

MARSHALLTOWN

I O W A

PURCHASING POLICY AND PROCEDURE MANUAL

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I. INTRODUCTION

This policy is to promote efficiency, transparency, and fairness in procurement of goods and services. Purchasing of goods and services for the City is to be accomplished impartially, with no favoritism toward any individual vendor and with no appearance of impropriety. This policy establishes consistent purchasing procedures while maintaining certain controls to obtain needed goods and services efficiently and economically. The cooperation of all City employees, administration and vendors is essential if the City is to obtain maximum value for each tax dollar spent. All purchases and procurements shall be reasonable and necessary. Only the purchasing methods described herein are available for purchasing goods and services on behalf of the City.

No purchase made by an employee shall bind the City to receive and/or pay for the goods or services procured, unless authorized by the methods described herein. Transactions shall not be split into smaller parts to circumvent the dollar limitations and requirements of this policy.

Responsibilities

It shall be the responsibility of the Department Director to ensure that his/her department follows all policies and procedures and expenditures are within the Department's budget. The City's purchasing system is considered decentralized (each departments' responsibility) except for those goods, services, and equipment that qualify or are designated for centralized purchasing.

Regulating Authorities

Requests and suggestions for changes to this policy may be submitted to the Finance Director at any time. All changes in this manual shall be approved by City Council by resolution to be effective.

Noncompliance

Noncompliance with these policies and procedures may result in the return of improperly authorized or prepared documents, nonpayment of vendor invoices, cancellation of purchase orders or purchasing privileges, or other sanctions as determined necessary after consultation with the Department Director and/or City Administrator.

II. PURCHASING POLICY

The City of Marshalltown utilizes different dollar value thresholds for determining what purchasing methods should be used as well as the level of approval required. These thresholds are established by the State of Iowa or federal rules, as well as the best judgement of the City Council in determining an appropriate level of oversight for activities. These purchases can generally be broken down into two categories: purchases that are considered public improvements and all other purchases.

Public Improvements

A Public Improvement is defined as a building or construction work which is constructed for the City of Marshalltown and is paid for in whole or in part with funds of the governmental entity. A public improvement project may involve new construction, reconstruction, or an improvement that results in betterment to a facility by improving either the original design of the facility or the function of the facility.

Repairs or maintenance work are subject to this policy unless performed by a City of Marshalltown employee. This is defined as the preservation of a building, storm sewer, sanitary sewer, or other public facility or structure so that it remains in sound or proper condition, including minor replacements and additions as necessary to restore the public facility or structure to its original condition with the same design.

Public improvement projects are broken down into two types: Vertical Infrastructure and Horizontal Infrastructure. When planning a public improvement and determining which bidding threshold applies, the estimated total cost of the project applies. This estimate should include labor, materials, equipment, and supplies and should exclude the cost of architectural, landscape architectural, or engineering design services or the cost of inspections.

Vertical infrastructure includes the following:

- Buildings and all appurtenant/accessory structures
- Utilities
- Incidental street improvements including sidewalks
- Site development features
- Recreational trails
- Parking facilities

Vertical infrastructure does not include any work constructed in conjunction with or ancillary to highway, street, bridge or culvert projects, including but not limited to utilities and sidewalks.

Estimated Total Project	Requirement	Approval Level
Equal to or less than \$57,000*	Informal Procedures	Department: less than \$10,000; Finance: \$10,000-\$24,999; City Administrator:-\$25,000 \$44,999; City Council- \$45,000-57,000
Greater than \$57,000* and less than \$139,000*	Competitive Quotation Procedures	City Council
Greater than \$139,000*	Competitive Bidding	City Council

Horizontal infrastructure includes the construction, reconstruction, improvement, or repair and maintenance of a highway, bridge or culvert.

