

City of Albuquerque | Purchasing Division

Procurement Manual

October 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, review of current practices and past practices and identification of best practices. This Procurement Manual was also derived through the review of the policies of other public agencies around the country and the identification of 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 the City 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.**

REMEMBER PROCUREMENT FRAUD IS CRIMINAL. PLEASE ASK QUESTIONS IF YOU ARE UNSURE ABOUT HOW TO MAKE A PURCHASE.

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Introduction to the Procurement Manual

Purchases utilizing taxpayer dollars should always be made in a deliberate, fair and ethical manner. Every department and division (collectively, City Department) of the City of Albuquerque (City) is responsible for ensuring each dollar spent is maximizing value for the taxpayers. The adoption of new rules and regulations, and changes in laws have occurred to ensure the procurement process is fair, equitable, and transparent.

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 Procurement Manual as a “how-to” guide for the purchase of goods and services and obtaining concession contracts for the City in accordance with applicable City Ordinances and Administrative Instructions.

The Procurement Manual is built with links to applicable Administrative Instructions and sections of the Purchasing Ordinance. Simply click on the link to review these areas. Some links may only be available to internal City personnel.

The Procurement Manual is not intended to circumvent the City Public Purchases Ordinance Albuquerque Code of Ordinances, Article 5: Public Purchases) (Purchasing Ordinance) or Administrative Instructions, or any other City law. Rather, this Procurement Manual should be used as a supplement to the City laws to help clarify or outline policies and procedures not clearly defined in the laws. This Procurement Manual also does not address the procurement process when federal, state or private grant funds are used. Federal or state law and regulations, as well as the underlying grant agreements govern the procurement methodology and other conditions of the purchase 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 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 and concession contracts;
- Purchase only the goods or services and obtain only concessions 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 providing local businesses an opportunity to compete for City business; and
- Ensure Transparency.

Authority

The Purchasing Ordinance 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 Procurement 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, as provided in Section 13-1-98K, NMSA 1978. The City is a “Home Rule” municipality.

Exceptions from Purchasing Ordinance

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 Services 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.

Circumventing Procurement Laws; Don't Do It!

Procurements are governed by state, federal, and City law. **There are criminal penalties associated with violating procurement laws.** It is important that City employees follow the procedures provided in this Procurement Manual and other applicable laws 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 for any illegal purchases. Violating City law may also subject City employees to disciplinary action, up to termination.

Conflicts of Interests and Contracting Ethics

Both the state and the City have enacted law governing conflicts of interest and ethics.

City Charter. As stated in [Article XII: Code of Ethics of the City Charter](#), “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.”

State Law. The Governmental Conduct Act, NMSA 1978, Chapter 10, Article 16 applies to officers and employees of all political subdivisions of the state and their agencies. The law sets forth the ethical responsibilities as well as the specific prohibitions and limitations that ensure that public officers and employees conduct themselves solely in the interest of the public.

City Conflict of Interest Ordinance. 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.”

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

Purchasing Ordinance. In addition to the laws stated above, the Purchasing Ordinance ethics provisions are outlined in [§ 5-5-22: Ethical Conduct](#).

When an 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 Purchasing. The vendor or potential vendor involved may be barred from receiving future contracts and have existing contracts cancelled. Also, the potential

violation shall be reported promptly to the Office of the Inspector General. Information on how to report fraud, waste and abuse can be found on the City [website](#).

Taken together the conflict of interest and ethics laws prohibit City Employees or officials from:

- Soliciting or accepting anything of value from an actual or potential vendor;
- Be employed by, or agree to work for, a vendor or potential vendor, without the proper authorization;
- Knowingly disclose confidential City 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;
- Accept 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; and
- Otherwise interfering with the procurement process for personal or financial gain.

Violation of any of the provisions of Government Misconduct Act, Conflict of Interest Ordinance, Charter Code of Ethics or this Procurement Manual by any City Employee is grounds for disciplinary action, including termination, in accordance with the provisions of [§§ 3-1-1](#) et seq., the Merit System Ordinance.

Unfair Competitive Advantages

Fairness and transparency in procurement require that vendors competing for a specific good, service, and concession 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 submitting bids or proposals for that solicitation*. In short, a vendor cannot respond to a solicitation if the vendor and its affiliates were directly involved with the preparation of the specifications. Notwithstanding this paragraph, the Central Purchasing Office may engage in procurements utilizing a challenged-based process in which open discussions with vendors and the public may occur. The focus of this process is to engage with the public to collectively and transparently develop ideas, methods, and other necessary information to proceed with a competitive solicitation.

Chapter 1: GETTING STARTED

A City Department's first question should be when ready to purchase a good or service is, what do I need? The follow-up question is then, what is my procurement methodology? Every purchase made by the City shall have an authorized methodology approved by Purchasing. There are several ways for a City 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, City Departments shall look to the following:

1. City Warehouse
 - a. Is the Good available in the City Warehouse?
 - b. If yes, a warehouse order requisition is entered from ePro using the internal catalog. Click [here](#) to get to the ePro ordering page.
2. Price Agreements
 - a. Is the good or service available on an established [City-Wide Price Agreement](#)?
 - b. Purchasing enters into multiple price agreements. Users can simply enter an order from ePro using an internal catalog or a special request. These orders are labeled City Contract POs (formerly named PORs and CROs). Click [here](#) to get to the ePro ordering page.

