period.

## *Protest of Award*

The City is committed to a prompt and fair handling of all complaints and disputes with the business community. All notices of intended decisions with respect to contract awards or other actions shall set forth the following statement:

**“FAILURE TO FOLLOW PURCHASING PROTEST PROCEDURE REQUIREMENTS WITHIN THE TIME FRAMES ESTABLISHED BY THE CITY SHALL CONSTITUTE A WAIVER OF PROTEST AND ALL CLAIMS.”**

Any vendor adversely affected by an intended decision or action with respect to the award of any bid shall have the right to file an award protest. Failure to file a protest is a waiver of all objections to the award. No protest may be filed or heard after the contract award has been approved or the contract has been executed by the City Manager or City Commission.

Any award recommendation may be challenged in strict compliance with the provisions of this Manual. Any vendor, who is not the intended awardee and who claims to be the rightful awardee, may file a Notice of Award Protest (“Award Protest”). An Award Protest is not valid if filed by a vendor who cannot show they would be awarded the contract if their protest is upheld. Failure to follow the Award Protest procedures within the time frames prescribed herein shall constitute a waiver of such protest and any resulting claims.

Any person who wishes to file an Award Protest hereunder must file a Notice of Intent to File a Protest (“Notice”), in writing, with the City’s Finance Director within 72 hours of posting an Intended Decision to Award (“Intended Decision”) by the City. Such Notice is considered filed when it is received by the Finance Director. The Notice shall include the name and address of the protesting vendor, the City solicitation number and title, specific grounds upon which the protest is based, and must clearly indicate it is a Notice of Intent to File a Protest. The vendor shall be liable for all of its own costs and expenses incurred related to a protest including, but not limited to, all appeals

Within 5 calendar days after the filing of the Notice, a formal protest must be filed with the City’s Finance Director for review by the City Manager or his designee. The formal protest is considered filed when it is received by the Finance Director. The formal protest shall include the following: City solicitation number and title, name and address of the protester, full statement of the facts alleged and of the rules, regulations, ordinances, statutory or constitutional provision or other legal authorities entitling the protester to the relief requested, specific relief to which the protester deems themselves entitled, and any other relevant information that the protester deems to be material to the protest. The Formal Protest shall be accompanied by an Appeal Bond in the form of a certified check, cashier’s check, attorney’s trust account check or money order made payable to the City in the amount of 5% of the bid amount that has been determined to be the lowest bid amount from a responsive and responsible bidder or the amount of \$25,000, whichever is greater.

The Finance Director will determine if the Notice of Intent to File a Protest or the Formal Protest was filed in a timely manner and if the protest meets the required criteria. The aggrieved vendor will be notified in writing whether or not Notice of Intent to File a Protest or Formal Protest meets all requirements.

Once a formal protest is timely filed, the City shall stay the award of the contract unless the City Commission sets forth in writing particular facts and circumstances which require the continuance of the contract award process without delay in order to avoid an immediate and serious danger to the public health, safety and welfare or damage to public property.

Within 10 calendar days of the filing of the Formal Protest, the City Manager or his designee shall issue a written determination, including the rationale for reaching such a determination. The written determination shall also inform the protester of their right to appeal the City Manager's decision to the City Commission.

The protester may appeal the City Manager's determination, in writing, to the City Commission no later than 5 calendar days after receipt of the City Manager's determination. The City Commission, upon consulting with the City Attorney, shall issue a final determination at the next available, regularly scheduled, City Commission meeting. The decision of the City Commission will be final.

If the protest is approved, the appeal bond will be returned without deduction. If the protest is denied, the Appeal Bond becomes non-refundable and the City shall retain the Appeal Bond as payment for a portion of the City's cost and expenses including, but not limited to, time spent by City staff in responding to the protest and in conducting the evaluation of the protest which shall include the legal costs of the City.

Any protest filed by a vendor in an untimely manner shall be summarily denied.

The written protest by a vendor shall state all reasons to support the protest and provide all evidence that is intended to support the protest and the vendor shall not provide any additional argument or evidence in any judicial proceeding and shall be bound by the argument and evidence submitted to the City.

