



PURCHASING

MEMORANDUM

TO: *Purchasing Handbook*

FROM: *Debra Bryant, Finance Director*

Nancy Woods, Purchasing Manager

SUBJECT: *Procurement Card Procedures*

IMPLEMENTATION DATE: *March 15, 1999 (rev. 2-12-01)*

Purpose: Provide a means to acquire items that either cannot be obtained or are impractical to obtain using a City Purchase Order.

Procedures:

1. Purchasing will place orders or pick up items using the procurement card only after receiving an approved electronic requisition.
2. The requisition will be brought forward into the Purchase Order referenced in the payment documentation.
3. A limit of \$5,000 per transaction shall be established, or an amount equal to that set by Purchasing Policy for documenting pricing.
4. A limit of \$100,000 per year shall be established.
5. An individual shall be named as card custodian. The card custodian shall maintain a transaction log and record each purchase on the log. The transaction log should contain all information necessary to reconcile statements. For each purchase made by a purchasing card, signed receipt documentation which clearly describes the items purchased, price, and any applicable tax should be retained by the custodian and reconciled to the statement. Once reconciled, the receipt documentation shall be included with the statement and invoice entry edit list prepared by Accounts Payable. Any items returned to the supplier should also be recorded on the transaction log and accompanying credit slips should be attached.
6. Excluded items. The Procurement Card shall NOT be used to:
 - obtain cash advances
 - make personal purchases
 - purchase equipment, material or supplies restricted by policies, guidelines or contractual agreements
 - make travel related plans pursuant to the city's employee travel policy such as transportation, lodging and meals (conference and class registrations are permitted)

POLICY/PROCEDURE

TITLE PURCHASING AND SURPLUS PROPERTY GUIDELINES		NUMBER 400-92-01
EFFECTIVE DATE JULY 15, 2000	SUPERCEDES #518.001 (dated 1/4/92)	PAGE NUMBER 1 OF 20

Section Index:

- 1.0 General
- 2.0 Policy Guidance
- 3.0 Competitive Bids for Equipment, Material, Supplies, and Services (other than Professional Services)
- 4.0 Competitive Negotiation
- 5.0 Emergencies
- 6.0 Sole Source or Proprietary Procurements
- 7.0 Public Works
- 8.0 Professional and Personal Services
- 9.0 Procurement of Insurance or Bonds
- 10.0 Intergovernmental Cooperative Purchasing Agreements (Interlocal)
- 11.0 Procurement Reporting
- 12.0 Vendor Relations
- 13.0 Contracting with Small and Minority Firms
- 14.0 Local Business Encouragement
- 15.0 Appeals to the City of Everett
- 16.0 Sale of Personal Property
- 17.0 Monitoring and Compliance
- 18.0 Revisions

EXHIBIT A

SECTION 1.0 GENERAL

1.1 PURPOSE

This document establishes guidelines and clarifies the policies and procedures for purchasing supplies and materials, and contracting for services by the City of Everett.

This document does not create any enforceable rights or causes of actions in third parties. City staff risk disciplinary action for unauthorized departure from these guidelines.

1.2 GOALS

The City's contracting, purchasing, and property disposal goals include:

- Maintaining the quality and integrity of the City's purchasing system;
- Maximizing the purchasing value of City of Everett's funds;
- Providing a uniform citywide purchasing system to the extent practical and feasible;
- Assuring fair and equitable treatment of people who deal with the City's purchasing system; and
- Disposing surplus and scrap materials in accordance with state law and City Charter.

1.3 SCOPE

These guidelines apply to public works project contracts; the acquisition of supplies, equipment, and material; and the acquisition of services such as telecommunication services, data processing services, and professional services, including architectural and engineering design services.

These guidelines do not apply to the acquisition, sale, conveyance, or lease of real property.

If federal or state financial assistance, grants, or funding is involved in the proposed acquisition and/or contract, the program management requirements should be obtained from the appropriate agency. Such requirements are beyond the scope of these guidelines.

1.4 CONTROLLING LAWS

All purchases shall comply with the appropriate and relevant federal, state, and City laws and policies. If, and to the extent, the appropriate and relevant federal or state laws, regulations, grants, or other requirements then existing vary from these guidelines, such laws, regulations, grants, or other requirements should be followed. Contact the city attorney's office when questions regarding potential conflicts arise.

EXHIBIT A

1.5 PROPER AUTHORIZATION

Only authorized individuals may obligate the City to acquire goods and services. Individuals purchasing goods on behalf of the City without proper authorization may be personally liable to the vendor and the City, and may be disciplined.

Purchase orders commit City funds for the acquisition of goods or services. In their capacity as the City's purchasing agents, the purchasing manager and buyers are authorized to issue purchase orders on behalf of the City in accordance with this guideline.

1.6 PURCHASE REQUISITION

The purchase requisition is the first step in the purchasing procedure. The requisition should be submitted to the Purchasing Division in a timely fashion to allow adequate time for review, price quotations, and the preparation of a purchase order. The length of time needed to obtain an item will depend upon the characteristics of the product or service sought, the number of alternative vendors or contractors, availability of the product, etc.

A purchase requisition is an internal instrument that communicates a department's needs to Purchasing. It is never to be conveyed directly to a vendor. Individuals must submit a computer access request form, signed by their department directors, to gain access to enter, edit, and approve purchase requisitions for a specific budget. *It is the department director's responsibility to insure that total annual expenditures do not exceed the authorized budget appropriation.*

If you have questions regarding how to complete the purchase requisition, please contact the Purchasing Division.

