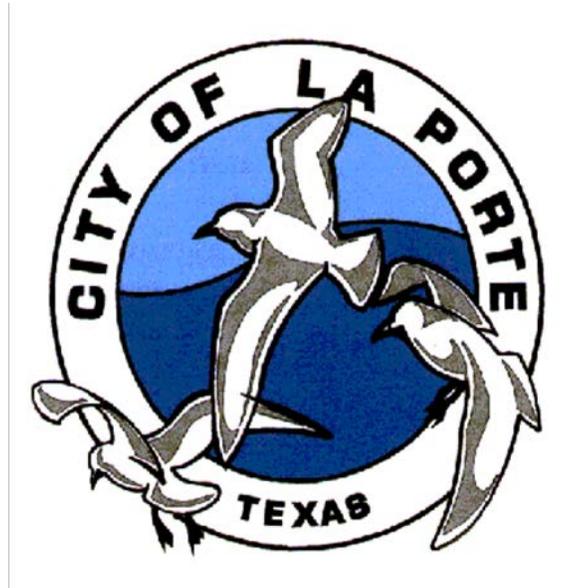


# ***PURCHASING POLICY MANUAL***



Established 1892

October 2013

## TABLE OF CONTENTS

INTRODUCTION .....	3
GENERAL ETHICAL STANDARDS .....	4
PROCUREMENT .....	5
Thresholds .....	6
Methods .....	7
Types of Purchase Orders .....	8
Solicitation Requirements .....	10
Types of Solicitations .....	12
Exempt Purchasing.....	15
CONTRACT ADMINISTRATION .....	16
DISPOSAL OF SURPLUS ITEMS.....	17
DEFINITIONS .....	19

## INTRODUCTION

Purchasing is a division of the City of La Porte Finance Department and is responsible for the process of acquiring goods and services necessary to provide the public with certain services.

The Purchasing Division provides centralized procurement and all purchasing activities are governed by this Purchasing Policy Manual. The Purchasing Division assists each department, division and their staff to secure the best material, services, and equipment in the most efficient and economical manner. Furthermore, the division is responsible for sale and/or disposal of city surplus.

City purchasing policy and procedures comply with local, state and federal codes, ordinances, and statutes. The statutes that govern public procurement and cited throughout the document are Texas Local Government Codes (TX LGC) 252 and 271. In the event of conflict, the appropriate statute or ordinance will prevail. The Purchasing Division functions in a manner that is consistent with codes, ordinances, statutes, and sound business practices.

The purpose of this policy manual is to provide for the fair and equitable treatment of all persons involved in public purchasing by the City, to maximize the purchasing value of public funds in procurement, and to provide safeguards for maintaining a procurement system of quality and integrity.

This manual applies to the procurement of supplies, services, and equipment, entered into by the City, irrespective of the source of the funds.

The City of La Porte does not discriminate against individuals, companies, or awarding of bids with respect to race, color, national origin, sex, age, disability, or religion.

*This policy manual supersedes any and all previous purchasing policy manuals approved or utilized by the City of La Porte and becomes effective October 2013.*

## GENERAL ETHICAL STANDARDS

### STATEMENT OF POLICY

City of La Porte employees shall conduct all procurement on the basis of the best benefit to the City and that best promotes the interest of the citizens of La Porte. Unrestricted competition on every type of procurement is encouraged, which ensures the taxpayers the best possible return on each dollar. All contracts and purchases shall be handled to ensure the best value for the City, with solicitations obtained whenever practical.

**Ethics:** To achieve the purpose of this section, it is essential that those doing business with the City also observe the ethical standards prescribed here. It shall be a breach of ethics:

- To attempt to realize personal gain through public employment with the City, other than the employees normal duties
- For any employee to participate directly or indirectly in procurement when the employee knows that he or any member of the employee's immediate family (or associated business or organization) has a financial interest pertaining to the procurement
- No employee of the City shall solicit, demand, accept or agree to accept from another person or business, a gratuity or an offer of employment in connection to any solicitation pending or make available information not provided to all potential respondents
- For any employee or former employee of the City to knowingly use confidential information for actual or anticipated personal gain
- Solicit or accept anything of value from an actual or potential vendor with the exception of promotional items of negligible value, in the form of note pads, pens, calendars, etc., which may be accepted and used in normal City business operations.

**Appointed Official/Employee:** As stated in the City of La Porte Charter §Article VIII, Section 8.02:

"No member of City Council or any officer or employee of the City shall have a financial interest, direct or indirect or by reason of ownership of stock in any corporation, in any contract or in the sale to the City, or to a contractor supplying the City, of any lands or rights of interests in any land, material, supplies or service. Any willful violation of this section shall constitute malfeasance in office, and any officer or employee of the City found guilty thereof shall there by forfeit his office or position. Any violation of this section with the knowledge expressed or implied of the person or corporation contracting with the City shall render the contract voidable by Council."

