

# City of Albuquerque | Purchasing Division

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## Procurement Manual

January 2019

Rules and regulations governing public purchases



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## Acknowledgements

This Procurement Manual was made possible by the Purchasing Division staff through interviews, current practices, past practices and identified best practices. This Procurement Manual was also derived by reviewing the policies of other public agencies around the country and identifying processes and procedures that could best fit with the City of Albuquerque Department of Finance & Administrative Service's mission. The mission statement can be found via the web at <https://www.cabq.gov/dfa>. The purchasing manuals and policies directly reviewed were:

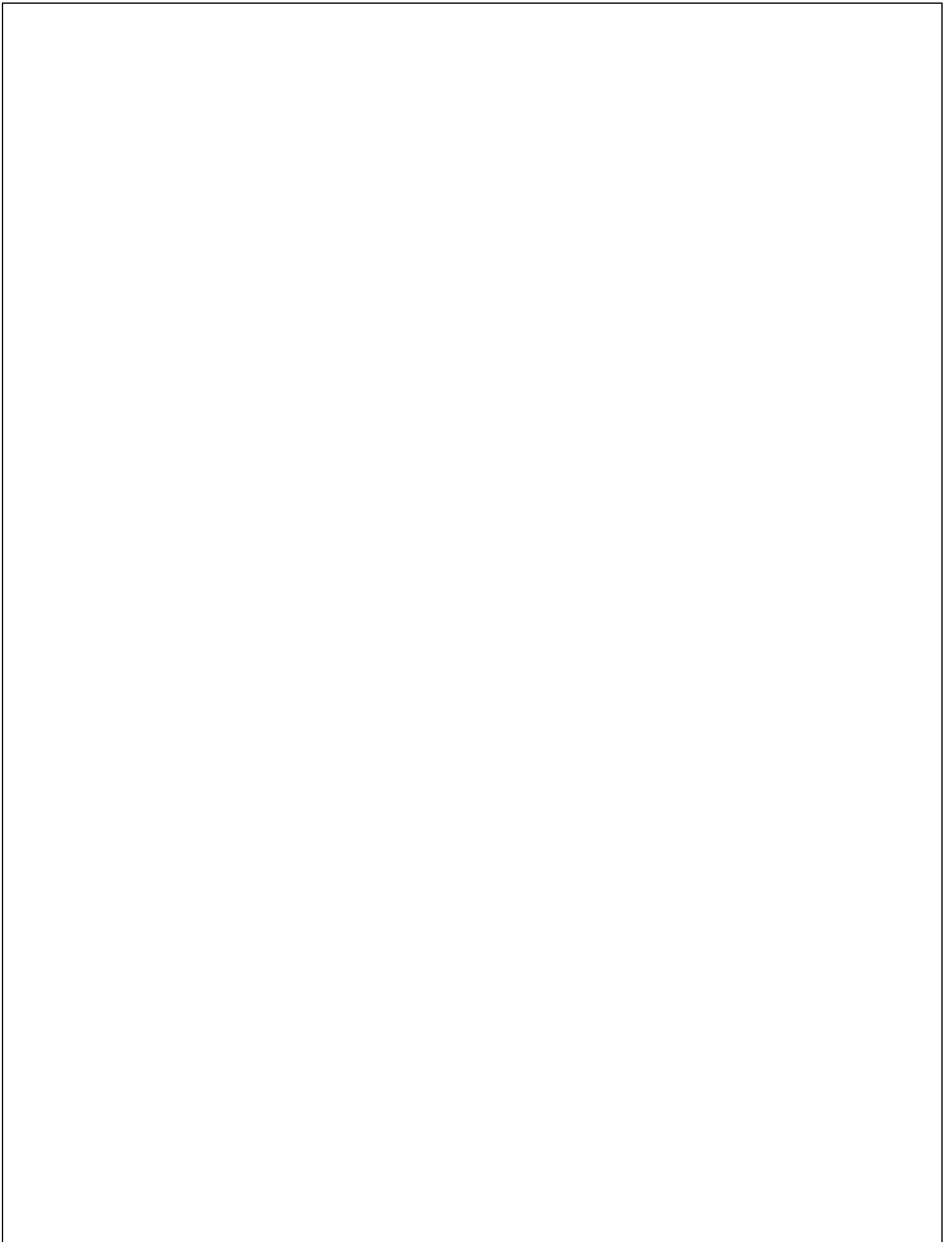
- City of Cincinnati Procurement Manual;
- City of Tucson Procurement policies and procedures;
- Princeton University policies and procedures;
- University of Colorado Procurement Rules;
- University of Southern Florida policies and procedures.

Those organizations' policies and procedures along with the previous versions of the City of Albuquerque Purchasing Manual and Purchasing Rules and Regulations helped create this modified and updated Procurement Manual. **This Procurement Manual has the effect of law and supersedes and repeals any previous rules and regulations.**

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## Introduction to the Procurement Manual

**P**urchases utilizing taxpayer dollars should always be made in a deliberate, fair and ethical manner. Every department and division of the City of Albuquerque (City) is responsible for ensuring each dollar spent is maximizing value for the taxpayers. Over time however, purchases and procurement have become a complicated process. Rules, regulations, and changes in laws have been made to ensure the procurement process is fair, equitable, and transparent. Due to these many and varied regulations, the procurement process itself tends to be forgotten.

### Purpose of the Procurement Manual

The purpose of this Procurement Manual is provide a central resource of procurement standards, policies, procedures, and best practices for the City. City Departments can utilize this manual as a “how-to” guide for the purchase of goods and services for the City in accordance with applicable City Ordinances and Administrative Instructions.

The Procurement Manual is not intended to circumvent the City Purchasing Ordinance or Administrative Instructions. Rather, the manual should be used as a supplement to the City Ordinance to help clarify or outline policies and procedures not clearly defined in the City Ordinance. This Procurement Manual also does not address the procurement process when federal grant funds are used. Federal regulations govern the procurement methodology in the case of purchases using grant funds.

### Function and Objective of Purchasing

The Function of the Purchasing Division (Purchasing) is to provide City Departments an efficient procurement process that results in the best use of tax dollars.

The Objective of the Purchasing is to reduce unethical behavior by providing a procurement process that promotes fair and open competition. Competition is the foundation of any public procurement process.

### Goals

The Goals of Purchasing and the City when utilizing taxpayer dollars are:

- Utilize the correct purchase methodology when obtaining goods and services;
- Purchase only the goods or services that are needed, avoiding excess and waste;
- Obtain the best value for the money expended;
- Promote competition and allow a fair opportunity to compete for City business, through Ordinance requirements for quotes, bids, and proposals;
- Ensure purchases are kept within budgeted limits;

- Provide Minority, Women, and Veteran-Owned business and small businesses a fair opportunity in the solicitation and contract award process;
- Stimulate the local economy and local job market by allowing local businesses an opportunity to compete for City business; and
- Ensure Transparency.

## Authority

The Public Purchasing Ordinance (Albuquerque Code of Ordinances, Article 5: Public Purchases) designates Purchasing as the central purchasing office for the City. The Chief Procurement Officer (CPO) has the authority under the Purchasing Ordinance to draft this manual for promulgation by the Mayor. Article 1 of the Charter of the City and Article X of the Constitution of New Mexico intends that the Purchasing Ordinance shall govern all purchasing transactions of the City and shall serve to exempt the City from all provisions of the New Mexico Procurement Code. The City is defined as “Home Rule.”

## Exceptions of Public Purchases

This Procurement Manual does not apply to procurements of goods, services, or construction for capital projects through the City’s Capital Improvement Program (CIP). Procurements of CIP related goods, services, and construction shall be procured in accordance with the “Regulation Governing the Award and Rejection of Bids/Offers and Debarment of Contractors for Public Works Projects of the City of Albuquerque.”

This Procurement Manual does not apply to procurements of Social Services. Social Service contracts shall be procured in accordance with written regulations promulgated by the Family and Community Services Department.

This Procurement Manual does not apply to procurements related to redevelopment of distressed neighborhoods. Redevelopment of commercial and residential property shall be procured in accordance with written regulations promulgated by the Metropolitan Redevelopment Agency in the Planning Department.

## Circumventing Procurement Laws

Procurements are governed by state, federal, and City law. There are criminal penalties associated with violating procurement laws. It is important that the City employees follow the procedures provided in this manual and refrain from splitting, separating, or breaking up purchases with the intent to circumvent procurement laws or policies. City employees may be required to reimburse the City any illegal purchases and may also be subject to disciplinary action, up to termination and/or prosecution.



## Conflicts of Interests and Contracting Ethics

As stated in [Chapter 3, Article 3: Conflicts of Interest \(Conflict of Interest Ordinance\), Section 3](#) “Employees must in all instances maintain their conduct at the highest standards. No employee shall continue in his or her City employment with pay when he or she engages in activities which are found to more than likely lead to the diminishing of the integrity, efficiency, or discipline of the City service.”

As stated in [Article XII: Code of Ethics of the City Ordinance](#), “The proper administration of democratic government requires that public officials be independent, impartial, and responsible to the people; that government decisions and policy be made in the best interest of the people, the community and the government; and that the public have confidence in the integrity of its government. In recognition of these goals, the ... Code of Ethics shall apply to all officials of the City.”

The public nature of the public purchasing and expenditure of significant amounts of public funds require strong ethical standards at all levels of the purchasing function. City personnel should develop positive relationships with vendors and promote competition, while avoiding the appearance of favoritism or other ethical misconduct.

In addition to the Conflicts of Interest Ordinance and Code of Ethics, City Employees may *not*:

- Solicit or accept anything of value from an actual or potential vendor;
- Be employed by, or agree to work for, a vendor or potential vendor;
- Knowingly disclose confidential information for personal or professional gain;
- Solicit, demand, accept or agree to accept from another person or entity a gratuity or an offer of employment in connection with any procurement decision;
  - To include prohibition of accepting any payment or offer of employment made by or on behalf of a subcontractor as an inducement for the award of a subcontract or order.

In addition to the City Conflicts and Code of Ethics, the Purchasing Ordinance ethics provisions are outlined in [§ 5-5-22: Ethical Conduct](#).

When actual or potential violation of these standards is discovered, the person involved shall promptly file a written statement concerning the matter with an appropriate supervisor or the Purchasing Division. The vendor or potential vendor involved may be barred from receiving future contracts and have existing contracts cancelled.

Violation of any of the provisions of Conflict of Interest Ordinance and Code of Ethics and this Procurement Manual by any employee is grounds for disciplinary action, including dismissal, in accordance with the provisions of [§§ 3-1-1](#) et seq., the Merit System Ordinance.

## Unfair Competitive Advantages

Fairness and transparency in the procurement process require that vendors competing for a specific good, service, or construction project do not derive an unfair advantage by directly participating in the preparation of specifications, qualifications, or evaluation criteria on which the solicitation was based. Therefore, *any vendor and its affiliates that participate in the preparation of specifications, qualifications, or evaluation criteria of a solicitation shall be disqualified from any subsequent procurement solicitation resulting from the services provided.* Simply stated, a vendor cannot bid on a solicitation if the vendor and its affiliates were directly involved with the preparation of the specifications.

