



CITY OF WHEATLAND

CITY COUNCIL MEETING STAFF REPORT

March 9, 2021

SUBJECT: Council discussion and consideration of adoption of Resolution No.11-21 amending the City of Wheatland Purchasing Policy

PREPARED BY: Jim Goodwin

Recommendation

Adopt Resolution No. 11-21 making amendments to the City of Wheatland Purchasing Policy

Background/Discussion

In July 2019, the City Council adopted Resolution 22-19 to establish purchasing policies.

Resolution No. 11-21 makes amendments to the policy by removing professional services contracts from the requirements of the Purchasing Policy. Currently, for the City to enter into a new professional services agreement, the Purchasing Policy would require the City to undertake a Request for Qualifications (RFQ) process in most circumstances prior to selecting or awarding a contract to a consultant.

Under state law, procuring professional services (special services and advice in financial, economic, accounting, engineering, legal, or administrative matters) is treated differently than the acquisition of goods, services, or construction contracts. In the latter, price is the determining factor (lowest qualified responsive and responsible bidder). With professional services, other factors are often considered including expertise, demonstrated competence, reputation, professional qualifications, confidence, working relationships, and urgency. While price is always considered prior to approving a contract, price is not the sole criteria used in the selection process.

To take advantage of the more flexible provisions in the statutes, the City Attorney recommends amending the Purchasing Policy to exempt contracts for professional services.

Alternatives

The City Council may choose not to adopt Resolution No. 11-21, in which case the existing Purchasing Policy would remain in effect and the City would not have the benefit of the more flexible provisions of the state statutes

Fiscal Impact

No fiscal impact.

Attachments

1. Resolution No. 11-21
2. Redline version of amended Purchasing Policy

RESOLUTION NO. 11-21

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WHEATLAND
AMENDING THE CITY OF WHEATLAND PURCHASING POLICY**

WHEREAS, the City Council is charged with the oversight of City funds; and,

WHEREAS, consistent with Chapter 3.04 of the Wheatland Municipal Code, which authorizes the City Council to adopt a Resolution to approve a Purchasing Policy to set the parameters of the City's Purchasing System, the City Council has adopted a Purchasing Policy establishing policies and procedures for the City; and

WHEREAS, the Purchasing Policy now in effect was adopted by Resolution 22-19; and

WHEREAS, the City Council wishes to amend the policy in order to exempt professional services from the policy.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Wheatland does hereby adopt the amended City of Wheatland Purchasing Policy as described in Attachment A.

PASSED AND ADOPTED by the City Council of the City of Wheatland on the 9th day of March, 2021 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

Rick West, Mayor

Lisa J. Thomason, City Clerk

**CITY OF WHEATLAND
PURCHASING POLICY
July 9, 2019
Revised March , 2021**

SCOPE OF POLICY

The provisions of this policy shall apply to:

1. The purchase of good and services, other than (including professional services and advice in financial, economic, accounting, engineering, legal, or administrative matters, which shall be awarded consistent with applicable statutes. , except for the services of physicians or attorneys, leases of real property, or the sale or purchase of real property).
2. All contracts, other than contracts for professional services, that are funded by the City of Wheatland for research and development, professional studies, and design and engineering, construction and construction-related matters other than construction project management, to the extent allowed by applicable law.
3. The disposition of surplus property.

OVERVIEW OF THE PURCHASING PROCESS

The purchasing process is centralized (the Purchasing Officer coordinates purchases) for the following goods and services: computer hardware and software and office supplies and machines. The purchasing process is decentralized (the Initiator, the person or department requesting the merchandise for service, seeks out potential vendors, obtains the bids, and interacts with the vendor) for all other goods and services. The Purchasing Officer/Initiator is responsible for assuring that adequate budgeted funds are available. Receipt of the merchandise or service is checked by the Purchasing Officer/Initiator. Approved invoices are forwarded to Finance for payment. Staging of purchases in order to avoid bidding procedures or authorization limits is prohibited. Each department is responsible for establishing a system of checks and balances throughout the purchasing process to help deter possible fraudulent activity.

PURCHASING OFFICER

The Purchasing Officer shall be the City Manager and he or she shall have general responsibility over purchase and procurement, administration of the Purchasing Policy, and management of surplus City property.

GIFTS AND UNAUTHORIZED PURCHASES

City employees, officers or officials are not entitled to any special consideration from vendors and merchants in their personal affairs nor are such city employees, officers, or officials to attempt to

procure materials for the personal use of any other person. City employees, officers or officials shall not solicit or accept gifts except for those items that can be shared by all staff such as food and flowers. Except for emergencies or other authorized exemption, no purchases shall be made without specific authorization as outlined in this policy.