## PURCHASING CARD PROGRAM

The Purchasing Card Program allows City employees to charge goods or materials in an amount which does not require the issuance of a purchase order. Every employee issued a VISA card received a copy of the Purchasing Card Policy Manual which details the guidelines of the program which are consistent with this Manual.

Department directors determine which department employees receive a VISA card and define individual spending limits. Department directors complete a Cardholder Set-Up Form for submittal to the VISA Program Administrator (Purchasing Coordinator) in the Finance Department. After review of this request, the Program Administrator will request a VISA card be issued to the employee. The employee will be required to pick up the assigned VISA card from the Program Administrator at which time they will sign for receipt of their card and receive their copy of the Purchasing Card Policy Manual.

An employee must receive an invoice/receipt for the items purchased with a VISA card. This invoice/receipt must be given to the department clerk responsible for processing invoices. An invoice must be completed for the VISA card purchase just as for any other purchases. Processing invoices allows the expenditure to be recorded and creates the record which will eventually be used to calculate payment to VISA (Bank of America).

The Purchasing Card Policy Manual should be reviewed for further instructions regarding the usage of the VISA Purchasing Card.

# PURCHASING PROCESSES AND PROCEDURES – ADMINISTRATIVE MATTERS

## *Purchase Requisition*

### Purpose

The purchase requisition serves to inform the Finance Department of a desired purchase or required service in preparation for the issuance of a purchase order. The purchase requisition is not an order, merely the request to procure the item(s) or service(s) in accordance with established City purchasing policies and procedures. The purchase requisition also certifies authority to charge a specific General Ledger account number and verifies there are sufficient funds available in the account.

### When to Prepare

A purchase requisition must be submitted by a department director for materials or goods or a service in the amount of \$5,000 or more. If the cost of materials or services exceeds \$50,000, competitive bidding is required.

The provisions prohibiting the subdivision, splitting or aggregation of purchases apply.

Departments must anticipate needs and requirements and submit purchase requisitions allowing ample time for completion of the approval process to secure the goods or services needed at the time required.

### Who Prepares

Purchase requisitions shall originate from the department requiring the purchase of the goods or services and shall be signed by that department director or designee.

### How to prepare

An electronically generated purchase requisition must be submitted through the BS&A Purchase Order Module.

The following fields must be entered on requisition:

- 1) Vendor Name and Number
- 2) PO Type (Regular, Blanket or Emergency)
- 3) Ship to Location
- 4) Invoicing Location
- 5) A description of the goods or services to be purchased
- 6) Approval Department
- 7) Post Date
- 8) Price Source (under \$50,000, \$50,000 and over, sole source, emergency, contract or piggyback)

- 9) Line item details, including:
  - a) Quantity
  - b) Units
  - c) Item Description
  - d) Unit Price
  - e) Total Amount
  - f) GL Number
  - g) Account Description
- 10) Any information pertaining to discounts for early payment, specific payment requirements, etc.
- 11) Written quotes (bids)

The appropriation General Ledger (GL) Number consists of (a) fund identifier (b) department identifier, (c) division identifier, (d) object code and (e) sub-object code. For example:

001-0103-552-100  
(a) (b)(c) (d) (e)  
a) General Fund  
b) General Government  
c) Finance  
d) Operating Supplies  
e) Basic Account

The Finance Department will assist in assigning the correct numbers

The following documents, if applicable, must be attached to the purchase requisition:

- 1) Quotations
- 2) RCA
- 3) Budget Memo for any GL Accounts over budget explaining where additional funds are coming from
- 4) Additional Approvals (discussed below)

## Approvals

After completion of data entry and submission, the BS&A software will forward the requisition for review and approval by the designated approver(s) for that department. Following departmental approvals, the requisition will forward to the Budget Manager for sufficiency of funds and account number review and approval. Following the Budget Manager's approval, the requisition will forward to the Purchasing Coordinator for purchasing policy compliance review and approval. For requisitions \$10,000 or more, following the Purchasing Coordinator's approval, the requisition will forward to the Finance Director for review and approval. For requisitions \$35,000 or more, following the Finance Director's approval, the requisition will forward to the City Manager for review and approval.

