



# Purchasing Manual

<b>Title: Purchasing Manual</b>		<b>Contents: P-000</b>
<b>P-000 Foreword</b>		<b>Submitted By: E. Martinez</b>
		<b>Approved By:</b>
<b>Effective Date:</b>	<b>Supercedes No.:</b>	<b>Page No.: 1 of 1</b>

P-000 Foreword

**T**his manual is provided to facilitate understanding of the Purchasing organization, its functions, policies and procedures; and as a training tool for personnel who are delegated purchasing responsibilities. This manual will serve its users best by being kept up to date. All updates issued by Purchasing should be inserted as soon as possible after receipt.

By publishing this manual we hope to provide a comprehensive tool that will enable those “buyers” of City personal property and those that may enter into contracts for construction or services to have the necessary information to do so properly. That is to say, staying within the bounds of the State Statutes, the City’s policies and maintaining a high ethical standard as prescribed by The Institute of Supply Management.

<b>Title:</b> <b>P-010 Purchasing Manual Overview</b>		<b>Contents:</b>	
		<b>Submitted By:</b> E. Martinez	
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<b>Effective Date:</b> 3/23/23	<b>Supersedes No.:</b>	<b>Page No.:</b>	1 of 3

## P-010 Manual Overview

### Purpose

To establish standard methods for the procurement of products and services that are compliant with City policies and consistent with the vision and goals of the City Council and City Management. Help those involved in the activities of procurement understand the process.

### Scope

The procedures contained herein shall apply to all commodity, construction, remodeling and service procurements and their related activities. These Policies and Procedures exist for several reasons: Prevent Fraud, Compliance with State Laws and compliance with the Uniform Commercial Code (the UCC is a set of standard “rules” that each state adopts and all contracts for sales of commodities are litigated under).

### Responsibilities

Each employee involved in the purchasing process is responsible for understanding the Purchasing Policy<sup>1</sup> upon which this manual and the referenced procedures are based.

Questions or concerns that an employee has relative to these procedures or the Purchasing Policy should be brought to the Purchasing Manager’s attention immediately.

These procedures are not intended to restrict the effectiveness of those involved in the purchasing process, but to aid in their understanding of the process in order to bring about a professional relationship between City employees and the vendors, suppliers and contractors that serve the City.

### Definitions

#### **Purchasing**

Identification and recognition of the real needs for goods and services in all parts of the organization, and the assurance of satisfaction of those needs at the lowest possible cost, consistent with the best quality of goods required. Purchasing reflects the dual role of service department and cost control by serving as the primary contact between the various functions of the City and its suppliers.

#### **Policies**

Policies, as referred to in this manual, are pre-decisions made by Management & Council for the purpose of giving information and direction that is consistent with State and Local Statutes. Policies establish basic philosophies and climate and determine the major values upon which Purchasing and Material Control functions must operate, ultimately providing the means by which to control and prevent fraud.

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<sup>1</sup> The Purchasing Policy and all related policies and procedures may be found on the City’s intra-net web site by clicking on the Facilities and Fleet Management Department, then clicking on the Purchasing button.

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		<b>Submitted By:</b> E. Martinez	
		<b>Approved By:</b>	
<b>Effective Date:</b> 3/23/23	<b>Supersedes No.:</b>	<b>Page No.:</b>	2 of 3

## Procedures

Procedures are the prescribed means of accomplishing policy. Their intent is to provide City personnel with the guidelines and, where appropriate, the specific action sequences to ensure uniformity, compliance, and control of all policy- related activities.

## Buyer

As used in this manual, a Buyer is anyone who is performing a procurement function on behalf of the City of Midland, Texas.

## Agency -

The legal powers of the Purchasing Manager, purchasing personnel and those who have delegations of authority (Buyers), represent the City in procurement transactions and are governed by the laws of agency.

## Express Authority –

An express authorization by the principal that a person is appointed to act on behalf of the principal. (in the private sector, the principle would be the CEO. In the public sector, it is the City Manager and Council). A Buyer acts as an agent and has the express agency granted through the delegation of authority.

## Apparent Authority

A buyer is considered to have apparent authority that is ordinarily vested in purchasing personnel. Buyer’s acts will bind the City if the Buyer exceeds or violates the actual authority.

## Delegation of Authority

Normally a written delegation of authority, passes on the authority to purchase on the City’s behalf. This authority is usually for items allowed on a Purchase Order or Contract. This delegation does not relieve the individual of the responsibility to follow all policies, including, but not limited to soliciting bids, issuance of the proper document and compliance with all contract requirements.

As long as a Buyer acts within the scope of expressed authority and is neither negligent, dishonest, nor acting in bad faith, the Buyer is not likely to become personally liable for such actions. However if the scope of authority is exceeded, the Buyer may become personally liable (i.e. Buyer issues a verbal that exceeds \$1,000).

## Objectives

### City Objectives

The basic objectives of the City is to operate a vigorous, growing, and diversified service organization providing service to the Citizens best interests.

### Purchasing Objectives

The overall goal is to maintain at all times, a continuous supply of goods and services necessary to support all City departments and divisions. Purchasing gives prime consideration to the City’s best interest while seeking to maintain and further mutually economical and ethical supplier relationships. Some segments of this responsibility are to:

- Ensure the unlimited flow of services by obtaining and ensuring delivery of acceptable quality goods and services at the right time and place.
- Develop reliable alternate sources of supply to meet City requirements.

<b>Title:</b> <b>P-010 Purchasing Manual Overview</b>		<b>Contents:</b>
		<b>Submitted By:</b> E. Martinez
		<b>Approved By:</b>
<b>Effective Date:</b> 3/23/23	<b>Supersedes No.:</b>	<b>Page No.:</b> 3 of 3

- Treat all prices and technical information submitted by suppliers as confidential in order to preserve a good business reputation and obtain competitive prices. Note: For bids, the information may be released at the time that all bids have been received in accordance with Public Information laws. In the case of a Request for Proposals, the information shall remain confidential until all negotiations have been completed, then the information may be released as above.
- Comply, in all respects, with the antitrust laws, and with all other applicable laws without qualifications or evasion.
- Purchase materials and services for the City’s use at the maximum end-use value per dollar spent.
- Resolve complaints on all purchased goods and services.
- Provide leadership in the standardization of materials, supplies, equipment, service and policies.
- Provide leadership for the management of inventories of purchased goods so as to meet the use requirements of the City’s departments and divisions at the lowest possible cost.
- Dispose of, to the best advantage, all material and equipment declared to be surplus or obsolete.