Under Texas law, an individual is automatically removed from his or her position if that person is finally convicted of failing to comply with the competitive bidding or competitive proposal procedures required by TX LGC § 252.063.

## PROCUREMENT

The Purchasing Division has the authority and responsibility of centralized procurement for the City of La Porte. Employees are provided authority to procure goods and services under \$2,000 with petty cash, check requisitions, and procurement cards, as described under Procurement Methods, further in this section. All other procurement must be processed through a Purchase Requisition with authorized approval through the Purchasing Division and ordered only by a numbered Purchase Order. Employees do not have the authority to obligate City funds and may be held accountable for unauthorized purchases, including disciplinary action up to and including termination as stated in the Employee Policies Handbook, 3.04 Violations of Policies/Acts of Misconduct: "Employees may be disciplined or terminated for misconduct dependent on the severity, including but not limited to:

1. Violation of any City or department rule, regulation, policy, or procedure"

The goals of the City's Purchasing Division include the following:

- Timely purchasing of quality goods and services;
- Obtaining the best possible prices for goods and services;
- Encourage and promote inter-local cooperation amount area agencies;
- Utilize cooperative purchasing programs as allowed;
- Provide guidance to the individual departments regarding proper purchasing practices, procedures and processes.

**Vendor Relations:** Purchasing staff acts as the liaison between the City and vendors

- Purchasing staff should be the first contact for vendors. New vendors should be directed to Purchasing for information on how to do business with the city. Purchasing will meet with vendors upon request and forward any pertinent information to the appropriate end-users
- All vendors must be afforded equal opportunity to compete, provided the same information, and treated fairly
- End-users should coordinate meetings with vendors through Purchasing staff
- All correspondence with vendors shall be through the Purchasing Division
- Any solicitation or item under consideration for purchase shall not be discussed or price revealed until a purchase order or contract has been awarded

## PROCUREMENT THRESHOLDS

- \$0 to \$1,999.99– Primary source of procurement is city-issued procurement card (p-card). If selected vendor does not accept p-cards, a check requisition may be used for expenditures up to \$99.99. Expenditures \$100.00 and above should be procured using a purchase requisition if a vendor does not allow use of the p-card.
- \$2,000.00 to \$24,999.99 – Requires a minimum of three (3) written quotes be obtained by the department or through purchasing, utilizing standardized quote forms. End-users should issue a purchase requisition and attach the quotes to the requisition. At least one (1) quote should be from a minority vendor or historically underutilized vendor (HUB), if available.
- \$25,000.00 to \$49,999.99 – Requires Purchasing create an informal solicitation to send to potential bidders. Once awarded, end-users shall issue a purchase requisition and reference the informal solicitation number.
- \$50,000 and above – Requires all state statutes listed in the TX LGC Sections 252 and 271 be followed, including *prior* approval by La Porte City Council. This is supported by Ordinance No. 2004-2736-A. Legal statutes and ramifications as provided in Texas Local Government Code (TX LGC) and Texas Penal Code:

If a city enters into a contract without complying with the requirements of Chapter 252, the contract is void.

Attempts to circumvent purchasing policies and limits by dividing purchases into multiple separate invoices or payments will not be tolerated and is subject to disciplinary and/or legal actions.

If a person fails to comply with the competitive bidding or competitive proposal procedures required by Local Government Code Chapter 252, that person may be convicted of a Class B misdemeanor; TX. LGC §252.062. This includes a situation in which a person makes or authorizes separate, sequential, or component purchases in an attempt to avoid competitive bidding requirements. A Class B misdemeanor may be punished by a fine of up to \$2,000, confinement in jail for up to 180 days, or both the fine and confinement. TX Penal Code §12.22

**Except as otherwise provided, acquisition of goods and services \$2,000 and above shall be made only by an approved, numbered Purchase Order issued by the Purchasing Division, *prior* to placement of order. No purchase shall be made without proper approvals and compliance with procurement thresholds.**

Regardless of the dollar amount, procurement decisions will be based on all or a combination of the following factors:

- Responsible bidder
- Price
- Delivery time, if applicable
- Quality
- Life cycle cost

- Past history of vendor performance
- Applicability
- Consultation with end-user department
- Conformance to applicable regulations

## **METHODS OF PROCUREMENT**

The Finance Department accepts several methods of procuring goods and services for the City. Each method must be approved by authorized personnel, based upon approval forms. It is understood that the City Manager and Assistant City Manager shall be authorized to sign for all departments.