SECTION 2.0 POLICY GUIDANCE

SUBJECT MATTER	EXPECTED TOTAL COST (including sales tax, freight, etc.)	PAGE
Competitive bids for equipment, material, supplies, and services (other than professional services)	\$75,000 or more	7
	\$50,000 to \$74,999	7
	\$10,000 to \$49,999	8
	Less than \$10,000	8
Small Purchases	Less than \$2,000	8
Competitive Negotiation		9
Competitive Proposals	\$75,000 or more	11
	\$50,000 to \$74,999	11
	Up to \$49,999	12
Emergencies		12
Emergency Procurements	\$75,000 or more	12
	Less than \$75,000	12
Sole Source Procurements		13
Public Works (using Small Works Roster)		13
Public Works (not using Small Works Roster)		13
Professional and Personal Services		14
Intergovernmental Cooperative (Interlocal) Purchasing Agreement		15

EXHIBIT A

- (1) When purchases and contracts are obtained by competitive bidding, such purchases and contracts shall be awarded to the lowest responsive and responsible bidder. When purchases and contracts are obtained through competitive negotiation, purchases and contracts shall be awarded to the bidder whose proposal is most advantageous to the City with price and other factors considered. When determining whether a bidder in a competitive bid is responsible, or when evaluating a bidder's proposal in competitive negotiation for purchases and contracts, the following factors will be considered, any one of which will suffice to determine a bidder is either not the lowest responsible bidder or the bidder's proposal is not the most advantageous to the City:
- A. The ability, capacity and skill of the bidder to perform the contract or provide the service required.
 - B. The character, integrity, reputation, judgment, experience and efficiency of the bidder.
 - C. Whether the bidder can perform the contract within the time specified
 - D. The quality of performance of previous public and private contracts or services, including, but not limited to, the bidder's failure to perform satisfactorily or complete any written contract. The City's termination for default of a previous contract with a bidder shall be deemed to be such a failure.
 - E. The previous and existing compliance by the bidder with laws relating to the contract or services.
 - F. More than one proposal is submitted for the same project from a bidder under the same or different names.
 - G. Evidence of collusion with any other bidder, in which case colluding bidders will be restricted from submitting further bids on the subject project or future tenders.
 - H. The bidder is not qualified for the work or to the full extent of the bid.
 - I. There is uncompleted work with the City or others, or an outstanding dispute on a previous or current contract that might hinder, negatively affect or prevent the prompt completion of the work bid upon.
 - J. The bidder failed to settle bills for labor or materials on past or current public or private contracts.
 - K. The bidder has been convicted of a crime arising from a previous public contract, excepting convictions that have been pardoned, expunged, or annulled.
 - L. The bidder has been convicted of a crime of moral turpitude or any felony, excepting convictions that have been pardoned, expunged or annulled, whether in this state, in any other state, by the United States, or in a foreign country, province or municipality. Bidders shall affirmatively disclose to the City all such convictions, especially of management personnel or the bidder as an entity, prior to notice of award or execution of a contract, whichever comes first. Failure to make such affirmative disclosure shall be grounds, in the City's sole option and discretion, for termination for default subsequent to award or execution of the contract.
 - M. More likely than not, the bidder will be unable, financially or otherwise, to perform the work.
 - N. At the time of bid opening, the bidder is not authorized to do business in Washington, is not registered as a contractor in Washington, or otherwise lacks a necessary license, registration or permit.

EXHIBIT A

- O. Such other information as may be secured having a bearing on the decision to award the contract.
- P. Any other reason deemed proper by the City.

(2) As used in this policy, "bidder" means any vendor, supplier, contractor, person, or entity that seeks to enter into a commercial relationship with the City, including, but not limited to, those who respond to requests for bids and proposals. Bidder, includes, but is not limited to, one or more principals, owners, officers, directors, shareholders, partners, members, managers, or control persons of the person submitting the bid, and persons associated or affiliated with the person submitting a bid or proposal. "Person" as used herein includes both natural persons, corporations, partnerships, sole proprietorships, limited liability companies, and any other business entity, combination or association, whether for profit or non-profit.

Determining the Expected Total Cost of the Purchase

2.1 Anticipated Cost

The anticipated annual need for a particular good or service should be used to determine the appropriate threshold.

2.2 Avoiding Thresholds

Requirements must not be divided so as to constitute a lesser threshold under this section.

2.3 Annual Cost

Closely related goods will be considered as one purchase on an annual basis when determining which threshold applies.

2.4 Total Cost

The total cost of goods or services, including any applicable taxes, freight, set-up, or die charges, shall be considered when determining which threshold applies.

2.5 Total Quantity

Requirements for the total quantity of an item shall be considered together when determining which threshold applies.

Example

If one pump is to be purchased now at an estimated cost including sales tax and delivery of \$8,959, but a total of three pumps are expected to be purchased during the year at an aggregate cost of \$26,877 (\$8,959.00 times three), then the procurement of the first pump falls within the \$10,000 to \$49,999 category

2.6 Items Used in Conjunction

If two or more items are designed or intended to be used in conjunction with each other, the total accumulated costs of all such items shall be considered together to determine which threshold applies, unless these components are not available from a single supplier.

Example

Water meter covers and lids are usually used in conjunction with each other. Estimated requirements for the calendar year are:

Quantity expected to be acquired over the year	Description	Unit Price	Total
250	Standard water meter covers with small insert lids	\$50.00	\$12,500.00
250	Heavy duty water meter covers with small	\$39.46	\$9,865.00

EXHIBIT A

	insert lids		
250	Small insert lids for standard and heavy duty	\$3.75	\$937.50
	meter covers		
	Tax		\$1,840.90
Total			\$25,143.40

The total accumulated cost of these items used in conjunction with each other should be handled as a purchase costing between \$10,000 and \$49,999, even if a smaller quantity is later purchased.

2.7 Multiphase Programs

If the total, overall objective of any specific program over a calendar year's time is to be completed in phases, the total accumulated cost for all phases will be considered when determining which threshold applies.

