

Title: P-100 Purchasing Policy		Contents: P-100
		Submitted By: E. Martinez
		Approved By: 2025-101
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P-100 Purchasing Policy

1.OBJECTIVE

The primary objective of the Purchasing Division is to govern goods and services expenditures incurred by the City of Midland (the “City”) for authorized City business.

The Purchasing Division’s goal is to support the City’s administrative staff in accomplishing the goals and directives established by the City Council and the City Manager. The Purchasing Division shall promote fair and open competition for the procurement of all goods and services in accordance with all applicable state and federal laws.

1.2 OVERVIEW OF POLICY AND FRAMEWORK PURCHASING DIVISION

It is the policy of the City to assure fair and competitive access by responsible vendors/contractors to the purchasing requirements of the City and to conduct business activities in such a manner as to foster public confidence in the integrity of the City. The City adheres to all applicable state and federal laws and regulations, as set forth in the Texas Local Government Code and as published in the City’s purchasing manual.

If any conflict exists between this Purchasing Policy and the City Charter, the City Charter shall govern.

1.2.1 ORGANIZATION OF PURCHASING DIVISION

There is hereby established in the Department of General Services, the Division of Purchasing, the head of which shall be the City Purchasing Manager. The City Purchasing Manager shall be appointed by the General Services Director subject to approval of the City Manager, and shall receive such salary as is duly appropriated therefor.

2. SCOPE OF AUTHORITY; DUTIES OF THE PURCHASING DIVISION

Scope of Authority

Whereas the Midland City Code at Title I, Chapter 5, Section 5(J) bestows upon the City Manager certain duties and authorities for the purchase of goods and services for the City, and permits the City Manager to delegate those duties and authorities.

- The City Manager hereby delegates to the General Services Director the authority and it shall be his or her duty to purchase, or contract for all supplies, materials, equipment and contractual services needed by any and all departments of the City.
- The General Services Director delegates these duties and responsibilities to the City Purchasing Manager.
- Departments have no authority to order directly from, or in the absence of permission from the City Purchasing Manager, to negotiate with salesmen.
- The General Services Director is responsible for overseeing the Purchasing Division. The Purchasing Manager is responsible for executing all duties described below.

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Purchasing Manager Duties

Under the general supervision of the General Services Director and the City Manager, it shall be the duty of the Purchasing Manager to perform the following:

Policy Enforcement

Observe and enforce the policies outlined herein and all related regulations.

Encourage Competitive Bidding

Encourage purchasing by competitive bid, either formal or informal.

Buy Goods Made in the United States of America

Purchase goods made in the United States when it is possible to obtain suitable and satisfactory materials, supplies, and equipment at fair and reasonable prices.

Maintain Ethical Behavior

Conduct the Purchasing Division in such a frank and open manner that bidders may be confident of the fairness of all awards and thus be encouraged to continue to furnish competitive bids so that the City may secure the best service or articles of the highest quality at the best price at all times, meeting the intent of the *Principles and Standards of Purchasing Practices* published by the Institute of Supply Management (ISM), formerly know as the National Association of Purchasing Management (NAPM).

All individuals performing any portion of these duties shall adhere to these standards.

Investigate Possible Criminal Acts by Vendors

Investigate the possibility of collusion in cases of repeated bids or repeated awards to the same vendors and investigate any instance where a conflict of interest may exist.

Maintain Records

Maintain a record of all bids, quotations, contracts, vendor and commodity lists, requisitions, policy documentation, policies and purchases for periods as prescribed by the official Records Retention Schedule, as published by the City Secretary's office and summarized as follows:

- Purchase orders, requisitions, bid requests:End of FY + 3 years
- Contracts for services, purchase agreements, Vendor 1099 info 4 years
- Policy documentation files, policy statements, total cost bids..... 5 years
- Vendor and commodity lists, state contracts Until Superseded

Maintain Commodity Classifications

Prepare a classification of commodities and commodities by vendor for use in selecting vendors and preparing bid requests.

Specification Preparation

Prepare specifications when practical, governing purchases of various items, and submit such specifications to the City Manager for approval or the approval of the City Council, as applicable. However, when it is proposed to purchase articles of a technical or scientific nature, or for special use, the head of the requisitioning department

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(here in after, a “*User Department*”) shall submit specifications to the Purchasing Manager for review and enhancement where necessary, or detailed information for specification preparation. In the event of disagreement between a director and the Purchasing Manager regarding such enhancements, the General Services Director or City Manager shall determine the matter.

Inspection & Testing

Provide for and/or require inspection and appropriate testing for goods delivered on purchase orders and make sure that inferior or unsatisfactory articles are rejected.

Warehousing

Anticipate the needs of departments and work with the Warehouse Division to maintain an adequate supply of articles or commodities for general use in the City Warehouse or contract for the same.

Optimize Procurements

Upon submittal of the annual budget by the City Manager, ascertain what and when special purchases are contemplated; prepare to buy the same, or order for deferred delivery and payment, so as to take advantage of the best price and terms.

Delegation of Responsibility

If the Purchasing Manager delegates in writing to another employee of the City to carry out any purchase transaction, it will be understood that such delegation of authority carries with it the responsibility to carry out those transactions in accordance with this Policy and the understanding that the Purchasing Manager has full authority to revoke those privileges for non-compliance with the Policy.

Delegation of Authority for Procurement Methods and Project Delivery

In accordance with Texas Local Government Code §252.021(c) and Texas Government Code §2269.056(a), the City Council delegates to the City Manager, or designee, the authority to:

1. Determine the method of purchase that provides the best value to the City, including but not limited to:
 - Competitive sealed bids
 - Competitive sealed proposals (RFP)
 - Reverse auction procedures
 - Methods authorized under Chapter 2269 of the Texas Government Code

2. Select the appropriate project delivery method for construction projects, including but not limited to:
 - Competitive bidding
 - Construction Manager-at-Risk (CMAR)
 - Design-Build
 - Job Order Contracting
 - Competitive sealed proposals for construction

All such determinations shall be made in compliance with applicable state law and City policies, and documented in the procurement record. Final contract awards exceeding the City Manager’s purchasing authority shall continue to require City Council approval.

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2.1 PURCHASING ETHICS

All City staff engaged in procurement for the City shall comply with the following:

- Chapter 176 of the Texas Local Government Code (the “*Disclosure Act*”) requires a vendor that wishes to conduct business or be considered for business with the City to file a conflict of interest questionnaire. The Disclosure Act applies to all persons or businesses who conduct business with the City, including those who submit bids on City contracts, make purchases of surplus City property, or participate in any other purchase or sales transactions with a City. Pursuant to the requirements of Section 176.002(a) of the Texas Local Government Code, vendors or respondents who meet the following criteria must fill out a conflict of interest questionnaire no later than the 7th day after the person begins contract discussions or negotiations’ with the City or submits to the City ‘an application, response to a request for proposals or bids, correspondence, or another writing related to a potential agreement with the City:

A vendor or respondent that:

- contracts or seeks to contract for the sale or purchase of property, goods, or services with a local governmental entity; or
- is an agent of a person described in Subdivision (1) in the person’s business with a local governmental entity. Any person who meets the criteria, as for enforcement to ensure the veracity of the vendors, the statute makes it a Class C Misdemeanor to violate the vendor disclosure provisions.”

The forms required to comply with the above Government Code are available on the Ethics Commission website at <http://www.ethics.state.tx.us/forms/CIS.pdf>.