## Information Technology Systems

As part of the overall City of Albuquerque procurement process, the City utilizes multiple systems to solicit, order, and contract with vendors. The systems include the following:

- **PeopleSoft Financials (ERP)** – This the City's main Enterprise Resource Planning system for all financial transactions. This system is used for all ordering of goods or services, and receipt or approval of goods and services. Transactions are initiated through a requisition, which result in either a contract or purchase order. Payments for goods and services are also done through ERP's Accounts Payable module.
- **Contract Tracking System (CTS)** – This is the City's software used to produce professional/technical contracts and track aggregate contract amounts.
- **Secure Internet Commerce Network (SiComm)** – This is the City eProcurement system for Request for Bids (RFBs), and Request for Proposals (RFPs). This should not be confused with the ePro module used in ERP.
- **Transcepta** – This is a 3<sup>rd</sup> party system used by vendors to submit billings to the City. Purchase orders are also delivered from this system and in turn, vendors submit their bills through an eInvoicing process rather than paper delivery to Central Accounts Payable.

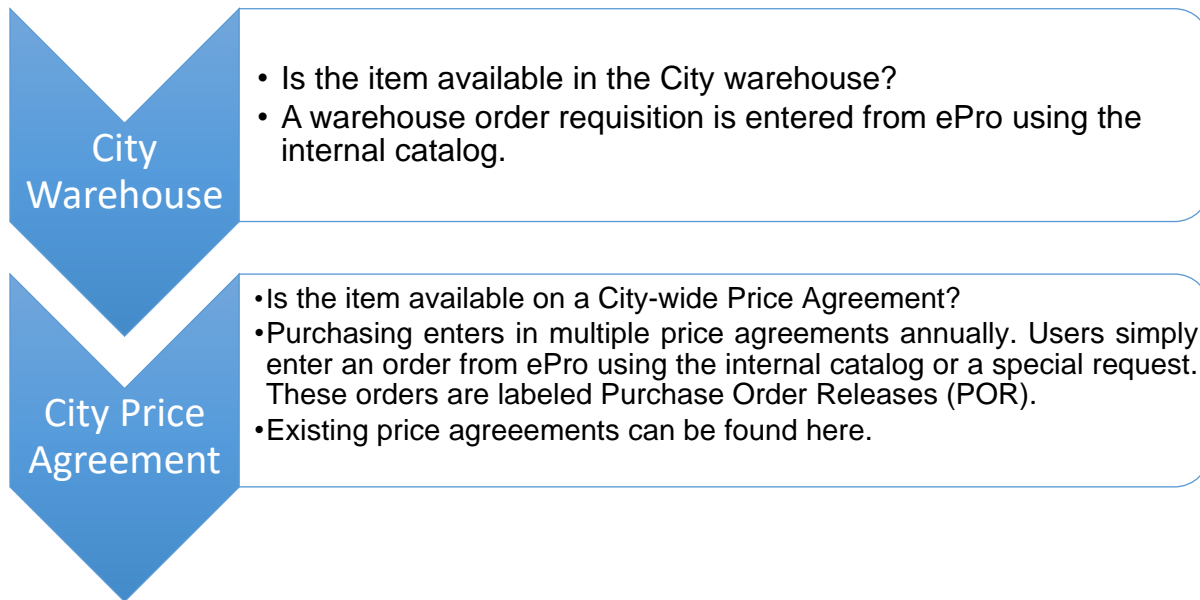


## Chapter 1: GETTING STARTED

Every purchase made by the City of Albuquerque shall have an authorized methodology approved by Purchasing. There are several ways for a department to initiate a purchase. The key is identifying what the need is and then identifying how to proceed with the purchase.

### Determining the Need

The first step is to determine what particular good or service is needed. Once the determination is made on what the need is, departments shall look to the following:



Purchasing strives to enter into as many price agreements through competitive and non-competitive means as may be necessary. This allows departments to directly order from these contracts and agreements and allow for a more efficient purchase. However, there are times when either Purchasing or a City Department has not identified a good or service in need and therefore, has not had the opportunity to set up price agreements.

### Determining the Procurement Methodology

If the item in need is not available in the City warehouse or from an existing price agreement, the City Department must have an authorized procurement methodology to proceed with a purchase. The dollar value of a purchase may determine the proper procurement methodology to be used. Unless otherwise approved by Purchasing, all City purchases shall require competition. Departments should contact Purchasing to ensure the proper method is determined and approved.

*In general*, the following limits apply:

- \$0 - \$10,000 – Small Purchase Limit
  - Small purchases may not be made if the goods or services are available 1) by City Warehouse and can be obtained from those inventories, 2) from pre-established City contracts or price agreements, or 3) under the Office Supplies contract.
  - Small Purchases shall be made from local vendors unless it is not feasible or cost prohibitive. If a local vendor's price is within a 10 percent price range of a nonlocal vendor's price, City Departments should utilize the local option.
  - Small purchase methodology is not intended for repetitive purchases of the same item and/or with the same vendor; nor should purchases be split to stay under the threshold. If the same item is being purchased over a long period of time, the City Department should contact Purchasing for another procurement methodology.
  
- \$10,000 - \$75,000 – Purchases by Quotation (RFQs)
  - Items between these limits can be obtained by a request for quotes.
  - RFQs shall utilize local vendors when soliciting quotes.
  - A minimum of three quotes should be obtained. If fewer than three quotes are obtained, documentation reflecting the efforts made shall be part of the backup documentation.
  
- \$75,000 and Greater – Competitive Sealed Bids (RFBs)
  - Items with an estimated amount of \$75,000 and above shall be made by competitive sealed bid. RFBs require detailed specifications regarding the good or service required.
  
- Requests for Proposals (RFPs)
  - RFPs shall be conducted in accordance with Section 5-5-30. There is no dollar limit requirement for RFPs. The purpose of an RFP is to obtain the best value of a good or service where low-cost is not the determining factor.
  
- Services that are considered Professional or Technical in nature have their own limits. Professional/Technical services are services performed by or under the direction of a licensed professional, other professional technician, or other person with technical training. An example would be the need for an Accounting Firm to audit the financial position of the City of Albuquerque.
  - If the need is of a professional/technical nature, Departments have authorization to enter into an agreement with a vendor for up to \$75,000 without formal competition or approval from City Council. Any amount that exceeds \$75,000 shall require formal competition and require City Council approval. Professional/Technical agreements will be discussed later in the manual.

Other procurement methodologies include (with included Ordinance reference):

- Sole-Source Purchases ([5-5-32](#))
  - The CPO can determine if there is only one source for the required goods or service regardless of dollar amount. Justification must be provided by the City Department on why the good or service is considered a sole-source. If the purchase is greater than \$75,000, it must be posted publicly for 30 days to ensure there are no other available vendors that can provide the needed item. Also, any purchase over \$75,000 requires approval from City Council. If the purchase is under \$75,000, the item is posted on the City website to inform the public of the City's action.
- Purchasing from Other Government Contracts ([5-5-33](#))
  - Purchases may be purchased from an entity under a contract with a public agency or cooperative procurement agency at prices that are equal or below the prices of the goods or services meeting the same specifications or standards of those purchases. This is commonly referred to as "piggy-backing." An example would be if the City utilizes another agency's contract for the purchase of office supplies. New Mexico State Price agreements, General Service Administration (GSA) contracts and Joint Cooperatives are the most commonly used government contracts. Please contact Purchasing on the key elements that must be met to utilize this methodology.
- Emergency Purchases ([5-5-35](#))
  - In the event of an unforeseen and dangerous situation requiring immediate action to preserve peace, health, safety or people or property within the jurisdiction of the City or to prevent significant economic loss, departments may purchase goods, services, or construction by order without competitive solicitation. Departments must submit an Emergency Justification form that must be approved by the CPO. It is understood that, in emergency situations, obtaining the CPO's approval of a form may not be feasible. If a service or good is required as an emergency, as defined herein, and there is no time for approval, the department shall move ahead with the purchase and enter an emergency justification as soon as possible.
- Exempt Purchases ([5-5-20](#))
  - Purchasing has identified a list of goods and services that are exempt from formal solicitation and competition. Please review the list of exempt items in the [Procurement Code §§ 5-5-20](#). Purchasing can negotiate and enter into contracts with vendors if there is a need by the City Department. Please consult with Purchasing on whether a purchase qualifies as an exemption and the next steps in a contract creation.

The most commonly used procurement methodologies have been described here in Chapter 1. There are various ways for City Departments to purchase what they need. City

Departments should contact their representative Senior Buyer or Purchasing Specialist in Purchasing if there is uncertainty on how to purchase an item.

Each methodology will be discussed more at length later in this manual.

### Delegation of Purchasing Authority

In an effort to streamline processes and routine transactions, Purchasing has delegated specific requisition and procurement methodologies to City Departments. These requisitions and methodologies will be approved by department specific buyers (Department Buyers). The following requisition types and methodologies have been delegated to City Departments:

- Internal Catalog (Warehouse Orders and other internal catalog items)
- Punch-Out Catalog (Office supply orders most commonly used for this)
- City Contract PO (formerly known as PORs)
- Request for Quotes/Quick Quotes
- Small Purchase PO
- Emergency Purchases up to \$75,000
- Post-Purchase Orders

The items listed above have an abbreviated electronic workflow in the ERP system. The Department Buyer is the final procurement authority for the above transaction types. Department Buyers should consult with Purchasing for any questions regarding procurement methodologies.

## Chapter 2: CONTRACTS, PRICE AGREEMENTS, AND PURCHASE ORDERS

In accordance with the Public Purchasing Ordinance, [§§ 5-5-7](#), it shall be the responsibility of Purchasing to enter into contracts with vendors to increase efficiencies on commonly used or repetitive purchased items. Entering into contracts with vendors allows Purchasing to do its due diligence to solicit for the best obtainable price for a set period of time. It also allows the City to define a set scope of work, deliverables, performance standards, or other specific items that will be required.

The legal definition of a contract is “an agreement between parties creating mutual obligations enforceable by *law*.” For a contract to be legally binding, it must contain four essential elements: an offer, an acceptance, an intent to create a legal relationship, and a consideration (usually money in exchange for services or goods).

There are three basic types of contracts the City enters into:

- Professional/Technical (P/T) Contracts
- City Wide Price agreements
- Purchase Orders

### Contract Requirements

Depending on the type of contract entered to, each contract may require specific information. The table below describes what is generally required as part of a contract before it can be fully executed.

Item	Required For:
Pay Equity Reporting Form	P/T, Price agreements
Certificate of Insurance	P/T, Price agreements, Purchase Orders (depending on what is being ordered). See “Indemnification and Insurance” below.
Modified W9 Form	P/T, Price agreements, Purchase Orders only if the vendor is not set up in the ERP system or vendor information must be updated. Run the following query in ERP to find out if a vendor has already turned in a modified W-9 form: CPR_VENDOR_W9
Performance Bond	Price agreements, Purchase Orders related to construction contracts in excess of \$25,000. <b>This is New Mexico State Law.</b>
Wage Rate Determination	Price agreements, Purchase Orders related to construction contracts in excess of \$60,000. <b>This is New Mexico State Law. If federal funds exceeds \$2,000, the Davis-Bacon wage determination will apply.</b>

### *Indemnification and Insurance*

Responsibility for determining requirements for indemnification and insurance as they relate to procurement is that of the Risk Management Department of the City unless explicitly delegated in writing by the Risk Manager.