**Petty Cash:** Purchases below \$100 may be made by authorized employees with approval from the Department Director, from petty cash, after completing a petty cash form

**Check Requisitions:** Check requisitions may only be used for payment of the following:

- Registration and Travel
- Memberships and Subscriptions
- Books, Videos and Tapes under \$100.00
- Utility Payments
- Petty Cash and Drawer Funds
- Reimbursements

All tangible items that you are purchasing, contractor payments, etc., should be paid either on a Purchase Order or through the P-Card system. All departments must adhere to this policy to be in compliance with our external auditor's directive.

Exceptions – If the item that you are purchasing is under \$100.00, and the vendor does not accept a P-Card, you may then use a Check Requisition – but this must be noted on the Check Requisition for Accounting to process the payment.

**Procurement Cards (P-Cards):** Preferred for payment method of the following:

- Travel arrangements
- Small dollar purchases
- Over the counter expenditures
- Internet purchases
- Emergencies
- Contract items (with Purchasing approval)

**Purchase Requisition (PR):** A Purchase Requisition shall be prepared for all purchases unless a Procurement Card is used or the purchase meets one of the conditions listed under Check Requisition. The PR shall originate in the user department and shall be entered into Sungard's/Purchasing/Inventory Application. Preparation must be done far enough ahead of the date the goods /services are needed to allow normal purchasing procedures to prevail.

When entering a Requisition; make sure to include:

- Detailed descriptions to allow staff and the vendor to know exactly what is being procured

- A separate line item for freight or state “freight included” in the Comments
  - Separate line item for trade-ins or deductions
  - Attach quotes on City Quote Form for expenditures between \$2,000 and \$25,000 or state in the Comments the reason why quotes were not obtained. No quotes, quotes not submitted on City forms, or no comments will delay the PO process
  - If applicable, in Comments, state the Solicitation number and if approved by Council and date awarded
  - Attach or provide any agreements or contracts concerning this procurement
  - Purchasing will send the PO to the vendor and end-user as standard procedure unless instructions to do otherwise are included in the comments on the requisition.
  - Change orders should be entered as a requisition; however, the request must comply with all change order rules and the original PO # stated in comments on the requisition.
- Requisitions shall be approved online by authorized department personnel. Notify Purchasing if online approval is not possible.

**Purchase Orders (PO):** Issued by purchasing staff upon receipt of a completed, approved, purchase requisition (PR) with proper back up.

Once the PO is processed, purchasing staff will issue a copy of the PO to the awarded vendor and end-user. When the goods are delivered, City staff should ensure the product matches the order and is delivered in good condition. Damaged merchandise should be returned to the vendor for replacement or credit. Staff should also review and make certain all aspects of the service orders were completed satisfactorily and according to the quote and/or contract.

After the end-user has determined the vendor has successfully provided the goods or service, a Receiving Report (RR) must be completed in order for Accounts Payable to have the authority to pay for the goods and services. If the goods are not excepted or returned or canceled, contact Purchasing to adjust the PO.

## **TYPES OF PURCHASE ORDERS**

**Regular Purchase Orders:** Most POs are issued for specific items or known quantities and prices. The quantity may be one or greater and the unit cost reflected; however, in some cases, the quantity may be one and the amount a lump sum. Regular POs are issued a six-digit number with the first two digits being the fiscal year (140001).

**Inverted Purchase Orders:** Inverted POs encumber budgeted funds; however, the dollar amount is placed as the quantity and the unit price is one dollar (\$1.00) and payment made based on the dollar amount owed. Inverted POs are used only when:

- The unit price is not known
- Multiple items are ordered and itemization is not feasible
- Reoccurring charges and payment amounts differ

Receipts are made by dollar amount and may include multiple Receiving Reports.

**Contract Purchase Orders:** POs issued for items that have gone to Council and may be itemized or inverted, if necessary. These numbers are distinguished with a “C” before the number (C14001).

**CIP Purchase Orders:** POs issued for capital expenditure account numbers. These numbers are issued with a “P” in front of the number (P14001) and may be used for multiple years until the project is complete.

**Annual Purchase Orders:** POs issued with an “A” (A14001) for annual contracts and should be requested by the end-user at the start of the contract term and at the beginning of the fiscal year. Annual contracts may begin in any month and run for a period of one (1) year or more; however, the PO is only valid for the current fiscal year. Example: An annual contract is awarded in March a period of one (1) year with a one-year renewable option. A PO is issued in March and valid until September; the end-user must request a PO in October until February. If the contract is renewed, a new PO will be issued as a renewal until September.

**Blanket/Open Purchase Orders:** The general purpose of blanket or open purchase order is to provide a means of payment for unknown quantities or pricing, multiple departments that use the same service, and/or often-used vendors that do not take p-cards. Blanket/open POs (B14001) are not encumbered until the items are received by the department. Blanket orders shall only be authorized in instances where a p-card payment is not possible. P-cards are the preferred method of payment.