Estimated Total Project	Requirement	Approval Level
Equal to or less than \$48,000*	Informal Procedures	Department: Less than \$10,000 Finance: \$10,000-\$24,999; City Administrator: \$25,000 - \$44,999 City Council: \$45,000 - \$48,000
Greater than \$48,000*	Competitive Bidding Procedures	City Council

**These amounts are effective as of January 1, 2019. The law requires these amounts be reviewed not less than biennially, effective January 1 following any such adjustment. This Policy shall automatically incorporate and the City shall properly follow any threshold adjustments which may occur subsequent to January 1, 2019. A listing of bid thresholds is available at: http://www.iowadot.gov/local_systems/publications/bid_limits.htm*

Some of projects may be combined and include portions that are both horizontal and vertical infrastructure. In that case, the more stringent bidding requirements should be used. For example, if utilities are constructed in conjunction with a street project, the horizontal infrastructure thresholds should be used. If the utilities are constructed independently, the vertical infrastructure thresholds can be used.

If donated funds are to cover the entire cost of the public improvement, the City does not need to utilize the processes specified above.

For public improvement projects, the City Engineer can approve change order(s) up to an aggregate amount of \$25,000 without additional council approval. However, if the change order(s) increases the cost of the project by more than 10% from the amount that the Council originally approved, then the current change order(s) and any future change order(s) for the project shall be approved by Council. After the change order has been approved, a report will be provided to Council indicating the vendor name, amount, purpose of contract, and reason for the change order.

All Other Purchases

Purchases of goods or services which fall outside of the definition of a public improvement are governed by different dollar thresholds and processes.

Estimated Total Project	Requirement	Approval Level
Less than \$25,000	Informal Procedures	Department: less than \$10,000 Finance: \$10,000-\$24,999
\$25,000 to \$44,999	Request for Sealed Quotations or Request for Proposal	City Administrator
\$45,000 or greater	Request for Sealed Quotations or Request	City Council

Purchases and Contracts less than \$5,000

Any goods and/or services under this threshold may be purchased by Department Directors or their respective designees without receiving quotes if the Department Director/Designee makes a conscious decision that it is not worthwhile based on the minimal savings and the investment of time for staff to get quotes. If Director/Designee makes the decision to get quotes, at least 2 must be obtained.

Purchases and Contracts \$5,000 to \$24,999

The purchase of any goods or services where the total value is between \$5,000 and less than \$24,999 shall require written quotations from at least three suppliers or documentation to substantiate effort to get three quotes. Once department supervisor and/or director approves and contract is signed, if applicable, requester can make the purchase. It is the responsibility of the Department to maintain the quotes.

Purchases and Contracts equal to or greater than \$25,000

For goods or services of \$25,000 or more, a Request for Sealed Quotations or Request for Proposal (RFP) must be utilized. Request for quotes will be solicited for when the specifications and requirements are sufficiently standardized that the quotes can be easily compared with one another. A Request for Proposal (RFP) will be solicited when specifications and requirements are not standardized and the City wishes the bidder to propose a solution or methodology.

For a Request for Sealed Quotation or Request for Proposal, the Director/designee shall approve the bidder specifications prior to release. The written specifications will include the time, place, and manner for filing quotations/proposals, which may be received by in person, by mail, fax, or e-mail as indicated in the specifications.

Exceptions

There are some circumstances which the thresholds for purchases other than public improvements will not apply. This includes the following situations:

- Already negotiated contracts including state contracts, federal supply schedule or other national procurement associations
- Sole source may be used for OEM (Original Equipment Manufacturer) and warranty repairs, if prior approval is obtained from Council. Sole source is defined as a vendor who is the only one qualified or allowed to perform maintenance based on the manufacturer's warranty or who is allowed to sell parts/goods in a particular geographic location for a product. All purchases involving a sole source vendor where competitive bids are required shall be accompanied by written justification from the Department Director detailing the reason for a sole source purchase.
- On-going services that are under a contract or 28E agreement, including rents and leases, maintenance and service agreements.
- Medical physicals and expenses, employee insurance and benefit programs, and the related third- party administrators.
- Insurance premiums for workers compensation, liability and property.
- Services only provided by one vendor (i.e. utilities, annual dues, subscriptions).
- Travel and Training
- Projects being wholly funded by donated funds

Local preference Policy

The City Council has determined that it is in the best interest to make smaller dollar purchases through local businesses. A local business is defined as any business that owns or leases a building within the city limits of Marshalltown and uses the building for the conduct of business operations within the City. For the purchase of goods or services, if the anticipated cost is less than \$5,000 and the Department Director determines that significant savings to the city from competitive bid or quotation appears unlikely.