Once the final approval is received, the Purchasing Coordinator creates the purchase order and distributes to the appropriate users

The following requests for purchases of goods or services require additional approvals to be attached with supporting documents prior to a requisition being approved:

- 1) Vehicles and related equipment requisitions require the approval of the Fleet Maintenance Superintendent.
- 2) Building related requisitions require the approval of the Facilities Maintenance Superintendent.
- 3) Computer hardware, software and related equipment requisitions require the approval of the Information Technology Director.
- 4) Temporary hiring of employees, contract employees or interns, require the approval of the Human Resources Director.

## *Purchase Orders (PO)*

### Purpose

A purchase order provides authorization for delivery of specified materials or rendering of certain services at an established cost. The purchase order initiates the record of financial activity for the particular acquisition.

### Who Issues

Only the Finance Department shall issue purchase orders, blanket purchase orders and change orders as outlined in this Manual. Pre-numbered and computer-generated purchase order shall be issued upon receipt of properly authorized purchase requisitions after prior receipt of all /any required competitive quotations, bids or proposals, determination of funding availability and City Commission approval when required. An electronic copy of the purchase order is emailed to the requesting department once created.

### Reject Vendor Acknowledgement Forms

Some vendors send a form acknowledging receipt of a purchase order. A copy of the form should be kept as a public record with the original form being returned to the vendor without a signature or acknowledgement. Signing or acknowledgement of the form may be interpreted as accepting terms and conditions different from those established by the existing contract, the purchase order or this Manual. Contact the Purchasing Coordinator if the vendor objects to this action by the City or refuses to deliver the goods or services without a signed acknowledgement form.

### Receipt of Goods and Materials

The department receiving the goods and materials is responsible for inspecting and accepting or rejecting all goods at the time of delivery. Services are to be evaluated as performed and any concern or dissatisfaction brought to the attention of the Finance Department. Dissatisfaction with any purchase, failure of any part, piece of equipment or material to perform in the manner in which purchased must follow the same process. The Finance Department and Risk Management Department must be notified of a potential claim against a vendor for warranty, suitability for intended use, injury to an employee or third party or any other perceived basis for a claim.

The department receiving the goods and materials is also responsible for inspecting incoming shipments for conformance with the purchase order/contract. Incoming shipments of goods and materials must be immediately checked for damages, shortages, overages and unauthorized substitutions.

All deliveries must be FOB destination, freight prepaid. Freight Collect deliveries are not authorized. Contact the Purchasing Coordinator immediately if a carrier has a collect delivery.

## Blanket Purchase Order (BPOs)

A Blanket Purchase Order (BPO) is a purchase order issued for the purchase of indeterminable miscellaneous goods or services over a certain period of time (not to exceed one fiscal year).and are used for the following:

- 1) The purchase of indeterminable miscellaneous items, materials, supplies, parts, etc., over a specific time (usually one fiscal year) on a demand basis. Line item pricing and quantities are not included.
- 2) Encumbrance and payment purposes for a contract or contract for services that requires monthly or multiple payments.
- 3) Encumbrance and payment purposes regarding a solicitation that has been awarded, which require monthly or multiple payments.

BPOs may be used to eliminate many small repetitive orders. They may also be issued for on-going, non-professional services contracts, such as repairs. Items may be purchased as needed by the City department against the BPO for the term of the BPO, or until the dollar amount is reached.

A BPO must be issued at the beginning of the service period or fiscal year for the entire amount that is expected to be spent through the current fiscal year, ending September 30<sup>th</sup>. BPOs will not be issued for a time period extending beyond the fiscal year, with the exception of expending grant funds. If additional funds be necessary, a change order request for additional funds must be submitted to the Finance Department.

A BPO is initiated by submitting a purchase requisition the same way as for a regular purchase order. BPOs are subject to the same review and approval process outlined for all other purchase orders.

## *Change Orders (CO)*

A change order provides a mechanism to amend a purchase order. A change order is usually issued to revise the quantity, model number, delivery terms, prices, etc.