**Emergency Purchase Orders:** Emergency purchases may be made for items costing more than \$2,000 and less than \$50,000 without being subjected to the competitive quotes. A properly executed requisition and a signed statement from the Department Director certifying that an emergency exists must be submitted to the Purchasing Division. The Purchasing Division shall attempt to secure more than one quote if time and/or circumstance will allow. **If the emergency procurement occurs during normal business hours, a purchase order must be issued or a p-card transactions authorized through the purchasing division. If the emergency procurement is required outside of normal office hours, the proper paperwork shall be submitted to Purchasing by noon the following business day whereby Purchasing will either authorize a p-card transaction or issue a purchase order to conclude the emergency purchasing activity. In the case of natural disasters, P-card limits may be increased and temporarily allow p-card transactions over \$2,000.**

Emergency purchases exceeding \$50,000 shall require a signed statement from the Department Director certifying that an emergency exists and approval of the City Manager or Assistant City Manager. The department director shall submit an agenda item to request approval by City Council at the next regularly scheduled Council meeting. Nothing herein shall prevent the emergency purchase to be made prior to the next Council meeting.

**Change Orders:** TX LCG §252.048 states a change order necessary after work has begun or the quantity increases or decreases, the total contract price may not be increased by more than 25% of the original contract price and the contractor or vendor

must consent to a decrease over 25%. City Council must approve all change orders \$50,000 and above and may grant authority to an administrative official to approve changes below \$50,000. All change orders must be within budget or additional funds must be requested, prior to PO processing.

## **SOLICITATIONS**

### **SOLICITATION REQUIREMENTS**

City policy requires competitive solicitations on any procurement over \$2,000; however, the process may be accomplished with various methods:

- Quotes/Informal Solicitations – Between \$2,000 and \$50,000
- Formal Bids
- Requests for Qualifications
- Requests for Proposal
- Annual Solicitations
- Cooperative Purchasing Agencies

**Available Funds:** Before Purchasing staff will begin any type of solicitation, funds for the goods or services must be available and approved in the annual budget. The approved estimated budget will drive the type of solicitation to be used. All funding listed at or near \$50,000 will require a formal bid process.

**Contractor Qualifications:** Per the City of La Porte, Code of Ordinances Chapter 2-Administration/Public Works Contracts Section 2-106, qualification requirement of the apparent low bidder for contracts above one (1) million but less than two (2) million submit reviewed financial statements that are performed by an independent certified public accountant. Contracts which are above two (2) million require the apparent low bidder submit audited financial statements by an independent certified public accountant.

**Bonds:** The Government Code mandates that a municipality contracting for a public work in excess of \$50,000 shall require its contractor to execute a payment bond. The Government code also mandates that a municipality contracting for public work in excess of \$100,000 shall require its contractor to execute a performance bond. Both the payment and performance bonds must be written for the total contract value. The city may also chose to require a vendor include a bid bond with their bid to ensure the successful bidder executes contract documents and proceeds with performance.

**Grants/Federal Funds:** End-users **must** notify Purchasing staff that a grant or federal funds are used *prior* to the solicitation process. Grants and federal funds mandate several requirements above and beyond City policies and specific wording must be added to solicitations. The requirements may include, but are not limited to:

- The complete Notice to Bidders must be published for the advertisement and posted to the website

- Vendor enrollment in E-Verify and verification of employee eligibility to work on federal contracts. This requirement flows down to all subcontractors with subcontracts in excess of \$3,000.
- Compliance with the Davis-Bacon Act
- Verification the awarded vendor is not excluded from federal contracts by searching the Excluded Parties List System (EPLS) website

**Documented Workers:** Regardless of the solicitation method used, the City mandates all expenditures involving manpower include the Protection of Resident Workers Compliance Form.

**Quotes or Informal Bids:** Three (3) written quotes are required for procurement of goods or services from \$2,000 to \$49,999.99. Departments shall use the quote form found under Forms/Purchasing in the CWShare Drive for solicitations under \$25,000. Specifications for purchases over \$25,000 should be submitted to the Purchasing office and staff will send out the required solicitation.

**Historically Underutilized Business:** Texas Local Government Code 252 requires a city, in making an expenditure of more than \$3,000 but less than \$50,000, to contact at least two HUBs on a rotating basis, based on information provided by the Texas Comptroller's Office pursuant to Chapter 2161 of the Government Code (<http://cpa.state.tx.us/procurement/prog/hub/>). If the list fails to identify a HUB in the county in which the city is located, the city is exempt. TX LGC §252.0215

To research HUBs and comply with this section, visit <http://www.window.state.tx.us/procurement/cmb/cmbhub.html> . Print the list of vendors or message that states no vendors were found for your records and attach to the requisition.

**Formal/Competitive Bid** Any City department requiring a purchase which involves the expenditure of \$50,000 or over, shall be required to obtain competitive sealed bids or proposals. The following procedures shall be followed to facilitate the bidding process. All competitive bids must go through the Purchasing Department. Specifications should be submitted to the Purchasing office to allow a minimum of eight (8) weeks until award.