### *Professional/Technical Contracts*

About 1/3 of the contracts the City enters into on an annual basis are Professional/Technical (P/T) contracts. P/Ts involve services performed by or under the direction of licensed professional, other professional technician, or other person with technical training, as more particularly defined by the CPO. All P/T contracts require review for legal sufficiency by the Purchasing Assistant City Attorney and the City Attorney.

Purchases of P/T services \$75,000 or less may be made by negotiation and execution of a contract signed by the CPO and processed through Purchasing. Purchases of P/T services related to Capital Implementation Program (CIP) and City Council may be made by negotiation and execution of a contract signed by the CIP Official and Director of Council Services, respectively. Departments shall not avoid this limitation by entering into separate \$75,000 contracts with the same vendor and scope (or relatively the same scope) each fiscal year. For example, a \$75,000 contract with vendor X in fiscal year 2018, and another \$75,000 contract with vendor X in fiscal year 2019 with the same, or relatively same scope is not permissible. This is considered a split purchase.

### *Signature Authority for P/T Contracts*

The following table describes signature requirements for P/T contracts depending on the dollar value of the contract. Signature authority is designated by [Administration Instruction 1-1](#).

<b>Contract Amount</b>	<b>Signature/Approval Requirements</b>
\$0 - \$25,000	Department Director
\$25,000 - \$75,000	Department Director, CPO
\$75,000 and greater	Department Director, Chief Administrative Officer, CPO, City Council Approval

### *City Council Approval*

P/T contracts that exceed \$75,000 in its original form, or through amendments, must have City Council approval. If a vendor has multiple P/T contracts with various departments and the aggregate total of those contracts exceeds \$150,000 in a single fiscal year, City Council must approve the contract that exceeds the \$150,000 threshold. Any future or subsequent changes to all contracts for the vendor during the period of service will require City Council approval.



The City government structure is made up of the Executive Branch (Mayor's Office) and the Legislative Branch (City Council). In order to obtain City Council approval of contracts, an Executive Communication (EC) packet must be sent to Council Services. This is a formal communication from the Executive staff to the Legislative Staff.

The following steps are a *simplified* version of getting an EC Packet approved and sent to the City Council for approval:

1. A Letter of Introduction (LOI) is prepared by Council Services and recommends the EC to Finance & Government Operations Committee (FGO).
2. The EC is approved at FGO and, if immediate action is requested and approved, moves to the Consent Agenda of the next City Council meeting.
3. City Council will vote as a whole on the EC.

The steps above are a simplified version of the process. More detailed information should be obtained from Council Services. A brief description of the EC process can be found [here](#).

#### *Professional/Technical Services Definition*

Professional/Technical Services are services performed by or under the direction of a licensed professional, other professional technician, or other person with technical training. Click on [Professional/Technical Guidance](#) to see a list of examples and comparisons between PT Services and regular or ordinary services.

#### City-Wide Price Agreements (aka "Various")

One of the main responsibilities of the Central Purchasing Division is to enter into City-Wide Price agreements for standard items such as office supplies, uniforms, computers, parts, etc. which are used by multiple departments and ordered in various quantities and times. These Price agreements allow departments to take advantage of lower prices by competitively soliciting these items. In general, the City will realize greater savings when the City can enter into large contracts over a longer period of time. Large contracts also can result in greater administrative efficiencies for Purchasing as it can concentrate on a few large procurements, rather than many smaller procurements.

Purchasing enters City Price agreements in the ERP system. Departments shall enter a requisition for a Purchase Order anytime they need to order a good or service provided in the price agreement. It's important to understand that Price agreements are ***not*** the authorization to order a good or service. A Purchase Order from the Price Agreement must be generated prior to a good or service is obtained. This is outlined in [Administrative Instruction 3-7](#). Failure to complete a Purchase Order prior to goods or services being obtained is considered a Purchasing Violation.

## Purchase Orders

A Purchase Order (PO) is a form of a contract that is typically used when there are one-time or infrequent purchases; or when there is a specific known quantity of what is being ordered. Like a contract, a PO contains the City's Standard Terms and Conditions and is a legally binding document once a vendor commences work under the PO. A PO can be issued as a stand-alone document, or as part of a City Price Agreement or P/T contract. All types of POs are initiated by a requisition in the ERP system. A PO that is part of a Price Agreement should reference the Price Agreement in the requisition. Instructions on how to ensure a Price Agreement is referenced in a requisition can be found [here](#) using document number EP-03-6. A PO that is not part of a Price Agreement should contain supporting documentation on the approved procurement methodology used to produce the Purchase Order. This includes, but no limited to, Small Purchase Orders and Purchase Orders derived from RFQs.

### *Purchase Order vs. Contract*

In general, the following are some typical differences and uses of a Purchase Order vs. a Contract (although both are legally binding contractual documents). Please consult with Purchasing if there is uncertainty on which mechanism to use

<b>Purchase Order</b>	<b>Contract (or City-Wide Price agreements)</b>
Document sent from Buyers (City) to Sellers (Vendor) with a request to order a product.	Document that describes products/services being sold, sets agreed prices and defines terms and conditions.
Generally represents single business transactions.	Generally a long term agreement between City and Vendor. May include renewal options.
Legal document – bound when the vendor commences work under (accepts) the PO.	Legal document – bound upon final sign off or approval by all parties.
Typically used for the purchase of items.	Typically used for services.
Standard terms and conditions.	More complex set of terms associated with the purchase. Goes beyond standard terms and conditions of a PO.
Used when specific quantities are known.	Used when exact quantities are not known.
Used when charges are the same (accounting string).	Used when charges or departments vary.
One-time/infrequent purchases.	Multiple/frequent orders.

# Chapter 3: CONTRACT ADMINISTRATION AND MANAGEMENT

Purchasing, in accordance with provision of the Public Purchasing Ordinance, will approve and process all contracts for goods and services other than those noted in the Exceptions section in the Introduction of the Procurement Manual. *All P/T* contracts will be reviewed by the Assistant City Attorney in Purchasing and the City Attorney for legal sufficiency.

It's important to understand the difference between contract administration and contract management; and the roles the department and Purchasing have regarding the two activities.

## Contract Administration vs. Contract Management

For the purposes of this manual, the following definitions apply for Contract Administration and Contract Management:

**Contract Administration** – Involves the activity performed by departments *after* the contract award and includes an evaluation of the vendor performance in meeting the requirements of the contract. It includes all interactions between the City and vendor from the time the contract award until the work has been completed and accepted or the contract is terminated, payment has been made, and disputes have been resolved.

**Contract Management** – Involves all the functions of the acquisition process from receipt of the purchase request, through pre-award (RFB, RFP, etc.) to the award of the contract or purchase order. It specifically pertains to activities performed *before* the issuance of the contract award or purchase order.

*Contract Administration vs. Contract Management Table Comparison*

<b>Contract Administration</b>	<b>Contract Management</b>
Assignment of PO/contract for administration	Purchase request (need to buy something)
Monitor vendor performance	Procurement method (Small Purchase, RFP, RFB)
Inspection/acceptance	Solicitation/receipt of bids and proposals
Payments	Selection/evaluation process
Final delivery/payment and closeout	Award/execution of contract
Roles performed mainly by City Departments	Roles performed mainly by Purchasing

## P/T Contracts

The City Department is responsible for:

- Creation of the contract and developing the scope of services. This is currently done using CTS;
  - Required signatures were outlined in Chapter 2 of this manual;
- Ensuring vendor compliance with the contract provisions;
- Reporting vendor performance issues to Purchasing;
- Notifying Purchasing of contract amendments related to monetary amounts, extension of time, or any other changes to the contract,
  - This currently done through a requisition in the ERP system. Users must select the “PT or PT Type” requisition for these requests.
- Ensuring all payments to the vendor are current and timely;
- Obtaining an updated Pay Equity Form. Forms are good for a one year period from date of issuance and acceptance;
- Obtaining the most current Certificate of Insurance, which names the City as additionally insured; or obtaining a waiver from Risk Management if applicable.
- Developing an EC for any contracts requiring City Council approval.

Purchasing is responsible for:

- Reviewing contract language and content for legal sufficiency;
- Creating the Procurement Contract in the ERP system;
- Ensuring up-to-date insurance and pay equity forms are present;
- Following and taking appropriate action on vendor performance issues;
- Reviewing and approving contract amendments;
- Ensuring all appropriate signatures are present on the document.
- Ensuring all appropriate approvals are obtained, including City Attorney and City Council.

## Price Agreements

The City enters into two types of price agreements, various and department specific. Many City employees know these City-wide price agreements as “various contracts”. As the name indicates, various contracts are price agreements that various departments can utilize. The most common price agreement the City utilizes is the office supply price agreement. Department specific price agreements are utilized by one or a few departments. The settings of which business units can use the contract are set in the ERP system.

In regards to price agreements, the City Department is responsible for:

- Ensuring orders placed from price agreements are utilizing negotiated prices per the price agreement;

- Ensuring compliance with the contract and provisions by the vendor;
- Reporting vendor performance issues;
- Notifying Purchasing of contract amendments related to monetary amounts, extension of time, or any other changes to the contract,
  - This currently done through a requisition in the ERP system. Users must select the “Contract Request/Amendment” requisition for these requests.
- Ensuring all payments to the vendor are current and timely;
- Obtaining an updated Pay Equity Form. Forms are good for a one year period from date of issuance and acceptance;
- Except for goods, obtaining the most current Certificate of Insurance, which names the City as additionally insured.
- Ensuring City Legal has reviewed any terms or conditions that require City signatures.

The Purchasing Division is responsible for:

- Reviewing contract language and content for legal sufficiency;
- Creating the Procurement Contract in the ERP system;
- Creating the Procurement Contract in the ERP system to allow for the use of an internal catalog or punch-out catalog if applicable;
- Ensuring current insurance and pay equity forms are present;
- Following and taking appropriate action on vendor performance issues;
- Reviewing and approving contract amendments;
- Ensuring all appropriate signatures are present on the Terms and Conditions or Agreement.
- Checking that vendors are not suspended or debarred from contract award by the federal government.
- Ensuring terms and conditions are favorable to the City.

## Chapter 4: COMPETITIVE SOLICITATIONS

As noted in the introduction, competition is the foundation of a transparent and effective procurement process. The City tries, when practical or when economic conditions are favorable, to maximize economies of scale and volume buying. By promoting competition, the City is attempting, to the best of its ability, to use taxpayer dollars in the most cost-effective, transparent, and ethical manner.