Example

A golf course is fertilized three times a year, and the material cost for each fertilization is \$9,000 (including tax and freight). The three-phase program then has a total material cost of \$27,000, and should be handled as a purchase costing between \$10,000 and \$49,999. Delivery times may be established for each phase.

2.8 Multi-Department Requirements

To the extent practical, the requirements of separate departments and divisions for the same goods or services will be considered together when determining which threshold applies.

Example

All City departments require miscellaneous paper products such as toilet paper, hand towels, garbage can liners, etc. Each department should provide an estimate of its needs to the Purchasing Division so it can aggregate the requirements to obtain the best price/delivery from vendors.

2.9 Trade-Ins

The value of a trade-in will not be included when determining which threshold applies. However, the trade-in price will be considered when determining the lowest responsive and responsible bid.

SECTION 3.0 COMPETITIVE BIDS FOR EQUIPMENT, MATERIAL, SUPPLIES, AND SERVICES (OTHER THAN PROFESSIONAL SERVICES)

The competitive bidding method is the preferred method to acquire equipment, material, supplies, and services (other than professional services).

Bid specifications should incorporate a clear and accurate description of the technical requirements for the material, product, or service to be purchased. Such descriptions should not contain features that unduly restrict competition. When it is impractical or uneconomical to make a clear and accurate description of the technical requirements, a "brand name or equal" description may be used. The responsibility of demonstrating to the City's satisfaction that a product is "equal" to that specified shall be on the vendor proposing the substitution. Requests for approval of substitutions must be made with sufficient time to allow the City to adequately review the proposal, including time for vendors to respond to questions and requests for additional information or clarification. The City has no obligation to accept proposed substitutions or engage outside consultants or experts to evaluate proposed substitutions. Acceptance of a substitute product proposed as an "equal" to

EXHIBIT A

that specified will be made in writing and, if made prior to bid, other bidders will be notified if practical and convenient.

EXHIBIT A

3.1 Award

The contract will be awarded to the lowest responsive and responsible bidder whose bid meets the requirements and criteria set forth in the invitation for bids. If there are questions or concerns regarding whether a bidder is responsible, refer to Section 2.0 of this Policy and the City Attorney:

Any recommendation that uses life cycle costing to determine the lowest responsive and responsible bidder must be approved by the finance director. Local taxes generated by the purchase may be considered when determining the lowest responsive and responsible bid as permitted by RCW. 39.030.040. When a trade-in option is in the City's best interests, the price offered on the trade will be considered when determining the lowest responsive and responsible bid.

3.2 Cancellation

An invitation for bids may be cancelled; or the City, at its sole discretion, may reject any or all bids in whole or in part.

3.3 Competitive Bidding - \$75,000 or more

City Council approval of a call for bids will be sought in response to a properly authorized purchase requisition submitted to the Purchasing Division that includes clear, concise written specifications. Such requisitions will include approval by the Mayor/designee or the appropriate department director/designee. Once approved, the Purchasing Division will solicit sealed bids.

Original specifications and the original bid responses will be retained for review and audit as required in the city clerk's vault.

At least one notice of the call for bids will be published in the City's official newspaper at a minimum of thirteen (13) days prior to bid opening.¹ Other methods may be used to attract potential bidders in addition to, but not in place of, publication in the City official newspaper. For example, notices may be placed on the City's Internet web site, or advertised in trade papers or magazines.

Sealed bids will be submitted to the city clerk at the location specified in the invitation or call for bids. At the appointed time, all bids will be opened and read aloud in the presence of the bidders or their representatives. Bid openings are usually scheduled for 2:00 p.m., Tuesdays. Contract forms must be reviewed and approved by the Legal Department.

City Council will make all bid awards. Once an award is made, Purchasing will issue a purchase order to the successful bidder. Such purchase orders will be signed by the purchasing manager and reference City Council's award.

3.4 Competitive Bidding - \$50,000 to \$74,999

Purchasing will obtain sealed bids in response to the receipt of a properly authorized purchase requisition that includes clear, concise written specifications. Council approval of bid calls in this dollar range is not required. Such requisitions will include approval by the Mayor/designee or the appropriate department director/designee.

Both the original specifications and the bid responses will be retained for review and audit as required in the city clerk's vault.

¹ Charter § 4.13

EXHIBIT A

At least one notice of the call for bids will be published in the City official newspaper at a minimum of thirteen (13) days prior to bid opening.² Other methods may be used to attract potential bidders in addition to, but not in place of, publication in the City official newspaper. For example, notices may be placed on the City's Internet web site, or advertised in trade papers or magazines.

Sealed bids will be submitted to the city clerk at the location specified in the invitation or call for bids. At the appointed time, all bids will be opened and read aloud in the presence of the bidders or their representatives. Bid openings are usually scheduled for 2:00 p.m., Tuesdays.

Contract forms must be reviewed and approved by the Legal Department.

The Purchasing Division will make the award and issue a purchase order, signed by the purchasing manager, to the successful bidder.

3.5 Competitive Bidding - \$10,000 to \$49,999

Buyers will solicit written bids in response to receipt of a properly authorized purchase requisition that includes clear, concise written specifications. Council approval of bid calls in this dollar range is not required. Such requisitions will include approval by the Mayor/designee or the appropriate department director/designee.

Both the specifications and the quotes will be retained for review and audit as required in the procurement file.

Advertising in the City official newspaper is not required; however, it may be used. Other methods may also be used to attract potential bidders. For example, notices may be posted on the City's Internet web site, or advertised in trade papers or magazines.

Quotes do not need to be sealed, but should be in writing. They may be delivered by fax, mail, hand delivery, or e-mail.