For general procurement of goods or services, a contract must be awarded to: (a) the lowest responsible bidder, or (b) the bidder who provides goods or services at the "best value." TX. LGC §252.043

- When determining "best value," the City may consider factors other than the purchase price of the goods and services, including among other things:
  - The reputation of the bidder and the bidder's goods or services
  - The quality of the bidder's goods or services
  - The bidder's past relationship with the City; and/or
  - Any other lawful criteria

The City must indicate in the bid specifications and requirements that the contract will be awarded either to the lowest responsible bidder or to the bidder who provides goods or services at the “best value” for the City.

1. The requesting department for which the items are budgeted will be responsible for preparing and/or assisting Purchasing in the development of specifications and/or any required scope of services.
2. The requesting division must approve the final specifications and/or scope of services prior to formal bidding.
3. Purchasing assigns the bid or proposal package a number which will be included in the title of the bid or proposals.
4. In conjunction with the requesting division, Purchasing will establish the schedule of events including advertisement dates, pre-bid conference, bid opening date and time.
5. Invitations to Bid (ITB), or Request for Proposals (RFP) and Request of Qualifications (RFQ) must be advertised in a local newspaper. Purchasing will publish and distribute bid/proposals as required by State law. Purchasing will also publish any addendums during the formal competitive process.
6. If a pre-bid meeting is scheduled, Purchasing staff will be present at the meeting to help facilitate; however, departmental staff must be present to explain the scope of services and answer questions.
7. Purchasing will receive all bids and proposals and place them in a secure area until the date and time of the opening. All formal openings will be conducted by the Purchasing Manager or his designee and will take place at City Hall. The department may have a representative present to assist in the bid opening.
8. Purchasing will prepare a tabulation for each item or group of items following the bid opening and will consult with each department involved to arrive at a mutual agreement for recommendation.
9. If the expenditure involves any federal funds, before the award the vendor and any subcontractors must be verified on the Excluded Parties List System. Purchasing will perform the function.
10. Any expenditure over \$50,000 must be approved by City Council. Purchasing will assist in the agenda item; the responsible department will place and present the item for recommendation for City Council approval. Agenda items should be sent to Purchasing for review before placing item on the agenda.
11. Upon approval by the City Council, Purchasing will be responsible for the signatory of any contracts and obtaining payment and performance bonds and proper proof of insurance.
12. After execution and review of contract, the responsible department will issue the notice to proceed and coordinate the start of work with contractor.

**Formal Bids for Construction (In-house):** All rules apply as mentioned above with the following exceptions:

1. Bid documents too large to send electronically, must be provided on CDs or flash drives for purchasing staff to make available to the potential bidders. It is preferred the CD or flash drive contain one (1) pdf document with the specifications and drawings/plans; however two (2) files, one (1) for specifications and one (1) for drawings and/or plans will be accepted.

**Formal Bids for Construction (Consultant):** All rules apply as mentioned above with the following exceptions:

1. The consultant shall provide electronic documents to the Purchasing office
2. The consultant shall send out the Notice to Bidder and provide electronic documents either through CD or ftp site at no charge to potential bidders. A listing of all vendors that request the solicitation shall be provided to Purchasing at the time of opening.
3. The consultant shall create and verify a bid tabulation and may be required to assist in the evaluation process with the City
4. Purchasing shall facilitate and/or participate in at least one (1) preliminary meeting with the end-user and consultant. More meetings may be mandated if the consultant is preparing solicitation documents for the City. Purchasing should receive and review solicitation documents at least one (1) week prior to submitting the advertisement to the paper for publication.

**Requests for Qualifications (RFQ):** Texas law specifically exempts contracts for professional services from the competitive bidding requirements. TX LGC §252.022(a)(4): “a procurement for personal, professional, or planning services”.

A city is prohibited under state law from obtaining certain professional services through competitive *bidding* such as the services of: certified public accountant; architect; land surveyor; physician, surgeon, or optometrist; planner or professional engineer; state certified or stated licensed real estate appraiser; or registered nurse.”

The Texas Attorney General has provided an opinion as follows:

- Professional services have been described as those services which are: mainly mental or intellectual rather than physical or manual
  - Those disciplines requiring special knowledge or attainment and a high order of learning, skill, and intelligence
- Op. Tex. Att’y Gen. Nos. JM-1038 (1989); JM-940 (1988); MW-344 (1981)

Although competitive bids shall not be obtained, neither the law nor Attorney General Opinions prohibit the City from soliciting qualifications from professional service providers and evaluating the responses to determine the top-rated firm. The City utilizes a Request for Qualifications (RFQ) to obtain qualifications and experience for professional service firms. Since this solicitation is based only on the qualifications of the respondent; price is not requested or considered.