This policy shall be interpreted to give a local preference to the extent consistent with state law and this Purchasing Policy. It is not appropriate to solicit bids or quotations, then select a higher bid or quote because of local preference. It does not apply when awarding contracts for public improvements, nor to goods and services purchased with the assistance of federal, state or county funds. It does not apply to other specific circumstances when the application would make it unlawful under state or federal law, including the application under treaty or trade agreements.

Capital Improvement Plan

For goods or services already approved in the annual Capital Improvement Plan (CIP) budget, which is no greater than 10% of the original estimate, the department can proceed without additional Council approval. Other approval levels based on dollar thresholds still apply.

Change Orders

Department directors can approve change order(s) up to an aggregate amount of \$25,000 without additional Council approval. However, if the change order(s) increases the cost of the project by more than 10% from the amount that the Council originally approved, then the current change order(s) and any future change order(s) for the project shall be approved by Council. After the change order has been approved, a report will be provided to Council indicating the vendor name, amount, purpose of contract, and reason for the change order.

Motor Vehicles

Any motor vehicle licensed to be driven on the road must be approved by Council prior to purchase.

III. PURCHASING METHODS

The method of purchasing to be used, or how a bid or quote is obtained, is determined by the type of project/purchase as defined above. Regardless of the method required for a purchase, the City of Marshalltown strives to ensure full and open competition, guarantee the objective performance of the contract, and eliminate the possibility for unfair competitive advantages. Proposal selection shall be based on responsiveness to the solicitation, price, quality, deadlines of delivery, warranties, accountability and fulfillment of the service, and other relevant factors.

Informal Procedures

If the estimated total cost of the project is equal to or less than the minimum threshold amount as defined by type of project above, the City may proceed as deemed in the best interest of the City. If the Director/Designee makes the decision to get quotes, at least two must be obtained. A quote can be a telephone quotation, print screens from a website, information from a catalog, or a written amount. It is the responsibility of the Department to maintain the quotes.

For public improvement projects which require an informal procedure, a performance and

payment bond is required from the contractor for any work exceeding \$25,000 in total cost, including change orders.

Competitive Quotation Procedures

The competitive quotation process is for vertical infrastructure projects only. The City must make a good faith effort to obtain quotes from at least two contractors regularly engaged in the required work before awarding a contract. Quotes may be obtained after the city provides a description for the work to be completed, including plans and specification prepared by an architect or engineer, and allows all potential contractors and opportunity to inspect the project site.

The quotes received should detail the amount for labor, materials, equipment and supplies. The lowest responsive, responsible bidder shall be awarded the bid, or the City may reject all quotes. A resolution awarding the bid and approving a contract must be approved by the City Council prior to work commencing. The contractor's performance and payment bond, and certificate of insurance, must also be on file before work begins.

If the work can be performed by employees of the city, the city may file a competitive quotation for the work to be performed in the same manner as a contractor. For purposes of comparing the city's quotation to perform the work with city employees to a contractor's quotation to perform the work, the amount of estimated sales and fuel tax which a contractor identified in its quotation must be deducted from the contractor's quotation.

If no quotations are received to perform the work or if the city's estimated cost to do the work with its employees is less than the lowest responsive, responsible quotation, the city may authorize its employees to perform the work.

Competitive Sealed Bid Procedures

This process requires an architect or engineer to prepare plans and specifications as well as calculate the estimated total cost of the project. The process for selecting an architect or engineer is one that is qualifications based, meaning the City should select the best qualified firm to complete this task. See Request for Qualifications below for more information.

Once plans, specification and an engineer's cost estimate are prepared, the City Council must order and then hold a public hearing on the plans, specifications, form of contract and estimated cost of the project. Following the public hearing the City must then send a notice to bidders, which includes the time and place for filing sealed bids, time and place the bids will be opened, general nature of the public improvement, general timeline of the project, and detail the requirements of the bid security. The notice might also include other pertinent information and that the city reserves the right to reject any and all bids.

The City will also publish a notice not less than 13 and no more than 45 days before the bid filing deadline, as required by law, in the following locations:

- The Construction Update Network
- The City of Marshalltown website

Depending on the scope of the project, a pre-bidding meeting might be necessary to give potential contractors a chance to ask questions about the project. This decision shall be left to each Director/ designee.