Standard contract forms must be reviewed and approved periodically by the Legal Department.

The Purchasing Division will make the award and issue a purchase order, signed by the purchasing manager or buyers, to the successful bidder.

3.6 Competitive Bidding – Less than \$10,000

In response to receipt of a properly authorized purchase requisition that includes clear, concise written specifications, buyers will use their knowledge of supplies, vendors, costs, and the market to issue purchase orders as appropriate. The buyer will see that goods and services are obtained as economically as possible, even if the procurement is small. When the order is over \$5,000, an effort will be made to solicit three (3) quotes from suppliers. The quotes will be comparable from vendor to vendor (e.g., all quotes shall include shipping, installation, tax, and delivery time).

Standard contract forms must be reviewed and approved periodically by the Legal Department.

3.7 Small Purchases

3.71 Open Supply Purchase Orders

² Charter § 4.13

EXHIBIT A

The open supply purchase order system was established to facilitate small purchases from local suppliers. Open supply purchase orders are meant to provide small, varied and unpredictable items needed for the day-to-day operations of City work crews. Purchases above \$2000 should not appear on open supply purchase orders. An open supply purchase order should not be used to acquire items that should otherwise be put out for bid or competitive pricing. Inappropriate purchases appearing on open supply purchase orders will be referred to the department director for review and appropriate action.

3.72 Establishing an Open Supply Purchase Order

Open supply purchase orders may be established when there are a sufficient number of small purchases from a local supplier. City employees should contact the Purchasing Division to inquire about establishing open purchase orders.

3.73 Procedures

Only permanent employees or 9-month seasonal laborers may use the open supply purchase orders. When using open supply purchase orders, the City employee must show employee identification to the supplier, and sign and print his/her name on the packing list. The City employee's supervisor must also sign and write the account code on the packing list. Prior to payment, the packing lists will be matched to the supplier's invoices.

3.74 Returns and Back Orders

Returns and back orders are not allowed on open supply purchase orders. Returns must be reported to the Purchasing Division for processing.

3.75 Credit Cards

Some open purchase order suppliers accommodate the City by providing the use of a supplier-specific credit card. All such credit cards are held in Purchasing. Before an eligible employee, as defined above can use a credit card, the employee is required to obtain a signed form from his or her supervisor authorizing the use of the card. The form details what will be bought and sets a dollar limit. Purchasing cannot release a credit card without this pre-authorization. Supervisors will be notified if there are any discrepancies between the pre-authorization and the store receipt.

3.76 Petty Cash

The purchase of small incidental items (under two hundred dollars (\$200)) may be made using petty cash in accordance with Petty Cash Policy 400-96-02 or as may be amended.
<http://www1.ci.everett.wa.us/citypolicy/petycash.htm>

3.77 Procurement Card

The Purchasing Division holds a procurement card that can be used to acquire small, low-cost items for which a purchase order is either impractical or not available. Before an eligible employee, as defined above, can use a procurement card, the employee is required to obtain a signed form from his or her supervisor authorizing the use of the card. The form details what will be bought and sets a dollar limit. Purchasing cannot release a procurement card without this pre-authorization. Supervisors will be notified if there are any discrepancies between the pre-authorization and the store receipt.

SECTION 4.0 COMPETITIVE NEGOTIATION

Competitive negotiation can be used as an alternative to the competitive bidding procedures outlined under Equipment, Materials, Supplies, and Services (other than professional services) for

EXHIBIT A

the acquisition of electronic data processing and telecommunications systems; energy saving or energy related equipment or services; or when it is determined in writing that the use of competitive bidding is neither practicable nor advantageous to the City of Everett.

Transit buses and paratransit vehicles for which at least fifty percent (50%) of the funds used in the purchase price are administered through the Federal Transit Administration (FTA) or its successor agency are exempt from the formal bidding process, provided that the procurement complies with all acquisition regulations of the FTA or its successor agency.

"Electronic data processing" includes, but is not limited to, systems which comprise a combination of equipment or units to provide input of source data, and storage and processing of data and output in predetermined form, including a central processing unit (CPU) or main frame.³ In other words, hardware, software, firmware, "smart cards" or any combination thereof.

Eligible purchases⁴ are those for "equipment, materials, or supplies that are expected, upon installation, to reduce the energy use or energy cost of an existing building or facility, and the services associated with the equipment, materials, or supplies, including but not limited to design, engineering, financing, installation, project management, guarantees, operations, and maintenance."⁵ The procurement may be structured on a performance basis, rather than a design specification, such that the City may specify a result, rather than the type or model of equipment.⁶

The approval requirements found under Equipment, Materials, Supplies, and Services (other than professional services) also apply to procurement by competitive negotiation. The approving officer (e.g., Mayor/designee, or department director/designee, depending upon the anticipated procurement cost) must determine in writing that competitive bidding is either not practical or advantageous to the City.

State law establishes competitive negotiation requirements for some purchases. The following are the minimum requirements for procurement by competitive negotiation as of the date these guidelines were adopted. Consult the Legal Department to determine if any changes in state law have occurred.⁷

A request for proposals should be prepared and submitted to an adequate number of qualified sources, as determined by the City at its discretion, to permit reasonable competition consistent with the requirements of the purchase. The request for proposal should identify significant evaluation factors, including price, and their relative importance.

The City will provide reasonable procedures for technical evaluation of the proposals received, identification of qualified sources, and selection criteria for awarding the contract.

4.1 Award

The City may select the qualified vendor whose proposal is most advantageous to the City, with price and other factors considered. If the City is unable to negotiate a contract successfully, the City may terminate negotiations and proceed to negotiate with the second most advantageous proposer, and so on.