The end-user submits information to Purchasing staff detailing the project and list of qualifications. Purchasing will follow the same procedures as above; however the timeline may need to be extended to allow meetings between the committee and top-rated firm(s). Formal RFQ solicitations will not be opened publicly, only the names of the respondents are read aloud.

A minimum of three (3) City staff members shall comprise an evaluation committee to review and evaluate the returned responses, based on the requirements specified within the RFQ. The committee selects the top-rated firm and meets with them to discuss the project and negotiate a firm price. If a price cannot be agreed upon, the negotiations will terminate and the next top-rated firm will be contacted and negotiations proceed. At no point, may the first firm be re-considered. The process continues until the City and a firm reaches an agreement.

Once the City determines and contracts with the top-rated firm for a particular service, that same entity may be hired for like projects; however, once a contract has terminated, it is advisable to issue new solicitations for qualifications periodically to ensure the best vendor is performing the right services for the City.

If an agreement is reached, the City Manager may award if under \$50,000; if \$50,000 or above, City Council approval is required. **The City Manager or Assistant City Manager must approve all new agreements over \$5,000.**

**Requests for Proposal (RFP):** This type of solicitation is used for services not described in Texas Government Code, Chapter 2254, Subchapter A – Professional Services, high technology projects, and in complex projects best procured through this process. The process is very similar to the method described for Request for Qualifications, with the following exceptions:

- The proposal must include price as part of the evaluation criteria; however, the percentage shall not exceed 50% of the total evaluation criteria.
- The evaluation committee must score according to the percentages of the criteria stated in the solicitation.
- Purchasing will total all evaluation scores and compile one final score sheet.
- The committee may chose to interview the top rated firms.
- After the interviews, firms are allowed the opportunity to submit a “best and final offer” (BAFO) and the committee may once again score the firms to select the firm that best meets the need of the City

**Annual Solicitations:** Annual contracts that extend for a period of one (1) or more years may be obtained through quotes, formal bids, or request for proposals. Annual solicitations must include a term, including the start and termination date and a specific number of years. Annuals may include additional option years for renewal upon consent of both parties. Option years should be renewed with the exact same terms as the original award, if possible. Exceptions may include documented and verified federal wage increases, manufacturing product increases, or circumstances beyond the vendor's control. All renewals shall be processed and issued by the Purchasing Division with prior consent of the end-user department.

Any commodity that is purchased through-out the year and exceeds \$25,000 should be considered an annual contract and awarded through the Purchasing office with the appropriate solicitation method.

When expenditures exceed \$50,000 and require Council approval, the agenda item shall contain the following items:

- Term and option years renewals, if any
- Annual Budget
- Amount of the recommended bid
- Not-to-exceed annual dollar amount to be spent, if less than total of recommended bid

Annual contracts should provide good estimated quantities based on the prior year and include an allowance for unforeseen circumstances.

Be aware that any increase or decrease to an annual contract must comply with the rules pertaining to change orders.

### **EXEMPT PURCHASES**

Exemptions from competitive solicitations are specific exceptions that relieve the City of the need to bid or seek proposals of an item or service.

**Emergency Purchases:** An emergency purchase is defined as follows: TX LGC §252.022

- A procurement made because of public calamity that requires the immediate appropriation of money to relieve the necessity of the municipality's residents or to preserve the property of the municipality; or, A procurement necessary to preserve or protect the public health or safety of the municipality's residents; or,
- Procurement necessary because of unforeseen damage to public machinery, equipment, or other property.

**Sole Source:** Procurement of items available from only one source. Two (2) forms of documentation are required prior to the issuance of a purchase order for sole source items:

- Memo from the department director stating why this particular product is the only one that may be considered, and
- Letter from the manufacturer stating they are the only maker of this *product* and sole supplier. If available through a single distributor, the manufacturer must specify the supplier and why. Examples may include territories, marketing assignments, etc.

**Proprietary Source:** Procurement is only available from one source due to the fact that it must be compatible with another item. Example: parts for a John Deere tractor

**Cooperative Purchasing Agencies:** An agency that follows all rules and regulations of competitive solicitation requirements to obtain pricing for specific items and/or services. Although departments are encouraged to research and use these agencies, purchasing staff should be notified of the intent to procure items through this method and review required documents *prior* to Council award or the issuance of a Purchase Requisition. POs will be distributed by the Purchasing office and must be sent to the vendor *and* the

cooperative agency for the order to be valid. The City recognizes and has agreements or memberships with the cooperative agencies listed below; however the list is not all inclusive and other agencies may be utilized.

- Houston Galveston Area Council (H-GAC)
- State of Texas
- BuyBoard
- U.S. Communities

**Piggy-Back Purchases:** When procurement is obtained through an interlocal agreement with another city or public entity by utilizing their competitive solicitation. The solicitation must contain wording that other entities may be allowed to enter into agreements with the awarded vendor. Both the inter-local agreement and specific expenditure, if \$50,000 or above, must be approved by Council.