- It shall be a breach of ethics to attempt to realize unauthorized personal gain through employment with the City or by any conduct inconsistent with the proper discharge of the employee’s duties.
- It shall be a breach of ethics to attempt to influence any public employee of the City to violate the standards of conduct set forth by the City.
- It shall be a breach of ethics for any employee of the City to participate directly or indirectly in a procurement for the City when the employee knows that:
 - The employee or any member of the employee’s immediate family has a financial interest pertaining to the procurement;
 - A business or organization in which the employee, or any member of the employee’s immediate family, has a financial interest pertaining to the procurement; or
 - Any other person, business or organization with which the employee or any member of the employee’s immediate family is negotiating or has an arrangement concerning prospective employment is involved in the procurement.
- It shall be a violation of this Policy to offer, give or agree to give any employee of the City, or for any employee of the City to solicit, demand, accept or agree to accept from another person, a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation, preparation of any part of a program requirement or purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing, or in any other advisory proceeding or application, request for ruling, determination, claim or controversy, or other

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particular matter pertaining to any program requirement or a contract or sub-contract, or to any solicitation or proposal therefore pending before the City.

- It shall be a breach of ethics for any payment, gratuity or offer of employment to be made by or on behalf of a vendor/subcontractor under a contract to the prime vendor/contractor or higher tier sub-contractor for any contract for the City, or any person associated therewith, as an inducement for the award of a sub-contract or order.
- It shall be a violation of this Policy for any employee of the City knowingly to use confidential information for actual or anticipated personal gain, or for the actual or anticipated gain of any person.
- Unless specifically approved in writing by the City Manager, no employee may purchase City property for his/her own personal use unless it is purchased through the City’s online auction. This includes new/used equipment, materials or supplies.

Purchasing Process

The City Manager, as authorized by the City Council of the City, has delegated to the Purchasing Division, namely the Purchasing Manager, the authority to procure materials and services for the City that are within the guidelines set forth by the City Council. In certain cases, the City Manager has also granted this authority to certain City employees that have been authorized by their Department Manager to make single purchase items of less than \$3,000.00. With the exception of emergency purchases, all purchases of \$3,000.00 or more must be processed through the Purchasing Department.

2.2 INITIAL STEPS

The following are initial steps to follow when requesting to purchase a good and/or service:

1. User Department identifies the goods and services needed to meet the department’s needs.
2. If the purchase is deemed to be an exception to the standard purchasing cycle (e.g. emergency purchases), a different set of procedures is followed.
3. User Department generally determines the dollar amount of estimated expenditure that will determine whether the purchasing process will be Formal or Informal, as defined herein.
4. User Department enters a requisition.
5. While not required, User Department should consult Purchasing Division to determine method of purchasing, level of urgency, and amount of flexibility desired in project.
6. User Department should provide detailed and accurate specifications to the Purchasing Division.
7. Upon award, the Purchasing Division issues a purchase order or contract and the vendor, upon receipt of the purchase order, initiates delivery of goods and/or services.
8. Certain aspects of contract maintenance such as authorizing price escalations (change orders), ensuring insurance is updated, issuing cure letters for vendor non-compliance, etc. is the responsibility of the Purchasing Division. Other contract maintenance items such as routine or periodic management of the service components of the bid, including price verification, remain with the user department.

The dollar amount will determine whether the purchasing process will be an informal or formal one. There are standard thresholds based on purchasing law that must be complied with, however, there is some

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discretion as the exact method of purchasing that can be used once it is known whether the bid will be informal or formal. Final determination of the appropriate procurement method will be made by the Purchasing Division on a case-by-case basis.

NOTE: User Departments are responsible for any good or service purchased without the appropriate authorization.

2.3 AUTOMATED ELECTRONIC PROCUREMENT SYSTEM

Pursuant to the Texas Local Government Code, Section 252.0415, the City adopts the following rules to ensure the identification, security, and confidentiality of electronic bids and proposals and to ensure that the electronic bids and proposals remain effectively unopened until the proper time.

Electronic Bidding: Electronic sealed bids and proposals shall be processed in accordance with Section 252.0415(a) of the Local Government Code requiring the identification, security and confidentiality of electronic bids and proposals to remain effectively unopened until the proper time.

Identification: Requests for bids and proposals will be advertised and issued via publicly available websites that do not require payment to access. A notification will be added to bid/proposal terms and conditions stating suppliers should submit responses electronically through the City’s service provider at the appropriate electronic address listed. An automatic “e-mail return notification” will be sent to the submitting vendor upon receipt of vendor’s bid/proposal.

Security: Until the specified bid/proposal closing time, no individual (including City staff) shall have access to unseal or download submissions. At the specified bid/proposal closing time, a password-enabled employee in the Purchasing Division will unseal and download all bids/proposals including the tabulation summary assembled by the City’s service provider. A bid/proposal that is submitted nonelectronically may be accepted manually and then entered electronically by Purchasing Division after the bid/proposal opening, as stated in bid and proposal document terms and conditions.

Confidentiality: Purchasing Division staff shall read aloud all bid/proposal responses received by the closing time and date to any interested parties present at the opening. After tabulation of bids or proposals, staff will post the tabulation.

1. The use of the electronic bidding system will be posted on all notices of a bid or solicitation using the electronic system.
2. All electronic sealed bid/proposal data will be stored in encrypted database fields while the solicitation is still available for vendor responses.
3. Access to the system by authorized users shall be logged and tracked for audit purposes to ensure security.
4. Identity authentication: Each vendor user shall be required to use a unique user account and password. Further, the City may request additional identity information within an electronic bid/proposal event.
5. The system provides options for dictating password requirements/complexity for City staff. The system also requires complex passwords for all vendor users.
6. All data transmitted between end users and the system shall be encrypted in transit and at rest using industry-leading security procedures and algorithms.

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7. The contents of a vendor’s electronic sealed bid/proposal response is sealed in an electronic “lockbox” and unavailable to all users until after a bid’s due date and time passes.
8. Only authorized City staff, with an approved user account and password provided by the Purchasing Division, and only on or after the established due date and time, can open the electronic bids or proposals. The system shall provide an audit trail indicating who unsealed the bids/proposals with a corresponding time stamp.
9. Passwords are stored in an encrypted format.
10. User sessions are validated to prevent hijacking and expire after a period of inactivity.
11. Key buyer and vendor activities are audited, such as vendor response submission or unsealing of solicitation data.
12. The application shall not allow for late submissions after the closing date and time.
13. The City shall determine when and what time information is released to the public pursuant to Texas Law.
14. A hard copy bid will still be an option for all bidders according to Texas law.
15. Specific procedures consistent with these rules will be adopted from time to time and made part of the Purchasing Policy and Procedures to improve and enhance the electronic bidding system.
16. Issues and complaints related to the electronic system shall be handled under the same procedures as established in the City’s Purchasing Policy and Procedures or as specifically provided in the procurement document.
17. The Purchasing Division is responsible for ensuring that any system used for the electronic receipt of bids complies with the City’s Procurement Policy, current State Law and the aforementioned rules.

2.4 PURCHASING THRESHOLDS AND REQUIREMENTS

CITY OF MIDLAND WORKFLOW/APPROVAL REQUIREMENTS

Total Amount of Request*	Type of Bid/Quotes Required	Department Responsible for Bid/Quotes	Type of Approval/s Required*	Other Requirements
\$100,000.00 and above	Sealed or Cooperative Pricing	Purchasing	Department Head Purchasing General Services Director City Manager City Council Approval	Formal Advertisement Sealed Bid (Paper/Electronic) Agenda Memo w/bid tabulation Resolution
\$30,000 to \$99,999.99	3 Written or Cooperative Pricing	Department/ Purchasing	Department Head Purchasing General Services Director City Manager	Paper or Electronic Quotation
\$3,000 to \$29,999.99	3 Written or Cooperative Pricing	Department/ Purchasing	Department Head Purchasing	Paper or Electronic Quotation
<\$3,000.00	1 quote or Cooperative Pricing	Department	Department Head	Three Quotes not required but recommended

* Approvals apply to all Purchasing Forms including Direct Purchase Requests, Purchasing Cards, Petty Cash, Travel & Training, and other types of forms.