Purchasing strives to enter into as many City-Wide Price Agreements as necessary. This allows Departments to order directly from these 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 City-wide Price Agreements. In that case, a determination of a proper procurement methodology for the purchase is needed.

Determining the Proper Procurement Methodology

If the good or service in need is not available in the City warehouse or from an existing City-wide Price Agreement, the City Department must have an authorized procurement methodology to proceed with a purchase. The dollar value and type of purchase typically determine the proper procurement methodology. Unless otherwise approved by Purchasing, all City purchases shall require competition. City Departments should contact Purchasing to ensure the proper method is determined and approved.

In general, the following apply:

- Small Purchase
 - Small Purchase threshold is outlined in Administrative Instruction 3-3.
 - 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-wide Price Agreements, or 3) under the Office Supplies contract.

- Small Purchases shall be made from **local vendors** unless it is not feasible or is cost prohibitive. Cost prohibitive means that, 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.
- The 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 to discuss the proper procurement methodology.
- Purchases by Quotation (RFQs)
 - Items over the small purchase limit can be obtained by a request for quotes up to the amount defined in [§ 5-5-27](#) of the Ordinance.
 - A minimum of three quotes shall be obtained from **local vendors**. If fewer than three quotes are obtained or cannot be obtained from local vendors, documentation reflecting the efforts made shall be part of the backup documentation.
- Competitive Sealed Bids (RFBs)
 - Items over the RFQ limits as defined in [§ 5-5-28](#) of the Ordinance shall be made by competitive sealed bid. RFBs require detailed specifications regarding the good or service required. The City Department should work with the Purchasing Division on developing specifications.
- Requests for Proposals (RFPs)
 - RFPs shall be conducted in accordance with [§ 5-5-30](#). 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 as defined in [§ 5-5-29](#). 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.

If none of the above-identified procurement methodologies is suitable for a purchase, other procurement methodologies that may be available 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 the Ordinance limits, 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 the [Ordinance limit](#) requires approval from City Council. If the purchase is under the Ordinance limit, 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](#))
 - Goods or services may be purchased from an entity under a contract with a public agency or cooperative procurement agency at prices that are equal or better than 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.
- Rapid Procurement ([5-5-34](#))
 - If a purchase of any amount, where advertising and soliciting offers would entail unnecessary and detrimental delay and loss to the City, the CPO may authorize the purchase to proceed without formal solicitation. Documentation must be maintained by Purchasing for public inspection.
- 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, City Departments may purchase goods, services, or construction by order without competitive solicitation. City Departments must submit an Emergency Justification form for CPO approval. **In emergency situations, obtaining the CPO’s approval of a form prior to receipt of a good or service 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 City Department shall move forward 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 and concessions 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.

There are many ways for City Departments to purchase what they need. City Departments should contact their Department Buyer, representative Senior Buyer or Purchasing Specialist in Purchasing if there is uncertainty on how to purchase an item.

Delegation of Purchasing Authority to City Departments

In an effort to streamline processes and routine transactions, Purchasing has delegated the authority to approve specific requisition and procurement methodologies to City Departments. City Department specific buyers (Department Buyers) have the authority to approve the following requisitions and methodologies:

- 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) not exceeding \$60,000
- Request for Quotes
- Small Purchase PO
- Emergency Purchases up to \$75,000
- Post-Purchase Orders

The requisition types and methodologies listed above have an abbreviated electronic workflow in the financial 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.

Buy Local

In an effort to utilize local companies in the [Great Albuquerque Metropolitan Area](#), the City has updated Administrative Instructions and the Ordinance to require the use of local vendors for certain purchases. When deciding how to utilize local vendors, end users can use the following tier structure on prioritizing the order:

- Tier 1 – Local - Headquartered and maintains its principal office and place of business within the [Greater Albuquerque Metropolitan Area](#) (City of Albuquerque or Bernalillo County). Tier 1 vendors shall be solicited first when utilizing Small Purchases, RFQs, and Professional/Technical services. Tier 1 vendors may be solicited first when utilizing Emergency, Rapid Procurements, and exempt from competition purchases (OEPs).
- Tier 2 – Doing Business Local - Either not headquartered or does not maintain its principal office and place of business here, but maintains a storefront in the Greater Albuquerque Metropolitan Area and employs one or more City of Albuquerque or Bernalillo County residents.
- Tier 3 – Headquartered in the State of New Mexico - Either not headquartered or does not maintain its principal office and place of business in the Greater

Albuquerque Metropolitan Area, but maintains a storefront in the state of New Mexico and employs one or more New Mexico residents.

As described in the [Ordinance](#), each fiscal year, Purchasing shall strive to award to [small businesses](#) competed city purchases for goods and services process through that office equivalent to 10% of the total value of such purchase for the prior fiscal year.