## **CONTRACT ADMINISTRATION**

Purchasing Staff is assigned the undertaking of contract administration of all City contracts and work with the vendors as the liaison; however, departmental assistance is essential for the completion of these tasks. Purchasing responsibilities include:

Provide administration all city-wide contracts, for example, janitorial services, office supplies, etc.

- End-users must notify Purchasing staff of any issues regarding city-wide contracts
- Feedback on any type of annual or term contract is imperative to ensure specifications and expectations are met
- Vendors must be allowed the opportunity to remedy any issue

Maintain a centralized list of all written contracts/agreements

- End-users shall forward all contracts/agreements to the Purchasing Office for inclusion on the centralized list if not originally handled by Purchasing Staff.
- Includes maintenance agreements for security systems, etc. that may be better served by a city-wide annual contract
- Monitor the centralized list to ensure maintenance contracts and/or term contracts are renewed in a timely manner

Manage the preparation, approval process and execution of contract document

- After a contract is awarded by City Council, Purchasing will notify vendor of award and initiates contract process
- Purchasing will manage the contract execution process and will receive performance and payment bonds (when applicable) and verify certificate of insurance
- Acts as primary liaison for the City with Counsel in the development and review of contract documents

## DISPOSAL OF CITY SURPLUS

The Purchasing Division is responsible for the sale and/or proper disposal of surplus or obsolete City property including vehicles, equipment, office furniture, or any other item that is determined to be of no further use to the City. Each Department Director shall review their department's assets each year and determine if any item should be sold through auction or properly discarded.

**Auction:** Purchasing works with a licensed auctioneer to conduct online auctions throughout the year as determined by need.

- Purchasing staff will notify departments of an upcoming auction and a deadline to submit a list of items for auction.
- Departments must provide a list with the following information:
  - Complete description
  - Condition of the item and any known defects
  - Pictures, if applicable, including front and side views of vehicles and equipment
  - Storage location for bidder viewing
  - Completed VIS form for vehicles and equipment
- A master list of all items will be compiled and sent to departments for review; departments may request an item be removed from the auction list and transferred to their department
- Proper forms for fixed asset disposal must be completed and submitted to the Accounting Division
- Departments are responsible for storage of items until sold and picked up by the successful bidder.
- The Purchasing Manager may declare any item not sold or picked up to be of no value and recommend disposal

**Disposal:** Items that are broken and non-repairable and/or have no dollar value may be properly disposed. Usable items shall not be discarded; employees shall not remove discarded items from City property. The procedures below must be followed:

- Purchasing staff must be notified
- Items should be recycled, if possible
- Proper forms for fixed asset transfer must be completed and submitted to the Accounting Division
- Proper disposal must be in compliance with any laws and regulations
- Contact IT to assist with disposal of hi-tech equipment as they use an outside source to wipe the drives and provide certification of proper disposal

**Employee Ineligibility:** City employees are not allowed to bid on any item at City of La Porte auctions.

## DEFINITIONS

**Addendum:** a written change to a Bid, Quote, RFQ, or RFP during the solicitation process

**Agreement:** a formal, written document between the City and vendor providing goods or services, describing the scope of work and term of the contract. Agreements over \$5000 must be signed by the City Manager or Assistant City Manager

**Bid:** a formal written offer of a price by a vendor to the City to furnish specific goods and/or services in response to a solicitation

**Bid Award:** an award of a bid for which funds have lawfully been appropriated by the City Council

**Bid Bond:** An insurance agreement in which a third party agrees to be liable to pay the City a certain amount of money in the event the successful bidder does not execute the contract documents, furnish required bonds or insurance, or proceed with performance. The bid bond, naming the bidder as principal, is given to the City at the time of bid.

**Bid Deposit/Cashier's Check:** a guaranteed check furnished in lieu of a bid bond at the time of bid submittal.

**Bidder's List:** recommended or suggested vendors for a specific solicitation.

**Capital Improvement Project (CIP):** any public improvement the City undertakes, including the construction or reconstruction in whole or in part of any building, road, highway, street improvements, physical plant, structure or facility necessary in carrying out the functions of the City government. It does not include any routine maintenance, operation or repair of existing structures, buildings or real property.

**Change Order:** a modification, deletion or addition to an executed contract by means of a formally executed document signed by both parties. A change order shall not exceed 25% of the original contract.

**Consultant Services:** An outside person or firm with education and experience in specific area of proficiency to provide expert advice and/or perform technical services requiring an elevated level of knowledge and skill. A Request for Qualifications should be used to select the best professional within their field of expertise. Once the City determines and contracts with the top-rated consultant for a particular service, that same entity may be hired for like projects.

