

2611 Exceptions to Bidding Requirements for Purchases Other Than for Public Projects.

Except as otherwise provided by law, the following purchases of materials, services, supplies and equipment shall not require compliance with the bidding requirements of this Chapter:

(a) Informal Purchases. Any contract for a purchase of less than \$25,000 shall be let in accordance with the procedures established herein. Contract requirements shall not be artificially divided so as to constitute separate purchases under this Section.

(1) Bidding shall not be required for individual purchases of materials, supplies, equipment, and services of an estimated value of less than \$5,000. The Purchasing Manager shall adopt administrative rules and procedures for making individual purchases of less than \$5,000. These administrative rules and procedures shall include the requirement to prepare and maintain written records adequate to document the procurement, properly account for the funds expended, and facilitate an audit of such purchases.

(2) So far as practical, for any purchase costing \$5,000 or more and less than \$25,000, at least three (3) vendors shall be solicited to submit price quotations by use of sealed bidding methods, electronic facsimile, or electronic mail. This solicitation requirement may be met if price quotations have been sought through prices listed on a vendor's Internet website; provided, that the Purchasing Manager reviews and approves such pricing. Award shall be made to the responsive and responsible vendor who offers the lowest acceptable quotation that best meets the needs of the City. The names of vendors submitting quotations, their respective local addresses and principal places of business, and the date and amount of each quotation shall be recorded and maintained as a public record.

(i) Bids shall be submitted to the Purchasing Manager, who shall specify the time, place, and manner in which bids are to be submitted. It is the responsibility of the bidder to ensure that the Purchasing Manager receives the bid document at the time, place and manner so specified.

(ii) The Purchasing Manager shall keep a record of all informal bid orders and submitted informal bids for a period of two (2) years after submission of such bids or the placing of such orders. This record, while so kept, shall be open to public inspection, except as prohibited by law, such as in the case of a bidder's proprietary information.

(b) Competitive Proposals. When the Purchasing Manager determines that conditions are inappropriate for the use of competitive bidding or that sealed bidding is infeasible or contrary to the best interests of the City, a contract may be entered by use of the competitive proposal method. The facts supporting such a determination shall be recorded and maintained as a public record.

(1) Request for Proposals. The Purchasing Manager shall issue or approve a request for proposals describing the services or product to be procured, the format which proposals shall follow, the elements proposals shall contain, other appropriate requirements, and a statement of the time and place for the receipt and opening of sealed proposals. The request for proposals shall identify all significant evaluation criteria and the procedures to be used for evaluation and selection for negotiation and/or contract award.

(2) Notice of Solicitation. Notice of a request for proposals shall be published at least ten (10) calendar days prior to the date of proposal opening on the City website. The notice shall include a general description of the item or service required, a statement that proposals shall be submitted to the City Clerk's office, and the place, date, and time of proposed opening. The Purchasing Manager or department director may give such other notice as he or she deems appropriate.

(3) Proposal Opening. Proposals shall be opened publicly by the Purchasing Manager or designee in the presence of one (1) or more witnesses at the time and place specified in the request for proposals. The name of the offeror and such other information as the Purchasing Manager deems appropriate shall be announced and recorded. If no proposals are received, procurement may proceed without further compliance with competitive proposal requirements.

(4) Proposal Evaluation. The City may, at any time, waive or modify any element of the request for proposals and/or any evaluation criterion. If so stated in the request for proposals, selection may be made, without negotiation, solely on the written submittals. If negotiation is elected, the City may negotiate with one (1) or all offerors that the Purchasing Manager determines have a reasonable chance of selection, based on price and other factors stated in the solicitation.

(c) Professional and Personal Services Procurement. The procurement of the professional services of any architect, landscape architect, engineer, artist, environmental consultant, land surveyor, construction project manager, accountant, appraiser, financial advisor, attorney, or other provider of professional services involving a high degree of technical or individual skill shall be based on demonstrated competence, the professional

qualifications necessary for satisfactory performance of the required services, and a fair and reasonable price, after notice to a number of potential offerors adequate to permit reasonable competition consistent with the nature and requirements of the procurement. Offerors shall provide evidence that the person or firm carrying out contract responsibilities possesses the expertise and experience to perform the requisite professional services. The contract file shall contain a written summary of the basis on which notice to potential offerors was given and on which the award was made. Professional services contracts, except as authorized below, shall be awarded in accordance with CMC 2610. Professional service contracts of less than \$25,000 may be awarded in accordance with subsection (a) or (b) of this Section by purchase order on the written recommendation of the department or division head. Professional services contracts for the preparation of environmental reports or special studies regarding private projects, when the project applicant has deposited the full amount of the contract, may be awarded by the City Engineer or the Community Development Director.

(d) Emergency Purchasing.

(1) Notwithstanding any other provision of this Chapter, the Purchasing Manager may make or authorize others to make emergency purchases of materials, supplies, equipment, or services when there exists a sudden, unexpected occurrence that poses a clear and imminent danger, requiring immediate action to prevent or mitigate the loss or impairment of life, health, property, or essential public services. Emergency purchases shall be made with such competition as is practicable under the circumstances. A written determination of the basis for the emergency and the selection of the particular contractor shall be included in the contract file. Emergency procurements shall require approval of the City Manager or his or her designee. In the absence or unavailability of the City Manager or designee, any department head shall have like authority for purchases related to their respective departments.