Chapter 2: PRICE AGREEMENTS AND PURCHASE ORDERS

After a City Department has purchased a good or service through the proper procurement methodology, the next question is the mechanism in which to establish the agreement between the City Department and the vendor. In accordance with the Purchasing Ordinance, [§§ 5-5-7](#), Purchasing is responsible for entering into contracts with vendors to increase efficiencies on commonly used or repetitively 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).

The City issues two types of contracts to vendors:

- Price Agreements
- Purchase Orders

Which mechanism a City Department uses is dependent on the type of purchase.

City-Wide Price Agreements (aka “Various”)

The Purchasing Division seeks to enter into as many City-Wide Price Agreements it can. These include, but are not limited to standard goods and services such as office supplies, uniforms, computers, parts, and other goods and services which are used by multiple City Departments and ordered in various quantities and times. These City-wide Price agreements allow City 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-wide Price agreements in the financial system. City Departments shall enter a requisition for a Purchase Order anytime they need to order a good or service provided in the Price Agreement.

City Department Specific Price Agreements

A City Department may also wish to establish specific Price Agreements for its own use. Purchasing is responsible for establishing City Department specific Price Agreements through the financial system. City 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 neither City-wide Price Agreements nor City Department specific Price Agreements authorize a vendor to ship a good or begin a service. A Purchase Order from the Price Agreement must be generated prior to a good or service being obtained. This is outlined in [Administrative Instruction 3-7](#). Failure to complete a Purchase Order prior to goods or services being obtained is 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-wide or City Department specific Price Agreement. All types of POs are initiated by a requisition in the financial system. A PO that is part of a City-Wide or City Department specific 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 issued pursuant to a Price Agreement should contain supporting documentation identifying the approved procurement methodology used to produce the Purchase Order. This includes, but is not limited to, Purchase Orders for Small Purchases and 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.

Purchase Order	Contract (or City-Wide/Department specific Price Agreements)
Document sent from Buyers (City) to Sellers (Vendor) with a request to order a good or service.	Document that describes goods/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 services or ships goods under (accepts) the PO.	Legal document – bound upon final sign off or approval by all parties.
Typically used for the purchase of goods.	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 City Departments vary.
One-time/infrequent purchases.	Multiple/frequent orders.

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. Contact the Risk Division on what insurance is required by vendors as well as for any changes made to the City's standard indemnification clause. The City shall not agree to indemnify vendors.

Chapter 3: CONTRACT MANAGEMENT AND ADMINISTRATION

Now the City Department purchase is complete and the contract is in place. What are the roles of Purchasing and City Departments moving forward? Purchasing, in accordance with the Purchasing Ordinance, approves and processes all contracts for goods and services and concessions other than those noted in the Exceptions section in the Introduction of the Procurement Manual and those in the section on Delegation of Purchasing Authority to City Departments. *All* contracts shall be reviewed by the City Legal Department for legal sufficiency.

It is important to understand the difference between contract management and contract administration; and the roles the City Departments and Purchasing have regarding the two activities.

Contract Administration vs. Contract Management

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

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 – Involves the activity performed by City 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 of 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 Administration vs. Contract Management Table Comparison

Contract Administration	Contract Management
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;
- 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;
- Ensuring all payments to the vendor are accurate, current and timely;
- Obtaining the most current Certificate of Insurance, which names the City as additional insured; or obtaining a waiver from Risk Management if applicable; and
- Developing an Executive Communication for any contracts requiring City Council approval.

Purchasing is responsible for:

- Coordinating with the Assistant City Attorney assigned to a City Department to review contract language and content for legal sufficiency;
- Creating the Procurement Contract in the financial system;
- Ensuring up-to-date supporting documentation is present;
- Following and taking appropriate action on vendor performance issues;
- Reviewing and approving contract amendments;
- Ensuring all appropriate signatures are present on the document; and
- Ensuring all appropriate approvals are obtained, including City Legal and City Council.

Price Agreements

The City enters into two types of Price Agreements, various and City 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 City Departments can utilize. The most common City-wide Price Agreement the City utilizes is the office supply price agreement. City Department specific price agreements are utilized by one or a few City Departments. The settings of which business units can use the contract are set in the financial system.

In regards to City-wide Price agreements, the City Department is responsible for:

- Ensuring orders placed from City-wide Price Agreements are utilizing negotiated prices identified in the City-wide Price Agreement;
- Ensuring vendor compliance with the contract and provisions;
- Reporting vendor performance issues;
- Ensuring all payments to the vendor are accurate, current and timely;

- Except for goods, obtaining the most current Certificate of Insurance, which names the City as additional insured or obtaining a waiver from the City's Risk Management Division; and
- Ensuring City Legal has reviewed any terms or conditions applicable to the purchase.

Purchasing is responsible for:

- Coordinating with the Assistant City Attorney assigned to a City Department to review contract language and content for legal sufficiency;
- Creating the Procurement Contract in the financial system;
- Creating the Procurement Contract in the financial 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; and
- Ensuring terms and conditions are favorable to the City.