The City issues the following types of competitive solicitations:

- Informal Solicitations:
  - Request for Information (RFI)
  - Requests for Quotations (RFQs)
  - Rapid Procurement
  - Purchases of Appraisal Services
  - Purchases of Attorney Services
- Formal Solicitations:
  - Requests for Bid (RFBs)
  - Request of Proposals (RFPs)

### Request for Information (RFI)

The City may solicit information to determine the market availability of a good or service. In this case, Purchasing can issue an RFI using the Sicomm system. Purchasing will issue the RFI. The RFI will:

- Include a description of goods or services required or for which information is being solicited;
- Include a specification that responses received will be considered for information only and will not request pricing;
- Allow vendors a minimum of ten (10) working days to respond.

If there are no responses to the RFI, this will indicate vendors cannot provide the goods or services, or that they do not have information relative to the request. If a single responsive response to an inquiry is received, the good or service may be procured through the [sole source procurement methodology](#). If multiple responses are obtained, no procurement may occur until Purchasing determines the appropriate procurement methodology to proceed with the potential purchase.

### Requests for Quotations (RFQs)

A single purchase whose aggregate cost is between \$10,000 and \$75,000 shall be made by soliciting quotes. Quotations will be solicited only from vendors within the [Greater Albuquerque Metropolitan Area](#). If, after the first attempt, there are no local vendor responses, the quote can be re-issued to all available vendors. If federal funds are used

for a purchase, quotes cannot be restricted to local vendors and City Departments must use federal procurement regulations. Questions about federal procurement requirements should be directed to the Department's assigned assistant city attorney.

Issuance of RFQs is the responsibility of the designated Department Buyer at the Department or Division level. The Department Buyer will provide sufficient specifications to prospective bidders in order for them to bid properly and shall ensure each bidder receives the same solicitation information.

Awards will be to the lowest responsive and responsible vendor by issuance of a PO from the ERP system. POs issued via the RFQ shall be signed and authorized by the Department Buyer.

### **Requests for Bids (RFBs)**

The Public Purchasing Ordinance [§§ 5-5-28](#) requires competitive sealed bidding for goods, services and construction in excess of a specified dollar amount. The current dollar amount per [Administrative Instruction 3-3](#) is items in excess of \$75,000. RFBs are used when specifications are well defined and the lowest price is desired. RFBs shall be completed in the Sicomm system. Oral, telephonic, electronic mail, facsimile, or telegraphic bids are invalid and shall be deemed nonresponsive.

#### *Elements of RFBs*

The following steps are usually involved when issuing a RFB:

- Preparation of the specifications
- Publishing the RFB through Sicomm and local newspaper
- Receiving the bids by responsive bidders
- Evaluation of bids
- Protest period
- Awarding via Purchase Order or Price Agreement

#### *Preparation of the RFB*

The RFB must describe the requirements of the good, service, or construction clearly, accurately, and completely. City Departments shall refrain from drafting specifications or requirements that are unnecessarily restrictive so as to potentially reduce the number of bidders. Nor, should specifications or requirements be written in a manner that would appear to favor one bidder. The RFB shall include all information necessary to allow for a fair and competitive bidding process. In general, the City Departments are the subject matter experts in their intended purchases, and are the best source to draft the specification requirements. Purchasing may provide assistance in drafting the specifications when needed.

Estimated usage factors or other relevant factors need not be precise, but to the extent possible these factors shall be reasonable estimates based upon information the City has available concerning future use.

*See additional guidance on specification development later in this chapter.*

### *Publication and Notification of the RFB*

Prospective bidders should be afforded a reasonable time to respond to the RFB. Limited bidding time could result in a reduced number of bidders, or bidders could be forced to provide prices that may not be favorable to the City due to a limited response time. To avoid restricting competition, Purchasing will give consideration to such factors as the following in establishing a reasonable bidding time:

- Urgency of the need
- Complexity of specifications
- Geographic distribution of bidders
- Transmission time for delivery of bids

Each bid shall be reviewed to ensure bidders have met all requirements per the specifications and determine if any of the bidders are non-responsive.

In general, the bidding time between official solicitation posting and closing shall be 30 calendar days. However, as noted above, other factors may result in a bidding time different from the customary 30 calendar days. The CPO will make the final determination on the appropriate bid time if there is an exception to the standard bid time.

***All bids shall be posted on the Sicomm system.*** Current bids and proposals can also be viewed at the following web address: <https://basec.sicomm.net/CABQ/>. Prospective bidders must be registered in the Sicomm system and submit bids through Sicomm. Failure to submit bids through Sicomm will result in a bid being deemed nonresponsive. Sicomm is the only City online portal for vendor registration, bid postings and online bidding. Sicomm sends email notices of posted bids to all registered vendors in the commodity code of the good, service, or construction to be procured. In addition, bids will be posted in the Albuquerque Journal no less than 10 days prior to the closing date of the RFB.

Information regarding the RFB shall not be released outside the City before the RFB posts in Sicomm. Within the City, information on the bid shall only be released to those who have a legitimate interest. This is so one prospective bidder is not given an unfair advantage over another. Please also review the Communication with Bidders section in the Introduction of the Procurement Manual.

After the RFB is posted, discussions with prospective bidders about the RFB shall be conducted only through the CPO or the Buyer assigned to manage the RFB. No other City personnel shall provide any information to a prospective bidder that alone or together



with other information may afford an advantage over others. Additionally, general information or written questions and responses that would not be prejudicial to other prospective bidders may be furnished only by the Chief Procurement Officer to all prospective bidders via posting of addenda.

### *Pre-Bid Meetings*

A pre-bid meeting may be used as a means of briefing prospective bidders and explaining specifications and requirements to prospective bidders as early as possible after the RFB has been posted, but before the bids close. It may be mandatory or non-mandatory. It shall never be used as a substitute for amending a defective or an ambiguous RFB. Additionally, verbal responses to questions asked about the RFB shall not supersede written material. All changes to the RFB must be revised in writing via an addendum in the Sicomm system.

### *Addenda to the RFB*

Changes in quantity, specifications, delivery schedules, opening dates, etc., or to correct a defective or ambiguous invitation, shall be accomplished by an addendum to the RFB. Answers provided to questions from prospective bidders shall be accomplished by an addendum. This is to ensure equal access and response and allow potential offerors to construct bids accordingly. Each addendum will be posted to Sicomm before the date and time for bid opening. Bidders are responsible for acquiring issued Addenda in time to incorporate them into their bid. An email notification to bidders is sent through Sicomm. It is the responsibility of each bidder to check Sicomm prior to submission of their bid to ensure that they have received all addenda issued.

Before issuing an addendum to an RFB, the period of time remaining until bid opening and the need to extend the bid shall be considered to permit all prospective bidders the opportunity to consider the revised information in submitting or modifying their bids. All prospective bidders shall be notified of any extension of time via an addendum. Notification is sent through Sicomm.

### *Cancelling an RFB prior to the closing date*

The CPO may withdraw or cancel at any time any RFB, if the CPO deems such action is in the best interest of the City. The cancellation of an RFB usually involves a loss of time, effort, and money for the City and prospective bidders. RFBs should not be cancelled unless a cancellation is clearly in the City's best interest – that is, where there is no longer a requirement for the supplies or services, or where addenda to the RFB would be of such magnitude that a new RFB is desirable. Bidders shall be notified when an RFB has been cancelled.

### *Submission of Bids*

To be considered for contract award, a bid must be responsive – that is, it must comply in all material respects with the RFB. Such compliance enables bidders to stand on an equal footing. It also maintains the integrity of the sealed bidding process. Bids should be filled out, executed, and submitted in accordance with the instructions in the RFB. Bidders must submit their bids through Sicomm prior to the closing date and time of the RFB. Any bids submitted after the deadline shall be deemed nonresponsive.

A bid, record, or signature in electronic form is valid and legally enforceable.

### *Modification and Withdrawal of Bids*

A bid may be modified or withdrawn by a bidder prior to the time set for bid closing in the Sicomm system. All documentation related to the modification or withdrawal of a bid shall be made as part of the permanent procurement file.

Bidders are responsible for submitting, modifying, or withdrawing bids prior the closing time specified in Sicomm. Late bids, modifications, or withdraws shall be deemed nonresponsive.

### *Rejection of Bids after Bid Acceptance*

The purpose of an RFB is to award the vendor who provided the lowest, responsive bid. Purchasing shall make every effort to anticipate any changes in requirements or modifications and notify prospective bidders of the changes before the bid closes. When it is determined before a bid award but after acceptance of bids that the RFB requirements have not been met by any bidder, the RFB shall be cancelled. The CPO may reject any bid or all bids for no reason if acceptance of the lowest and best bid is not in the best interest of the City. Where there is reason to believe there is collusion, tampering, or combination among bidders, the bids of those involved shall be rejected.

The CPO may deem a bid nonresponsive for any reason if the bid is not in the best interest of the City. The following examples may lead to a rejection of a specific bidder's bid or all bids as nonresponsive. The examples are not all inclusive:

- The bid fails to meet the requirements of the RFB;
- The bid fails to meet delivery requirements, scheduled, or permissible alternatives stated in the RFB;
- If prices in the bid line items or sub-line items are materially unbalanced;
- If the bidder fails to furnish a bid bond or guarantee if the RFB has such a requirement;
- If the bidder makes exceptions or imposes conditions that would modify the requirements of the RFB or limit the bidder's liability to the City; since to allow the bidder to impose such conditions would be prejudicial to other bidders.

Bids received from vendors that are suspended, debarred, proposed for debarment or declared ineligible or not responsible as of the bid opening date shall be deemed nonresponsive.

#### *Notice to Bidders of Rejection of All Bids*

When it is determined necessary to reject all bids, Purchasing will notify all bidders through a general notice of rejection through the Sicomm system.

#### *Evaluations of bids*

All bids shall be kept secure prior to the closing time of the bid. Bids are evaluated and examined by the Purchasing Office only after the bids have closed. Bids are reviewed for responsiveness. Pursuant to [§§ 5-5-28](#), a contract may be awarded only to the responsible offeror or offerors with the lowest cost or other best cost-related offer as established in the solicitation.

The RFB shall set forth all the evaluation criteria to be used in determining product acceptability. Bid acceptability evaluation is not conducted for the purpose of determining whether one bid is superior to another, but only to determine that the bid is responsive as defined in the RFB. Any bid that does not meet the requirements outlined in the RFB document will be deemed non-responsive.

Prompt payment discounts shall not be considered in computing a low bid. Such discounts may be taken after the award of a contract.

Preference percentages will be assigned to the bidders based on eligibility of those preferences. Preference totals shall not exceed 10% in any combination.

#### *Minor or Technical Irregularities*

Minor or technical irregularities that are matters of form rather than substance can be waived or corrected without prejudice to other bidders. The defect or variation is immaterial when there is no effect on price, quality, quantity, or delivery is negligible when contrasted with the total cost of the goods or services being acquired. The CPO may waive such irregularities or defects or allow the low bidder to correct them if either is in the best interest of the City.

Examples of those irregularities may include failure of a bidder to:

- Return of a completed Pay Equity Form, however the form was not signed;
- Acknowledge receipt of an addendum to the RFB, but only if it was clear from the bid that the low bidder received the addendum and intended to be bound by its terms or the addendum involved had no effect on price, quantity or quality;
- Submits requested brochures or literature which substantiates information contained within the bid submitted.