## Manual Distribution

City Manager’s Office .....	1
Purchasing Manager.....	1
Director-Administrative Services .....	1
Director-Airports .....	1
City Secretary .....	1
Director-Information Technology Services .....	1
Director-Community Services .....	1
Director-Engineering .....	1
Director-General Services.....	1
Director-Finance .....	1
Fire Chief .....	1
City Attorney .....	1
Judge-Municipal Court .....	1
Police Chief .....	1
Director-Utilities .....	1

NOTE: The quantities shown include additional copies for each division head or supervisor over persons involved in any procurement activity. This Manual is also available on the Purchasing intranet web page

<b>Title:</b>		<b>Contents:</b>	
<b>P-020 Organization – Delegation of Authority</b>		<b>Submitted By:</b> E. Martinez	
		<b>Approved By:</b>	
<b>Effective Date:</b> 3/23/23	<b>Supercedes No.:</b>	<b>Page No.:</b>	1 of 2

## P-020 Delegation of Authority

### Purpose

To establish the hierarchy of authority and responsibility upon which all procurements are made.

### Delegation of Authority

The Organizational Delegation of Authority is as follows: The City Council and Mayor, The City Manager, The Director of General Services, the Purchasing Manager, Directors, Division Managers, Supervisors, and finally individual employees who perform the act of purchasing function.

The Purchasing Manager is granted authority through the Purchasing Policy for the acquisition of all materials, equipment, supplies and services necessary to allow the City to continue operations and serve the citizens of Midland.

Within this authority the Purchasing Manager may delegate to others the responsibility for some of the purchasing duties.

### Delegations Made

The following delegation of authority is hereby made. The individuals named herein shall be responsible for conducting purchasing transactions within the guidelines set forth in this Manual, Purchasing Policy and procedures:

1. Materials and supplies in amounts of up to \$3,000 and Contracts for services and small Public Works Contracts of up to \$3,000:

Department Managers and those delegated by them within the Department.

2. Emergency<sup>1</sup> purchases for any amount after hours:

Department Managers and those delegated by them within the Department.

3. Credit Card Purchases:

Individuals assigned Purchasing Cards by the Program Administrator.

4. All purchases including commodities, contracts for services, capital equipment, etc.

The Purchasing Manager, General Services Director, City Manager, City Council.

Each department head should keep a list of those he or she has delegated their authority to in the event the auditors wish to know who they are. No authority has been given for purchases over \$3,000 except in the case of emergency (see the purchasing policy for the definition of an emergency). Any commitment of City funds in excess of \$3,000 falls under the assumed authority and the individual could find themselves paying out their own pocket.

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<sup>1</sup> Emergency as defined by statute and City Purchasing Policy. Purchases over \$3,000 and up to \$14,999.99 require ratification by the Purchasing Manager. From \$15,000 up to \$49,999.99 by the General Services Director and the City Manager from \$50,000 to \$100,000. Procurements for \$100,000 and over require ratification by City Council. When funds are not available Council will also have to appropriate funds as well.

<b>Title:</b>		<b>Contents:</b>	
<b>P-020      Organization – Delegation of Authority</b>		<b>Submitted By:</b> E. Martinez	
		<b>Approved By:</b>	
<b>Effective Date:</b> 3/23/23	<b>Supercedes No.:</b>	<b>Page No.:</b>	2 of 2

When one acts without this express authority he is said to be acting with assumed agency and may be liable for all expenses incurred. For example: an employee takes bids for a purchase over \$1,000, but less than \$3,000, OK so far. After obtaining the bids, the individual proceeds to commit an order verbally. The vendor honors the order, because the person has apparent authority and ships the item(s). He or she has exceeded their authority and as a result become liable for the cost of the product. If it turned out that the item was actually not needed and the City refused to pay for it, the employee could be held responsible for that amount personally.

Please note that no part-time employees should be given any purchasing authority. Full-time temporary employees should not be delegated purchasing authority.

If the Division or Department Manager determines that it is necessary to delegate authority to a temporary employee, the Director may require the employee to post a personal surety bond.

<b>Title:</b>		<b>Contents:</b>	
<b>P-030 Purchasing Responsibilities</b>		<b>Submitted By:</b> E. Martinez	
		<b>Approved By:</b>	
<b>Effective Date:</b> 3/23/23	<b>Supercedes No.:</b>	<b>Page No.:</b>	1 of 1

## P-030 Purchasing Division

### Purpose

In order for the City to maintain its position of leadership, it is imperative that we continually strive to balance cost, delivery and quality in every area of City operations. A large cost element is purchased goods and services. These costs account for approximately 40% of the City's operating cost and provide an excellent opportunity for cost reduction and control.

It is mandatory in purchasing that the responsibility for buying materials and services be assigned to a group of people skilled in value analysis, negotiations, knowledge of applicable Federal, State and Local Laws and regulations, and other specialized purchasing techniques.

Their primary responsibility is to provide for the purchase of materials, supplies and services, with the objective that they will be available at the time, place, quantity, quality, and price consistent with the needs of the City. This balancing of several factors is critical to the fiscal and operational success of the City.

To achieve this overall objective, the responsibilities, authorities and controls set forth in this manual and related policies, must be adhered to by all employees.

### Scope

This procedure applies to all purchase and purchase-related documents prepared or processed within the City.

### Responsibilities

#### Authorized Persons

Only those persons to whom authority has specifically been delegated by the Purchasing Manager or City Manager are authorized to commit City funds for materials, supplies, and services within the specified limits of that delegation.

#### Purchasing Manager

The Purchasing Manager has the responsibility for the procurement of all goods and services and to either provide the services for such procurement or give functional directions to others delegated the authority to perform such services.

### Obligations & Determinations

Purchasing has the responsibility for obligating the City and for making the final determination of sources of supply, quantities purchased, delivery schedules, and price negotiations, as applicable, except where others are so authorized by the Purchasing Manager. These decisions will be made in conjunction with the user Department Manager.

### Relationships

Purchasing is responsible for initiating and maintaining effective and professional relationships with vendors (potential) and suppliers (actual).

### Vendor Communications

Purchasing is to serve as the exclusive channel through which all requests for prices and products are handled in accordance with the purchasing policy (amounts over \$3,000).

<b>Title:</b> <b>P-040      The Law</b>		<b>Contents:</b>	
		<b>Submitted By:</b> E. Martinez	
		<b>Approved By:</b>	
<b>Effective Date:</b> 3/23/23	<b>Supersedes No.:</b>	<b>Page No.:</b>	1 of 2

## P-040      The Law

### **The Law; Statutory, Antitrust and the UCC.**

#### ***Purpose***

To provide a very brief introduction into “Purchasing Law”. This is not intended to be an in depth discussion of the subject.