A change order is improper and must not be processed if any of the following conditions apply:

- 1) Authorized signature is invalid or missing.
- 2) The change order does not specify items to be changed.
- 3) Purchase order has been invoiced and check has been issued in payment (P.O. "closed").

- 4) The change requested is contrary to terms of original quotation or bid.
- 5) The change order requests a decrease in cost of an item. If the cost of a specific item is less than the cost on the purchase order, the City will pay the lesser cost.
- 6) The change order results in a material change from the original purchase order. For example, it is inappropriate to bid a carpet flooring material, award that bid and then request a change order that would supply wood floors instead of carpeting.

Change order requests must be approved in the same order and manner as the corresponding (original) purchase order, and must be accompanied by a change order request form provided by the Purchasing Coordinator.

## PAYING FOR GOODS AND SERVICES

### *Sales Tax Exemption*

The City of DeLand is exempt from paying Florida State Sales Tax. All employees who purchase goods or services on behalf of the City shall supply each vendor with a copy of the City's tax exemption certificate or number to avoid being assessed state sales taxes. Employees should make every effort to ensure that sales taxes are not charged by the vendor.

### *Prompt Payment Act*

Part VII, Chapter 218, *Florida Statutes* (the *Local Government Prompt Payment Act*) requires, among other things, that all invoices are due within 45 days of receipt and that invoices not paid by the due date will accrue interest from 30 days after the due date at a rate of one percent per month, except payment of construction services where payment is due within 20 business days. Improper invoices or invoices without all the information the City requires must be returned to the vendor for corrections. The payment period starts only when the City receives a proper invoice that includes all required information.

### *Paper Invoices –*

All departments shall be required to maintain a stamp for the purpose of stamping all paper invoices received. This stamp will at a minimum state "RECEIVED", have an adjustable date, and list the department that received the invoice.

It is crucial that each department:

- 1) Stamp all paper invoices when received
- 2) Ensure all paper invoices are submitted by employees to a designated person within the department immediately and without delay, in order that invoices can be stamped "RECEIVED"

- 3) Ensure that all paper invoices are electronically submitted to Accounts Payable immediately after being stamped "RECEIVED" by the department, to permit payment within the required time frame.

If a particular invoice should come to the attention of a department as being either close enough to its due date to warrant special attention or past its due date already, then the department shall alert Finance immediately so that measures can be taken to limit the effects of that particular invoice.

## Electronic Invoices –

In an effort to reduce paper and postage, electronic invoices can be received via email. Invoices received electronically through email are not required to be stamped as the date of the email will serve as the date of receipt for the invoice. Invoices received during regular business hours of 8am – 5pm will be considered received on that date. Invoices received after 5pm or on Saturdays or Sundays will be considered received on the next regular business day. Email records must be maintained by the City so that the date of receipt can be obtained if requested. All electronic invoices must be submitted in the same timely fashion as paper invoices. Invoices that are downloaded from vendor websites that do not have an electronic date of transmittal are required to be stamped in the same manner as paper invoices above.

## *Invoices*

### Definition

An invoice is a statement from a vendor of its goods or services rendered for a specified charge to the City and is the means by which the vendor informs the County of its obligations. The invoice should contain the same basic information as a purchase order, if applicable.

### Contents of an Invoice

An invoice should contain:

- 1) Vendor's name and address
- 2) Invoice number
- 3) Date of order (if possible)
- 4) Purchase order number (if applicable)
- 5) Date of delivery
- 6) Destination of delivery
- 7) Itemized list of materials or services rendered, including quantities, prices (both unit and total), terms and any other charges contained in the purchase order.
- 8) Delivery charges should be listed separately from the materials and supplies if they are not included in the unit price.

Invoices should be submitted to the ordering department/division as delineated on the purchase order. Statements or delivery tickets cannot be substituted for invoices.

## Processing an Invoice for Payment

Upon completion of delivery, acceptance of material or service and receipt of invoice, the ordering department/division shall immediately enter the invoice into the BS&A Accounts Payable module with an attachment of all applicable documents to the invoice entry as supporting backup. Please refer to Invoice Entry and Approval document for detailed instructions.