³ RCW 36.92.020 (1967)

⁴ RCW 39.35A.030 (1985)

⁵ RCW 39.35A.020(1) (1985)

⁶ RCW 39.35A.020(3) (1985).

⁷ RCW 39.04.270

EXHIBIT A

4.2 Cancellation

A request for proposals may be cancelled at the City's sole discretion and option. The City may reject individual proposals in whole or in part for cause.

4.3 Competitive Proposals - \$75,000 or more

City Council approval of a call for proposals will be sought in response to the submittal of a properly authorized purchase requisition that includes a description of the requirements and identifies significant evaluation factors and their relative importance. Once approved, the Purchasing Division will solicit sealed proposals. Such requisitions will include approval by the Mayor/designee or the appropriate department director/designee.

At least one notice of the request for proposals must be published in the City official newspaper at a minimum of thirteen (13) days prior to proposal deadline.⁸ Other methods may be used to attract potential proposers in addition to, but not in place of, publication in the City official newspaper. For example, notices may be placed on the City's Internet web site, or advertised in trade papers or magazines.

Sealed proposal responses will be submitted to the city clerk. At the appointed time, a register of proposals shall be prepared containing the name of each proposer and a description identifying the item offered. Proposal deadlines are generally scheduled for 2:00 p.m., Tuesdays.

City Council will make awards pursuant to a request for proposals in this dollar range. When an award is made, either a contract or a purchase order will be issued to the successful proposer. In general, contracts are issued when services are predominant and purchase orders are issued when goods are predominant. Such purchase orders will be signed by the purchasing manager and reference City Council's award.

The original request for proposal and the responses will be retained for review and audit as required in the city clerk's vault. A monthly report of these purchases will be submitted to the Mayor, City Council, and finance director.

4.4 Competitive Proposals - \$50,000 to \$74,999

Purchasing will obtain sealed proposals in response to the receipt of a properly authorized purchase requisition that includes a description of the requirements and identifies significant evaluation factors and their relative importance. Council approval is not required for a request for proposal in this dollar range. Such requisitions will include approval by the Mayor/designee or the appropriate department director/designee.

At least one notice of the request for proposals should be published in the City official newspaper.⁹ Advertisement shall occur a minimum of thirteen (13) days prior to proposal deadline. Other methods may be used to attract potential proposers in addition to, but not in place of, publication in the City official newspaper. For example, notices may be placed on the City's Internet web site, or advertised in trade papers or magazines.

Sealed proposal responses will be submitted to the city clerk. At the appointed time, a register of proposals shall be prepared containing the name of each proposer and a description sufficient to identify the item offered. Proposal deadlines are generally scheduled for 2:00 p.m., Tuesdays.

⁸ Charter § 4.13

⁹ Charter § 4.13

EXHIBIT A

The Purchasing Division will make the award and issue either a contract or purchase order to the successful proposer. In general, contracts are used when services are predominant and a purchase order is issued when goods are predominant. Purchase orders will be signed by the purchasing manager.

The original request for proposal and responses will be retained for review and audit as required in the city clerk's vault. A monthly report of these purchases will be submitted to the Mayor, City Council, and finance director.

4.5 Competitive Proposals – to \$49,999

Buyers will make an effort to obtain three (3) written proposals in response to the receipt of a properly authorized purchase requisition that includes a description of the requirement and identifies significant evaluation factors and their relative importance. Council approval is not required for requests for proposals in this dollar range.

Advertising in the City's official newspaper is not required; however, it may be used. Other methods may also be used to attract potential bidders. For example, notices may be posted on the City's Internet web site, or advertised in trade papers or magazines. The responses do not need to be sealed, but should be in writing. Delivery may be by fax, mail, hand delivery, or e-mail.

The Purchasing Division will award the bid and issue either a contract or a purchase order to the successful proposer. In general, a contract will be used when services are predominant and a purchase order will be issued when goods are predominant. Such purchase orders will be signed by the purchasing manager or buyer.

SECTION 5.0 EMERGENCIES

Competitive bidding is not required when an emergency exists; however, in making emergency purchases, an effort will be made to include the level of competition that is practical under the circumstances.

An "emergency" means unforeseen circumstances beyond the control of the municipality that either: (a) present a real, immediate threat to the proper performance of essential functions; or (b) will likely result in material loss or damage to property, bodily injury, or loss of life if immediate action is not taken.

If an emergency exists, the Mayor and his/her designee are authorized to act and will seek a resolution from Council that will: (a) declare an emergency situation exists; (b) waive competitive requirements; and (c) award, on behalf of the City, contracts necessary to address the emergency situation (including, but not limited to, architectural and engineering services).

5.1 Emergency Procurements of \$75,000 and Over

City Council will, at its earliest opportunity, adopt a resolution declaring an emergency to exist. Such resolution shall declare the emergency, recite the facts constituting the emergency, enumerate the purchases and their costs, and waive the competitive bid requirements.

5.2 Emergency Procurements of Less than \$75,000

The department director will submit a memo to Administration, reciting the facts that constitute the emergency, enumerating the purchases and their costs, and requesting that competitive bid requirements be waived. Such justification is subject to the approval of the Mayor/designee and the city attorney.

EXHIBIT A

SECTION 6.0 SOLE SOURCE OR PROPRIETARY PROCUREMENTS

Occasions may arise when competition among potential vendors is not possible for a particular procurement. These situations may occur: (a) when there is clearly and legitimately¹⁰ only one source capable of supplying the subject matter in a timely fashion; (b) when there are special facilities or market conditions that result in only one source, (c) in the event of emergencies; and (d) when there is only one source capable of supplying the subject matter in a timely fashion such that seeking competitive prices would be impractical.

Purchases may be made directly from a sole source vendor without soliciting other bids or quotes.