PURCHASING AUTHORIZATIONS

The following authorization limits apply to all purchases except Public Works Projects. Public Works Projects purchasing authorizations and information are listed at the end of this document. See "Special Types of Purchases" (below) for additional information. Staging purchases in order to avoid authorization limits is prohibited for all purchases. All purchases will be awarded to the lowest cost, responsive, responsible bidder. In the event of a tie, award to the business located in Wheatland.

Formal Bid – Purchases more than \$50,000

Authority to Award – City Council

Formal bid or Request for Proposal process is required

Formal Bid – Purchases more than \$25,000 and up to \$50,000

Authority to Award – City Council

Quotes must be received from three competitive sources

Open Market – purchases more than \$5,000 and up to \$25,000

Authority to award – City Manager

If practical, quotes must be received from three competitive sources

Small Purchases - Purchases of \$5,000 or less

Authority to award – Department Head or authorized designee

Seek competitive quotations when feasible or rotate awards to local vendors

SPECIAL TYPES OF PURCHASES SUBJECT TO THIS PURCHASING POLICY

Purchases requiring Competitive Sealed Bids

Purchases requiring Competitive Sealed Proposals

~~Contracting for Professional Services~~

Cooperative Purchasing

Sole Source Purchasing

Open (Blanket) Purchases

Petty Cash Reimbursement

Credit Card Purchases

Emergency Purchases

Purchases requiring Competitive Sealed Bids

1. All contracts greater than \$50,000 shall be awarded by competitive sealed bidding. The City Manager is authorized to award contracts up to \$25,000. City Council approval is required for awards greater than \$25,000. Contracts shall not be knowingly staged or separated into smaller units or segments solely for the purpose of evading competitive bidding requirements.

2. Invitation and Notice: An invitation for bids shall be issued and shall include specifications and all contractual terms and conditions applicable to the procurement. Adequate public notice of the invitation for bids shall be given not less than ten (10) calendar days prior to the date set forth therein for the opening of bids for contracts under \$50,000 and thirty (30) days for contracts over \$50,000. Such notice may include publication in a newspaper of general circulation a reasonable time prior to bid opening. The public notice and all invitations to bid shall state the place, date and time of bid opening and shall state that the bids should be submitted to the City Clerk or designee of the City Clerk.
3. Bid Opening: Bids shall be opened publicly in the presence of one or more witnesses at the place and not earlier than the time designated in the invitation for bids. The amount of each bid and such other relevant information as the City deems appropriate, together with the name of each bidder, shall be open to public inspection in accordance with the policy.
4. Bid Evaluation and Acceptance: Bids received at or prior to the time set for bid opening shall be unconditionally accepted without alteration or correction, except as authorized in this policy. Bids shall be evaluated based on the requirements set forth in the invitations for bids, which may include criteria to determine acceptability such as inspection, testing, quality, workmanship, delivery, and suitability for a particular purpose. Those criteria that will affect the bid price and be considered in evaluation for award shall be objectively measurable, such as discounts, transportation costs, and total or life cycle costs. The invitation for bids shall set forth the evaluation criteria to be used. No criteria may be used in bid evaluations that are not set forth in the invitation for bids.
5. Correction or Withdrawal of Bids: Subject to any provisions of federal or state granting authorities to the contrary, correction or withdrawal of inadvertently erroneous bids before or after bid opening, or cancellation of awards or contracts based on such bid mistakes, shall be in accordance with this section. Mistakes discovered before bid opening may be modified or withdrawn by written notice received in the office designated in the invitation for bids prior to the time set for bid opening. After bid opening, no corrections to bid or provisions shall be permitted, but, in lieu of bid corrections, a low bidder alleging a material mistake of fact may be permitted to withdraw its bid if the mistake is clearly evident on the face of the bid document or the bidder submits evidence that clearly and convincingly demonstrates that a mistake was made.
6. Award: The contract shall be awarded by appropriate written notice to the lowest cost, responsible and responsive bidder whose bid meets the requirements and criteria set forth in the invitation for bids.
7. Cancellation of Invitations: An invitation for bids, a request for proposals, or other solicitation may be cancelled or any or all bids or proposals may be rejected in whole or in part as may be specified in the solicitation. Each solicitation issued by the City shall state that the solicitation

may be cancelled and that any bid or proposal may be rejected in whole or in part at the City's discretion with or without a showing of good cause.

8. **Determination of Non-responsibility:** If a bidder or offeror who otherwise would have been awarded a contract is found non-responsible, a written determination of non-responsibility, setting forth the basis of the finding, shall be prepared by the City Manager or his or her delegate. The unreasonable failure of a bidder or offeror to supply promptly information in connection with an inquiry with respect to responsibility may be grounds for a determination of non-responsibility with respect to such bidder or offeror. A copy of the determination shall be sent promptly to the non-responsible bidder or offeror. The final determinations shall be made part of the contract file and and made a public record.
9. **Bid and Payment Bonds:** Bid and payment bonds or other security may be requested for supply contracts or service contracts, as the City Attorney deems advisable to protect the City's interests. Any such bonding requirements shall be set forth in the solicitation. Bid or payment bonds shall not be used as a substitute for a determination of a bidder's or offeror's responsibility.