(2) Within five (5) business days after such emergency purchase, a record of each emergency procurement shall be made setting forth the vendor's name, the amount and type of the contract, the terms of the contract, and the identification number of the purchasing file. Expenditures made during a locally declared emergency or in an emergency situation must be reported to the City Council at the next regular City Council meeting if approval for such expenditures would otherwise have been subject to the approval of the City Council.

(e) Sole Source Purchasing. The City Manager may dispense with this Chapter's bidding requirements if he or she finds that the materials, supplies, equipment, or services are unique because of their quality, durability, availability, or fitness for a particular use and are available only from one (1) source, or, if available from more

than one (1) source, can be purchased from the manufacturer or service provider for a lower price. If the cost of such sole source purchasing is \$25,000 or greater, then the City Council's approval shall be required.

(f) Piggyback Purchasing. The City, through the Purchasing Manager, may purchase materials, supplies, equipment, or services, without complying with the bidding or proposal procedures in this Chapter, from any vendor who offers the materials, supplies, equipment, or services at the same or better price, terms, and/or conditions as the supplier previously offered to another city or other public agency as the lowest bidder pursuant to the competitive bidding or proposal process required by that city or other public agency; provided, that:

(1) A copy of the solicitation has been obtained from the originating city or public agency and reviewed by the Purchasing Manager for compliance with this Chapter; and

(2) The Purchasing Manager determines that the specifications of the materials, supplies, equipment, or services required by the City are not materially different from those specified in the originating city's or public agency's solicitation; and

(3) The selected bidder was selected in compliance with the competitive bidding or proposal process requirements of such city or other public agency; and

(4) The Purchasing Manager determines that the competitive bidding or proposal process utilized is at least the same as that contained in this Chapter; and

(5) The contract resulting from the original solicitation is current or the solicitation is within two (2) years from the date of the City's order, or written justification is provided justifying use of an older solicitation; and

(6) The Purchasing Manager determines that, as a result of piggyback purchasing, the price of the materials, supplies, equipment, or services is lower than it would be if purchased directly by the City pursuant to this Chapter.

(g) Cooperative Purchasing. The City, through the Purchasing Manager, may purchase materials, supplies, equipment, or services through a joint powers or other cooperative purchasing program with any local, county, State, or Federal public entity or entities, or any association of public agencies, including the California League of Cities, the California State Association of Counties, and the National Conference of Mayors; provided, that:

- (1) The selected bidder was selected in compliance with the competitive bidding or proposal process requirements of any participating entity or association; and
- (2) The Purchasing Manager determines that the competitive bidding or proposal process utilized is at least the same as that contained in this Chapter; and
- (3) The Purchasing Manager determines that, as a result of cooperative purchasing, the price of the materials, supplies, equipment, or services is likely to be lower than it would be if purchased directly by the City pursuant to this Chapter.

Such cooperative purchasing may include, but is not limited to, joint or multi-party contracts between public agencies and public agency contracts negotiated to be available to other public agencies.

(h) Notice of Award. With respect to contracts awarded under this Section, no notice of intent to award shall be required to bidders as provided for contracts awarded pursuant to CMC 2610 and the procurement protest procedures under CMC 2613 shall not apply.

(i) Other Purchases. The City Council has determined that the purchase of the following items shall not require compliance with the bidding provisions of this Chapter, so long as funds have been properly appropriated and such purchases conform with all other requirements of this Chapter:

- (1) Books, periodicals, records, tapes, and other similar materials.
- (2) Intellectual property with a unique or special purpose, as documented in writing by the Purchasing Manager.
- (3) Items and services acquired with Federal or State loan or grant funds when the terms and conditions of such loan or grant require compliance with procedures that are different from this Chapter; however, where such procedures are less restrictive, this Chapter shall govern to the extent permitted by the terms and conditions of such loan or grant.
- (4) Insurance, insurance adjusting, legal, and related services. If a new appropriation therefor is required or an existing appropriation is insufficient, the City Manager or Finance Director is authorized to bind coverage or otherwise provide for such services until the required appropriation has been approved.
- (5) Vendor servicing agreements where the equipment has been purchased competitively.

- (6) Express mail through a private carrier.
- (7) Services from other governmental agencies that are not covered under a specific inter-agency agreement.
- (8) Advertising and publication for City programs and events.
- (9) Professional development, training, and continuing education classes for City employees.
- (10) Intellectual property use licenses.
- (11) Fuel purchases and other commodities that are subject to market pricing.**
- (12) City utility bills (e.g., water, electrical, and gas).
- (13) Postage.
- (14) Publication of legal notices required by law.
- (15) Food purchased at retail.
- (16) Renewal of software licenses already purchased by the City.
- (17) Commission and committee member stipends.
- (18) Travel and conference expenses.

The City Manager may award all contracts under this Section that are less than or equal to the City Manager's expenditure authority under CMC 2606.

(j) For the evaluation and award of any bids, proposals, or offers received pursuant to this Section, a local preference shall be given to local businesses, as provided further in CMC 2611.1.

(k) If prices quoted or received in two (2) or more bids, proposals, or offers pursuant to this Section are equally the lowest, including application of a local preference pursuant to CMC 2611.1, then the awarding authority may choose whichever options as provided in CMC 2610(j)(1) through (5) that it deems to serve the best interest of the City. (Ord. 17-1609, § 2; Ord. 18-1806, §§ 5, 6)