#### ***Statutory Law***

##### **General**

Statutory requirements are those laws passed by the State Legislature and may carry criminal penalties for violations. An example is the Sealed Bid Statute.

The statutory requirements covering public purchasing are found mostly in Chapter 252 and 271 of the Texas Government Code and can also be found in *Vernon’s Civil Statutes and Vernon’s Texas Codes*. There are also other sections that govern municipal purchasing throughout state laws. Complete text of Texas Statutes, Local government Code etc., can be found on the State of Texas internet web site.

##### **Antitrust Laws**

There are three major federal antitrust laws: The Sherman Antitrust Act, the Clayton Act and the Federal Trade Commission Act.

***The Sherman Antitrust Act*** has stood since 1890 as the principal law expressing our *national commitment to a free market economy*. The Sherman Act outlaws all contracts, combinations, and conspiracies that unreasonably restrain interstate trade. This includes agreements among competitors to fix prices, rig bids and allocate customers. The Sherman Act also makes it a crime to monopolize any part of interstate commerce. An unlawful monopoly exists when only one firm provides a product or service, and it has become the only supplier not because its product or service is superior to others, but by suppressing competition with anticompetitive conduct. The Act is not violated simply when one firm’s vigorous competition and lower prices take sales from its less efficient competitors; rather, that is competition working properly.

***The Clayton Act*** is a civil statute (it carries no criminal penalties) that was passed in 1914 and significantly amended in 1950. The Clayton Act prohibits mergers or acquisitions that are likely to lessen competition. Under the Act, the government challenges those mergers that a careful economic analysis shows are likely to increase prices to consumers. All persons considering a merger or acquisition above a certain size must notify both the Antitrust Division and the Federal Trade Commission. The Act also prohibits certain other business practices that under certain circumstances may harm competition.

***The Federal Trade Commission Act*** prohibits unfair methods of competition in interstate commerce, but carries no criminal penalties. It also created the Federal Trade Commission to police violations of the Act.

***Robinson-Patman Act***, passed by the U.S. Congress in 1936 to supplement the Clayton Antitrust Act. The act, advanced by Congressman Wright Patman, forbade any person or firm engaged in interstate commerce to discriminate in price to different purchasers of the same commodity when the effect would be to lessen competition or to create a monopoly. Sometimes called the Anti-Chain-Store Act, this act was directed at protecting the independent retailer from chain-store competition, but it was also strongly supported by wholesalers eager to prevent

<b>Title:</b> <b>P-040      The Law</b>		<b>Contents:</b>	
		<b>Submitted By:</b> E. Martinez	
		<b>Approved By:</b>	
<b>Effective Date:</b> 3/23/23	<b>Supersedes No.:</b>	<b>Page No.:</b>	2 of 2

large chain stores from buying directly from the manufacturers for lower prices.<sup>1</sup>

## ***Uniform Commercial Code***

### **General**

The Uniform Commercial Code is a “standard” set of contract laws, sometimes referred to as “Purchasing Law”, that all states have essentially codified, except for the state of Louisiana. The code covers all aspects of commerce. Title 1, Chapter 2 deals with Sales and is the particular portion of the Code that applies to all commodity purchases. It does not cover contracts for services or construction acquisitions. That is why a purchase order alone does not suffice for these situations. For the purpose of this manual, we will only examine a few sections of the code as follows:

#### ***Statute of Frauds***

§ 2-201 of the Uniform Commercial Code (UCC) states" Except as otherwise provided in this section a contract for the sale of goods for the price of \$500 or more is not enforceable by way of action or defense unless there is some writing to indicate that a contract for sale has been made.....". This is the reason ALL Departmental Purchase orders must be given to vendors for amount of \$500 or more as stated on the face of the form.

#### ***Buyer Personal Liability***

This was mentioned in the definitions, but by avoiding the following situations the buyer can avoid personal liability:

- Making false statements concerning authority.
- Making any false statements in with an intent to deceive.
- Taking any actions that could result in damages to another.
- Performing an illegal act even with the authorization of the employer.
- Performing any damaging act outside the Buyer’s scope of authority.

In each case the seller has no recourse to the City, since no valid contract (PO) exists between the seller and the City. Therefore, the only recourse the seller usually has is to sue the Buyer personally.

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<sup>1</sup> [www.factmonster.com/ce6/history/A0842115.html](http://www.factmonster.com/ce6/history/A0842115.html)

<b>Title:</b> <b>P-050      Conflict of Interest</b>		<b>Contents:</b>	
		<b>Submitted By:</b> E. Martinez	
		<b>Approved By:</b>	
<b>Effective Date:</b> 3/23/23	<b>Supersedes No.:</b>	<b>Page No.:</b>	1 of 1

## P-050 Conflict of Interest

### **Conflict of Interest.**

As a purchaser for the City of Midland employees have a responsibility to avoid a situation resulting in a conflict of interest.

No employee, officer or agent should participate in selecting, awarding or administering procurement for the City if, to the employee's knowledge, he or any member of his immediate family has a financial or other interest in a firm of a prospective prime contractor, subcontractors or suppliers considered for award.

Every effort should be made to avoid doing business with City employees because of the possible ramifications. Currently there is no prohibitions policy, therefore every procurement from an employee shall be submitted to the Purchasing Office for bidding. Any bid where an employee or the employee's family is a potential vendor or contractor shall be done through a sealed bid process.

All potential or current vendors shall complete the form CIQ declaring whether or not a personal relationship exists between City officials and the Vendor.

<b>Title:</b> <b>P-060 Ethics</b>		<b>Contents:</b>	
		<b>Submitted By:</b> E. Martinez	
		<b>Approved By:</b>	
<b>Effective Date:</b> 3/23/23	<b>Supersedes No.:</b>	<b>Page No.:</b>	1 of 1

## P-060 Ethics

### **Ethics.**

One who is involved in the purchasing process should always adhere to the highest standards of ethics. As one who has procurement responsibilities for the City of Midland, you should read and understand the ethics as stated by the Institute of Supply Management as follows:

*Loyalty to your organization;  
Justice to those with whom you deal;  
and faith in your profession.*

From these principles are derived the ISM Standards of Ethical Supply Management Conduct. (Global)

- Avoid the intent and appearance of unethical or compromising practice in relationships, actions, and communications.
- Demonstrate loyalty to the employer by diligently following the lawful instructions of the employer, using reasonable care and granted authority.
- Avoid any personal business or professional activity that would create a conflict between personal interests and the interests of the employer.
- Avoid soliciting or accepting money, loans, credits, or preferential discounts, and the acceptance of gifts, entertainment, favors, or services from present or potential suppliers that might influence, or appear to influence, supply management decisions.
- Handle confidential or proprietary information with due care and proper consideration of ethical and legal ramifications and governmental regulations.
- Promote positive supplier relationships through courtesy and impartiality.
- Avoid improper reciprocal agreements.
- Know and obey the letter and spirit of laws applicable to supply management.
- Encourage support for small, disadvantaged, and minority-owned businesses.
- Acquire and maintain professional competence.
- Conducts supply management activities in accordance with national and international laws, customs, and practices, your organization's policies, and these ethical principles and standards of conduct.
- Enhance the stature of the supply management profession.