After the deadline for bids to be received, a formal bid opening will be held. The City must record on the envelope containing the bid the time it was received and the name of the person who received it. Any bid received after the deadline cannot be considered and must be returned to the bidder unopened. After the bids have been opened, the city can award the contract, by resolution, to the lowest responsive, responsible bid or reject all bids and set a new date for receiving bids. The contractor's performance and payment

bond, and certificate of insurance, must also be on file before work begins.

Request for Qualifications

A Request for Qualifications should be issued when seeking the best qualified firm for providing professional services, such as architectural and engineering services. Where practical, however, those vendors providing such services should be asked to submit quote or bids to provide the services requested. Such proposals shall be evaluated on the basis of the vendor's reputation, experience, and understanding of the work to be done. Price, while being a factor, may not be the primary factor. City Director, City Administrator and City Council authorization or affirmation is still required at the same dollar limitations.

Request for Sealed Quotations

For purchases of goods or services meeting the above thresholds, the following request for bid process should be used. The Director/designee should have a written set of standards and specifications for which pricing is being sought. Bids are open at an announced time, and each bidder is identified along with the bid amount. The award should go to the lowest responsive, responsible bidder at the appropriate approval levels based on the dollar threshold.

Request for Proposals (RFP)

For purchases of goods services meeting the above thresholds, a Request for Proposal should be used when the City is seeking a service for which there is not a standardized specification for bidders. Instead, a scope of work provided by the City guides bidders on what items should be submitted in a response.

Evaluation criteria should also be specified in a bid document and then used to determine the best proposed process and/or firm for the given service. The City is not required to accept the lowest dollar bid in this process. At a minimum, advertisement of this bid should be posted on the City of Marshalltown website. The City may contact known vendors that provide this service to notify them of the RFP. Request for Proposals should be sealed bids so as to prevent any disclosure of process, cost or any other aspects of a proposal. The bid openings for RFPs are not public.

Request for Information (RFI)

This method can be used when the City wants to obtain valuable information from potential suppliers of goods or services by simply asking for the information from known and qualified firms. Potential suppliers may provide method-valuable information, alternative solutions, and enable the entity to evaluate their approach to the procurement of the good or service.

This method can also be used for contracts for leases or acquisition of real property. A lease or acquisition value is negotiated after considering competitively acquired information about alternatives and values.

The City Administrator and Finance Director must be included in these negotiations. Council action is required before any contract is signed for acquisition of real property.

IV. POLICIES RELATED TO THE PROCUREMENT

Outside of the dollar thresholds and approval levels, there are additional policies which departments and City personnel must consider when making a purchase.

Prepayments

The City does not prepay for goods or services or utilize prepaid devices such as gift cards. If a vendor requires prepayment for goods or services, authorization must be

obtained from the City Administrator or the Finance Director.

Sales Tax

The City does not pay sales tax for goods or services. Employees should provide the vendor the City's sales tax exemption number. If the vendor does charge sales tax, it will be the responsibility of the employee to get a credit or refund. The exception to paying sales tax is when an employee is paying for items personally and being reimbursed, such as travel expenses, or does not have a Pcard. In those instances, the employee will be reimbursed for sales tax.

Emergency Purchases

Emergency purchases are exempt from getting quotes or soliciting bids when the incident could not be foreseen and the repair/service is required to continue service to the public or to insure the safety of citizens or employees. The City Administrator must provide prior authorization for an emergency purchase.

Procurement Records

Departments are responsible for maintaining all specifications, quotations, selection criteria, performance and payment bonds, certificate of insurance, and contracts. Please see the Iowa Records Retention Manual for further guidance.

Iowa Gift Law

Please see Personnel Policy 2.16 for the City's policy regarding Iowa's Gift Law.

Conflict of Interest

If an elected official or an employee of the City of Marshalltown has a conflict of interest related to the selection, award, or administration of a contract supported by a Federal award, this must be disclosed to the City Administrator or Mayor immediately. A conflict of interest can include when an elected official or employee, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated herein, has a financial or other interest in or a tangible personal benefit from a firm considered for a contract.