An invoice may be charged to several appropriation numbers when such charge is appropriate. Be certain the total amount charged to the various appropriation numbers agrees with the invoiced amounts.

Credits from vendors are processed the same as invoices and should reference the invoice that originated the charge the credit is reversing.

Questions about invoices and data entry should be directed to the Accounts Payable Administrator, at 626-7080.

## CITY ASSET MANAGEMENT POLICIES

### *Capital Outlay Item Defined*

Capital asset control entails tracking, compiling and maintaining an inventory of capital assets to control losses due to negligence or theft, to provide a basis for insurance claims and identify surpluses. Capital asset records are set up to comply with Chapter 274, *Florida Statutes*.

Capital assets are tangible items (e.g. land, buildings, building improvements, vehicles, machinery, equipment and infrastructure) or intangible items (e.g. easements, water rights) with original cost or value of \$5,000 or more, with an estimated useful life of at least a year following the date of acquisition. Assets should be capitalized if individual acquisition costs are less than the threshold for an individual asset if those assets in the aggregate are significant. Office furniture is an example of an asset type that may not meet the \$5,000 threshold on an individual basis, yet could be significant collectively. For example, \$150,000 aggregate amount (100 desks costing \$1,500 each) is significant and should be capitalized.

The Finance Department will coordinate the maintenance of the City's Capital Assets Database. The Purchasing Coordinator will review purchase requisitions to ensure proper general ledger account coding is used for all capital purchases. The ordering (receiving) department must notify the Finance Department when an item is received so proper identification may be affixed and records can be updated. The asset I.D. tag will be forwarded to the department and must be placed on the equipment in an easily accessible area. Periodically, the City Clerk/Auditor will physically verify the City's assets.

On occasion, a construction project is awarded that involves individual equipment that can be tagged. In these cases, a record needs to be made of the name of the equipment, serial number, location, life and value. This information must be forwarded to the Finance Department with a request for asset I.D. tags. An example is a water and sewer project which will contain the installation of pumps, motors, chlorinators, etc. These pieces of equipment must be listed by name of equipment, serial number, location, and value.

Records are entered and maintained for each item in the City's Capital Assets Database, including the following:

- 1) Capital Asset Number
- 2) Item Description
- 3) Serial Number
- 4) Make and Model
- 5) Account Number
- 6) Location and Custodian
- 7) Payment Information (Vendor Name, PO Number and Date of Purchase)
- 8) Purchase Price

Below is a listing of generally accepted life expectancies of common capital assets:

Type	Months	Years
Buildings	480	40
Building Improvements	480-900	40-75
Infrastructure	480-900	40-75
Air/Heat Unit	120	10
Aerator	180	15
Bulldozer	180	15
Copy Machine	60	5
Effluent Pump	240	20
Grader	180	15
Motorcycle	60	5
Playground Equipment	180	15
Vehicles	60	5

The Finance Department is responsible for taking inventory of property in City custody. Finance will distribute an inventory list to each department biennially. This biennial inventory will validate all items and any item unaccounted for will require a Missing, Lost or Stolen Form to remove the item from inventory. The biennial inventory shall be compared with the property records, and all discrepancies shall be traced and reconciled. The results of the biennial inventory will be provided to the Finance Director in an executive summary format.

## *Disposing of Surplus Assets of Personal Property*

Department directors shall periodically review their property inventory and determine whether there are assets of personal property that must be disposed of as surplus. Surplus property is that which is obsolete or the continued use of which is uneconomical or inefficient, or which serves no useful function to the City. Any personal property on the asset inventory to be disposed of as surplus must be declared surplus by the City Commission. A memo must be directed to the City Manager, and copied to the Finance Department, requesting the asset be declared surplus. The City identification number, description of the asset and serial number must be provided. The City Manager may present a resolution declaring the equipment surplus for City Commission consideration. Once the property/equipment has been declared surplus, in accordance with the provisions of Section 274.06, *Florida Statutes*, qualifying property/equipment may be disposed of for value without bids to any governmental unit or, if the property/equipment is without commercial value, it may be donated, destroyed or abandoned. Property valued to be under \$5,000, may be disposed of in the most efficient and cost-effective means as determined by the City. Any sale of property, the value of which is estimated to be \$5,000 or more, shall be sold only to the highest responsible vendor or by public auction. The City Manager is vested with maximum discretion and authority to consider creative means and methods to attain present day value of surplus City property for the benefit of the City and to retain only such assets as may be of utility to the City in the future. With regard to personal property, such property may be disposed of by auction, bid, notice in a newspaper of sales at listed prices (as determined by a review of prevailing market factor), publication in a trade publication, or any other lawful method, as determined collaboratively by the City Manager and City Attorney, or any combination of the above.