Realizing that all activities concerning City business is a matter of public interest and therefore are a matter of public record, employees should always conduct themselves in a manner that is totally above board and defensible.

<b>Title:</b> <b>P-070 Gifts and Gratuities</b>		<b>Contents:</b>	
		<b>Submitted By:</b> E. Martinez	
		<b>Approved By:</b>	
<b>Effective Date:</b> 3/23/23	<b>Supercedes No.:</b>	<b>Page No.:</b>	1 of 1

## P-070 Gifts and Gratuities.

### **Purpose**

To provide guidance to employees concerning the acceptance of certain Gifts and gratuities

### **General**

No employee shall ever solicit any personal gift or gratuity from any current or potential supplier, contractor or subcontractor for personal use or gain.

This includes vendor paid trips to their facility. If such an offer is made, it shall be approved by the City Manager's Office.

An exception to this may be solicitations for donations that are used for door prizes etc., for various functions such as United Way Campaigns, Credit Union Annual Meetings, Golf Tournaments, etc. however, when making these solicitations on behalf of an event, charity, etc., the donor should be made to understand that the donation, in no way, will influence any purchasing decisions in the future.

### **Gifts**

The City has no written policy on this subject. Many organizations strictly prohibit accepting anything, including a free lunch. The best policy is to accept nothing. However, The "freebies" or "gimmies" with a companies logo imprinted are probably OK to accept as long as the value of such is less than \$25. However, one should not let any meal, or gift have any bearing whatsoever on making the proper decisions when recommending a vendor or contractor for an award.

A good policy to follow, at the very least, is to refuse any gift that has a value of more that \$25, and seek approval from the City Manager's office for acceptance for any amount over that.

### **Gratuities**

A cash gift is an absolute no-no. This could certainly lead to a situation where bribery charges could be made for which the crime is a second degree felony, punishable by imprisonment for 2 to 20 years and a fine of up to \$10,000 (Texas Penal Code, Title 8 Chapter 36, §36.02).

Gifts and gratuities may include, but not be limited to the following:

- Seasonal
- Special occasion gifts
- Food (as baskets)
- Household furnishings or appliances
- Clothing
- Loans of goods and transportation
- Vacations
- Travel and / or hotel expenses
- Money
- Credits
- Discounts

<b>Title:</b> <b>P-080 Inspection, Testing and Expediting</b>		<b>Contents:</b>
		<b>Submitted By:</b> E. Martinez
		<b>Approved By:</b>
<b>Effective Date:</b> 3/23/23	<b>Supersedes No.:</b>	<b>Page No.:</b> 1 of 1

## P-080 Inspection, Testing and Expediting.

### **Purpose**

To provide guidance in order to establish proper methods for inspection, testing and expediting of commodities ordered for the City's benefit.

### **General**

Due to budgetary and staff limitations, all of these activities will be conducted by and funded by the user division/department.

### **Specifications and Quality**

To ensure the best possible quality for a given commodity, well written specifications are the key. If one finds that they are constantly receiving poor quality goods, then it may be time to examine the specifications that are being used for the procurement process.

Second, each commodity should be thoroughly inspected upon receipt to assure the proper quantity and quality are delivered. Products falling short on quality should be rejected immediately and the supplier notified.

### **Expediting**

This is the duty of the user to contact the supplier to check on shipping status of an order (do not call Purchasing to check on shipping status). The user should put the supplier on notice in writing when it appears that a shipment will be delivered late. The supplier should be asked to supply assurance in writing that your order will ship on a particular date.

Be aware that when something is shipped FOB destination (Midland), delivery is not complete until every item in the order has been delivered to the Midland address.

All commitments by the supplier should be made in writing.

If a delivery is critical and it appears that the supplier will be late, you should contact Purchasing as early as possible and advise them of the situation. Purchasing will determine the proper timing for intervention on the user's behalf.

<b>Title:</b> <b>P-90      Loan of City Owned Assets</b>		<b>Contents:</b>
		<b>Submitted By:</b> E. Martinez
		<b>Approved By:</b>
<b>Effective Date:</b> 3/23/23	<b>Supercedes No.:</b>	<b>Page No.:</b> 1 of 1

## P-90 Loan of City Owned Materials and Equipment

### Purpose

To restrict and control the loan of City Assets for Personal use.

### General

Generally, anything owned by the City is an asset whether it meets the budget definition or not. Borrowing City Property for personal use is misuse of public assets and can be punishable by fine and or jail time. Any exception to the prohibition of this policy shall be approved through the Manager’s Office.

Examples:

- Using a City vehicle to haul off your tree trimmings.
- Taking tools home to work on your personal vehicle or home

<b>Title:</b> <b>P – 100.1 Statutory Limits</b>		<b>Contents:</b>
		<b>Submitted By:</b> E. Martinez
		<b>Approved By:</b>
<b>Effective Date:</b>	<b>Supercedes No.:</b>	<b>Page No.:</b> 1 of 1

## P – 100.1 STATUTORY AND POLICY LIMITS

### **Purpose**

This Sub-policy to the Purchasing Policy has been developed in order that certain limits that are established by the Texas House and or Senate, can be changed when necessary without revising and requiring approval of the entire policy.

This sub-policy may also facilitate changes in amount where needed such as occasional change to the petty Cash Fund use limit.

### **Sealed Bid Limit**

Established by the latest legislation and applied by the Purchasing Policy and approved by Council.

Currently \$100,000.00

### **Local Preference**

Established by the legislature, currently 5%.

Limits for bids of \$50,000 up to \$100,000 for Services and \$500,000 for Commodities the preference may be allowed.