Related Party Transactions

Purchase transactions for goods or services from an officer of the City or an employee of the City, including Board and Commission members, is limited to \$2,000, in any one occurrence, unless the sale is made after public notice and a competitive bidding process per State law. Regardless of the amount, the employee must disclose the purchase to his/her Supervisor, Department Director, and Finance Director.

State or Federal Grant Expenditures

All purchases funded through a State or Federal grant must follow all additional procedures required by the grantor. In regards to federal programs, all procurement will be done in accordance with 2 CFR; Part 200 unless federal requirements conflict with local or state requirements, then the most restrictive requirement will be followed (see Appendix A for federal requirements). All bid specifications for a purchase that is funded through a State or a Federal grant must list all additional specifications for the goods or services that are required by the grantor. Contractors must be evaluated when the bids are received on their ability to meet these State or Federal requirements. In addition, no purchases to be covered by the grant can be made prior to the execution of the grant agreement unless approved by the grantor.

Centralized Purchasing:

Goods, services, and equipment that are determined to qualify under any of the following

criteria will be purchased and bid by the Department:

- Where bulk purchasing or exclusiveness can save the City money.
- Where consistency across departments creates organizational efficiency
- Where no department is directly responsible for a good or service that affects many departments
- Where the City Administrator determines that it is beneficial for the City to do so

The ordering Department will create bid specifications, solicit bids, and manage contracts for goods, services, and equipment that are deemed to qualify.

For the goods, services, or equipment qualifying under this section, departments must contact the ordering Department for vendor issues, complaints or other related activities.

Qualification for centralized purchasing will be determined by the City Administrator and the Finance Department.

V. PURCHASING PROCEDURES

In order to complete a purchase, the following internal procedures must be used in order to pay for a purchase.

1. For Goods/Services that have been purchased that are less than \$10,000, the invoice will be coded by the Department and turned over to the Accounts Payable Division of the Finance Department to enter into the accounting software. The Department will review the entries and approve/decline. If the purchase is being requested to be paid out of funds 030 /031(CIP) or is coded to an equipment/vehicle expense of \$5,000 or more, the Finance Department will review and approve.
2. For goods/services equal to or exceeding \$10,000, a purchase requisition must be created in the financial software and be approved by at least the Supervisor, Department Director, and higher authority prior to a purchase being made. A higher authority is defined as the City Administrator, Finance Director, or a designee of either.

Purchase requisitions shall be approved in the following manner. (Department Directors may set more restrictive approval requirements within their departments if desired).

- \$10,000 to \$24,999 must be approved by (a) a supervisor if applicable, (b) a Department Director, and (c) Finance Director or his/her designee
- \$25,000 and over must be approved by (a) a supervisor if applicable, (b) a Department Director, (c) Finance Director and (d) City Administrator or his/her designee.

Depending on the dollar threshold and the accounting codes used, the City Administrator or his/her designee and/or the Finance Department will approve requisitions within 48 hours of receiving a properly authorized requisition.

A purchase order is created from requisitions of \$10,000 or greater. The requisition must be approved prior to issuing the purchase order to the vendor. This purchase order number can then be provided to the vendor if requested.

Petty Cash

Petty cash may be used to make change for customers or to make purchases of under \$30 which could not be covered by a procurement card. Approval is required by the supervisor or higher authority and must be signed out from the petty cash custodian prior to making

the purchase.

Petty cash should not be used for:

- Travel and training expenses or clothing expenses
- Purchases where the City has a credit account
- Purchases that can be made with the employee's procurement card.

A receipt is required for all petty cash purchases. It should indicate the description of the item, purpose, amount paid, account number to be expended and signature on the receipt.

The Finance Director must authorize any increases or decreases to a department's petty cash. If a petty cash fund is desired, it must be requested and approved through the Finance Director or his/her designee.

Procurement Card (Pcard)

Procurement card (Pcard) may be used to pick up needed items locally, pay for items on the internet, when it is necessary to expedite goods, and when an advance deposit is required (i.e. travel reservations).

Supervisors or Department Directors will approve the purchase and sign the monthly recap sheet when coding. The Pcard User must sign and date the invoice, receipt, or order acknowledgement indicating items were received and in good condition. See Purchasing Card Policy for more information.