** See below regarding applicable statutes regarding monetary thresholds.

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The following standard approval route applies to All City Departments for purchase requests. Certain monetary thresholds referenced herein are prescribed by applicable statutes, which are notated with “**” following the monetary threshold figures. Any changes made to such applicable statutes regarding the monetary thresholds shall be incorporated herein and made apart of this Purchasing Policy as of the effective date of said changes.

Purchases under \$3,000.00

Items under \$3,000 are considered small purchases. These items can be ordered, received, invoiced and paid according to the Finance Department’s three-way match. One quote from a potential vendor is required; they may be obtained by the User Department if desired. It is recommended that the User Department gather more than one quote as part of regular due diligence to ensure departments maximize City dollars. Departments are encouraged to utilize Procurement Cards (P-Cards) for items under \$3,000.

Purchases between \$3,000.00 and less than \$100,000.00****

Chapter 252 of the Texas Local Government Code requires that, for purchases over \$3,000.00** and less than \$100,000.00**, at least two Historically Underutilized Businesses (HUBs) be contacted. If no HUBs exist for the commodity being purchased, then this requirement does not apply. User Departments can find a list of HUBs in Midland County by accessing the link located at <https://comptroller.texas.gov/purchasing/>. Purchasing will confirm that purchases over \$3,000.00 comply with the HUB requirements as set for the local government code.

The primary methods to purchase items under this threshold include the following:

- **Quotes.** A minimum of three quotes shall be obtained by the User Department. The Purchasing Division may assist gathering quotes at the request of user department. If one of the three quotes is a “no bid” then at least one other vendor must be contacted to ensure that due diligence has been performed throughout the process. Please note that depending on the complexity of the purchase, the Purchasing Division may elect to initiate an Informal Bid. In this instance, the User Department shall provide all the information necessary for an Informal Bid preparation. All back-up information regarding bids shall be sent electronically. This includes, but is not limited to, bid specifications, recommendation, memos and vendor information. Please keep in mind that HUB’s must also be contacted in order to comply with Chapter 252 of the Local Government Code and other applicable law. Sole source vendors may also be used, however, proper documentation is required to justify a sole source purchase. Purchases where only one vendor can supply the requirement must include a Sole Source Justification Form. For purchases under \$100,000.00, the General Services Director or the City Manager may elect to accept a Due Diligence Letter if a sole source letter cannot be reasonably obtained by the Department Head. Such letter shall (i) describe the due diligence performed by the User Department in searching and locating similar goods and/or services, (ii) include a justification for why such goods and/or services cannot be reasonably procured from another source, and (iii) detail why a sole source letter cannot be reasonably obtained.
- **Cooperative Purchasing Programs.** The Purchasing Division has a list of authorized purchasing cooperatives. Staff is not allowed to use non-approved purchasing cooperatives.

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Price List. A price list is acceptable for purchase orders which will require multiple payments over a period of time.

- **Informal Bid.** An Informal Bid is a bid invitation accompanied by detailed requirements, specifications (such as item and quantities) and notification to submit bid responses by a specified date and time. This unsealed bid method does not require a public opening at a specified date and time. The following steps are required for this process:
 1. The User Department provides the Purchasing Division all the information necessary for informal bid preparation.
 2. When bids are obtained in conjunction with the bid due date, the Purchasing Division will submit all vendor bids and bid tabulation to the user department for recommendation.
 3. The standard criterion for awarding an informal bid is determining the lowest bid. The User Department shall submit additional justification to the Purchasing Division if it does not select lowest bid.
 4. The User Department will notify Purchasing of its recommendation via letter, memo or email.
 5. Purchasing will issue a purchase order or contract in compliance with bid details (e.g., payment terms, options, etc.).

- **Formal Bid.** A formal bid is a bid invitation accompanied by detailed requirements, specifications (such as item and quantities) and notification to submit bid responses by a specified date and time. This sealed-bid method does require a public opening at a specified date and time.

Purchases over \$100,000.00**

Purchases for goods and services over \$100,000.00** are required by state law to be competitively solicited through a formal bid process unless there is an exception. At a minimum, formal solicitations should be advertised for at least 15 days from the first day of advertisement of a bid. Complicated solicitations take longer for vendors to respond and therefore may require a longer duration.

Change Orders for Purchases over \$100,000.00**

Pursuant to Texas Local Government Code §252.048(c), the General Services Director, or their designee, is hereby authorized to approve a change order for a purchase over \$100,000 that involves a decrease or an increase of \$50,000 or less; provided, however, (1) that all change orders to the contract, in total, shall not increase the original contract price by more than 25 percent and (2) that the original contract price may not be decreased by more than 25 percent without the consent of the contractor.

Additionally, the City Council may approve a change order; provided, however, (1) that a contract with an original contract price of \$1 million or more may not be increased by more than 25 percent, (2) that if a change order for a contract with an original contract price of less than \$1 million increases the contract amount to \$1 million or more, subsequent change orders may not increase the revised contract amount by more than 25 percent, and (3) that the original contract price may not be decreased by more than 25 percent without the consent of the contractor.

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3. REQUISITIONS

Source of Forms

Each department shall request purchases on requisition forms issued by the Purchasing Manager’s office or electronically through the designated procurement software. Most requisitions will be initiated electronically by the User Department and workflow according to the chart above.

Requisition Approval

Each requisition shall be signed or electronically approved by the division manager in charge of the department issuing the requisition.

Description/Specification

A User Department submitting a requisition shall specify the article or service desired in such terms as to make all specifications as open to competition and as least restrictive as possible. The User Department shall strive to provide adequate competition among as many bidders as possible.

Purchase orders for material, equipment, or services over \$100,000.00 or more must include a complete set of specifications describing in detail the item(s) to be purchased.

The use of a brand name and model is acceptable with the statement “or equal meeting the following minimum specifications.”

Departmental Purchase Orders and Purchasing Card Receipts

Departmental purchase orders or purchasing card receipts for purchases of less than \$3,000.00 are required for the purpose of controlling records and payment advice, even though the Purchasing Division may not have authorized the purchase.

Requisition Scheduling

The Purchasing Manager may announce a schedule of dates or periods during which routine requisitions will be accepted.

Splitting of Orders

No splitting of orders is permitted as an evasion of any requirement prescribed by statute, the City Charter, ordinance, or administrative order. Penalties for order splitting are stated in Employee Responsibilities section on this Policy.

Budget Transfers

When funds are not provided for in the appropriate expense classification but are available in another expense classification in the current budget, the appropriate budget transfers shall be made through the use of the forms and procedures, as provided by the Finance Department, before submitting the requisition to the Purchasing Division.

Requisitions Subject to Budgetary Control

Requisitions shall be certified by the Finance Department as to the availability of funds prior to receipt by

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Purchasing Division; and no purchase order involving an amount of \$3,000.00 or more shall be issued unless and until the requisition has been so certified, or in case of an emergency as stated herein.

Correct Dollar Amounts

Whenever possible, requisitions and departmental purchase orders shall state the correct amount involved.

Document Review

The Purchasing Manager is required to review all requisitions for completeness of description and other essential information. The Purchasing Manager authorized to perform the following:

- **Inventory Items.** Remove any item from the requisition that can be supplied from the central storeroom or municipal warehouse.
- **Request Explanations.** Question an item and require an explanation in writing from the User Department. If a resolution cannot be reached, the matter shall be referred to the General Services Director who may resolve the conflict or refer it to the City Manager for resolution.