In the event the material, equipment, supplies, or services are available from only one supplier, written documentation demonstrating the appropriateness of sole source procurement should be submitted to and approved by the purchasing manager. When the total expected cost exceeds fifty thousand (\$50,000), the city attorney will also approve sole source justifications. Except in the event of an emergency, the contract and the basis for the exception from competitive procurement must be recorded and open to public inspection immediately after its award.¹¹

When the purchase exceeds seventy five thousand (\$75,000), the City Council may determine by resolution that there is only one source and authorize the purchasing manager to conduct negotiations as appropriate as to price, delivery, and terms. The resolution will recite the factual basis for the exception from competitive procurement. Such justification is subject to the approval of the Mayor/designee and the city attorney.

SECTION 7.0 PUBLIC WORKS

Public works (sometimes called "public improvements") are defined by state law and City ordinance. Public works include, but are not necessarily limited to, all work, construction, alteration, repair, or improvement (other than ordinary maintenance, engineering analysis, and design and other professional services), executed at the City's cost.

7.1 Small Works Roster

The City maintains a small works roster as permitted by RCW 35.22.620(7) and described in Small Works Roster Policy 400-00-02. Using the small works roster provides a streamlined method for soliciting competitive bids for public works projects that are anticipated to cost less than \$200,000. <http://www1.ci.everett.wa.us/citypolicy/swrpolicy.htm>

7.2 Public Works – (when the Small Works Roster is not used)

Public Works of more than twenty thousand dollars (\$20,000) for one craft or trade or thirty-five thousand dollars (\$35,000) for more than one craft or trade or as may be amended by the Washington State legislature will be awarded by competitive sealed bidding unless a small works roster is used.

City Council must approve the call for bids. Once approved, departments will obtain sealed bids in response to written plans and specifications. Specifications should not contain features that unduly restrict competition. Purchases in this dollar range are usually handled by the competitive sealed

¹⁰ RCW 39.04.280(1)(1)(1998)

¹¹ RCW 39.04.280 (1998).

EXHIBIT A

bidding method. Exceptions require Council action and must be pursuant to law. (e.g., EMC 3.44.080)

At least one notice of the call for bids must be published in the City official newspaper.¹² Advertisement will occur a minimum of thirteen (13) days prior to bid opening. Other methods may be used to attract potential bidders in addition to, but not in place of, publication in the City official newspaper. For example, notices may be placed on the City's Internet web site, or advertised in trade papers or magazines.

Sealed bids will be submitted to the city clerk. At the appointed time, all bids will be opened and read aloud in the presence of the bidders or their representatives. Bid openings are usually scheduled for 2:00 p.m., Tuesdays.

The Legal Department reviews the contract and general and special conditions form. Contracts are signed by the Mayor/designee.

7.3 Award

The contract shall be awarded by City Council to the lowest responsive and responsible bidder whose bid meets the requirements and criteria set forth in the invitation for bids. If there are questions or concerns regarding whether a bidder is responsible, refer to Section 2.0 of this document and the Legal Department for guidance.

7.4 Cancellation

The City may cancel an invitation for bids, or reject any and all bids in whole or in part, at its sole discretion and option.

SECTION 8.0 PROFESSIONAL AND PERSONAL SERVICES

Professional or personal services are those services involving specialized skill, education, and special knowledge. These services include, but are not limited to, architectural, engineering, design services, accounting, art, bond brokerage, insurance brokerage, legal, real estate appraisal, relocation assistance, title abstracts, surveying, soils analysis, and core testing.

A competitive process is not required for professional or personal services, other than professional engineering or architectural services for the design of City improvements.

Procurement and administration of such contracts are usually the responsibility of the Mayor or the department director. The Mayor/designee may sign professional or personal service contracts where sufficient funding exists in the annual budget or plans and systems ordinance. The Legal Department should be consulted to determine whether a particular contract requires Council approval.

8.1 Architectural, Engineering and Design Services

Professional engineering or architectural services should be selected either from a pre-qualified list or by advertising a request for qualifications for the specific project. The pre-qualified list is maintained by one or more designated departments.

8.2 Advertisement

¹² Charter § 4.13

EXHIBIT A

Professional engineering or architectural services requirements should be published in advance in the official City newspaper and in any other media reasonably likely to attract sufficient numbers of potential service providers. The announcement should state concisely the general scope and nature of the project or work for which the services are required and the address of a City representative who can provide further details.

Announcements should occur either by: (a) advertising an announcement for a specific project on each occasion when professional engineering or architectural services are required; or (b) advertising a general announcement for the City's projected requirements for any category or type of engineering or architectural services.¹³

The City encourages architectural and engineering firms to submit a statement of qualifications and performance data annually. When services are needed, the City will 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.

8.3 Contract Negotiations

Discussions will be conducted with one or more firms regarding anticipated concepts and the relative utility of alternative methods of approach for furnishing the required services. Using criteria established by the City for the project, category, or type of services needed, a professional/personal services contractor will be selected that is deemed to be the most highly qualified to provide the services required for the proposed project.

The City will negotiate a contract with the most qualified firm at a price that the City determines is fair and reasonable. In making its determination, the City will take into account the estimated value of the services to be rendered as well as the scope, complexity, and professional nature of the services to be provided. If the City is unable to negotiate a satisfactory contract with the firm selected at a price that is determined to be fair and reasonable, negotiations with that firm will be terminated in writing. Another firm will then be selected and the process continued until an agreement is reached or the process is terminated.¹⁴

The professional services agreement must be approved by the City Council, signed by the Mayor, attested by the city clerk, and approved as to form by the city attorney.¹⁵

SECTION 9.0 PROCUREMENT OF INSURANCE OR BONDS

Procurement of insurance and bonds occurs through the use of an insurance or bond broker.