Supplier (Vendor) Set Up

In order for a contract or purchase order to be created for a supplier, the supplier first must be created in the City's financial system. If a supplier is not already set up in the financial system, the supplier must complete and send to the City a Modified W9 Form. The form can be downloaded from the City's website by clicking [here](#). The form should be sent to the Purchasing Division or via email at suppliersetup@cabq.gov. Once a supplier is established in the City's financial system, a new modified W9 form is not required for additional contracts or renewals. *A new form may only needed if a supplier has changed business names or has obtained a new tax ID number (TIN, EIN, etc.). Check with the Purchasing Division.* If a supplier needs to update basic information such as email, address or phone number, information can be updated on the City's website by clicking [here](#).

Chapter 4: COMPETITIVE SOLICITATIONS

As noted in the introduction, competition is the foundation of a transparent and effective procurement process. The City uses its best efforts, 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:
 - Requests for Quotations (RFQs)
 - Rapid Procurement
 - Purchases of Attorney Services (RFLI)
- Formal Solicitations:
 - Requests for Bid (RFBs)
 - Requests for Proposals (RFPs)

Request for Information (RFI)

The RFI is not a procurement methodology. Rather, it is a means for the City to solicit information to determine the market availability of a good or service. 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 purchase whose aggregate cost is within the limits established by the [Purchasing Ordinance](#) shall be made by soliciting quotes. Quotations will first be solicited only from vendors within the [Greater Albuquerque Metropolitan Area](#). Every effort should be made to obtain the best possible price for the City from local vendors. 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 City Department's assigned assistant city attorney.

Issuance of RFQs is the responsibility of the designated Department Buyer at the City Department 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. Department Buyers may reach out to the Purchasing Division when it requires assistance in obtaining quotes.

Generally, awards will be to the lowest responsive and responsible vendor by issuance of a PO from the City's financial system. POs issued via the RFQ shall be signed and authorized by the Department Buyer. Please contact the CPO if the establishment of a contract may be more appropriate under the circumstances of the purchase.

Rapid Procurement

A Rapid Procurement shall be made by soliciting quotes. 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 City Department's assigned assistant city attorney.

Department Buyers may reach out to the Purchasing Division when it requires assistance in obtaining quotes for Rapid Procurement.

Requests for Bids (RFBs)

The Purchasing Ordinance [§§ 5-5-28](#) requires competitive sealed bidding for goods, services, construction and concessions in excess of a specified dollar amount within the limits established by the Purchasing Ordinance. *The City should use RFBs when specifications are well defined and the lowest price is desired.* RFBs shall be completed using the City's solicitation system. Bids submitted outside the system, such as 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 the City's solicitation system and local newspaper, if required by law
- Receiving the bids by responsive bidders
- Review 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 concession clearly, accurately, and completely. City Departments shall not draft specifications or requirements that are unnecessarily restrictive so as to potentially reduce the number of bidders. Further, City Departments shall not write specifications or requirements 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.

Purchasing shall review each bid shall to ensure bidders have met all requirements per the specifications and determine if any of the bidders are nonresponsive or non-responsible.

In general, the bidding time between official solicitation posting and closing shall be fifteen (15) calendar days. However, as noted above, other factors may result in a deviation from the customary 15 days. The CPO will make the final determination on the appropriate bid time and whether an exception to the standard bid time is authorized.

All bids shall be posted on the City's solicitation system. Prospective bidders must be registered in the system and submit bids through the system. Failure to submit bids through the system will result in a bid being deemed nonresponsive. The City's solicitation system is the only City online portal for vendor registration, bid postings and online bidding. The system 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, when required by law, bids will be posted in the Albuquerque Journal no less than ten (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 the solicitation system. Within the City, information on the RFB 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.

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 or be perceived to 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 CPO to all prospective bidders via posting of addenda in City solicitation system.

Pre-Bid Meetings

The City may use a pre-bid meeting 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 RFB closes. 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 during the pre-bid meeting shall not supersede written material. All responses to bidder questions during the pre-bid meeting must be posted via an addendum in the City solicitation system.

Addenda to the RFB

Changes in quantity, specifications, delivery schedules, opening dates, etc., shall be accomplished by an addendum to the RFB posted on the City solicitation system. Answers provided to questions from prospective bidders shall be accomplished by an addendum. This is to ensure equal access and response and allow potential bidders to construct bids accordingly. Each addendum will be posted to the City solicitation system before the date and time for bid opening. Bidders are responsible for acquiring issued addenda in time to incorporate them into their bids. An email notification to bidders is sent through the City's solicitation system. It is the responsibility of each bidder to check the system 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 the City's solicitation system.

Cancelling an RFB

The CPO may 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 in the City's best interest – that is, where there is no longer a requirement for the goods or services, or where addenda to the RFB would be of such magnitude that a new RFB is desirable. *Cancellations shall be approved by the Chief Administrative Officer (CAO) or designee.* Bidders shall be notified when an RFB has been cancelled through the City's solicitation system.

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 the City's solicitation system 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 City's solicitation 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 the City's solicitation system. Late bids shall be deemed nonresponsive. Modifications or withdrawals occurring after the closing date shall be rejected.