### *Mistakes in Bids*

Mistakes in bids may not be corrected after the RFB closes. If a mistake is purely a clerical error as opposed to judgement mistake, and was unintentional, and would impose a clear substantial hardship, the CPO may allow the bidder to correct its bid. The only exception is when a bidder incorrectly calculates a total price based on unit price times estimated quantity. In such a case, the unit price will be presumed to be the correct price and the total price may be recalculated. This will be determined on a case-by-case basis. If there is only one bidder in this circumstance, the City may determine that re-posting the bid is in the best interest of the City.

### *Contract Award*

Purchasing reviews all responsive bids. The Senior Buyer determines which bid or bids are responsive and awards to the responsible bidder with the lowest price. The Senior Buyer forwards all responses and correspondence to the appropriate department via e-mail along with an award recommendation. The department will approve or reject the recommendation. Upon approval, an official Recommendation of Award memo is routed to the Department for signature by the Department Director. (modify for new process; approve in Sicomm, send memo as notification, not approval) (Jennifer to provide language on non-responsible)

The Senior Buyer will submit an Intent to Award in the Sicomm System. The winning bidder(s) will receive notification of award.

### *Protest Period for RFBs*

A bidder may protest the recommendation of award by filing a formal written protest addressed to the CPO. The must be mailed or hand-delivered to the Purchasing Office and must contain the following information: (Jennifer to give language on protest process)

- Name and address of protesting party;
- The assigned number of the solicitation;
- A clear statement of the reason(s) for the protest;
- Details concerning the facts which support the protest;
- Attachments of any evidence available to substantiate the claims of the protest; and
- A statement specifying the ruling requested.

The CPO will make the final determination of the protest based on the information provided by the protesting party.

Protest period after notification of award is five (5) working days; weekends and holidays will not count as part of the calculation. Following the protest period, if there are no

protests submitted under the process herein, Purchasing will issue a Purchase Order or Price Agreement.

### *Award on Equal Bids*

When two or more identical lows bid are received, the CPO may:

- Split the award among the low responsible bidders if such is not detrimental to the City;
- Split the award among the low responsible bidders and cap the award to each bidder;
- Reject all bids and resolicit bids.

### *Request for Proposals (RFPs)*

The Public Purchasing Ordinance [§§ 5-5-30](#) allows for competitive sealed proposals for purchases of goods or services where specifications cannot be adequately prepared that permit the award to be on the basis of the lowest cost as the sole factor. In general, a proposal takes into account multiple scoring factors to include, but not limited to, expertise, performance level, financial capability, innovation, or technology. Provisions of an RFP are outlined in Ordinance [§§ 5-5-30 \(B\)](#).

### *Elements of RFPs*

The following steps are usually involved when issuing a RFP:

- Selection and approval of an Ad Hoc Committee
- Preparation of the specifications
- Publishing the RFP through Sicomm and local newspaper
- Receiving proposals by responsive bidders
- Evaluation of proposals
- Protest period
- Awarding via Purchase Order or Price Agreement
- City Council Approval

### *RFPs related to Professional/Technical Services*

Purchases of P/T Services, with the exception of legal services, shall be competitively solicited when the estimated or actual cost of the service exceeds \$75,000. Please refer to [Chapter 2](#) of this manual for other rules related to P/T services. Most importantly to note, *departments may not issue contracts on a fiscal year basis to avoid competitive solicitation (i.e. \$75,000 contracts per fiscal year).*

### *Ad Hoc Committee*

City Departments shall submit to the Mayor, or designee a request for approval of an ad hoc advisory committee to evaluate proposals. Once the Mayor or designee approves the ad hoc advisory committee City Departments shall submit to Purchasing the notice of the approved committee. This shall occur prior the solicitation posting. This allows Purchasing to plan scoring meetings and other required communications to ensure an efficient and complete process.

The ad hoc advisory committee shall have at least one member from the City Department requesting the RFP. The committee make up should be one that allows for an objective review and scoring of the proposals. The composition of the committee should avoid having supervisors and subordinates on the same committee. The committee may contain non-voting technical reviewers to provide expertise and feedback as part of scoring consideration. Purchasing shall be represented as a non-voting member assigned by the CPO.

### *Preparation of the RFP*

As noted, RFPs can be issued be when specifications of a good or service cannot be adequately prepared. A City Department may have a desire for a good or service, but may not know the exact specifications that are required.

In general, the department, as the subject matter expert in the good or service, should prepare a draft of the specifications or scope of services desired to be procured. Purchasing may provide assistance min drafting the specifications or scope as requested. Just as in an RFB, specifications or scope shall be drafted to avoid being unnecessarily restrictive, causing a reduced number of offerors. Nor, should specifications or scope be written in a manner that would appear to favor one prospective offeror. The RFP should include all information necessary to allow for a fair and competitive proposal process. Any vendor that directly or indirectly is involved in crafting a specification or scope of services is prohibited in submitting a proposal.

### *Publication and Notification of the RFP*

Prospective offerors should be afforded a reasonable time to respond to the RFP. Limited posting time could result in a reduced number of offers, or offerors could be forced to provide proposals not favorable to the City due to a limited response time. To avoid restricting competition, Purchasing will give consideration to such factors as the following in establishing a reasonable posting time:

- Urgency of the need
- Complexity of specifications
- Geographic distribution of bidders
- Transmission time for delivery of proposals

Prior to distribution to the ad hoc advisory committee, Purchasing shall review each proposal to ensure offerors have met all requirements per the RFP and determine if any of the offerors should be deemed non-responsive.

City Departments should anticipate the total time for an RFP to be complete to be at minimum three (3) months. This time frame takes into account the time to prepare the specifications or scope of services, posting to prospective bidders, review and scoring of proposals, protest periods, presentations or interviews, negotiation of contract terms and City Council approval. RFPs are usually not an appropriate procurement methodology if a need of a good or service is immediate. A City Department should allow enough time for the ad hoc committee to carefully review proposals and make the best decision on the behalf of the City. RFP posting times to prospective offerors are generally thirty (30) days. However, Purchasing can determine that a longer time may be required depending on the complexity of the RFP.

***All proposals shall be posted on the Sicomm system.*** Current proposals can also be viewed at the following web address: <https://basec.sicomm.net/CABQ/>. Prospective offerors must be registered in the Sicomm system and submit proposals through Sicomm to be considered. Failure to submit proposals through Sicomm will result in a proposal being deemed nonresponsive. Sicomm is the only City online portal for vendor registration, proposal postings and online proposal submission. Sicomm sends email notices of posted RFPs to all registered vendors in the commodity code of the good, service, or construction to be procured. In addition, proposals will be posted in the Albuquerque Journal no less than 10 days prior to the closing date of the RFP. Purchasing may determine other notification methods as deemed appropriate.

Information regarding the RFP shall not be released outside the City before the RFPs posting date. Within the City, information on the proposals shall only be released to ad hoc advisory committee members or its advisors. This is to ensure one prospective offeror is not given an unfair advantage over another. Please also review the Communication with Bidders section in the Introduction of the Procurement Manual.

After the RFP is issued, discussions with prospective offerors about the RFP shall be conducted through the CPO or the Buyer assigned to manage the RFP. No other City personnel shall provide any information to a prospective offeror that alone or together with other information may afford an advantage over others. Additionally, general information or written questions and responses that would not be prejudicial to other prospective offerors may be furnished by the CPO to all prospective offerors via posting of addenda.

Unlike an RFB, offerors are also required to submit a hard copy of the proposal to the Central Purchasing Office prior to the time and date noted on the RFP. The details of how many copies and what should be submitted are detailed in the RFP document. Purchasing will not accept any proposals other than through Sicomm and the City Clerk's Office. Any proposals submitted in any other method will be deemed non-responsive.

### *Pre-Proposal Conference*

A pre-proposal conference may be conducted to explain the RFP requirements and to answer any questions from prospective offerors. Pre-proposal conferences may be mandatory or non-mandatory. The time and date of the conference shall be contained in the RFP document. The conference will be held long enough after the RFP has been issued to allow offerors to become familiar with it, but sufficiently before the proposal due date to allow offerors to prepare their proposals after consideration of the conference results. Nothing stated at the pre-proposal conference shall change the RFP unless a change is made by written addendum.

### *Addenda to the RFP*

Changes in scope or specifications, or to correct a defective or ambiguous invitation, shall be accomplished by an addendum to the RFP. Each addendum will be posted to Sicomm before the date and time for RFP opening. Offerors are responsible for acquiring issued addenda in time to incorporate them into their proposals. An email notification to offerors is sent through Sicomm. It is the responsibility of each offeror to check Sicomm prior to submission of their proposals to ensure that they have received all addenda issued.

Before issuing an addendum to an RFP, the period of time remaining until RFP opening and the need to extend the RFP shall be considered to permit all prospective offerors the opportunity to consider the revised information in submitting or modifying their proposals. All prospective offerors shall be notified of any extension of time via an addendum. Notification is sent via email from the Sicomm system.

### *Cancelling an RFP*

The CPO may withdraw or cancel at any time any RFP, if the CPO deems such action is in the best interest of the City. RFPs should not be cancelled unless a cancellation is clearly in the City's best interest – that is, where there is no longer a requirement for the supplies or services, or where addenda to the RFP would be of such magnitude that a new RFP is desirable. Prospective offerors shall be notified when an RFP has been cancelled.

### *Submission of RFPs*

To be considered for an evaluation, the proposal must be responsive – that is, it must comply in all material respects with the RFP. The prospective offeror shall also be deemed responsible. Such compliance enables offerors to stand on an equal footing. It also maintains the integrity of the sealed proposal process. Proposals should be submitted in accordance with the instructions in the RFP. Part One of the RFP document outlines the instructions and Part Two outlines the proposal format. Offerors must submit their offers through Sicomm prior to the closing date and time of the RFP. Proposals submitted after that specified date and time shall be deemed nonresponsive. Proposals submitted via email, fax, or any other means than what is specified in Part One will be deemed non-



responsive. A proposals, record, or signature in electronic form is valid and legally enforceable.

### *Modification and Withdrawal of Proposals*

A proposal may be modified or withdrawn by a prospective offeror prior to the time set for proposal closing in the Sicomm system. All documentation related to the modification or withdrawal of a proposal shall be made as part of the permanent procurement file.

If the offeror has already turned in hard copies of the RFP, but wishes to withdraw or modify it prior to the closing date and time, the offeror must obtain all the copies from the Central Purchasing Office. Record of modification or withdrawing of proposals shall be part of the RFP file. Modified RFPs must be modified both in hard copy and electronic submission through Sicomm. If RFPs in Sicomm and hard copy submitted differ, the offer will be deemed non-responsive.

Offerors are responsible for submitting, modifying, or withdrawing proposals prior the closing time specified in Sicomm. No late proposals, modifications, or withdraws will be considered after the closing period.

### *Evaluation of Proposals*

Evaluation of proposals shall be based on the evaluation factors and relative weights set forth in the RFP. Numerical rating systems will be used unless waived by the CPO.