### **Petty Cash Funds**

Current limit for Petty cash funds single transaction is \$50.00

<b>Title:</b> <b>P-100 Purchasing Policy</b>		<b>Contents:</b> P-100
		<b>Submitted By:</b> E. Martinez
		<b>Approved By:</b>
<b>Effective Date:</b> September 1, 2025	<b>Supersedes No.:</b> 2023-053	<b>Page No.:</b> 1 of 28

# 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.

<b>Title:</b> <b>P-100 Purchasing Policy</b>		<b>Contents:</b> P-100
		<b>Submitted By:</b> E. Martinez
		<b>Approved By:</b>
<b>Effective Date:</b> September 1, 2025	<b>Supersedes No.:</b> 2023-053	<b>Page No.:</b> 2 of 28

## **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

<b>Title:</b> <b>P-100 Purchasing Policy</b>		<b>Contents:</b> P-100
		<b>Submitted By:</b> E. Martinez
		<b>Approved By:</b>
<b>Effective Date:</b> September 1, 2025	<b>Supersedes No.:</b> 2023-053	<b>Page No.:</b> 3 of 28

(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.

<b>Title:</b> <b>P-100 Purchasing Policy</b>		<b>Contents:</b> P-100
		<b>Submitted By:</b> E. Martinez
		<b>Approved By:</b>
<b>Effective Date:</b> September 1, 2025	<b>Supersedes No.:</b> 2023-053	<b>Page No.:</b> 4 of 28

## 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

<b>Title:</b> <b>P-100 Purchasing Policy</b>		<b>Contents:</b> P-100
		<b>Submitted By:</b> E. Martinez
		<b>Approved By:</b>
<b>Effective Date:</b> September 1, 2025	<b>Supersedes No.:</b> 2023-053	<b>Page No.:</b> 5 of 28

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

<b>Title:</b> <b>P-100 Purchasing Policy</b>		<b>Contents:</b> P-100
		<b>Submitted By:</b> E. Martinez
		<b>Approved By:</b>
<b>Effective Date:</b> September 1, 2025	<b>Supersedes No.:</b> 2023-053	<b>Page No.:</b> 6 of 28

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.

<b>Title:</b> <b>P-100 Purchasing Policy</b>		<b>Contents:</b> P-100
		<b>Submitted By:</b> E. Martinez
		<b>Approved By:</b>
<b>Effective Date:</b> September 1, 2025	<b>Supersedes No.:</b> 2023-053	<b>Page No.:</b> 7 of 28

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
\$200,000.00 and above	Sealed or Cooperative Pricing	Purchasing	Department Head Purchasing General Services Director City Manager <b>City Council Approval</b>	Formal Advertisement Sealed Bid (Paper/Electronic) Agenda Memo w/bid tabulation Resolution
** \$100,000.01 to \$199,999.99	Sealed or Cooperative Pricing	Purchasing	Department Head Purchasing General Services Director City Manager	Formal Advertisement Sealed Bid (Paper/Electronic)
\$30,000 to \$100,000.00	3 Written Quotations 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 Quotations 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.

<b>Title:</b> <b>P-100 Purchasing Policy</b>		<b>Contents:</b> P-100
		<b>Submitted By:</b> E. Martinez
		<b>Approved By:</b>
<b>Effective Date:</b> September 1, 2025	<b>Supersedes No.:</b> 2023-053	<b>Page No.:</b> 8 of 28

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.

<b>Title:</b> <b>P-100 Purchasing Policy</b>		<b>Contents:</b> P-100
		<b>Submitted By:</b> E. Martinez
		<b>Approved By:</b>
<b>Effective Date:</b> September 1, 2025	<b>Supersedes No.:</b> 2023-053	<b>Page No.:</b> 9 of 28

**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.

<b>Title:</b> <b>P-100 Purchasing Policy</b>		<b>Contents:</b> P-100
		<b>Submitted By:</b> E. Martinez
		<b>Approved By:</b>
<b>Effective Date:</b> September 1, 2025	<b>Supersedes No.:</b> 2023-053	<b>Page No.:</b> 10 of 28

### **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

<b>Title:</b> <b>P-100 Purchasing Policy</b>		<b>Contents:</b> P-100
		<b>Submitted By:</b> E. Martinez
		<b>Approved By:</b>
<b>Effective Date:</b> September 1, 2025	<b>Supersedes No.:</b> 2023-053	<b>Page No.:</b> 11 of 28

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).

<b>Title:</b> <b>P-100 Purchasing Policy</b>		<b>Contents:</b> P-100
		<b>Submitted By:</b> E. Martinez
		<b>Approved By:</b>
<b>Effective Date:</b> September 1, 2025	<b>Supersedes No.:</b> 2023-053	<b>Page No.:</b> 12 of 28

**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

<b>Title:</b> <b>P-100 Purchasing Policy</b>		<b>Contents:</b> P-100
		<b>Submitted By:</b> E. Martinez
		<b>Approved By:</b>
<b>Effective Date:</b> September 1, 2025	<b>Supersedes No.:</b> 2023-053	<b>Page No.:</b> 13 of 28

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 \$200,000.00\*\*, 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 \$200,000.00\*\*, 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.

<b>Title:</b> <b>P-100 Purchasing Policy</b>		<b>Contents:</b> P-100
		<b>Submitted By:</b> E. Martinez
		<b>Approved By:</b>
<b>Effective Date:</b> September 1, 2025	<b>Supersedes No.:</b> 2023-053	<b>Page No.:</b> 14 of 28

## 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 \$200,000.00\*\* 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 \$200,000.00\*\* 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 \$200,000.00. 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 \$200,000.00 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

<b>Title:</b> <b>P-100 Purchasing Policy</b>		<b>Contents:</b> P-100
		<b>Submitted By:</b> E. Martinez
		<b>Approved By:</b>
<b>Effective Date:</b> September 1, 2025	<b>Supersedes No.:</b> 2023-053	<b>Page No.:</b> 15 of 28

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 \$200,000.00 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.