Rejection of Bids after Bid Acceptance

The purpose of an RFB is to award the responsible vendor who provided the lowest, responsive bid. Purchasing shall use its best efforts 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 none of the bidders have met the RFB requirements, the RFB shall be cancelled. The CPO may reject any bid or all bids 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:

- If a single bid was obtained and may not be most advantageous to the City;
- 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 may be prejudicial to other bidders or the City.

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 City's solicitation system.

Evaluations of bids

Bids are evaluated and examined by Purchasing only after the bids have closed. Purchasing reviews bids for responsiveness. Pursuant to [§§ 5-5-28](#), a contract may be awarded only to the responsible bidder or bidders 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 shall be deemed nonresponsive.

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 and Technical Review Period

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.

In an effort to minimize the frequency of nonresponsive bidders and to aid in the fair evaluation of bids, the Purchasing Division will review all submissions for minor or

technical irregularities. Purchasing will notify any bidders of minor or technical irregularities. Bidders will then have one to three business days (determined by CPO) from the time they are notified of the failure to correct the irregular (only) portion of their bid before the evaluation process begins. Bidders will be notified via email.

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, 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 City Department via e-mail along with an award recommendation. Purchasing may negotiate with vendors prior to submitting an ROA to the City Department. Negotiating the best possible price for the City may involve Purchasing awarding offers to all responsible bidders and soliciting a "best and final offer", to which preferences will be applied. The City Department will approve or reject the recommendation. Upon approval, an official Recommendation of Award memo is routed to the City Department for signature by the City Department Director.

Protest Period for RFBs

A bidder may protest the recommendation of award by filing a formal written protest addressed to the CPO. See Chapter 10 for Protest Procedures.

Award on Equal Bids

If the City receives two or more identical low bids, 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;
- Award the bid to a local vendor over a non-local vendor all things being equal;
- Reject all bids and resolicit bids; or
- Cancel the solicitation

Request for Proposals (RFPs)

The Purchasing Ordinance [§§ 5-5-30](#) allows for competitive sealed proposals for purchases of goods, services, or concessions 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 advisory committee
- Preparation of the specifications and evaluation factors
- Publishing the RFP through the City's solicitation system and local newspaper, if required by law
- Receiving proposals by responsive offerors
- Evaluation of proposals
- Recommendation of Award
- Protest period
- City Council Approval, if required
- Awarding via Purchase Order or Price Agreement

RFPs related to Professional/Technical Services

Purchases of P/T Services, shall be competitively solicited or purchased under another authorized procurement methodology when the estimated or actual cost of the service exceeds the [limitations](#) set forth in the Purchasing Ordinance.

Ad Hoc Committee

City Departments shall submit to the CPO a list of recommended candidates for an ad hoc advisory committee. The CPO shall finalize the required ad hoc committee memo and send to the Mayor, or designee for approval. This shall occur prior the solicitation posting. This allows Purchasing to plan evaluation 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

In general, the City Department, as the subject matter expert in the good or service, should prepare a draft of the specifications or scope of services for the good or services it desires to procure. Purchasing may provide assistance in drafting the specifications or scope as requested. Specifications or scope shall be drafted to avoid being unnecessarily restrictive, as that may serve to reduce the 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 drafting a specification or scope of services is prohibited from 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.

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

A City Department should allow enough time for the ad hoc advisory 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 authorize a longer time depending on the complexity of the RFP. Purchasing will work with the department on an appropriate timeline to ensure the process is efficient and effective.

All proposals shall be posted on the City's solicitation system. Prospective offerors must be registered in the City's solicitation system and submit proposals through the system to be considered responsive. Failure to submit proposals through the system will result in a proposal being deemed nonresponsive. The City's solicitation system is the only City online portal for vendor registration, proposal postings and online proposal submission. The system 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, if required by law, proposals will be posted in the Albuquerque Journal no less than ten (10) days prior to the closing date of the RFP. Purchasing, in conjunction with the City Department, may determine other notification methods as deemed appropriate.

Within the City, information on the proposals shall only be released to ad hoc advisory committee members or its advisors until the Mayor approves the recommendation of award. This is to ensure one prospective offeror is not given an unfair advantage over another. Please also review the Communication with Proposers section below.

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 or be perceived to 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.

Offers shall submit their offers electronically through the City's solicitation system prior to the closing date and time of the RFP. Any offers submitted after the deadline shall be deemed nonresponsive.

Pre-Proposal Conference

Purchasing may conduct a pre-proposal conference 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 identified 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. No answers to questions or other information provided at the pre-proposal conference shall change the RFP unless a change is made by written addendum posted in the City's solicitation system.

Addenda to the RFP

Changes in scope or specifications, or any other provision of the RFP, shall be accomplished by an addendum to the RFP. Each addendum will be posted to the City's solicitation system 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 of any addenda is sent through the City's solicitation system. It is the responsibility of each offeror to check the system 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 City's solicitation system.