If after the scoring, it is determined further information is needed, interviews may be conducted with a short list of offerors or finalists. Finalists shall be accorded fair and equal treatment with respect to any opportunity for interviews. The ad hoc committee will establish the procedures and schedules for conducting interviews. Any changes or clarifications required to the RFP as a result for the interviews will be transmitted to Purchasing for development and distribution of an addendum to all offerors on the finalists. Any clarification requested by an offeror shall be submitted in writing.

The contents of any RFP shall be not be disclosed or made available anyone other than approved ad hoc advisory committee members.

If interviews are held, Purchasing may permit the submittal of best and final offers (BAFOs) from finalists in response to an addendum. Finalists shall be informed that, if they do not submit a notice of withdrawal or BAFO, their immediately previous offer will be construed as their BAFO.

Preference percentages will be assigned to the bidders based on eligibility of those preferences. Preference totals shall not exceed 10% in any combination.

### *Protest Period for RFPs*

An offeror may protest the recommendation of award by filing a formal written protest addressed to the CPO. The must be mailed or hand-delivered to the Purchasing Office and must contain the following information:

- Name and address of protesting party;
- The assigned number of the solicitation;
- A clear statement of the reason(s) for the protest;
- Details concerning the facts which support the protest;
- Attachments of any evidence available to substantiate the claims of the protest; and
- A statement specifying the ruling requested.

The CPO will make the final determination of the protest based on the information provided by the protesting party.

Protest period after notification of award is 10 working days; weekends and holidays will not count as part of the calculation. Following the protest period, if there are no formal protests, Purchasing shall issue a Purchase Order or Price Agreement.

### *Award of Contract*

The Ad Hoc Committee will make a recommendation of award (ROA) to the Mayor for approval or disapproval. The Mayor may approve or disapprove the ROA, revise the recommendation, or return the recommendation for additional review. If the Mayor disapproves the ROA, the Mayor will provide the ad hoc advisory committee reasons in writing for the disapproval.

The award of the RFP does not occur until a Purchase Order is issued or a written agreement is executed by the vendor and the City. All contracts must be executed by the authorized representative of both the City and the vendor in order to be valid.

### *Communications with Proposers*

Beginning with the date a procurement solicitation is posted and expiring on the date a contract is awarded, actual and prospective proposers (including representatives acting on their behalf) are prohibited from contacting members of City Council or any City employee other than the Senior Buyer or Purchasing Specialist assigned to the solicitation. During this no contact period, the Senior Buyer or Purchasing Specialist assigned to the solicitation shall serve as the sole point of contact. Any contact other than the assigned Senior Buyer or Purchasing Specialist may cause a proposal to be deemed nonresponsive. The following types of communication are exempt and may be made during the open procurement period:

- Communications publically made during an official pre-proposal conference;

- Communications during an oral interview/presentation, sample testing, field evaluation, or other requests that are scheduled at the request of and for the benefit of the City by the assigned Buyer.

### Brand Name or Equal Specifications

This is the least preferred type of specification for any type of solicitation. It describes the characteristics of the item required by reference to a particular manufacturer's product, referring to that product by its brand name and model number. In theory, this reference to a brand name and model number is not restrictive, but rather is intended to indicate the level of quality required, and therefore the words "or equal" follow the reference to brand and model. In practice, however, this type of specification tends to be highly restrictive. Since this type of specification does not identify which features or characteristics of the product are essential, and since manufacturers strive for product differentiation, the determination of whether another product is or not "equal" to the referenced brand is difficult to make. If "equal" is interpreted as "identical", then the reference to a brand name and model is completely restrictive. Any less rigid interpretation of the word "equal" will involve some degree of subjectivity in judging various products offered. Thus, it becomes extremely difficult to rationally defend the acceptance of some products and the rejection of others. Because of these problems, this type of specification should be used only as a last resort, and only when:

- The brand name product referred to is readily available from a number of suppliers and/or;
- There is reasonable assurance that most other products which might be offered would be accepted as "equal."

When brand name specifications are used, the Senior Buyer or Purchasing Specialist must determine the "quality" attributes of the brand name(s) used to measure the suitability of bids received from other brand vendors. Also, when brand name specifications are used, the buyers must use at least three brands in bids.

### Development of Specifications or Scope of Services

The development of specifications begins with the identification of a requirement, or need, for goods or services. Such requirements can vary from simple to complex. Whether simple or complex, a thorough analysis and *definition of the requirement is the first step* in the development of specifications. It is important at this stage to be realistic, and not to overstate the requirement. *The second step* in the development of specifications then is to examine the ways in which a given requirement could be met. At this stage, consideration should be given to the realities of the market. Whenever possible, specifications should call for products or services that are readily available in the current market and customarily provided by suppliers regularly engaged in offering the good or service needed. When a good or service is tailored to an individual user's needs, the cost tends to be higher due to specialization. Therefore, goods or services which are standard to the industry tend to favor better competition among suppliers.

After a requirement has been identified and the best means of satisfying the requirement selected, a draft specification should be prepared by the City Department. The draft of the specification should be reviewed and revised as necessary to produce the final specification.

The RFB Specification Form (change name of form to reflect use of RFP, RFQ as well) can assist the City Department on developing the draft specifications for a bid. The format and contents of each specification will be determined by the nature of the purchase. There is no universally suitable formula to be followed, however the RFB Specification Form can help assist in the process and can be found [here](#).

### *Roles in Specification/Scope of Services Development*

It is the responsibility of the City Department to:

- Determine what its needs are;
- Determine what level of quality is required to adequately meet its needs;
- Clearly and completely communicate its needs to Purchasing by means of a draft specification and entry of the applicable requisition in the ERP system.

It is the responsibility of Purchasing to:

- Assist the City Department in the development of specifications by providing information about products and services available in the market;
- Review draft specifications submitted for completeness, clarity, and competitiveness;
- Question specifications which appear to restrict competition, appear unclear or unenforceable, appear to result in uneconomical purchases, or other specifications which appear to require revision.

## Chapter 5: EMERGENCY AND SOLE SOURCE PURCHASES

The following chapter describes situations where it is appropriate to forego the standard procurement process and enter into an agreement, or make a purchase, without formal competition.

### Emergency Purchases

Per Ordinance [§§ 5-5-35](#), a City Department may purchase goods or services without a competitive solicitation within the jurisdiction of the City. To handle a situation as quickly as possible, minimal procedural checks and balances are used. Although formal competition is not required, emergency procurements are to be made with as much competition as possible under the circumstances.

Examples of a purchase that may be considered as an emergency include:

- An unforeseen and dangerous situation that threatens the health or safety and/or welfare of people or property;
- A purchase that would prevent a significant economic effect to the City;
- A purchase that would prevent the interruption of a high priority project or service program;
- A purchase that would allow the continuation of a priority service;
- A purchase that would avert a severe effect on the economic or physical welfare of the City.

All Emergency purchase documentation shall be maintained in the Central Purchasing Office for inspection. Per [Administrative Instruction 3-3](#), the CPO may authorize emergency purchases of \$75,000 or less without additional approval from the CPO. For emergency purchases in excess of \$75,000, approval from the CPO shall be obtained. To obtain approval for emergency purchases, the City Department must submit an Emergency Justification Form to the CPO. The City Department should try and obtain approval prior to ordering the good or service required, however, it is understood this may not always be feasible. The Form serves to document and justify the need for an emergency purchase and the reasons for selecting the particular vendor for the need. The Form shall be signed by the Department Director and submitted with an Emergency requisition type in ePro. An emergency PO shall be required to be submitted to the vendor prior to the City receiving any billings from the vendor.

In determining whether an emergency exists, City Departments and Department Directors should be mindful that a true emergency is not simply when a department has the urgent need for a PO. If the City Department wants a purchase to be expedited because it would like to have its purchase completed sooner than the standard process, the use of an emergency purchase method is not a valid methodology. Similarly, an emergency purchase request should not be used to encumber funds from the current year's budget. Also, if a City Department has already purchased a non-emergency good or service

without going through the proper procedures, the use of an emergency purchase to obtain a PO is not valid.

## Sole Source Procurements

Per Ordinance [§§ 5-5-32](#), the CPO may award a contract without competitive solicitation if, after a good faith review, the CPO has determined that there is only one source for the required good or service.

A sole source purchase is one in which only one vendor is capable of supplying the good or service. This may occur when the goods or services are specialized or unique in character. It is important to understand that an item that comes from a single manufacturer is not automatically a sole source item. Many manufacturers sell their products through multiple authorized distributors or suppliers. Therefore, even if a good or service is identified as a sole source, it must be verified that the manufacturer does not have multiple distributors. If there are multiple distributors or vendors who sell the good or service, competition should be sought among those distributors or vendors.

Due to the requirements of qualifying as a sole source, a sole source purchase is extremely rare. Sole source can easily be mistaken as a single available source. A single available source purchase is one in which there are two or more potential offerors of a good or service, but the CPO has determined that for substantially valid and documented reasons, it is in the best interest of the City to purchase from a particular vendor. A good example is maintenance on a City vehicle. Repairs and maintenance on that vehicle would be best suited to be serviced by an authorized servicer of the vehicle to maintain its integrity or warranty.

The City does have some exemptions that allow for purchases with a vendor that are classified as single available source rather than sole source. Those include:

- Purchases of parts and labor or maintenance agreements to repair disabled equipment or machinery if it is repaired by a franchised dealer or by a factory authorized repair shop noted in [§§ 5-5-20 \(K\)](#);
- Purchase of computer software and ancillary services required to match other software in use or where a unique or novel application is required to be used in the public interest noted in [§§ 5-5-20 \(N\)](#);
- Purchases of goods and ancillary services such as installation or training, where required to match equipment currently in use and where a written standardization policy is in effect, or where a unique or novel application (available from only a single provider) is required to be used in the public interest noted in [§§ 5-5-20 \(BB\)](#).

As noted, sole source purchases are rare and an exception to the competition requirements. Therefore, sole source purchases must be carefully reviewed and documented.



## Chapter 6: COOPERATIVE PURCHASING AND USE OF OTHER GOVERNMENT CONTRACTS

Section [§§ 5-5-33](#) permits the City to engage in cooperative purchases and use other government contracts when appropriate. Prices in the contract shall be equal to or less than the prices of the goods or services meeting the same specifications or standards of those purchases.

### Cooperative Purchasing

As it relates to cooperative purchasing, the conditions of [§§ 5-5-33](#) permit the City to procure goods or services :

- By participating in contracts procured or awarded by any department, division, agency or political subdivision of the state, including without limitation, contracts awarded in accordance with the New Mexico Procurement Code, Section 13-1-28. State Price Agreements (SPAs) with the State of New Mexico fall under this category. See the section on SPAs below.
- By participating in contracts for services, materials, equipment or supplies in a joint purchasing program operated by or through a state or national association of political subdivisions if the City is eligible for membership, including, but not limited to, the U.S. Communities Government Purchasing Alliance.
- By participating in contract offerings from the federal government that are available to a political subdivision including, but not limited to, contract offerings from the General Services Administration (GSA), Schedules 70 and 84.