<b>Title:</b> <b>P-100 Purchasing Policy</b>		<b>Contents:</b> P-100
		<b>Submitted By:</b> E. Martinez
		<b>Approved By:</b>
<b>Effective Date:</b> September 1, 2025	<b>Supersedes No.:</b> 2023-053	<b>Page No.:</b> 16 of 28

## 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;

<b>Title:</b> <b>P-100 Purchasing Policy</b>		<b>Contents:</b> P-100
		<b>Submitted By:</b> E. Martinez
		<b>Approved By:</b>
<b>Effective Date:</b> September 1, 2025	<b>Supersedes No.:</b> 2023-053	<b>Page No.:</b> 17 of 28

- 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;

<b>Title:</b> <b>P-100 Purchasing Policy</b>		<b>Contents:</b> P-100
		<b>Submitted By:</b> E. Martinez
		<b>Approved By:</b>
<b>Effective Date:</b> September 1, 2025	<b>Supersedes No.:</b> 2023-053	<b>Page No.:</b> 18 of 28

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;

<b>Title:</b> <b>P-100 Purchasing Policy</b>		<b>Contents:</b> P-100
		<b>Submitted By:</b> E. Martinez
		<b>Approved By:</b>
<b>Effective Date:</b> September 1, 2025	<b>Supersedes No.:</b> 2023-053	<b>Page No.:</b> 19 of 28

- 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

<b>Title:</b> <b>P-100 Purchasing Policy</b>		<b>Contents:</b> P-100
		<b>Submitted By:</b> E. Martinez
		<b>Approved By:</b>
<b>Effective Date:</b> September 1, 2025	<b>Supersedes No.:</b> 2023-053	<b>Page No.:</b> 20 of 28

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**

<b>Title:</b> <b>P-100 Purchasing Policy</b>		<b>Contents:</b> P-100
		<b>Submitted By:</b> E. Martinez
		<b>Approved By:</b>
<b>Effective Date:</b> September 1, 2025	<b>Supersedes No.:</b> 2023-053	<b>Page No.:</b> 21 of 28

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**

<b>Title:</b> <b>P-100 Purchasing Policy</b>		<b>Contents:</b> P-100
		<b>Submitted By:</b> E. Martinez
		<b>Approved By:</b>
<b>Effective Date:</b> September 1, 2025	<b>Supersedes No.:</b> 2023-053	<b>Page No.:</b> 22 of 28

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.

<b>Title:</b> <b>P-100 Purchasing Policy</b>		<b>Contents:</b> P-100
		<b>Submitted By:</b> E. Martinez
		<b>Approved By:</b>
<b>Effective Date:</b> September 1, 2025	<b>Supersedes No.:</b> 2023-053	<b>Page No.:</b> 23 of 28

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

<b>Title:</b> <b>P-100 Purchasing Policy</b>		<b>Contents:</b> P-100
		<b>Submitted By:</b> E. Martinez
		<b>Approved By:</b>
<b>Effective Date:</b> September 1, 2025	<b>Supersedes No.:</b> 2023-053	<b>Page No.:</b> 24 of 28

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.

<b>Title:</b> <b>P-100 Purchasing Policy</b>		<b>Contents:</b> P-100
		<b>Submitted By:</b> E. Martinez
		<b>Approved By:</b>
<b>Effective Date:</b> September 1, 2025	<b>Supersedes No.:</b> 2023-053	<b>Page No.:</b> 25 of 28

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.

<b>Title:</b> <b>P-100 Purchasing Policy</b>		<b>Contents:</b> P-100
		<b>Submitted By:</b> E. Martinez
		<b>Approved By:</b>
<b>Effective Date:</b> September 1, 2025	<b>Supersedes No.:</b> 2023-053	<b>Page No.:</b> 26 of 28

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 4 fourth (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

<b>Title:</b> <b>P-100 Purchasing Policy</b>		<b>Contents:</b> P-100
		<b>Submitted By:</b> E. Martinez
		<b>Approved By:</b>
<b>Effective Date:</b> September 1, 2025	<b>Supersedes No.:</b> 2023-053	<b>Page No.:</b> 27 of 28

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;

<b>Title:</b> <b>P-100 Purchasing Policy</b>		<b>Contents:</b> P-100
		<b>Submitted By:</b> E. Martinez
		<b>Approved By:</b>
<b>Effective Date:</b> September 1, 2025	<b>Supersedes No.:</b> 2023-053	<b>Page No.:</b> 28 of 28

- 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.

<b>Title:</b> <b>P-104 Purchasing Card Policy</b>		<b>Contents:</b>	
		<b>Submitted By:</b> E. Martinez	
		<b>Approved By:</b> City Manager	
<b>Effective Date:</b> 3/24/23	<b>Supersedes No.:</b>	<b>Page No.:</b>	1 of 4

## P-104 PURCHASING CARD POLICY

### GENERAL:

The Purchasing Card program allows City employees to make small dollar expenditures required for normal operations. The intent of this program is to enhance the capabilities of field personnel to perform operational tasks without an administrative delay of obtaining a purchase order. We have developed this program in response to requests for this type of capability. It is important for all participants to understand the importance of using the system as intended

### PROGRAM ADMINISTRATOR:

Under the direction of the General Services Director, The Purchasing Manager shall act as Program Administrator, or shall appoint a staff member to perform the duties of Program Administrator.

### ISSUANCE:

Cards are issued in the name of the City and the individual Cardholder. **The Cardholder is the only person entitled to use the card issued in their name and is responsible for all charges made against the card.** Statements are addressed to the City and the individual Cardholder, and mailed to the attention of the Program Administrator, PO Box 1152, Midland, Texas, 79702-1152. Statements are available to the Cardholders to reconcile their receipts online. Following review by the cardholder, the transactions are available to their supervisor, then their Department Manager for their review/ approval.

### RESPONSIBILITIES OF CARDHOLDERS:

- Spending limits have been provided to each Cardholder setting the maximum dollar amount for each single purchase (Single Transaction Limit), and the total dollar amount for all purchases made with a Purchasing Card within a given Month (The Credit Limit). Each time a Cardholder makes a purchase with his/her Purchasing Card, transaction limits will be electronically checked by the bank and the authorization request will be declined should the amount exceed these limits.
- The Purchasing Card is to be used for City purchases ONLY; personal charges shall not to be made to the card. Any personal charges on the card will be considered misappropriation of city funds and may result in disciplinary action or termination of employment.
- The total of a single purchase may be comprised of multiple items and cannot exceed the authorized Single Transaction Limit. Purchases that are split in order to stay within the Single Transaction Limit are not appropriate and can result in disciplinary action and termination of the Cardholder's participation in the program.
- Any time a purchase is made using the Purchasing Card, whether it is done over the counter, over the Internet, or by telephone, an ITEMIZED RECEIPT **must** be obtained by the Cardholder as proof of purchase. The document will later be used by the Cardholder to reconcile the purchases shown on the Cardholder monthly online transaction summary.
- **The City is tax-exempt and the Cardholder shall ensure that credit card purchases do not include sales tax.**
- Should the Cardholder lose or have their Purchasing Card stolen, it is the responsibility of the Cardholder to immediately notify Bank, the Cardholder's Division Manager, and the Program Administrator of the lost or stolen card WITHIN ONE WORKDAY after discovery of the loss or theft of the card. The Cardholder will be required to make a written report (email is acceptable) to the Program Administrator WITHIN FIVE (5)

<b>Title:</b> <b>P-104 Purchasing Card Policy</b>		<b>Contents:</b>	
		<b>Submitted By:</b> E. Martinez	
		<b>Approved By:</b> City Manager	
<b>Effective Date:</b> 3/24/23	<b>Supersedes No.:</b>	<b>Page No.:</b>	2 of 4

WORKDAYS that will include the complete information on the loss, the date the loss was discovered, the location where the loss occurred, if known, the purchases that the Cardholder had made prior to the loss, and any other information that may be considered as needed.