Cancelling an RFP

The CPO may request to cancel an RFP at any time if the CPO deems such action is in the best interest of the City. RFPs should not be cancelled unless a cancellation is in the City's best interest – that is, where there is no longer a requirement for the goods or services, or where addenda to the RFP would be of such magnitude that a new RFP is

desirable. *Cancellations shall be approved by the Chief Administrative Officer (CAO) or designee.* 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. Offerors must submit their offers through the City's solicitation system prior to the closing date and time of the RFP. Proposals submitted after that specified date and time shall be deemed nonresponsive. Proposals submitted outside of the system via email, fax, or any other means than what is specified will be deemed nonresponsive. A proposal, 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 City's solicitation system. All documentation related to the modification or withdrawal of a proposal shall be made a part of the permanent procurement file.

Offerors are responsible for submitting, modifying, or withdrawing proposals prior the closing time specified in the City's solicitation system. No late proposals, modifications, or withdrawals 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 advisory committee in conjunction with Purchasing will establish the procedures and schedules for conducting interviews. Any changes or clarifications required to the RFP as a result of the interviews will be transmitted to Purchasing for development and distribution of an addendum to all finalists. Any clarification requested by an offeror shall be submitted in writing to Purchasing.

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 offerors based on eligibility of those preferences. Preference totals shall not exceed 10% in any combination.

Technical Review Period

In an effort to minimize the frequency of nonresponsive offerors and to aid in the fair evaluation of bids, the Purchasing Division will review all submissions for technical compliance. Purchasing will notify any offerors of technical compliance issues. Offerors will then have one to three business days (determined by CPO) from the time they are notified of the technical compliance issue to correct the noncompliant (only) portion of their proposal before the evaluation process begins. Offerors will be notified via email.

Protest Period for RFPs

An offeror may protest the recommendation of award by filing a formal written protest addressed to the CPO. See Chapter 10, Protest Procedures.

Award of Contract

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

The Central Purchasing Office may negotiate with vendors prior to submitting an ROA to the City Department. Negotiating the best possible terms for the City may involve the Central Purchasing Office awarding offers to all responsible proposers and soliciting a "best and final offer", to which preferences will be applied, if applicable.

The final step in the award of the RFP is the issuance of a Purchase Order or a written agreement executed by the vendor and the City.

Regulations relating to RFBs and RFPs

Communications with Bidders and 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 bid or proposal to be deemed nonresponsive. The following types of communication are exempt and may be made during the open procurement period:

- Communications as part of other ongoing business with the City;
- Communications publically made during an official pre-bid or 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:

- There may be a health and safety requirement to utilize brand specific products;
- 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.

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 goods or services that are readily available in the current market and customarily provided by vendors 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, the City Department should prepare a draft specifications. The City Department stakeholders should review and revise the draft of the specifications as necessary to produce the final specifications.

The Specification Form can assist the City Department on developing the draft specifications for a solicitation. 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 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 draft specifications and entry of the applicable requisition in the financial 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 in an emergency situation without a competitive solicitation. To handle a situation as quickly as possible, the usual processes have been waived. 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 Purchasing for inspection. The CPO has authorized City Departments to purchase goods or services for emergencies up to the limits set forth in Chapter 1. For emergency purchases in excess of those limits, 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 the financial system. The City will not pay invoices submitted for goods or services until an emergency PO is approved and processed.

In determining whether an emergency exists, City Departments and Department Directors should be mindful that a true emergency is not simply when a City 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 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.

When using the sole source procurement methodology, City Departments should ensure the best price is obtained. As a sole source, a vendor may charge the City unusually high prices due to its nature. The City Department should prepare a detailed list of requirements related to delivery, quantity, performance, and other relevant conditions and do everything possible to strengthen the City's bargaining position. In addition to initial procurement costs, post-purchase costs such as multi-year maintenance contracts, should be considered, including replacement costs or trade-in value.

City Departments requesting the CPO to approve a sole source purchase must adhere to the following procedures:

1. The City Department must determine whether any functional equivalent goods or services are available by conducting thorough market research to determine whether other qualified sources capable of satisfying the City Department's needs exists.
2. If the City Department confirms there is no functionally equivalent item, the City Department shall submit to Purchasing a Sole Source Justification Memo justifying the business need for the specific need. The memo will outline the steps taken by the City Department in regards to research and conclusions met. In addition, a letter must be requested from the manufacturer/supplier, stating that the good or service is exclusively available from only one source. The letter from the manufacturer must be dated within 90 days of the City Department submitting a sole source justification to Purchasing.

The CPO will make the final determination on a sole source procurement methodology. The CPO may authorize sole source purchases of up to the limits set forth in the Purchasing Ordinance or less without approval from City Council. The CPO or designee shall conduct negotiations, as appropriate, as to price, delivery, and quantity in order to obtain the price most advantageous to the City. All sole source procurements shall be posted on the City's website.

Sole source purchases that exceed the Purchasing Ordinance limitations shall be approved by City Council. In addition, prior to City Council approval, Purchasing shall post notice of intent to award a sole source contract exceeding those limits on the City website at least thirty (30) days prior to the award of a contract. This allows any potential qualified vendor to protest the sole source determination in writing to the CPO per [§§ 5-5-23 \(B\)](#).