When the CPO finds it in the best interest of the City to participate in such contracts, the following shall apply:

- The City will be bound by such terms and conditions as the contracts prescribe;
- The City will directly pay the vendor under such contracts. There may be exceptions to this requirement. Please consult with Purchasing.
- Quantities or amounts purchased may not exceed the quantity or amounts allowed under the applicable contract;
- Purchases shall be made at the best obtainable price, equal or better than those in the underlying contract;
- Purchases shall adequately identify the contract relied upon;
- Performance surety bond may be required by the Chief Procurement Officer; and
- All official documentation shall be retained for public inspection and internal use.

The CPO may determine that a single Purchase Order may meet the needs of the department rather than setting up a long term contract. When the determination is made, the City Department can enter a requisition in the eProcurement module of ERP. The requisition should include all relevant back up to support the purchase. Purchasing will review the requisition to ensure additional documentation is not required as part of the



purchase. This may include insurance, pay equity form, bonds, wage rates, or other required documentation.

### State Price Agreements

One of the most commonly used government contracts are State Price Agreements (SPAs) procured by the State of New Mexico General Services Division. SPAs are procured on behalf of state agencies, counties, and municipalities.

City Price agreements issued against existing SPAs shall be initiated by the City Department through a requisition in the ERP system. This is due to the complexity of creating bids that will satisfy City requirements. The limitation with this method, however, is the reliance on the City to continually renew SPAs.

The CPO will make the final determination if a City Price Agreement, other than repair parts and/or service, will be issued against SPAs. City Price agreements will only be issued against SPAs if they are the most advantageous method for the City to procure goods or services.

If the City Department wants to issue a Purchase Order from an SPA, the procedure guidelines will be followed. The procedure guideline can be found on the City's intranet eweb page [here](#).

### Other Government Contracts

The CPO will make the final determination on the use of another government agency's contract. Purchasing will evaluate all aspects of the other agency's contract to ensure it is the proper procurement method and that its use is the most advantageous method for the City to procure goods or services.

If the City Department wants to utilize another agency's contract, the department shall enter a requisition in the ERP system for review and approval.

### General Services Administration (GSA) Contracts

It should be understood, the City is not authorized to utilize a GSA contract per se. It is imperative, therefore, that the contractor, not a dealer or distributor, who has a current GSA contract indicate in writing a willingness to extend the contract's pricing, terms and conditions to the City. Therefore, a City Department shall not procure services, construction or items of tangible personal property directly under a GSA contract. Rather, a City Department must procure pursuant to a City price agreement that reflects the prices, terms and conditions of the respective GSA contract. If no such City price agreement exists, a City Department may make a written request to the Purchasing Division for the issuance of one. The request must be accompanied by a current copy of the applicable GSA contract, a letter from the contractor expressing a willingness to extend the contract's pricing, terms and conditions to the City and a letter from the City

Department indicating a commitment to utilize the price agreement. The Purchasing Division will ascertain whether it is current and whether the proposed price is equal to or less than the federal supply contract price. If everything is in order, the Purchasing Division will issue a price agreement or purchase order reflecting the prices, terms and conditions of the GSA contract. A City Department shall make no procurements from the GSA contractor until a City price agreement has been issued.



## Chapter 7: VENDOR DEBARMENT

In contracting for goods, services (both professional and non-professional), and construction, the City has a responsibility to its citizens to ensure that those vendors it contracts with are responsible and capable. From time to time, the exercise of being good stewards of taxpayers' resources requires the City to debar, either temporarily or permanently, a defaulting, irresponsible, or non-performing vendor from doing business with the City.

Per the CPO's authority to debar or suspend vendors in [§§ 5-5-24](#), the CPO establishes the following procedures. The CPO may debar a person, company, vendor, bidder, contractor, or subcontractor for any of the following reasons:

- Defaults on a contract with the City;
- Timeliness of performance;
- Quality of performance;
- Providing false information on the City's modified W-9 form, pay equity, or any other documentation required by the City;
- Failure to cooperate in the City's monitoring of contract performance by refusing to provide information or documents required by a contract;
- Failure to respond adequately to complaints by City representatives regarding performance or other issues;
- Accumulation of repeated documented complaints regarding performance on a contract;
- Failure to pay prevailing wage as required by state or federal law or comply with similar laws, including without limitation the Davis Bacon and Related Acts and the Contract Work Hours and Safety Standards Act;
- Debarment by any federal, state, or local government agency;
- If (1) a contractor must have a license or permit from any agency to perform the work under a contract and (2) the contractor does not have the necessary licenses or permits to perform the work; or
- Failure to comply with City laws or any other applicable laws.

Debarred vendors are not eligible to submit bids, or proposals to, or to receive any contract or subcontract from the City. Accordingly, a City department may not solicit or accept a bid, proposal, or other contracting mechanism from, recommend an award to, or execute a contract with any debarred entity.

The debarment period is set for three years from the date of the default. In cases where the reason(s) for debarment remain(s) fundamentally unchanged after expiration of the debarment period, the CPO may extend the debarment period.

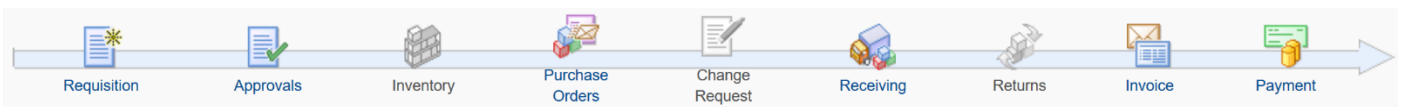
The Central Purchasing Office shall develop a process to maintain a list of debarred persons and firms ineligible from contracting or subcontracting with the City. The list shall state the name of each suspended or debarred person or firm(s), the date of the

debarment or suspension determination, and the term of debarment or suspension. This list will be made available based upon request.

## Chapter 8: PROCURE-TO-PAY PROCESS

The Procurement Manual has discussed the rules and regulations surrounding public purchases at the City. The act of procuring goods and services kicks off the cycled process of Procure-to-Pay (P2P). P2P is the process of requisitioning, purchasing, receiving, paying, and accounting for those goods and services.

Chapters 1-6 have discussed the act of procurement. Procurement involves the process of selecting vendors, establishing payment terms, strategic vetting, selection, and the negotiation of contracts. The manual has outlined the various ways the City procures goods and services. Once the process is complete, vendors are selected, and contracts are negotiated, the act of purchasing can occur. Purchasing is the transactional function and activities after the procurement has taken place. In the ERP system, this can be viewed graphically in the eProcurement module. Below is an example of the P2P process cycle (requisition timeline) in the ERP system:



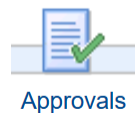
### Requisition



The requisition begins the process. The requisition is created in the eProcurement module (ePro) of the ERP system. This is usually done at the City Department level by a requester. A requisition is the request to place an order for a good or service. Users have the option to creating a requisition from an internal catalog (usually warehouse orders), punch-out catalog (usually office supplies), or a special request. If a department selects a special request, they must then further define the type of requisition they are needing, which will be based on the procurement methodology. A list of requisition types can be found [here](#).

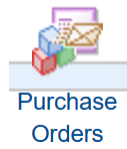
City Departments are responsible for monitoring requisitions. Monitoring requisitions can be done using the Manage Requisition page in the eProcurement Module. City Departments are also responsible for managing worklist in the ERP system. Instructions can be found [here](#).

### Approvals



Once a user submits the request, it must be reviewed and approved by the department fiscal staff and/or Purchasing. A number of factors determine the workflow approval including, but not limited to dollar value, department, and requisition type. The various workflow paths can be found [here](#). Once the requisition has been reviewed and fully approved, the ERP system runs an automatic batch process and sources all approved requisitions to an authorized Purchase Order.

## Purchase Order



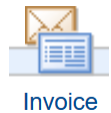
As noted in Chapter 2, a PO is a form of a contract. It is generally used when there is a specific known quantity of what is being ordered. A PO can also be utilized in approved circumstances as a blanket PO. A PO contains the City's Standard Terms and Conditions and is a *legally binding document once a vendor accepts the PO*. A PO can be issued as a stand-alone document, or as part of a City Price Agreement or P/T contract. Look at 30.3 for language

## Receiving



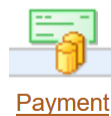
After a user orders a physical good, the user must indicate in the ERP system that the good was received and accepted. This is accomplished by [entering a receipt number in the ERP system \(document number EP-07-1\)](#). It's important to note the structure of the PO determines whether a user must enter a receipt. PO's with a category code beginning with the numbers between 0-8 indicate the user will be required to enter a receipt. If the category code begins with a 9, that indicates a service was ordered and will not require a receipt entry.

## Invoice



Once a vendor has accepted the PO and delivered the goods or performed the services, they will send in an invoice requesting payment. Invoices should be delivered directly to the Accounts Payable section of the Accounting Division either by mail or email. Vendors also have the option of sending invoices through the City's eInvoicing platform Transcepta. Invoices are entered as a voucher in the ERP system either automatically or by AP staff. ***Under no circumstances should a vendor submit an invoice directly to the City Department.*** A voucher entry will have information such as invoice number, date, vendor, and funding source (accounting string). The ERP system will run a matching process to match the PO lines, voucher lines, and receipt lines. If all three match, the invoice will move on to payment. If the invoice is for a service, the ERP system will run a two-way match process to match value of the voucher against the PO. Invoices using POs with a category code beginning with "9" will be entered by AP, and notification will be sent via the ERP system for approval through a workflow. If the voucher value has not exceed the PO value either individually or in the aggregate, the voucher will move on for approvals by the department. Upon approval of the voucher by the department, the invoice will move on to payment.