4. PROCEDURE FOR SECURING BIDS AND MAKING AWARDS

Purchase transactions are divided into the categories below.

Fuels

Fuels shall be purchased on an as-needed basis. Verbal or fax bids shall be taken from as many bidders as practical. Award shall be made on a low-total truckload bid. In addition to bidding the qualified major distributors and or producers, bids shall be solicited from vendors listed on the Texas Comptroller of Public Accounts list of Historically Underutilized Businesses (HUBs) (*See HUBs' section on this policy*) for Midland County as they become registered, in accordance with statutory requirements. This list is available on the Texas Comptroller of Public Accounts website.

Services and Repairs (other than those for vehicles or equipment)

In order to verify that all contract, insurance and/or applicable statutory requirements are met, all requisitions and specifications or statement of work or any procurement of services, repairs or other labor-intensive work of amounts of \$3,000.00 or more shall be forwarded to the office of the Purchasing Manager for bidding and processing.

Commodity Purchases of Less than \$3,000.00

Commodity purchases of less than \$3,000.00 may be made by:

- the User Department's director;
- the Division Manager;
- an authorized representative with written delegation from the Purchasing Manager by using the City of Midland Purchasing Card (See the Purchasing Card Policy for complete information); or
- the purchase order provided.

Inventoried Items. Unavailable items that cannot be procured from the Central Stock Room or the Municipal Warehouse may be purchased using a purchase order or Purchasing Card (preferred).

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Compliance with Parole Evidence and Statute of Frauds. Purchase order documentation shall be given to each vendor at time of purchase. The exception to this provision is the use of the Purchasing Card, which precludes the issuance of a written order. (Ref: Business & Commerce Code; Title 1: Uniform Commercial Code; Chapter 2: Sales; §2.201 Statute of Frauds; and §2.202: Parole or Extrinsic Evidence).

Competitive Bids Under \$3,000.00. The need for securing competitive bids under \$3,000.00 shall be at the discretion of the User Department. However, the User Department should be cognizant of the ever-present opportunity to save tax dollars by taking bids. When bids are taken, they shall be kept with the User Department's copy of the purchase order or Purchasing Card receipt and done in accordance with this Policy or Purchasing Card Policy.

Capital Outlay/Asset Disposition. When required by the Capital Asset Acquisition & Management Policy, the Capital Outlay Request shall be completed and forwarded to Accounting Division with a copy of the purchase order. A *Request for Asset Disposition Authorization* (for more information on Asset Disposition see procedure PP-110) shall be attached to the Purchasing Division's copy for replacement items.

Purchases Between \$3,000.00 and \$100,000.00

The City Purchasing Manager or User Department shall secure verbally, by telephone, e-mail fax or letter, as he/she may determine, three or more proposals/bids. The City Purchasing Manager shall determine the most advantageous bid or reject any and all bids.

Less Than Three Bids. In situations where it is impossible to obtain three bids, the General Services Director may approve recommendation of the most advantageous bid for the City from the bids that were obtained or reject any or all bids received.

Suspension of Bidding. The City Purchasing Manager, with the approval of the General Services Director, may dispense with bidding if it is not to the advantage of the City to secure bids.

Purchase Approval. The final approval for purchase for this range is made by the Purchasing Manager or the General Services Director.

Emergency Purchases. In case of an emergency, public calamity caused by fire, flood, storm or other natural disasters or acts of God, or other emergency cases created by unforeseen damage to public property or equipment, a User Department director, division manager, or their authorized representative may have discretion to make such purchases or obligations as necessary. All such actions shall be documented on a standard requisition and supported by memo that explains the nature of the emergency. This documentation shall be submitted to the General Services Director within two working days and such action shall be approved by the General Services Director.

Purchases of \$3,000.00 and Up To the Current Statutory Limit Requiring Advertisement for Sealed Bids

Historically Underutilized Businesses. Effective September 2001, legislative changes in the bidding statutes require that any solicitation under the sealed bid limit as specified in Chapters 252 or 271 of the

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Local Government Code, an expenditure of more than \$3,000.00 but less than \$100,000.00** shall include at least two (2) inquiries to Historically Underutilized Businesses or HUBs within the jurisdiction's county. These companies are certified through the Texas Comptroller of Public Accounts (TCOPA) and subsequently listed on the Texas Comptroller of Public Accounts Website. Furthermore, if there are no certified vendors listed, the requirement is subsequently nullified.

Purchasing Takes Bids. Bids shall be invited upon such specifications as have been previously approved. A requisition, specifications and/or complete descriptions by the initiating department shall be processed through the Purchasing Division. All bids for purchases in this range shall be obtained by the Purchasing Division, except as otherwise specifically approved by the Purchasing Manager.

Bid Format. Bids shall be requested by e-mail, fax or letter. Sealed bids may be issued at the discretion of the Purchasing Manager. The solicitation may be advertised and/or posted at the discretion of the Purchasing Manager. Bids will be posted on City's Internet Web Page and/or Vendor Self Service (VSS). Irrespective of the method used to solicit bids, all bids received shall be held in strictest confidence until the bids are opened in accordance with the request for bids.

Bid Receiving Address. The bids shall be received electronically or in the office of the Purchasing Manager and opened (as applicable) at the time and place designated by him or her. The Purchasing Manager, along and in cooperation with the User Department's director shall determine the most advantageous or reject any or all bids.

Single Bid. In the case where only one bid can be obtained, acceptance or rejection of the single bid for amounts of up to \$30,000.00 shall be at the discretion of the General Services Director. Bids for between \$30,000.00 and \$100,000.00** shall be sent to the City Manager with a recommendation to accept or reject the bid. Any authorization to re-advertise for bids in this range shall be in discretion of the City Manager. Any single bid with a value exceeding \$100,000.00**, shall be sent to the City Council with a recommendation to accept or reject the bid and any subsequent authorization for re-advertisement.

Purchase Approval. The final approval for purchase for this range up to \$30,000.00 is made by the General Services Director. For amounts of \$30,000.00 up to \$100,000.00**, final approval for the purchase is made by the City Manager.

Emergency Purchases. In case of emergency, the User Department director, User Department division manager, or an authorized representative thereof may make such purchases or obligations as necessary. Any such action shall be documented on a standard requisition and attached to a memo that explains the nature of the emergency. This documentation will be submitted to the General Services Director within two working days and such action shall be approved by the General Services Director and City Manager.

Purchases Exceeding the Sealed Bid Limit Established By State Law

Sealed bids shall be invited upon such specifications as have been approved in accordance with formal sealed bids. A requisition by the initiating department will be processed through the Purchasing Division.

Document Review

Completed requisitions, specifications, contracts, etc. shall be forwarded to the Purchasing Division for specification and/or review and subsequent processing. This shall include any public works contracts.

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Requisition Processing

Sealed bids shall be invited upon such specifications as have been previously approved in accordance with Document Review, above. A requisition by the User Department will be processed through the Purchasing Division.

Advertisement for Bids

After the approval of plans and/or specifications, notice of the time and place of the bid opening shall be published in the official newspaper once a week for two consecutive weeks prior to the time set for the bid opening. The date of the first publication shall be at least 14 days prior to the date set for the bid opening. In the case of a public works contract, the second advertisement for bids will be published no later than the 10 days before the first day on which bids may be submitted, and said contract shall be awarded to the lowest and/or most advantageous and responsive/responsible bidder offering the best quality, product, or service, after approval by the City Council. Any or all bids may be rejected.