Purchases Requiring Competitive Sealed Proposals

1. When the City determines that the use of competitive sealed bidding is either not practicable or not advantageous to the City, and the City Attorney determines that competitive sealed bidding is not legally required under the circumstances, a contract may be entered into by use of the competitive sealed proposals method.
2. Proposals shall be solicited through a request for proposals. Adequate public notice of the request for proposals shall be given in the same manner as provided for Competitive Sealed Bids; provided, the minimum time shall be fifteen (15) calendar days for contracts in the amount of \$50,000 or less and thirty (30) calendar days for contracts in the amount of more than \$50,000.
3. **Evaluation Factors:** The request for proposals shall state the relative importance of price and other evaluation factors.
4. **Interviews with Responsible Offerors and Revisions to Proposals:** As provided in the request for proposals, interviews may be conducted with responsible offerors whose proposals are responsive to the request for proposals for the purpose of clarifications to assure full understanding of, and conformance to, the solicitation requirements. Offerors shall be accorded fair and equal treatment with respect to any opportunity for discussion and revision of proposals and such revisions may be permitted after submissions and prior to award for the purpose of obtaining best and final offers. In conducting discussions, there shall be no disclosure of the identity of competing offerors or of any information derived from proposals submitted by competing offerors.

5. Award: Award shall be made to the responsible offeror whose proposal is determined in writing to be the most advantageous to the City, taking into consideration price and the evaluation facts set forth in the request for proposals. No other factors or criteria shall be used in the evaluation. The contract file shall contain the basis on which the award is made.
6. Cancellation of Invitations, Determination of Non-responsibility, and Bid and Payment Bonds are the same as "Competitive Sealed Bids" above.

Contracting for Professional Services

Contracts for professional services are excluded not subject to from this policy. Consistent with the relevant provisions of the Municipal Code and other applicable law, including Government Code sections 37103 and 4526, the City Manager has the authority to execute contracts for professional services not to exceed \$25,000. All other contracts for professional services require approval of the City Council.

- ~~1. For the purpose of procuring the services of accountants, architects, engineers and other professionals, the City department using such a professional may award a contract for service in accordance with the purchasing authorizations and limitations of this policy.~~
- ~~2. Adequate notice of the need for the desired professional services shall be given by the City through a request for qualifications. The request for qualifications shall describe the services required, list the types of information and data required of each offeror, and state the relative importance of qualifications.~~
- ~~3. Statement of Qualifications: Persons engaged in providing the designated types of professional services may submit statements of qualifications and expressions of interest in providing such professional services. The City may specify a uniform format for statements of qualifications. Persons may amend these statements at any time by filing a new statement.~~
- ~~4. Interviews: The head of the City department or his or her designee using the professional services may conduct interviews with any offeror who has submitted a statement of qualifications for the purpose of ranking the qualifications of the offerors based on the evaluation factors set forth in the request for qualifications. Interviews shall not disclose any information derived from statements submitted by other offerors.~~
- ~~5. Award: Award shall be made to the offeror determined to be the best qualified based on the evaluation factors set forth in the request for qualifications, and negotiation of compensation determined to be fair and reasonable. If compensation cannot be agreed upon with the best qualified offeror, then negotiations will be formally terminated with the selected offeror. If statements were submitted by one or more offerors determined to be qualified, negotiations may be conducted with such other offeror or offerors in order of their respective qualification ranking, and the contract may be awarded to the offeror then ranked best qualified if the amount of compensation is determined to be fair and reasonable.~~

~~6.—Cancellation of Invitations, Determination of Non-responsibility, and Bid and Performance Bonds are the same as “Competitive Sealed Bids” above.~~

Cooperative Purchasing

The City Manager is authorized to enter into cooperative purchasing arrangements with other governmental entities without separate competitive bidding by the City if a governmental agency has solicited bids and awarded a contract for services or materials which the City desires to obtain, and participation in such a purchase is agreeable to the bidder awarded the contract and the City Manager finds that participation in such group purchasing agreement is for the benefit of the City.

Sole Source Purchasing

A contract may be awarded without competition when the Purchasing Office/Initiator determines in writing, after conducting a good faith review of available sources, that there is only one source for the required supply, service or construction item. The City Manager or his or her designee shall conduct negotiations, as appropriate, as to price, delivery and terms. Final approval is subject to purchasing authorization limits. A statement of the basis for the sole source determinations shall be placed in the contract file.