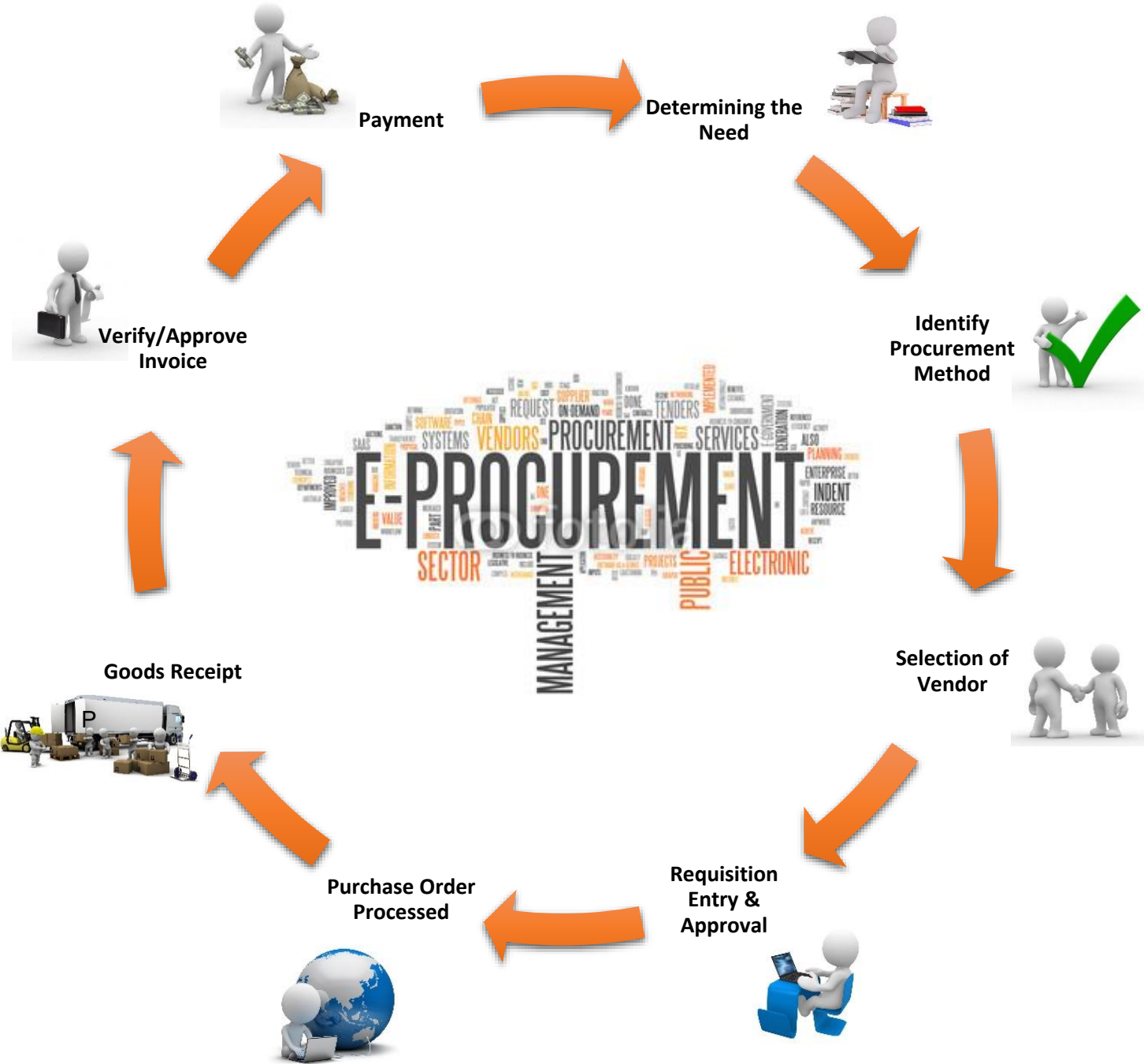
## Payment



When a voucher has either been fully matched (goods), or fully approved (services), the ERP system will set the voucher for payment. The payment date is dependent on the payment terms identified in either the contract, price agreement or PO. The City's standard payment terms are 2/10 net 30 (City takes a 2% discount if paid within 10 days, but due no later than 30 days from invoice date).

Payment is made to the vendor either by physical check, Automated Clearing House (ACH), or the City's corporate credit card program (AP Control).

*ILLUSTRATION OF PROCURE-TO-PAY CYCLE*



## Procurement Cards (P-Cards)

P-Cards simplify the buying process and may be used by specific authorized individuals make incidental small dollar purchases of supplies and services and to cover travel expenses as it relates to City related business. The P-Card shall only be used in accordance with established guidelines and procedures and only for purchases that are otherwise authorized. Purchase Cards should not be used to circumvent standard procurement requirements to maximize competition.

The CPO is charged with administering and establishing the rules and procedures of the City's P-Card program. The CPO reviews and approves all departmental requests for the assignment of a P-Card.

The CPO shall establish and determine in writing all individual dollar limitations for P-Cards. In addition, the CPO shall determine the limitation per transaction for each P-Card. No individual shall exceed his or her individual limitations without the CPO's express written approval. Dividing transactions in order to stay below the individual maximum transaction dollar amount is prohibited.

P-Card holders are responsible for the security of their cards; the cards should be treated with the same level of care individuals would use with their own personal credit or debit cards. Unsolicited requests for account information should be verified prior to releasing any information. Whenever possible, P-Cardholders should make purchases from local businesses. P-Card holders suspected or accused of fraud, theft, or misuse will have their P-Cards suspended or terminated. Violation of the City's P-Card program will subject the P-Cardholder to the following sanctions:

- Card holder may be required to reimburse the City for the cost of unauthorized purchases;
- Revocation of the individual's P-Card; and/or
- Termination of employment.

For more information regarding the City's P-Card program, please refer to the City's [Procurement \(P-Card\) Program Policies and Procedures Manual](#). A copy of the P-Card Manual is available on the City's intranet site for employees and upon request by the general public.



## Chapter 9: PURCHASING VIOLATIONS

As discussed in this Procurement Manual, the City should make every attempt to compete for goods and services. City personnel shall not make any purchase without an authorized procurement methodology. Purchasing recognizes that there may be times when a City Department makes a purchase, or enters into an agreement without an approved methodology or the establishment of a contract. When this occurs, the Purchasing Division shall document each instance in the form of a Purchasing Ratification.

### Purchasing Ratifications

Procedures for addressing purchasing violations are discussed and outlined in [Administrative Instruction 3-10](#).

### Post-Purchase Order

A Post-Purchase Order (PPO) is the process where a City Department has made an after-the-fact purchase of a good or service without obtaining proper authority prior to the purchase. In these cases, the vendor has billed for the good or service delivered, however, no mechanism is in place for the invoice to be paid (i.e., there is no authorized PO to reference). [The PPO Procedure Guideline](#) outlines the procedures the departments must take when this situation occurs. City Departments should make every attempt to avoid this situation.

## Chapter 10: PROTEST PROCEDURES

The provisions of this Chapter apply to all protests filed with Central Purchasing.

### Right to Protest

Any bidder or offeror who is aggrieved in connection with a solicitation or award of a contract, including a sole source procurement exceeding \$75,000, may protest to the CPO.

### Filing of Protest

In addition to the requirements set forth in a solicitation, the following requirements must be met in the filing of any protest:

- Protest must be written. Protests must be in writing and addressed to the CPO.
- The protest shall:
  - Include name and address of the protestant;
  - Include the solicitation number;
  - Contain a statement of grounds for protest;
  - Include supporting exhibits, evidence or documents to substantiate any claim unless not available within the filing time in which case the expected availability date shall be indicated; and
  - Specify the ruling requested from the Central Purchasing Office.
- No formal pleading is required to initiate a protest, but protests should be concise, logically arranged, and direct.
- Protests shall be submitted within the number of days set forth in the solicitation. Any person or business that has been sent written notice of any fact or occurrence is presumed to have knowledge of the fact or occurrence.

### Procurements After Protest

In the event of a timely protest, the Central Purchasing Office shall not proceed further with the procurement unless the CPO makes a written determination that the award of the contract is necessary to protect substantial interests of a state agency. Such written determination should set forth the basis for the determination.

## Procedure

Following its review of a timely protest, the Chief Procurement Officer may take any action reasonably necessary to resolve a protest. Such actions include, but are not limited to, the following:

- Issue a final written determination summarily dismissing the protest;
- Obtain information from the City Buyers involved in the solicitation;
- Require parties to produce for examination information or witnesses under their control;
- Require parties to express their positions on any issues in the proceedings;
- Require parties to submit legal briefs on any issues in the proceeding;
- Establish procedural schedules;
- Regulate the course of the proceedings and the conduct of any participants;
- Receive, rule on, exclude or limit evidence;
- Take official notice of any fact that is among the traditional matters of official or administrative notice;
- Conduct hearings; and
- Take any action reasonably necessary to control the conduct of parties or witnesses.

## Hearings

Hearings will be held only when the CPO determines that substantial material factual issues are present that cannot be resolved satisfactorily through an examination of written documents in the record. Any party may request a hearing, but such requests shall be deemed denied unless specifically granted.

Hearings, when held, should be as informal as practicable under the circumstances, but the CPO has absolute discretion in establishing the degree of formality for any particular hearing. In no event is the Central Purchasing Office required to adhere to formal rules of evidence or procedure.

## Resolution

The CPO shall promptly issue a written determination relating to the protest. The determination shall:

- State the reasons for the action taken; and
- Inform the protestant of the right to judicial review of the determination pursuant to 13-1-183 NMSA 1978.

A copy of the written determination shall be sent immediately by certified mail, return receipt requested, to the protestant.

## Relief

If, prior to award, the CPO makes a written determination that a solicitation or proposed award of a contract is in violation of law, then the solicitation or proposed award shall be canceled.

If, after an award is made, the CPO makes a written determination that a solicitation or award of a contract is in violation of law and that the business awarded the contract has not acted fraudulently or in bad faith, then:

- The contract may be ratified, affirmed or revised to comply with law, provided that a written determination is made that doing so is in the best interest of the City, or
- The contract may be terminated.

If, after an award is made, the CPO makes a written determination that a solicitation or award of a contract is in violation of law and that the business awarded the contract has acted fraudulently or in bad faith, the contract shall be canceled.

## Final Determination

The written determination issued pursuant to this Chapter shall be the final determination for purposes of the time limits for seeking judicial review under 13-1-183 NMSA 1978.

## Counting Days

In computing any period of time prescribed in this Chapter, the day of the event from which the designated period of time begins to run shall not be included, but the last day of the period shall be included unless it is a Saturday, a Sunday, or a City holiday, in which event the period shall run to the end of the next business day.

## Chapter 11: RESPONSIBILITY OF BIDDERS, OFFERERS, AND SUPPLIERS

The CPO shall award contracts only to responsible bidders, offerors, and suppliers (collectively, "offeror").

### Request for Information

An offeror shall supply information requested by the CPO concerning the responsibility of the offeror. The unreasonable failure of an offeror to promptly supply information in connection with such an inquiry is grounds for a determination that the offeror is not responsible.

### Standards of Responsibility

Factors to be considered in determining whether the standard of responsibility has been met include whether an offeror has:

- Adequate financial resources, production or service facilities, personnel, service reputation and experience to make satisfactory delivery of the goods or services described in the proposal;
- A satisfactory record of performance;
- A satisfactory record of integrity;
- The requisite licensing and other legal requirements to contract with the City for the goods or services required; and
- Supplied all necessary information in connection with any inquiry concerning responsibility.

### Evaluation of Past Performance

In addition, the CPO, upon request, may evaluate the past performance of an offeror and determine that the offeror is not responsible. In the evaluation of the performance of an offeror, the following factors shall be considered:

- Timeliness of performance;
- Quality of performance;
- Receipt of vendor noncompliance actions and compliance with corrective action plans;
- Failure to comply with Federal, State or City laws, rules and regulations; or
- Any other factor which, singly or in combination with the above, results in a determination by the Chief Procurement Officer that the offeror is not responsible.

## Ability to Meet Standards

An offeror may demonstrate the availability of adequate financial resources, production or service facilities, personnel and experience by submitting, upon request:

- Evidence that the offeror possesses the necessary items;
- Acceptable plans to subcontract for the necessary items; or
- A documented commitment from, or explicit arrangement with, a satisfactory source to provide the necessary items.

## Determination

If an offeror who otherwise would have been awarded a contract is found not responsible, a written determination, setting forth the basis of the finding, shall be prepared by the CPO. The written determination shall be made part of the procurement file.

The Central Purchasing Office shall submit the determination to the offeror by certified mail, return receipt requested.

A determination that an offeror is not responsible does not constitute a debarment and shall be applicable only to a single procurement. An offeror who has been so determined is not precluded from responding to subsequent City solicitations.