Bid Delivery Point

All bids shall be sealed and delivered to the Purchasing Office or received electronically by the Purchasing Office. At the time announced, there shall be a public opening of all bids received by the Purchasing Division at such place as designated in the advertisement. The City Secretary or his/her designee shall witness said bid openings and record bid amounts. After the bid opening, custody of all documents shall be given to the Purchasing Division for further action.

Single Bid

The results of the bid opening shall be recorded. Bids between \$30,000.00 and \$100,000.00** shall be sent to the City Manager with a recommendation to accept or reject the bid. Authorization to re-advertise for bids in this range may be issued by the City Manager. Any single bid so opened over \$100,000.00** shall be sent to the City Council with a recommendation to accept or reject the bid and any subsequent authorization for re-advertisement.

Bid Tabulation

The Purchasing Manager shall tabulate the bids and, with the User Department director involved, evaluate the bids and said bids shall remain on file in the office of the Purchasing Manager, as stated in the official notice. A recommendation by the User Department shall be made to the Purchasing Manager, who will then review the recommendation with the bids and make a final recommendation to the City Council.

Purchase Approval

The City Manager may approve a purchase under \$100,000.00. The City Council, upon recommendation from the Purchasing Division and the City Manager shall determine the most advantageous bid for the City and award a contract by resolution for purchases of \$100,000.00 or more. The City Council shall have the right to reject any or all bids, and, in the event all bids are rejected, may call for new bids, which shall be advertised in like manner as the original bids. If a bid is submitted by a local bidder, but is not the low bid, and the local bidder completed the *Affidavit for Eligibility in Consideration of Location of Bidder's Principle Place of Business* and is within the statutory preference of a local bidder, the Purchasing Manager shall evaluate the bidder's eligibility and make note in the recommendation to Council.

Specifications Available for Review

Pending advertisement of such proposed contracts and/or purchases, the specifications shall be on file in the office

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of the Purchasing Manager and be subject to the inspection of all persons and companies desiring to bid.

Contract Execution

Execution of any contract documents and verification of bonding and insurance compliance by the successful bidder shall take place in the General Services Offices. Subsequently, the signed contract shall be placed in the care and keeping of the City Secretary's office.

Emergency Purchases

In case of emergency, the User Department director, Division Manager, or his/her authorized representative may make such purchases or obligations as necessary. Any such action shall be documented on a standard requisition and supported by documentation explaining the nature of the emergency. This documentation shall be submitted to the Purchasing Manager within two working days. Such action shall then be approved by the General Services Director for amounts of up to \$30,000.00, and for amounts above \$30,000.00 by the City Manager. Emergency purchases of \$100,000.00 or more shall be submitted to Council for ratification.

REQUESTS FOR PROPOSALS (RFP)

RFPs should be used sparingly for complicated bids that require the vendor/contractor to provide a great deal of feedback on what is being procured. The RFP process should be the same as any requisition with the following exceptions:

- An extended time frame from the time it is issued to the opening (a period of several months is not unusual);
- No information is revealed to any proposer until the contract is awarded; and
- The procedure follows the sealed bid process.

Purpose

The RFP process allows for the flexibility to secure the best economic advantage utilizing 'best value' to purchase the product or service for the User Department.

Use of RFP's

A determination is made that the use of competitive-sealed bidding is either not practical or is not advantageous to the City. RFPs are generally used for purchases of highly technical supplies and services and insurance.

Statement of Work

The User Department is responsible for the submission of a statement of work/technical specifications with a requisition that defines specific needs and requirements. The Purchasing Division is responsible for ensuring that the statement of work/technical specifications is quantified and structured so as to:

- Secure the best economic advantage utilizing a best value analysis;
- Be clearly stated;
- Be contractually sound;
- Be unbiased and non-prejudicial toward offerors;
- Encourage innovative solutions to the requirement described; and
- Permit free and open competition to the maximum extent reasonably possible.

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Time Allowance

The RFP process is a complex procedure and should not be rushed. The proposer(s) should be given adequate time to prepare a comprehensive and complete proposal. The timeline for the RFP process should be as follows:

- Minimum of 15 calendar days from issuance to opening;
- Minimum of 15 working days from opening for evaluation and award; and
- An allowance for additional time of a site visit or a pre-proposal conference is required.

Posting and Advertising

Advertisements must be published in the local newspaper and announcements must be posted on the City's website. The Purchasing division should send notices to known interested bidders.

Proposal Opening

No information is revealed at the opening of the proposals. The contents of the proposals shall remain confidential until the date of award. The names of the proposals shall not be revealed.

Evaluation

Only information provided with the proposal, subsequent discussions and clarifications provided in writing, and the any best and final offer shall be used in the evaluation process and award determination. The award criteria section must contain a statement of the areas to be evaluated and the relative weights of each. To accomplish the evaluation, the User Department and/or Purchasing Division should:

- Put together an evaluation team;
- Develop an evaluation matrix for scoring the proposals; and
- Meet with the Purchasing Manager to score and evaluate the proposals.

Selection and Recommendation

The proposer that receives the best total aggregate score by the evaluation team may be recommended for award of the contract.

Award

A memo is prepared by the User Department to the Purchasing Manager that identifies the successful proposer and the basis for the award decision. A final recommendation will be written by the Purchasing Manager to the City Manager for the City Council's consideration, if applicable.

Contract File

All documentation generated by the evaluation team, including the individual team member's reports and supporting written rationale and the final recommendation shall be included in the contract file. The requisition shall reference the entire RFP contract file, including:

- Responses;
- Best and final offers;
- Memoranda of discussions;
- Related correspondence;
- Evaluation scoring;

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- Memorandum of award; and
- Other pertinent documentation.

REQUEST FOR QUALIFICATIONS (RFQ)

Scope

All RFQs shall follow the requirement set forth in Chapter 2254 of the Texas Government Code.

Purpose

The RFQ process is used for obtaining proposals from interested persons or entities for evaluation and determination of the most qualified person or entity to perform a professional service (e.g., engineering, consulting, architecture, etc.).

General

An RFQ is used to acquire information concerning the qualifications of a person or entity to perform professional services. There are some instances where the RFQ is the only requirement for procurement. These types of services are specifically stated in Chapter 2254 of the Texas Government Code. While mandatory for these services, the RFQ may be used for other consulting services as well. When in doubt as to whether or not an RFQ, RFP or RFB process is necessary, consult the Purchasing Division.

Services That Require the Use of an RFQ

Definitions as given in Tex. Gov't Code sec. 2254.002.

- (1) "Governmental entity" means:
1. a state agency or department;
 2. a district, authority, county, municipality, or other political subdivision of the state;
 3. a local government corporation or another entity created by or acting on behalf of a political subdivision in the planning and design of a construction project; or
 4. a publicly owned utility.
- (2) "Professional services" means services within the scope of the practice, as defined by state law, of:
1. accounting;
 2. architecture;
 3. landscape architecture;
 4. land surveying;
 5. medicine;
 6. optometry;
 7. professional engineering;
 8. real estate appraising; or
 9. professional nursing; or
- provided in connection with the professional employment or practice of a person who is licensed or registered as:
1. a certified public accountant;
 2. an architect;
 3. a landscape architect;

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4. a land surveyor;
5. a physician, including a surgeon;
6. an optometrist;
7. a professional engineer;
8. a state certified or state licensed real estate appraiser; or
9. a registered nurse.

Advertising

The statute does not state that advertising is necessary. However, if you are in doubt whether or not you are aware of all other professionals in the service area you are recruiting, then advertising may be prudent. You may also want to advertise in appropriate trade journals etc. as well as the City website.

Other Professional Services

There may be other services that may be acquired under this format; however, it may be more practical to acquire said services using one of the other forms of request. Please contact the Purchasing Division for additional information or guidance in choosing the proper form of request when professionals service may be required.