City vehicles to be sold must have all identifying markings removed and City license tags deposited with the City Clerk before title is released to a new owner.

## *Disposing of Surplus Real Property*

Whenever the City desires to sell any real property, the City Manager, in conjunction with the City Attorney, will be responsible for coordinating all activities related to such activities in accordance with requirements of controlling law. The provisions herein do not relate to real estate transactions when the City is procuring real property for particular purposes or projects and is exchanging real property owned by the City for real property needed for a project.

When the City sells real property, it may engage in competitive bidding when a notice or notices are published on the City's website and posted at City Hall for a reasonable period calling for bids on the property; by private sale which, when the value of the property exceeds \$50,000 will involve the engagement of real property appraisal services; by property exchange when the City and another property owner exchange parcels of comparable values which will also involve the engagement of real property appraisal services when the value of the property exceeds \$50,000; and the sale to a government or non-profit entity when the City Commission determines that the City-owned real property is required for use by another governmental entity or non-profit entity for a public purpose in which case the City may convey real property to that entity for such price, whether nominal or otherwise as the City Commission may determine.

To address the goals of affordable housing, the City may convey surplus real property to another governmental entity, a non-profit entity, or a private entity or person to carry out the goals of the City relating to affordable housing or economic development. The City may adopt requirements for such conveyances on a case-by-case basis and may include deed restrictions, percentage of affordable units for low-income, moderate-income, and very low-income, and such other restrictions to ensure that said property will be permanently preserved as affordable housing; as well as conditions relative accomplishing economic development within the City. In terms of economic development, the City in an effort to effectively revitalize, foster and retain new job growth potential and recognizing the importance of new and expanding development may donate real property for economic development purposes. In such cases, the City Manager shall provide the City Commission with an agenda item which shall include in the background the details describing all the parameters of benefit for the economic development purposes such as, new full-time employment expansion or tax benefits increasing the City's job market growth or other pertinent beneficial matters.

Also, a parcel of City-owned real property may also be declared surplus and donated for a viable public purpose in the best interest of the public to a not for profit corporation, right-of-way, park or other public purpose.

With regard to the engagement of real property appraisal services, as to parcels that are valued at less than \$50,000, the appraised value of real property may be determined by procurement of an independent appraisal report or by using the value of the property as determined by the Sumter County Property Appraiser and adding 15% of that amount to that amount. For parcels that appear to be valued at an amount in excess of \$50,000, but not in excess of \$250,000, an appraisal from a qualified Florida appraiser shall be procured. For parcels that appear to be valued at an amount in excess of \$250,000, appraisals from 2 qualified Florida appraisers shall be procured.

Without City Commission authority, the City Manager may grant easements, licenses and rights of entry to other governmental entities upon request by such entities said grants being in a form approved by the City Attorney. The City Manager may bring any such action before the City Commission for approval as he or she deems appropriate. A license is a grant of permission authorizing the licensee to do a particular act on a parcel of City-owned real property. As distinguished from a lease, a license merely grants permission to use such real property and does not convey any property. Licenses cannot be assigned by the licensee and is revocable by the City at will.

Closing of real property contracts shall be performed by the City Attorney in a manner approved by the City Attorney.

All transactions involving the conveyance of City-owned real property shall be confirmed by a resolution of the City Commission or proclamation by the City Manager, with regard to transactions within the authority level of the City Manager, which will include a release any reservation of mineral, metal and petroleum rights and right of entry under the provisions of Section 270.11, *Florida Statutes*, and all such transactions shall be deemed to have included a petition for such release.