## **RESPONSIBILITIES OF PROGRAM ADMINISTRATOR, CARDHOLDER’S DIVISION MANAGER AND DEPARTMENT MANAGER**

- The Program Administrator will be responsible for processing applications to obtain Purchasing Cards for a City employee and for canceling cards returned by Department Managers or the Cardholder’s Division Manager.
- The Program Administrator will also be responsible for keeping a current list of Cardholders cards, card numbers, card limits and card history. They are also responsible for the integrity of the system and as such may request a full audit of any Cardholder’s account at any time

### **IMPROPER USE**

Abuse or fraudulent use of the card can be considered misappropriation of city funds that 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:

#### **STRIKE 1**

The Cardholder’s Division Manager determines if the Cardholder should be individually responsible for the charge, if the individual should continue in the program, and any disciplinary action. The Cardholder’s Division Manager must notify the Program Administrator and /or Purchasing Manager, in writing, of the disposition of the incident within five working days.

#### **STRIKE 2**

The Purchasing Manager will determine if the individual will continue in the program and the Cardholder’s Division Manager will determine disciplinary action. The Program Administrator and/or Purchasing Manager must be notified in writing of the disposition of the incident by the Cardholder’s Division Manager within five working days.

#### **STRIKE 3**

The Purchasing Manager will determine if the individual will continue in the program and will refer the matter to the General Services Director’s office for disciplinary determinations with the City Manager’s office up to and including the termination of employment of the Cardholder. The Department Manager or the Purchasing Manager may terminate the department’s participation in the Purchasing Card Program. The Program Administrator and or Purchasing Manager must be notified in writing of the disposition of the incident by the Cardholder’s Division Manager within five working days.

### **EXPENDITURE AND PURCHASE REVIEW & RECONCILIATION:**

While the Program Administrator reviews all cardholder transactions in MUNIS, it is the responsibility of the Cardholder’s Division Manager and Department Manager to review and approve the Cardholder’s transactions through MUNIS.

### **INAPPROPRIATE PURCHASE:**

Neither the Bank nor the merchant bears any responsibility for inappropriate purchases. If a purchase was made by the Cardholder, the merchant will be paid and the department budget charged unless the City returns the merchandise and

<b>Title:</b> <b>P-104 Purchasing Card Policy</b>		<b>Contents:</b>	
		<b>Submitted By:</b> E. Martinez	
		<b>Approved By:</b> City Manager	
<b>Effective Date:</b> 3/24/23	<b>Supersedes No.:</b>	<b>Page No.:</b>	3 of 4

the merchant agrees to take it back and issue a credit. The Cardholder's Division Manager, Department Manager or Purchasing Manager may make the employee personally responsible for payment of inappropriate purchases.

### **LOST OR STOLEN CARDS:**

Report lost or stolen cards immediately to the credit card company and the Program Administrator. If not reported immediately the City may be liable for the fraudulent charges and, if liable, the Cardholder's budget will be charged.

### **CARDHOLDERS PERFORMANCE:**

The Cardholder's Supervisor, Division Manager and Department Manager should review the Cardholder's purchases, as they are responsible for the Cardholder meeting all the requirements specified for the use of their card. Performance deficiencies should be addressed in the applicable employee evaluation. The Division Manager and Department Manager are responsible to determine if the Purchasing Card system adequately meets the needs of the department and whether the department should continue using the program.

### **REQUEST FOR CARDS AND CANCELLATION:**

The Cardholder's Department Manager is responsible for notifying the Program Administrator to process the application of an authorized Cardholder, cancel the card of a Cardholder, and for turning in cards to be canceled. All requests for new Cardholders will be done by submitting an approved "Request for Purchasing Card" form to the Program Administrator. Any changes to Cardholder's status or transaction limits must be requested in writing to the Program Administrator. The Purchasing Manager, when not serving as Program Administrator, must approve all card issues.

### **END OF EMPLOYMENT:**

Whenever the employment of a Cardholder is ended, or the individual is transferred to other duties, the Department Manager is responsible for ensuring the Purchasing Card is returned to the Program Administrator for cancellation.

### **NOTIFICATION:**

Notify the Program Administrator, Purchasing Division, for the above problems or with any questions regarding the card program.

### **PROCESSING STATEMENTS FOR PAYMENT:**

- Transactions will be available to the Cardholder every month, generally after the 4<sup>th</sup> of every month. **It is the Cardholder's responsibility to reconcile their receipts and invoices utilizing MUNIS monthly.**
- The Cardholder must review each transaction and enter the appropriate accounting code(s) for the transaction and a notation as to the purpose of the purchase. An itemized receipt or invoice must be available for each transaction. An itemized sales receipt shall be retained, scanned, and attached to the transaction in MUNIS as supporting documentation.
- In case of a missing receipt, the Program Administrator may require a memo from the cardholder to their immediate supervisor. The approved memo shall be attached to MUNIS as supporting documentation.
- Cardholders must complete their review of their transactions in time for their supervisors and Department Managers to be able to review and approve the transaction by the 12<sup>th</sup> of the month. It will be the responsibility of the Cardholder to provide his/her Supervisor or Division Manager with the receipts for that month should travel or extended leave be scheduled at the time the review is due and he/she will not be able to complete it. The Cardholder's Division Manager must then review and approve the transaction by the 15<sup>th</sup> day of the month. Any discrepancies noted shall be resolved by the Cardholder and Program Administrator upon the Cardholder's return to work.

<b>Title:</b> <b>P-104 Purchasing Card Policy</b>		<b>Contents:</b>
		<b>Submitted By:</b> E. Martinez
		<b>Approved By:</b> City Manager
<b>Effective Date:</b> 3/24/23	<b>Supersedes No.:</b>	<b>Page No.:</b> 4 of 4

### **DISPUTED CHARGES AND ASSISTANCE:**

In the event there are disputed charges or a Cardholder has any questions, they should contact the Program Administrator by phone or E-mail.

### **RETURNS:**

In the event there are returns, the Cardholder must check the subsequent online transaction for the credit. If a credit slip was not obtained, attach other documentation explaining the return. If credit does not appear by the second subsequent online statement, the Cardholder should contact the Program Administrator.