SECTION 10.0 INTERGOVERNMENTAL COOPERATIVE PURCHASING AGREEMENT ("INTERLOCAL")

Pursuant to RCW Chap. 39.34, the City may join with the state or political subdivisions of the State of Washington for the purchase of material, equipment, supplies, or services by entering into a written Intergovernmental Cooperative Purchasing Agreement that requires compliance with the state's or the political subdivision's applicable procurement law. In addition, the City may make a bid call with another government entity as a joint purchase complying with the bid requirements of the participating jurisdictions.

¹³ RCW 39.80.030 (1981)

¹⁴ RCW 39.80.050 (1981)

¹⁵ EMC 2.04.030 (1985)

C-17

EXHIBIT A

Such purchases may be made without advertising in the City official newspaper.

Approval and authority for entering into an Interlocal Cooperative Purchasing Agreement will be determined by the anticipated cost of the procurement, (see Equipment, Material, Supplies, and Services (other than professional services)). Blanket Interlocal Cooperative Purchasing agreements where the costs of the potential purchases are not known will be treated as purchases over \$75,000.

When practical, the City should include language in its solicitations that allows other public agencies to purchase from Everett's bids or quotations, provided that the other agencies allow similar rights and reciprocal privileges to the City of Everett.

SECTION 11.0 PROCUREMENT REPORTING

A summary of quotes and bids received for all procurements over \$5,000 will be recorded electronically with the purchase order. Additionally, a monthly report of all procurements over \$5,000 will be submitted to the Mayor, City Council, and finance director.

Authorization of Special Categories

11.1 Electronic Data Processing Systems

The computer services manager shall approve requisitions for electronic data processing systems.

11.2 Telecommunication Systems

The telecommunication manager will approve requisitions for telecommunication systems.

11.3 Vehicles

The motor vehicle superintendent will approve requisitions for vehicles.

11.4 Purchases over \$10,000

The Mayor/designee or appropriate department director/designee will approve requisitions expected to cost over \$10,000.

SECTION 12.0 VENDOR RELATIONS

City employees should direct all vendors and suppliers to the Purchasing Division for information concerning the possible sale of goods and services to the City. Purchasing may direct a vendor to call on an employee who has requested information about a particular product.

Section 4.12 of the Everett City Charter says:

No officer or employee of the City shall solicit or receive any pay, commission, money or thing of value, or derive any benefit, profit or advantage, directly or indirectly, from or by reason of any improvement, alteration or repair required by authority of the City, or any contract to which the City shall be a party, except his lawful compensation or salary as such officer or employee. No officer or employee of the City except as otherwise provided in this charter, shall solicit, accept or receive, directly or indirectly, from any public service corporation, or the owner of

EXHIBIT A

any public utility franchise in this City, any pass, frank, free ticket, or any other service upon terms more favorable than those granted to the public generally.

Any employee who is offered or receives a payment or gift of more than a nominal value should refuse it or return it to the giver in a tactful and dignified manner, advising the giver of the City's policy prohibiting its acceptance.

If, for any reason, one supplier is permitted to requote, his competitors will be given the same opportunity. Bidders are expected to offer their best bid first and offering an opportunity to requote should be done only when absolutely necessary.

12.1 Samples

When vendors offer samples for evaluation, they will be accepted only under the following conditions:

1. The sample is accepted as property of the City.
2. The product is one which is of a type presently in use or is of potential use to the City. Samples of goods not likely to be purchased are not to be accepted.
3. The quantity or size of the sample is relatively small and of low value.
4. Any chemicals offered as vendor samples shall not be accepted unless accompanied by an OSHA Product Safety Data Sheet.
5. If vendor samples are accepted, they must be sent to the appropriate shop or department for testing.
6. Samples that are requested for evaluation must be purchased.

SECTION 13.0 CONTRACTING WITH SMALL AND MINORITY FIRMS, WOMEN BUSINESS ENTERPRISES, AND LABOR SURPLUS AREA FIRMS.

The City shall neither discriminate against, nor give preferential treatment to, minority and women-owned businesses.

SECTION 14.0 LOCAL BUSINESS ENCOURAGEMENT

The City of Everett will take affirmative steps to ensure that businesses situated within the city limits of Everett are encouraged to participate in its procurement process to the extent permitted by federal law, state law, city laws, regulations, grants, contracts, and this guideline.

SECTION 15.0 APPEALS TO THE CITY OF EVERETT

Vendors may appeal or protest a proposal solicitation or award of contract issued by the City of Everett, provided that the vendor strictly follows the procedures described below.

Prior to the deadline for submitting bids or proposals, vendors may appeal or protest specifications, terms, or requirements. After the deadline for submission of bids or proposals, vendors may appeal or protest the award or pending award to the apparent low bidder or the selection of the apparently most advantageous proposal.

EXHIBIT A

15.1 Procedures for Initial Appeal or Protest

The appeal or protest must:

1. Be written;
2. Explicitly identify itself as an appeal or protest,
3. Explicitly identify the bid/project/request from which the appeal is taken or protest is made;
4. Explicitly state all reasons and bases in law and fact supporting the appeal or protest, including, but not limited to, identification of any and all specifications, terms, requirements, or conditions to which the vendor objects;
5. Include any and all supporting documents; and
6. Be filed with the city clerk.

15.2 Deadline for Filing Initial Appeal or Protest

If a vendor appeals or protests a purchase specification, term, condition, or requirement, then any and all appeals and protests must be filed with the city clerk no later than seven (7) calendar days prior to the deadline for submission of bids or proposals. If the vendor appeals or protests an award or pending award, the appeal or protest must be filed with the city clerk no later than five (5) calendar days after the bidder is awarded the contract or a vendor's proposal is selected as most advantageous to the City. In no event will appeals or protests be heard or considered if these deadlines are not met. The City reserves the right to proceed with the purchase without notice to the appellant or protestor, including execution of contracts, notwithstanding the pendency of any appeal or protest.