Format and Content of the RFQ

Format. Normally the simplest form is a letter.

Content. The RFQ shall state the following information to ensure that the Purchasing Division can evaluate the proposals:

- Basic description or Scope of Work that to be performed;
- Location of the work;
- Type of information that the submission should contain when returned to the requestor. This may include, but not limited to, the following:
 - List of past projects that are similar in scope and size (include contact names and phone numbers);
 - List of persons that will be working on the project and their resumes;
 - An audited financial statement for the last several years to determine the viability of the business; and
 - The estimated time for completion.
- A contract for the services to be performed, if possible; and
- If the contractor is required to actually perform work on site, insurance requirements agreeable to the City.

Response

Upon receipt of the responses, the person responsible for the RFQ should have an evaluation team prepared to evaluate each of the responses for the following criteria:

- Completeness of the information for each requested item;
- Apparent ability to perform the work;
- Responses from the references submitted;

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- How the time frame for completion fits the City’s requirements; and
- The location from which the responder will be working, if travel is required to Midland (this can be an important issue in terms of overall project cost).

Selection

Each evaluator should use the same weighted scale for the evaluation. The evaluation team should meet and review the results. A selection should be made based on the team’s evaluation of the responses and other applicable criteria.

Negotiation

A negotiation team shall then proceed with negotiating costs for the performance of the work. If a mutually-satisfactory price cannot be determined, then negotiations shall cease and the second best responder shall be contacted and the negotiations shall begin once again.

The professional fees under the contract must be consistent with and not higher than the recommended practices and fees published by the applicable professional associations. Said fees shall not exceed any maximum provided by law. This process shall continue until an agreement can be reached with a responder.

Contract Execution

The negotiated terms are integrated into a contract that is sent to the responder for signature. The signed contract should be returned with the properly-endorsed insurance certificates.

A responder shall not be selected on the basis of competitive bids submitted for the contract or for the services, but shall make the selection on the basis of the following:

- Demonstrated competence and qualifications to perform the services; and
- A fair and reasonable price.

Release of Information to Bidders or Others

To reduce confusion and prevent misleading information from being divulged to participating bidders, all requisitions for purchases of \$3,000.00 and over shall be referred to the Purchasing Division prior to an award.

Identical Bids

Pursuant to Texas Local Government Code section 2719.01, if the City receives two or more bids from responsible bidders that are identical, in nature and amount, as the lowest and best bid, the governing body must enter into a contract with only one of those bidders.

If only one of the bidders submitting an identical bid is a resident of the City, the City must select that bidder. However, if two or more of the bidders (or none of the bidders) are residents of the City, the City must select one of the bidders by the casting of lots. The casting of lots is prescribed by the mayor and must be conducted in the presence of the governing body.

Real Property or Personal Property

If the City receives one or more bids from a bidder whose principal place of business is within the corporate city limits of the City, and the bid is within three percent of the non-local bidder, the City may award the bid to: 1) the

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lowest bidder; or 2) the bidder whose principal place of business is within the City. If the contract will be awarded to the local bidder, the governing body must determine, in writing, that the local bidder offers the City the best combination of contract price and additional economic development opportunities for the City created by the contract award, including the employment of residents in the City and any increased tax revenues to the City.

Real Property, Personal Property or Services

If the City receives one or more bids from a bidder whose principal place of business is within the corporate city limits of the City, and the bid is within five percent of the non-local bidder, the City may award the bid to: 1) the lowest bidder; or 2) the bidder whose principal place of business is within the City. If the contract will be awarded to the local bidder, the governing body must determine, in writing, that the local bidder offers the City the best combination of contract price and additional economic development opportunities for the City created by the contract award, including the employment of residents in the City and any increased tax revenues to the City. This applies to construction services of less than \$100,000.00 or other purchases of less than \$5,000.00. This does not apply to the purchase of telecommunications services or information services.

Signature Required on Purchase Orders

Purchase orders shall bear the General Services Director' signature, except in instances where the User Department director has authorized the Purchasing Manager to sign the purchase order.

Bonds; Deposit of Good-Faith Money

Bid Bonds. When so stated in the specifications or request for bids, each bid shall be accompanied by a certified check, letter of credit or surety bond in the amount of 5% of the bid, which shall be forfeited to the City in case the bidder fails or refuses to comply with the terms of the request and/or contract.

Performance and Payment Bonds. When required by statute or so stated in the specifications or the request for bids, the successful bidder shall post a good and sufficient bond in such amount as is required by the transaction as a guarantee of compliance. Forfeiture of such bond for noncompliance shall not preclude further action by the City.

Local Preference

A local preference may be given as long as statutorily permitted by Section 271.905 of the Local Government Code, in the amount specified in the code: "to a bidder whose principle place of business is in the local government if the governing body* of the local government determines in writing, that the local bidder offers the local government the best combination of contract price and additional economic development opportunities for the local government and increased tax revenues to the local government,"

*This means that the City Council must make the determination. Therefore, local preference will not be considered for any procurement under the sealed bid amount stated in the most recent legislation (*See Sealed Bid Limit* section on this Policy).

A bidder wishing to claim the local preference shall complete and submit the *Consideration of Location of Bidder's Principal Place of Business - Affidavit of Eligibility* form, which is sent with each bid packet.

Irresponsible Vendor

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Upon recommendation of the Purchasing Manager and approval by the General Services Director or City Manager, any vendor that fails to comply with the terms of the award may be declared an irresponsible vendor. A bid submitted by an irresponsible vendor shall not be considered again for a minimum period of six months, as determined by the City Manager or General Services Director.

Follow-Up, Inspection and Acceptance

The Purchasing Manager shall be responsible for seeing that an inspection of all deliveries of supplies, materials, equipment or contractual services be made by the User Department. The Purchasing Manager should approve and/or enumerate and require chemical and physical tests to be conducted by the head of the User Department on all supplies and services to determine compliance with the specifications. The Purchasing Manager shall have access to and coordinate the use of City laboratory facilities and, with the approval of the General Services Director, use of any necessary outside laboratory in connection with chemical or physical tests of samples submitted with bids and samples of deliveries that are necessary to determine the materials' quality and conformance with the specifications. Any related charges for such tests shall be borne by the User Department. The Purchasing Manager may reject non-conforming articles and supplies and any such rejected materials shall not be used by any department.

Automotive Parts and Supplies for Special Purposes

The General Services Director may, at their discretion, delegate in writing to other appropriate individuals the authority to solicit bids or purchase automotive parts, repairs and supplies for special purposes such as electric supplies, laboratory supplies and the like, subject to the provisions of this Policy. Necessary repairs due to unforeseen damage to public machinery or equipment are exempt from competitive bidding under section 252.022 (a)(3) of the Texas Local Government Code.

Accepting Equipment on Trial

No equipment or accessory may be placed to use by any department for the purpose of testing its suitability or fitness in advance of purchase without the express approval of the Purchasing Manager. The Purchasing Manager shall require an understanding from the vendor that such trial, use, and any possible purchase liability be presented in writing before commencement of such demonstration or test; provided, however, that in the event the purchase of equipment proposed to be demonstrated is not contemplated in the current budget, the matter shall be submitted to the General Services Director.

RENTAL OF EQUIPMENT

Approval Required

No equipment or accessory shall be rented or leased without an approved requisition or purchase order, except as provided in *Emergency* section on this Policy.

Garage Action

All vehicular equipment rentals shall be made through the Garage Division.