Employee Reimbursement

Employee reimbursements are for staff that do not have a Pcard and/or need reimbursed for:

- Travel costs (i.e. mileage, motel, meals, parking). Please reference section 2.11, Appendices A-D of the Employee Policy Manual for acceptable travel expenses
- Training costs (i.e. registration fees, educational materials, office supplies)
- Clothing allowances
- Low-cost items that are needed that day (i.e. part)
- Library materials
- Personal cell phone allowance
- Emergency purchases as defined in this policy above.

Employees are required to submit original detailed receipts indicating vendor name, date & time of purchase, and items purchased. Supervisors and/or Directors must approve the employee reimbursement request.

Central Store

Central Store is used for items purchased and then available to all departments (i.e. paper products). The person picking up supplies will list them on a charge-out sheet. At the end of each quarter, the Finance Department will expense the supplies to the Departments.

Budget Approval

Department Directors are responsible to select the most appropriate account number and stay within their overall approved budget for each activity. This means that a specific budget expenditure line can be exceeded as long as the entire activity is not. If circumstances arise where the budget is not sufficient or if the Director wants to make a change, follow these guidelines:

If the good or service exceeds the budgeted amount, the Director may request:

- A budget line transfer when moving from one expense line to the other within the same fund and department activity, which nets to zero. This only requires the Department Director's approval. The exception is that you cannot decrease wages or benefit lines and move the savings to other budget lines.
- A budget line transfer between funds or department activities, but within the same budgetary function as defined by State Code, requires the Department Director and Finance Director's approval.
- A budget transfer between budgetary functions requires approval of the public through a budget amendment. Prior authorization must be sought from the City Administrator and Finance Director who will in turn present it to the City Council for approval.

In the event that a purchase or service was not planned in the original budget and it exceeds planned budgetary function levels, prior authorization must be sought from the City Administrator and Finance Director who will in turn present it to the City Council for approval.

Transfers:

Effective April 13, 2019, the City Finance Committee, organized under Iowa Administrative Code, approved changes to Administrative Rules Code 545-2 requiring greater disclosures for all interfund transfers. The rules require cities to provide the originating fund and receiving fund, purpose, and amount of the transfer during the budget process and also requires additional resolutions any time transfers exceed the original or amended budget amounts.

APPENDIX A for federal procurement to be used if more restrictive than City's policy:

METHODS OF PROCUREMENT

Procurement under grants shall be made by one of the following methods, as described herein:

(a) small purchase procedures; (b) sealed bids (formal advertising); (c) competitive proposals; (d) noncompetitive proposals.

A. Micro-Purchase Procedures 200.320(a)

- i. The acquisition of supplies or services, the aggregate dollar amount of which does not exceed the micro-purchase threshold - \$10,000 (200.67)
- ii. To the extent practicable, must distribute micro-purchases equitably among qualified suppliers
- iii. May be awarded without soliciting competitive quotations if the non-Federal entity considers the price to be reasonable

B. Small Purchase Procedures 200.320(b)

- i. Are those relatively simple and informal procurement methods for securing services, supplies, or other property that does not cost more than the simplified acquisition threshold - \$250,000 (200.88)
- ii. Price or rate quotations are to be obtained from an "adequate number" of qualified sources

C. Sealed Bidding (formal advertising) 200.320(c)

- i. Lowest priced, responsive, responsible, bidder WINS
- ii. The preferred method for construction when sealed bidding is "feasible", which is when certain conditions are present
- iii. Bids must be solicited from an "adequate number of known suppliers", providing them sufficient response time before date for the opening of bids
- iv. Bids will be opened at the time and place prescribed in the invitation for bids
- v. Must publicly advertise the invitation for bids
- vi. Bids must be opened publicly
- vii. Other procedural requirements at 200.320(c)(2)

D. Competitive Proposals 200.320(d)

- i. Used when conditions are not appropriate for the use of sealed bids
- ii. The appropriate method when more than one source is expected to submit an offer and either a fixed-price or cost-reimbursement type contract is awarded
- iii. Awards will be made to the responsible firm whose proposal is most advantageous to the program, with *price* and other factors considered
- iv. Requests for proposals *must be publicized* and identify all evaluation factors and their relative importance
- v. Proposals must be solicited from an adequate number of qualified sources
- vi. Must have written method for conducting technical evaluations of the proposals received and for selection of the contract