15.3 Consideration of Initial Appeal or Protest

A vendor's initial appeal or protest will be reviewed by the purchasing manager, the city attorney, the head of the procuring department, and the finance director, or their designees. The initial appeal or protest will be decided based upon the written appeal or protest, supporting documents, and other information obtained by those reviewing the appeal or protest. A meeting or conference with the appellant or protestor will occur only if the finance director, at his or her sole discretion, determines that a meeting or conference with the appellant or protestor would materially assist the City in making its decision. Only those issues raised by the appellant or protestor in its initial written appeal or protest filed with the city clerk will be considered. The finance director or his or her designee will issue a written decision no later than ten calendar days after the filing of the initial appeal or protest with the city clerk. The finance director may exercise discretion to extend the time for decision if more time is needed.

15.4 Appeal from Denial of Initial Appeal or Protest

An appellant or protestor may only appeal the finance director's decision by following the procedures described in this section. The appeal will be decided by the City Council. The appellant or protestor must file its appeal in writing with the city clerk no later than seven calendar days after the date of the finance director's written decision. The appeal must state the basis in law and fact for the appeal, include a copy of the initial appeal or protest and the decision from which the appellant or protestor appeals, and state whether the appellant requests time to appear before Council to present its appeal. Council will not consider any issues not raised in the initial appeal or protest. At its sole discretion, Council may decide to allow the appellant to make any presentation other than its written submission if Council finds that such presentation would materially aid its

EXHIBIT A

decision. Council may form a committee of less than the entire Council to consider the appeal and recommend a decision to the entire Council. The Council's decision shall be final and binding.

15.5 Appeals and Protests on Projects Aided by the Federal Transit Administration

When the contract to be awarded or selected as most advantageous is funded in part by Federal Transit Administration (FTA)¹⁶ funds, the vendor may appeal to the FTA pursuant to FTA regulations. The FTA will only review protests that allege the City failed to follow its protest procedures. Any such appeal to the FTA must be in writing and received by the FTA no later than five (5) business days following a final decision rendered by the City of Everett. A copy of any such appeal to the FTA must be promptly filed with the city clerk.

SECTION 16.0 SALE OF PERSONAL PROPERTY (City Charter 15.8b)

The City Council may authorize the sale of personal property belonging to the City if it determines, by a majority plus one vote of the Council, that the property is not and will not be needed for City purposes and gives notice of intention to sell as provided in this section. All sales shall be public, except for scrap or sales to other government entities which may be by private sales. Sales to other government entities shall be at fair market value unless otherwise declared by Council to be in the best interests of the public. Scrap may be sold by private sale at prices established by current market conditions. Scrap is any equipment or material which cannot serve its original purpose. Trade-ins of old equipment to upgrade equipment of the same or reasonably related kind are permitted when it is in the best interests of the City. The purchasing manager shall be responsible for the sale, trade, or other disposition of surplus personal property and scrap belonging to the City of Everett.

16.1 Public Notice

The notice of intent to sell surplus or scrap at a public sale shall be published once a week for two (2) consecutive weeks in the City official newspaper immediately prior to the sale. The notice shall state the time and place at which the property will be sold.

16.2 Inventoried Items

Any inventoried item that is going to be scrapped, surplus, or traded in will be signed off by the employee responsible and approved by his/her supervisor.

16.3 Conflict of Interest

The City may periodically conduct an auction of surplus items. Because City employees have more information than the general public does about City property to be auctioned and an appearance of fairness is necessary to maintain public trust, employees, their spouses, and their agents are not permitted to bid on property auctioned by the City.

SECTION 17.0 MONITORING AND COMPLIANCE

The Purchasing Division will be responsible for monitoring and evaluating compliance with these guidelines. The purchasing manager will first attempt to resolve departures from the guidelines

¹⁶ Or its successor.

EXHIBIT A

with the department director. In the event an initial attempt to resolve the problem is unsuccessful, it will be referred to the finance director for further action.

A violation of any of the provisions of Section 4.12 of the Everett City Charter will result in discipline to the individual involved where, in the opinion of the Mayor in the case of employees, or in the opinion of a majority of the Council in the case of an elected official, such discipline is necessary in the interest of the public and good government. Such discipline may include suspension or forfeiture of employment or office.¹⁷

Officers and employees should be aware of possible personal penalties, termination, and financial liability for intentional and willful violation of competitive bidding laws. RCW 39.30.020 provides:

In addition to any other remedies or penalties contained in any law, municipal charter, ordinance, resolution, or other enactment, any municipal officer by or through whom or under whose supervision, in whole or in part, any contract is made in willful and intentional violation of any law, municipal charter, ordinance, resolution or other enactment requiring competitive bidding upon such contract shall be held liable to a civil penalty of not less than three hundred dollars and may be held liable, jointly and severally, with any other such municipal officer for all consequential damages to the municipal corporation. If, as a result of a criminal action, the violation is found to have been intentional, the municipal officer shall immediately forfeit his office. For purposes of this section "municipal officer" shall mean an "officer" or "municipal officer" as those terms are defined in RCW 42.23.020 (2). [Emphasis added.]

SECTION 18.0 REVISIONS

The Mayor or his or her Chief Administrative Assistant may approve revisions, additions, or deletions to these guidelines.

Issued By: _____
Nancy Woods, Purchasing Manager

Approved By: _____
Debra Bryant, Finance Director

Approved By: _____
Jim Langus, Chief Administrative Assistant

Approved By: _____
Edward Hansen, Mayor

¹⁷ Everett Charter §4.12 (Amended 11-7-78)