Only Public Purchases Permitted

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Neither the General Services Director or the Purchasing Manager, any employee of his office, nor any department manager to whom authority to purchase may be delegated shall, acting in his/her official capacity on behalf of the City purchase 1) automobile supplies or accessories for the personal or private account or use of any employee including those whose privately owned automobiles are rented for use in City business; or 2) supplies or materials of any kind for personal or private use of any employee or other person(s) at a discount not consistent with that business' normal pricing policy. The work and concern of all persons in any way associated with the business of the Purchasing Division shall be confined strictly to purchases of a public nature and for which funds are provided in the budget.

TRANSFER OR SALE OF CITY OWNED PERSONAL PROPERTY

Auctions

Annually, or at any other convenient time, an auction may be held by the Purchasing Manager to dispose of surplus, obsolete, or otherwise unusable supplies and equipment, including materials from various "Lost and Found" depositories, Police confiscations, and recovered/ unclaimed evidence that are cleared for sale. The auction may include the use of online auctions where deemed appropriate and in the best interest of the City. The Purchasing Manager may also hold other auctions where special conditions dictate the auction as being necessary (when fair market value of City-owned personal property can be reasonably ascertained, City owned personal property may be disposed of by direct sale. *See the Single Items or Special Lots* section in this Policy.

All departments shall submit to the Purchasing Manager, at such times and in such form as they shall prescribe, reports showing stocks of all supplies, materials, and equipment that are no longer used or that have become obsolete, worn out or scrapped. The Purchasing Manager may transfer such stock to another department that has need for and can use or hold such item in storage for future use, as they may determine may be most advantageous for the City. The Purchasing Manager shall also have the authority to sell all such supplies, materials and equipment that are unsuitable for public use, or to exchange for or trade in the same on new supplies, materials and equipment. Department managers may initiate the sale of obsolete, worn out, or scrap property of the City under their supervision by written memorandum to the Purchasing Manager, describing the property and stating the reasons for proposed sale. *See the Disposition Procedure* section on this Policy and applicable forms.

Single Items or Special Lots

The Purchasing Manager shall solicit bids when required by statute by public advertisement and posting on the bulletin board and shall review all proposed property sales and make written recommendation to the City Manager.

The City Manager shall approve all sales of City-owned personal property that is not sold at auction or through the solicitation of bids. Approval may be delegated to certain levels to the General Services Department.

Petty Cash Funds

Petty cash funds not to exceed three hundred dollars (\$300.00) are established, upon approval by the General Services Director or the Purchasing Manager. Current limit for petty cash funds single transactions is \$50. Petty cash purchases shall be of the nature that they will benefit the operation of the City by saving time and money.

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Petty cash purchases shall not be made for the purpose of evading the Purchasing Policy, such as splitting purchases to evade the stated limit. Petty cash purchases shall be documented with adequate receipts and all receipts shall be submitted to the Finance Department at least monthly for reimbursement.

EMPLOYEE RESPONSIBILITIES

Non-compliance with this Policy may result in disciplinary action up to and including termination. Misuse and/or abuse, including inappropriate or improper purchases, will be dealt with as follows:

First Violation

The Employee's Division Manager shall determine if: 1) the employee is individually responsible for the non-compliant activity, 2) the individual should retain purchasing privileges, and 3) disciplinary action is necessary. The employee's division manager must notify the Purchasing Manager, in writing, of the disposition of the incident within five working days.

Second Violation

The Purchasing Manager shall determine if the employee may continue to exercise purchasing privileges and the employee's division manager shall determine disciplinary action. The Purchasing Manager shall be notified in writing of the disposition of the incident by the employee's division manager within five working days.

Third Violation

The Purchasing Manager shall determine if the employee may continue to exercise purchasing privileges and may refer the matter to the General Services Director for disciplinary determinations with the City Manager's Office, up to and including termination of employment. The department manager or the Purchasing Manager may terminate the employees purchasing privileges. The Purchasing Manager shall be notified in writing of the disposition of the incident by the employee's division manager within five working days.

Purchasing Card Policy

The Purchasing Card Program (the "*Program*") is designed to streamline and create efficiencies within the purchasing process for small-dollar purchases as well as travel-related expenses. The Program is intended to give authorized employees the power to procure for City-related business and goods or services directly from vendors while reducing the time and effort normally associated with ordering and paying for these types of purchases. Cardholders are expected to comply with this Policy and with the City's Purchasing Manual.

The City utilizes two types of purchasing cards: Individual purchase cards ("*P-Cards*") and travel cards. P-Cards are issued to specific employees and travel cards are issued to employees who do not have a City P-Card and are traveling for City business. This Policy applies to both types of cards unless otherwise noted.

Eligible Employees. Department directors and division managers may recommend full-time and part-time employees, whose responsibility includes routine purchases of business-related goods and services, to receive a P-Card embossed with that employee's name as well as 'City of Midland.' An individual should only be

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assigned a P-Card after completing the application form and signing the *Cardholder Agreement Form*. Temporary employees are not eligible.

Each P-Card is issued to one employee only. Authorization to use any P-Card is restricted to the employee whose name is embossed on the card. As a cardholder, the employee is responsible for the appropriate use of City funds. Although the P-Card is issued to the employee, it remains City property and may be rescinded at any time. The employees may use the P-Card only for the types of purchases described in this Policy and approved by their supervisor.

A travel card may be utilized by employees that do not have a P-Card and are traveling on City business for hotel, incidentals, taxi fares, etc. These employees shall request a travel card no later than two (2) weeks before they plan to travel.

Card Limits. Spending limits should be commensurate with the cardholder’s needs. The transaction limits and monthly credit limits are dependent upon the requirements of the cardholder’s position and function. Limits vary according to levels of budget authority, discretion of the applicable supervisor, and type of purchases required by the job.

Currently, the City offers three limits for P-Cards:

Level	Monthly Credit	Single Transaction
1	\$20,000	\$5,000
2	\$10,000	\$3,000
3	\$5,000	\$1,000

Department directors may request a temporary or permanent change to a cardholder’s assigned level by submitting their request in writing to a General Services Director or other appropriate employee. Under no circumstance shall the new single/monthly limits exceed the maximum allowable limit level available to cardholders.

For exceptionally unique and/or emergency situations, and when in the City’s best interest, a department director may request an increase to a cardholder’s level of single/monthly limits that exceeds the maximum allowable to cardholders. Such requests, including detailed justification for the request, must be submitted in writing to the General Services Director for approval. If approved, the increase will go into effect for a defined period of time, after which the cardholder’s limits shall immediately return to their prior limits.

Program Administrator Responsibilities. The City hereby appoints the General Services Director as the Program Administrator to serve as the liaison between the cardholders and the City’s bank. Additionally, the Program Administrator’s responsibilities include:

- Establishing cardholder accounts and authorization controls;
- Providing instructions, training and assistance to cardholders and approvers;
- Maintaining proper documentation and storage of imaged receipts, logs and approvals;
- Authorizing payment to the bank in accordance with City policies, procedures, and the Prompt Payment Act; and
- Immediately notifying the Purchasing Manager of any suspected abuse or fraudulent activity.

Supervisor Responsibilities. The cardholder’s supervisor, manager, or manager designee is responsible for approving transactions and verifying that related receipts and documentation are properly submitted.

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Transactions must be approved in the financial/procurement software at least weekly by indicating that a transaction is valid (see Segregation of Duties section on this policy).

The supervisor is also responsible for obtaining P-Cards from cardholders upon their exit from the City (resignation or termination) and destroying the cards. The Program Administrator shall be notified of exiting employees so their P-Card accounts can be promptly closed.