**Construction:** the process of constructing a building, structure, road or drainage utilities; altering, repairing, improving or demolishing any structure or building; or other improvements of any kind.

**Contract:** (a) a deliberate verbal or written agreement between two or more competent parties to perform a specific act or acts; or (b) any type of agreement, regardless of what it is called, for the procurement or disposal of goods, services or construction, usually for exchange of goods or services for money or other consideration.

**Contractor:** any person having a contract with the City

**Debarment:** the exclusion for cause of a vendor or contractor from bidding and/or receiving a contract to do business with the City. Federal and/or grant funds require a vendor search for debarment prior to award of contracts.

**Demolition:** the removal or destruction of any structure or building and appurtenances thereto, road or drainage utility.

**Designee:** a duly authorized representative of a person.

**Historically Underutilized Business (HUB) Program:** affirmative action program to increase the participation of disadvantaged or businesses normally used; includes minority and women owned businesses.

**Emergency Purchases:** procurement that is made in response to a requirement when the delay incident for complying with all governing rules, regulations and procedures would be detrimental to the health, safety and welfare of the City and/or its citizens.

**Employee:** a person employed by the City who is drawing a salary or wages directly from the City.

**End-User Department/Division:** the department/division within the City government, that requests and utilizes goods and/or services, procured according to the Purchasing Procedures Manual.

**Goods:** any tangible property other than services or real property.

**Formal Bid:** the solicitation document that is used for competitive sealed bidding for procurement of construction, goods and/or services and award is based on the lowest responsible bid or best value for the City.

**Item:** a separate single unit, article, product, material or service.

**Payment Bond:** a form of security, required on contracts over \$50,000, executed subsequent to award by a successful bidder that guarantees the payment of debts to persons furnishing services or materials on account of the contract work and/or payment of other responsibilities of the contractor; provided prior to contract execution.

**Performance Bond:** a form of security, required on contracts over \$100,000, executed subsequent to award by a successful bidder that guarantees the proper performance of the contract; provided prior to contract execution.

**Procurement/Purchase:** the buying, purchasing, renting, leasing or otherwise acquiring of any goods and/or services for public purposes in accordance with the laws, rules, regulations and procedures intended to provide for the economic expenditure of public funds. It includes but is not limited to all functions which pertain to the obtaining of any supplies, materials, equipment and/or services including construction projects and Capital Improvement Projects, as defined herein, required by any department/division or agency of the City government regardless of the source of funds.

**Procurement Card (P-Card):** an instrument used to purchase goods/services in accordance with established procedures.

**Professional Services:** any certified public accountant; architect; land surveyor; physician, surgeon, or optometrist; state certified or stated licensed real estate appraiser; or registered nurse as defined under TX LGC 252.

**Proposal:** an executed formal document submitted by an offeror to the City stating the good(s) and/or service(s) offered to satisfy the need as requested in the Request for Proposal or quote solicitation.

**Purchase Order:** the City's document used to authorize a purchase transaction with a vendor. It should contain provisions for construction, goods and/or services ordered; applicable terms as to payments, discounts, date of performance and transportation; and other factors or conditions relating to the transaction. Acceptance of a Purchase Order by a vendor shall constitute a contract, except instances in which a Purchase Order is issued only as an internal encumbrance document.

**Purchase Requisition (PR):** System generated and approved document submitted to purchasing to request a Purchase Order.

**Quote or Informal Solicitation:** written solicitation request and/or response offered to the City by a vendor for furnishing specific goods and/or services at a stated price, under \$50,000.

**Request for Proposal (RFP):** a solicitation for goods and/or services for which the scope of work, specifications or contractual terms and conditions cannot reasonably be closely defined. Evaluation of proposal is based on stated criteria and shall state the relative importance of all evaluation factors; other factors may be considered as stated in the RFP.

**Request for Qualifications (RFQ):** may be a formal or informal request to solicit qualifications and experience for specific services. Responses are evaluated and a top responder is selected. Price may not be known or considered during the evaluation process. Once a top respondent is identified, City staff negotiates a firm price and the City Manager or Assistant City Manager sign an agreement with the individual or firm.

**Services:** the furnishing of labor, time and/or effort by professionals or contractors, wherein the submission of goods or other specific end products other than reports, studies, plans, advisories, contractual documents or other documents relating to the required performance is incidental or secondary.

**Sole Source:** the only existing source of the only item which meets the needs of the user department/division as determined by a reasonably thorough analysis of the marketplace.

**Specifications:** a concise, descriptive statement of a set of requirements to be satisfied by a product, material or process used in a solicitation to illustrate the goods and/or services to be purchased or otherwise acquired.

**Successful Bidder:** vendor awarded the contract through solicitation, regardless of the method used or dollar amount.

**Vendor:** an actual or potential provider of goods or services.