All sole source awards or contracts are available for public viewing on the City's website.

Chapter 6: COOPERATIVE PURCHASING AND USE OF OTHER GOVERNMENT CONTRACTS

Ordinance [§§ 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 City Department rather than setting up a long term contract. When the determination is made, the City Department can enter a requisition in the financial system. 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-wide or City Department specific Price agreements issued against existing SPAs shall be initiated by the City Department through a requisition in the financial system. The limitation with this method, however, is the need to continually monitor and renew City-wide and City Department specific Price agreements as the state extends its SPAs.

The CPO will make the final determination if a City-wide or City Department specific Price Agreement will be issued against SPAs. City Price agreements will only be issued against SPAs if, in the CPO's discretion, they are the most advantageous method for the City to procure goods or services.

Other Government Contracts

The CPO will make the final determination on the City's 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 City Department shall enter a requisition in the financial 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 general services administration (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.

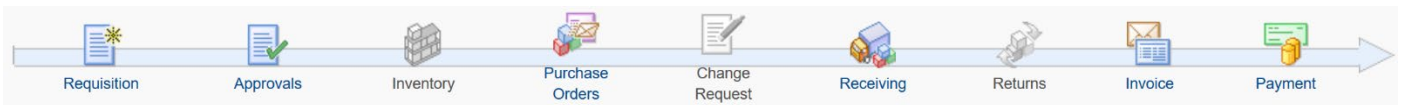
Purchasing shall develop a process to maintain a list of debarred persons and firms ineligible from contracting or subcontracting with the City. The list shall state the name of each suspended or debarred person or firm(s), the date of the debarment or

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

Chapter 8: PROCURE-TO-PAY PROCESS

This 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, and the negotiation of contracts. This Procurement 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 financial system, this can be viewed graphically in the eProcurement module. Below is an example of the P2P process cycle (requisition timeline) in the financial system:



Requisition



The requisition begins the process. The requisition is created in the eProcurement module (ePro) of the financial 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 City 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 the worklist in the financial system. Instructions can be found [here](#).

Approvals



Once a user submits the request, it must be reviewed and approved by the City Department fiscal staff and/or Purchasing. A number of factors determine the workflow approval including, but not limited to dollar value, City Department, and requisition type. Once the requisition has been reviewed and fully approved, the financial system runs an automatic batch process and sources all approved requisitions to an authorized Purchase Order.

Purchase Order



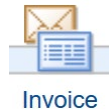
As noted in Chapter 2, a PO is a form of a contract. It is generally used when there is a specific known quantity of what is being ordered. A PO can also be utilized in approved circumstances as a blanket PO. A PO contains the City's Standard Terms and Conditions and is a *legally binding document once a vendor accepts the PO*. A PO can be issued as a stand-alone document, or as part of a City-wide or Department specific Price Agreement.

Receiving



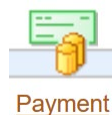
After a user orders a physical good, the user must indicate in the financial system that the good was received and accepted. This is accomplished by [entering a receipt number in the financial system \(document number EP-07-1\)](#). It's important to note the structure of the PO determines whether a 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 shall include the PO number and 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. The City cannot pay on invoices that do not include a PO Number. Invoices are entered as a voucher in the financial 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 financial 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 financial 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 financial system for approval through a workflow. If the voucher value has not exceeded the PO value either individually or in the aggregate, the voucher will move on for approvals by the City Department. Upon approval of the voucher by the City Department, the invoice will move on to payment.