Cardholder Responsibilities. The cardholder promises to comply with the program rules and regulations by signing a *Cardholder Agreement Form*. Additionally, the cardholder is responsible for the following:

- Upon receipt of the card, contacting the bank to activate the card;
- Holding and securing the card;
- Ensuring sales tax is not charged;
- Receiving and inspecting all ordered materials for discrepancies (resolving discrepancies directly with the vendor first);
- For each transaction made, indicating the General Ledger account number(s) (Org/Obj) that will be used to pay for the purchase;
- Saving all itemized sale receipts;
- Using the card for City-related business only, in accordance with City, state, and federal policies, procedures and laws; and
- Immediately reporting any fraudulent use as well as lost or stolen cards to the bank and the Purchasing Department.

Segregation of Duties. In order to ensure proper internal controls, each department shall maintain a separation of duties for the review and approval of all transactions in the financial/procurement software including the following:

- Department-designated P-Card entry staff shall “review” the P-Card transactions in the financial/procurement software by adding the General Ledger account number(s) (Org/Obj), purchase description (to include the first initial and last name of the purchaser if the purchase was made with a P-Card) and attach receipts to the appropriate transactions;
- Cardholder supervisor(s), or designee, must electronically approve transactions in the financial/procurement software ;
- Under no circumstances should the same individual be the “reviewer” and the “approver”; and
- Under no circumstances should anyone designated as an “approver” approve their own transactions.

Using the Card. The P-Card is a supplement to the purchasing process. Use of the card is not intended to replace effective procurement planning that enables volume discounts, nor is it intended to preempt City policies and procedures or state law. The P-Card is intended for approved purchases that benefit the City. Examples of the type of purchases where the P-Card should be used include:

- Maintenance and repair of operational supplies;
- Subscriptions for books;
- Seminars for training and membership registration fees;
- Travel expenses and meals;
- Some services purchased on an irregular basis; and
- Office and food supplies.

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Purchases shall not be split to circumvent other accounting and procurement policies. Charging personal expenses, even if the intent is to reimburse the City later, is prohibited. P-Cards shall not be used for:

- Cash advances and/or cash refunds;
- Alcoholic beverages;
- Charitable, civic, political or religious organizations;
- Court costs and fines;
- Capital equipment;
- Separate, sequential or component purchases; or
- Items for which the City has established annual purchasing agreements.

When placing an order, the employee shall provide the vendor with the following information:

- Identification as a City employee;
- City tax exemption number that is pre-printed on the card indicating the City is tax-exempt;
- Indication that it is a procurement card purchase;
- The cardholder name;
- Individual card number point-of-sale (swiped/chipped) cards are the preferred method of presentation;
- Expiration date of card;
- Description of goods or services to be ordered;
- Complete delivery address including building and room number, if applicable;
- Billing information if requested (e.g., P.O. Box 1152, Midland, Texas 79702); and
- Any other information necessary to make the purchase successfully.

Transaction Reconciliation. An itemized sales receipt shall be retained, scanned and attached to the transaction in the financial/procurement software as supporting documentation. In case of a missing receipt, the Program Administrator may require a memo from the card holder to their immediate supervisor. The approved memo shall be attached into the financial/procurement software as the supporting documentation.

The billing cycle ends on the fourth (4th) day of every month. All transactions for the current cycle should be posted two days after the end date. The only time the cycle does not end on the 4th day of the month is when said day falls on a weekend. When that happens, the following Monday is the end of the cycle. Each twelfth (12th) of the month, the transactions must be reviewed, edited, and submitted for approval and all invoices/receipts or other documentation, including travel expense reports, must be scanned and attached to the individual transaction in the financial/procurement software. Department managers are required to send an approving email by the fifteenth (15th) day of the month.

Sales Tax. The City is tax exempt. The City's tax-exempt number is 1-75-6000608-6 and this number is printed on each card. The cardholder is responsible for ensuring compliance with this tax exemption and is responsible for ensuring credit for any tax erroneously applied. When traveling, hotel charges, food charges and fuel charges will most likely be properly taxable.

Discrepancies and Dispute Procedures. The cardholder is responsible for following up with a vendor for any erroneous charges, disputed items, or returns. A cardholder may dispute a charge that appears on their account. A disputed charge may result from failure to receive goods or services, fraud or misuse, altered

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charges, defective merchandise, incorrect amounts, duplicate charges, credits not processed, etc. The cardholder should contact the vendor to resolve any disputed charge.

If the cardholder is unable to reach an agreement with the vendor, they should initiate a dispute by contacting the issuing bank by calling the phone number on the back of the card. The cardholder's next statement will be reduced by the amount of the disputed charge until the issue is resolved. A resolution of the disputed charge should be reached in 90 days. In the event of an audit, the cardholder must prove that a dispute is in process.

Lost or Stolen Cards. It is the responsibility of the cardholder to immediately report a lost or stolen card directly to the bank or contact the Purchasing Office. The cardholder is also responsible for notifying their supervisor and the Senior Buyer. During business hours, the Senior Buyer may assist the employee with reporting the lost/stolen card to the bank and deactivating the card. Fraudulent transactions that may occur before the card is cancelled will be disputed.

The City is responsible for all transactions until the card is reported lost or stolen. Unauthorized use of the card may be reported to the Midland Police Department if criminal activity is suspected. The employee's quick response reduces the risk of fraud.

Canceling Cards. An employee's supervisor may cancel a card for any employee at any time for any reason by destroying the card and notifying the Program Administrator.

Renewal of Existing Cards. Renewed cards are sent automatically to the Program Administrator 30 days prior to the expiration date of the card. The Program Administrator will notify the appropriate cardholders when the cards are available to be picked up. Cards must be picked up and signed for within ten (10) business days after notification. P-Cards may only be picked up by the cardholder whose name is embossed on the card.

Misuse of Card. The issuance of a card represents the City's trust in the employee and his/her empowerment as a responsible employee of the City to safeguard and protect its assets. As a cardholder, each employee assumes the responsibility for the protection and proper use of the card, including timely reconciliation.

Cardholders suspected of fraud, theft or misuse shall have their card(s) suspended or terminated. Appropriate disciplinary actions will be taken against the employee in accordance with City policies and procedures.

Personal Misuse. The following are a few examples of personal misuse of the procurement card:

- Purchases using the card for the sole benefit of the employee or the employee's family or friends;
- Purchases of clothing, food or entertainment not authorized by the employee's department;
- Assignment, transfer, or loaning of a card to an unauthorized person; or
- Use of a card by a suspended or terminated employee.

These examples may indicate negligence on the part of the cardholder when no apparent fraudulent acts are committed. Following the Program Administrator's review of personal misuse, the cardholder may be required to reimburse the City for unauthorized purchases and provide documentation proving reimbursement within two weeks or some other specified time period and subject to the following actions:

- First Offense – Card suspended for 30 days; notice sent to cardholder, supervisor and department director;

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- Second Offense – Card suspended permanently; and
- Other disciplinary measures up to and including termination and subject to legal action.

Administrative Misuse. The following situations are examples of administrative misuse of a procurement card:

- Lack of proper and timely reconciliation of cardholder account;
- Lack of proper documentation (e.g., lack of itemized receipts for each transaction);
- Lack of properly safeguarding the card (e.g., repeated loss of card(s)); and
- The use of the card in direct violation of this Policy (e.g., splitting transactions to circumvent the single transaction limit, multiple transactions to circumvent the bidding process etc.).

Administrative misuse should be handled promptly and consistently as applied to all cardholders. Following the Program Administrator review of administrative misuse, the Program Administrator may implement the following punishment for the cardholder:

- First Offense – Warning sent to cardholder, supervisor and HR; and
- Second Offense – Card may be suspended permanently.

Records Management. P-Card receipts and all related documentation supporting a purchase is considered an accounts payable transaction and should be maintained in accordance with established guidelines and policies for such documents. Once the original documents are all scanned and uploaded as an attached image to the transaction in the financial/procurement software, the department is responsible for keeping the originals.