E. Noncompetitive Proposals 200.320(f)

- i. Procurement through solicitation of a proposal from only one source and may be used only when one or more of the following circumstances apply:
 - a. **One Source:** the item is available only from a single source
 - b. **Exigency/Emergency:** an exigency or emergency will not permit a delay resulting from competitive solicitation

- c. **Awarding Agency Approval:** the Federal awarding agency or pass-through entity expressly authorizes noncompetitive proposals in response to a written request from the non-Federal entity
- d. **Inadequate Competition:** after the solicitation of a number of sources, competition is determined inadequate

CONTRACTING WITH SMALL AND MINORITY BUSINESSES, WOMEN'S BUSINESS ENTERPRISES, AND LABOR SURPLUS AREA FIRMS (200.321)

- A. Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;
- B. Placing qualified small and minority businesses and women's business enterprises on solicitation lists;
- C. Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises;
- D. Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises;
- E. Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce; and
- F. Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in paragraphs (a) through (e).

CONTRACT PRICING (200.323)

- A. The cost plus a percentage of cost and percentage of construction cost method of contracting shall not be used.
- B. The City shall perform some form of cost/price analysis for every procurement action, including contract modifications, amendments, or change orders. The City shall make an independent estimate prior to receiving a bid or proposal.
- C. The City shall negotiate profit as a separate element of the price for each contract in which there is no price competition and in all cases where cost analysis is performed. In determining a fair and reasonable profit, the City must consider the complexity of the work to be performed, the risk borne by the contractor, the contractor's investment, the amount of subcontracting, the quality of its record of past performance and the industry profit rates in the surrounding geographical area.

PROCUREMENT RECORDS

The City shall maintain records sufficient to detail the significant history of a procurement, including the rationale for the method of procurement, selection of contract type, contractor selection or rejection, and the basis for the contract price.

(200.324)

(a) The City must make available, upon request of the Federal awarding agency or pass-through entity, technical specifications on proposed procurements where the Federal awarding agency or pass-through entity believes such review is needed to ensure that the item or service specified is the one being proposed for acquisition.

(b) The City must make available upon request, for the Federal awarding agency or pass-through entity preprocurement review, procurement documents, such as requests for proposals or invitations for bids, or independent cost estimates, when:

- (1) The City's procurement procedures or operation fails to comply with the procurement standards in this Part;
- (2) The procurement is expected to exceed the Simplified Acquisition Threshold and is to be awarded without competition or only one bid or offer is received in response to a solicitation;
- (3) The procurement, which is expected to exceed the Simplified Acquisition Threshold, specifies a "brand name" product;
- (4) The proposed contract is more than the Simplified Acquisition Threshold and is to be awarded to other than the apparent low bidder under a sealed bid procurement; or
- (5) A proposed contract modification changes the scope of a contract or increases the contract amount by more than the Simplified Acquisition Threshold.

(c) The City is exempt from the pre-procurement review in paragraph (b) of this section if the Federal awarding agency or pass-through entity determines that its procurement systems comply with the standards of this Part.

(1) The City may request that its procurement system be reviewed by the Federal awarding agency or pass-through entity to determine whether its system meets these standards in order for its system to be certified. Generally, these reviews must occur where there is continuous high-dollar funding, and third party contracts are awarded on a regular basis;

(2) The City may self-certify its procurement system. Such self-certification must not limit the Federal awarding agency's right to survey the system. Under a self-certification procedure, the Federal awarding agency may rely on written assurances from the City that it is complying with these standards. The City must cite specific policies, procedures, regulations, or standards as being in compliance with these requirements and have its system available for review.

AWARDED CONTRACTS

- A. The City will not award a contract to a party listed as debarred, suspended, or otherwise excluded in the System for Award Management (SAM). www.sam.gov (200.213)
- B. Contracts awarded shall contain the applicable contract provisions described in 2 CFR 200.326 and Appendix II to Part 200.
- C. The City will maintain written standards of conduct covering conflicts of interest and must provide for disciplinary action to be applied for violations of such standards as defined in 2 CFR 200.318 (c) (1).