Payment



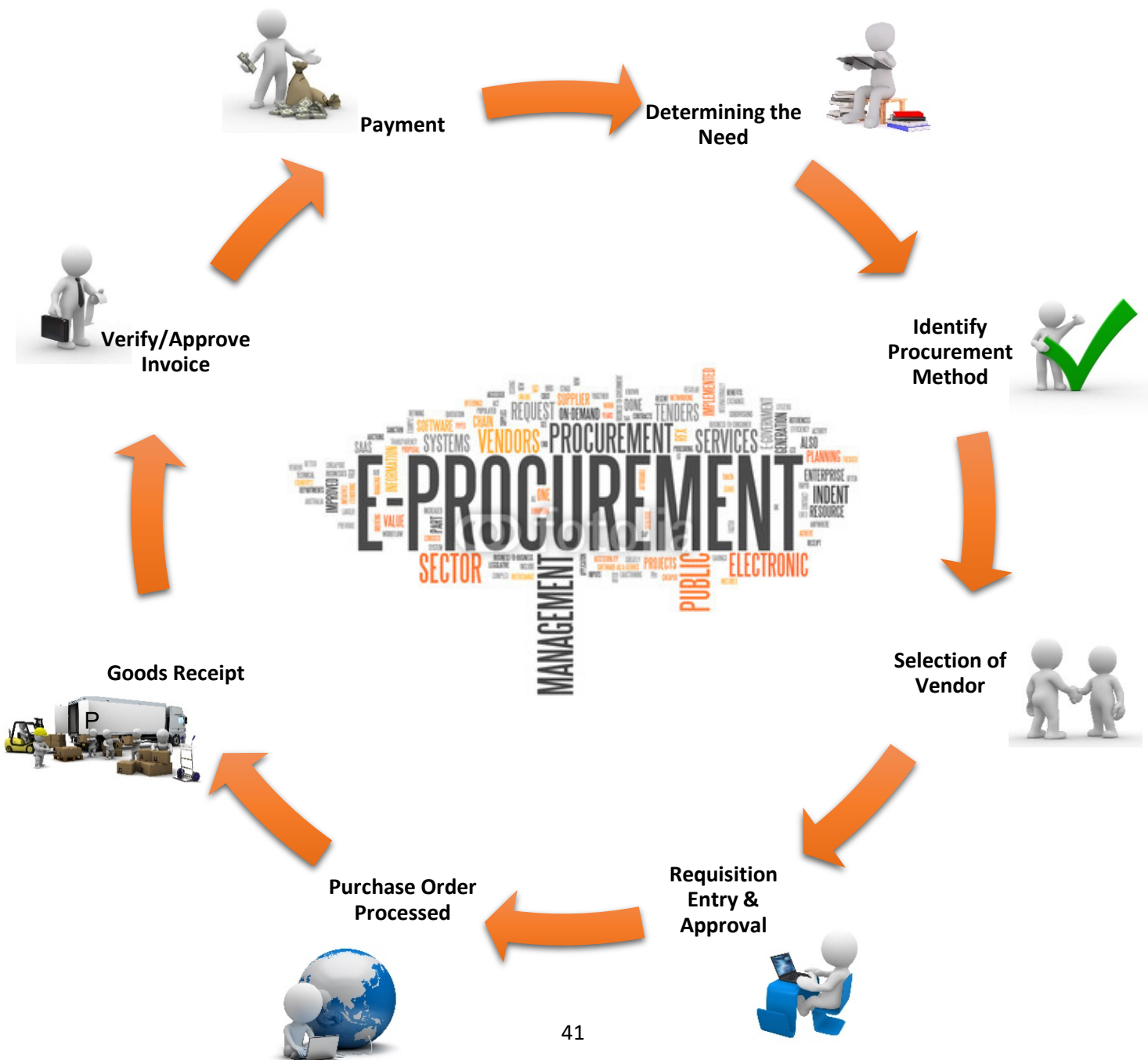
When a voucher has either been fully matched (goods), or fully approved (services), the financial system will set the voucher for payment. The payment date is dependent on the payment terms identified in either the contract, price agreement or PO. Payments shall be made no later than 30 days from invoice

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).

No payment shall be authorized for goods or services which:

- Are not received;
- Do not meet the specifications, conditions, terms, or scope of services set forth in the Price Agreement or Purchase Order;
- Have not been properly authorized for purchase by Purchasing; or
- Are damaged.

ILLUSTRATION OF PROCURE-TO-PAY CYCLE



Procurement Cards (P-Cards)

P-Cards simplify the buying process and may be used by specific authorized individuals to make incidental small dollar purchases of goods 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.

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 City 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 and concessions. 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, Purchasing 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 City 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 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 the limits in the Purchasing Ordinance, 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 Purchasing.
- 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, business, or entity 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, Purchasing 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 the City. 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;
- Grant the relief sought (if appropriate);
- 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 in writing 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 may be held if 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 Purchasing 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 vendors (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 CPO 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.

Purchasing 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.

Appendix A – Applicable City Ordinances and Administrative Instructions

- [Albuquerque Code of Ordinances Chapter 5, Article 5](#) – Public Purchases
- [Administrative Instruction 1-1](#) – Signature Authority for Written Agreements, Budget and financial Documents, Public Purchasing Documents, and Personnel Matters
- [Administrative Instruction 3-1](#) – Standard Agreement Provisions for Architectural, Engineering and Landscape Architectural Services for the City of Albuquerque
- [Administrative Instruction 3-2](#) – Acquisition of Audit Services
- [Administrative Instruction 3-3](#) – Small Purchases, Adjustment to Monetary Limits for Procurement, and Use of Local Vendors
- [Administrative Instruction 3-4](#) – Vendor City and Relations and Responsibilities Related to Vendor Performance
- [Administrative Instruction 3-6](#) – Comprehensive Purchasing Training Program
- [Administrative Instruction 3-7](#) – Payments to Vendors Doing Business with the City.
- [Administrative Instruction 3-8](#) – Vending Machines and Vending Stands on City Property
- [Administrative Instruction 3-10](#) – Procedures for Addressing Purchase Violations and Completing Purchasing Ratification Forms
- [Administrative Instruction 3-13](#) – Encumbrances as a Budget Management Tool: Policy and Procedures
- [Administrative Instruction 3-14](#) – Purchase of Goods or Services for Use by Employees
- [Administrative Instruction 3-15](#) – Nutrition Standards for Vending Machine Beverages and Snack
- [Administrative Instruction 3-16](#) – Credit Card Security
- [Administrative Instruction 3-17](#) – Senior Level Purchasing Positions