Open (Blanket) Purchases

Open procurement can be used when very similar goods or services are purchased frequently during the year. Generally, the individual purchases are small in relation to the total amount authorized. Examples are office and chemical supplies. Bids and approvals must be obtained periodically using the same criteria as for a single item purchase.

Petty Cash Reimbursement

The Petty Cash Fund is used to reimburse purchases which were originally paid out-of-pocket by a City official or employee. Reimbursement requests for less than \$25 will be paid in cash. Reimbursement requests greater than for \$25 or more will be paid by check on the next accounts payable check date.

Credit Card Purchases

Each Department Head will be responsible for the credit cards issued in their department. Credit cards are issued to individual employees and are to be used for official City business only. Credit cards belong to the City and can be cancelled or revoked at any time at the discretion of the City Manager. It is the responsibility of the employee to furnish receipts for all credit card purchases. If there is a missing receipt and/or missing detail it is required that the employee write a memorandum, addressed to the City Manager, providing information of the missing receipt and/or detail. Should an employee lose or have his/her credit card stolen, it is their responsibility to contact the credit card company immediately. They must also notify their supervisor in writing within 24 hours.

Credit Card purchases are limited to Small Purchases only as set forth in this policy. Credit cards shall not be used for: cash advances, services, alcoholic beverages, gambling or betting, securities or insurance, political or religious organizations, tax payments, court costs, fines, bail or bond payments, or any personal expenses of the employee's whatsoever.

Emergency Purchases

The City may make emergency purchases of supplies, services, or construction items when there exists a threat to public health, welfare, or safety provided that such emergency purchases shall be made with such competition as is practicable under the circumstances. A written determination of the basis for the emergency and for the selection of the contractor shall be included in the contract file. In the case of contracts less than \$25,000, this determination shall be made by the City Manager and, in the case of contracts in the amount of \$25,000 or more, this determination shall be made retroactively by the City Council.

OPPORTUNITIES FOR WHEATLAND AND SMALL DISADVANTAGED BUSINESS ENTERPRISES

It is the policy of the City of Wheatland to ensure full and equitable opportunities for Wheatland and Small Disadvantaged Business Enterprises to participate as contractors in the provision of goods and services to the City. Policies and programs that enhance the opportunities and entrepreneurial skills of Wheatland and Small Disadvantaged Business Enterprises will best serve the public interest because the growth and development of such businesses will have a significant positive impact on the economic health of the City.

SURPLUS SUPPLIES AND EQUIPMENT

Surplus property is used to generically describe any City property that is no longer needed or useable by the holding department. The Purchasing Officer or designee has the authority to declared item(s) with a market value of less than \$25,000 surplus. Items with a market value great than \$25,000 will be formally declared surplus by the Council.

The Purchasing Officer or designee shall determine and approve one of the following methods of disposition that is most appropriate and in the best interest of the City:

- Transfer to another department
- Trade-in
- Disposal through a public auction, a sealed bid sale, a scrap sale, or a negotiated sale

For items with no value due to spoilage, obsolescence or other cause, the Purchasing Officer can dispose in a manner deemed appropriate and in the best interest of the City. Proceeds from the sale or trade-in of surplus property shall be returned to the appropriate fund.

PUBLIC WORKS PROJECTS

The City elects to be subject to the Uniform Public Construction Cost Accounting Act as set forth in Section 22000 et seq. of the Public Contract Code ("Act"), and the uniform construction cost accounting procedures as set forth in said Act.

"Public project" shall be defined as set forth in Section 22002 of the Act.

Public projects of \$60,000 or less may be performed by the employees of the City by force account or by negotiated contract. If the funds have been budgeted and approved by the City Council, the City Manager may award contracts for less than \$60,000.

Public projects of \$200,000 or less may be awarded pursuant to the Act's informal bid procedures.

Public projects over \$200,000 will be awarded under formal noticed bidding procedures.

ENVIRONMENTALLY PREFERABLE PURCHASES

It is the policy of the City of Wheatland to:

- Institute practices that reduce waste by increasing product efficiency and effectiveness
- Purchase products that minimize environmental impacts, toxics, pollution, and hazards to worker and community safety to the greatest extent practicable
- Purchase products that include recycled content, are durable and long-lasting, conserve energy and water, use agricultural fibers and residues, reduce greenhouse gas emissions, use unbleached or chlorine free manufacturing processes, are lead-free and mercury-free, and use wood from sustainable harvested forests
- Conserve natural resources
- Minimize environmental impacts such as pollution and use of water and energy
- Eliminate or reduce toxics that create hazards to workers and our community
- Support strong recycling markets
- Reduce materials that are landfilled
- Increase the use and availability of environmentally preferable products that protect the environment
- Identify environmentally preferable products and distribution systems
- Create a model for successfully purchasing environmentally preferable products that encourages other purchasers in our community to adopt similar goals.