## **THE FOLLOWING DOCUMENTS ARE EXHIBITS TO THIS POLICY:**

### **POLICIES & PROCEDURES**

*Cardholder's Guide*

*Cardholder Application Procedure - (0040-021)*

### **FORMS**

*Request For Purchasing Card - form 0040-024*

*Cardholder's Agreement, form 0040-020*

*Cardholder's Personal Guidelines, A Training Supplement - Form 0040-026*

*Exhibit A to the Policy and Cardholder's Guides: Current Bank Information*

<b>Title:</b> <b>PP-104            Using the Purchasing Card</b>		<b>Contents:</b> PP-104
		<b>Submitted By:</b> E. Martinez
		<b>Approved By:</b>
<b>Effective Date:</b> 3/24/23	<b>Supersedes No.:</b>	<b>Page No.:</b> 1 of 1

## PP-104-0 Using the Purchasing Card

### **PURPOSE**

The purpose of this procedure is to explain the use of the Purchasing Card.

### **GENERAL**

The City of Midland Purchasing Card can be utilized by means of the telephone, Internet, or face-to-face. All transactions with the Purchasing Card shall be in accordance with the Purchasing Card Policy. See *P-104 Purchasing Card Policy*

### **Face To Face Purchases**

Cardholders may pay for items purchased at local distributors for The City, by handing the card to the individual at the register during checkout. It is the City employee's responsibility to inform the salesperson that the transaction is Tax Exempt prior to the completion of the checkout process. The salesperson will then prompt you to sign the credit card receipt. Briefly review the amount on the receipt and confirm that you were not charged tax for the purchase. Obtain receipts for all transactions prior to leaving each store/distributor. Accurately keep track of all receipts for reconciliation purposes.

### **Internet Purchases**

Most online purchases are shipped out of state and are tax-exempt. During your "checkout" if you realize that the distributor is in Texas and you are being charged tax, do not proceed. Cancel the order, note product numbers, and contact the distributor via telephone to process your order. For Credit Card purchases, you will be prompted to enter the credit card number, the name that appears on the credit card, and the expiration date. Some companies will also request the number that appears on the signature area of your credit card. Remember, when entering all information, that the fill-in areas are case-sensitive, and in some cases, the billing and shipping address must match the billing address that the Bank has on file for you. If you are given a confirmation number, print it prior to exiting the site. You will also need to do a page print for the transaction so that you will have a receipt for your records and reconciliation. Some distributors send a receipt along with the packing information but do not rely on this.

### **Telephone Purchases**

Cardholders may prefer to place orders via the telephone. After price comparisons and quotes are properly acquired, the Cardholder may contact the distributor to order items. Inform the vendor that you will be charging the purchase to a company credit card and that the transaction should be tax-exempt. You will be asked for the following information in addition to your shipping information: credit card type, credit card number, expiration date, and the name that appears on the card. Prior to ending the phone call; request that a copy of the transaction receipt be faxed to you so that you will have your receipt for reconciliation. Please remember that cordless and cell phones are "open frequency" that they can be scanned and your credit card information can be compromised if credit card information is given over these types of phones. Always use a "landline" unless there is an emergency that is preventing you from getting to one.

<b>Title:</b> <b>PP-104.1 Purchasing Card - Maintaining and Reconciling - MUNIS</b>		<b>Contents:</b> PP-104.1
		<b>Submitted By:</b> E. Martinez
		<b>Approved By:</b>
<b>Effective Date:</b> 3/24/23	<b>Supersedes No.:</b>	<b>Page No.:</b> 1 of 1

## PP-104.1 Purchasing Card - Maintaining and Reconciling in MUNIS

### **Purpose**

The purpose of this procedure is to instruct how credit card statements should be Maintained, Reconciled, and Approved online by using MUNIS

### **General**

An itemized sales receipt shall be retained, scanned, and attached to the transaction in MUNIS as supporting documentation. In case of a missing receipt, the Program Administrator may require a memo from the cardholder to their immediate supervisor. The approved memo shall be attached to MUNIS as 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 4 fourth (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 MUNIS. Department managers are required to send an approving email by the fifteenth (15th) day of the month.

Please visit COMETS [COMETS - MUNIS Resources \(sharepoint.com\)](https://sharepoint.com) for all instructional material.

<b>Title:</b> <b>PP-104.2 Purchasing Card -Transaction Approval</b>		<b>Contents:</b> PP-104.2
		<b>Submitted By:</b> E. Martinez
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<b>Effective Date:</b> 3/27/23	<b>Supersedes No.:</b>	<b>Page No.:</b> 1 of 1

## PP-104.2 Purchasing Card - Transaction Approval

### **PURPOSE**

The purpose of this procedure is to explain how credit card purchases are approved by Supervisors.

### **GENERAL**

The monthly reconciliation process has to be completed by either the Credit Cardholder or Site Administrator.

Upon completion of the reconciliation process, the purchases and cost allocation (charged funds) need approval from the Division Head and Department Head. The Cardholder or Site Administrator will reconcile card transactions using MUNIS. *Deadline for all reviews and approval is the 12<sup>th</sup> of the month.*

### **MUNIS SUPERVISOR APPROVAL**

Cardholders, Site Administrators, and Supervisors are issued a logon by the Program Administrator. Credit Card transactions may be reviewed/approved from the Financial Tab, under Account Approval Summary. Following are basic criteria that a supervisor will use to approve / disapprove transactions:

- ❖ Has the Credit Cardholder/Site Administrator checked all Cardholder-Reviewed boxes?
- ❖ Do all transactions include an Expense Description / Explanation?
- ❖ Do the Fund, Agency, Org., and Object codes complement the purchase description?
- ❖ Were all purchases made for City business purposes?

If all the basic criteria follow guidelines, proceed by doing the following (based on your Title).

#### **Division Head:**

- Place a check in the Supervisor Reviewed Box for all transactions.
- Send an Email Notification to the Department Head informing him/her that your Cardholders transactions have been reviewed.

#### **Department Head:**

- Send an Email Notification to the Program Administrator informing him/her that the transactions have all been reviewed and you authorize payment

<b>Title:</b> <b>PP-104.3 Purchasing Card - Contacts</b>		<b>Contents:</b> PP-104.3
		<b>Submitted By:</b> E. Price
		<b>Approved By:</b>
<b>Effective Date:</b> 3/8/10	<b>Supersedes No.:</b>	<b>Page No.:</b> 1 of 1

## PP-104.3 Purchasing Card - Contacts

### **PURPOSE**

The purpose of this procedure is to explain whom Cardholders / Site Administrators should contact for Credit Card concerns and issues.

### **GENERAL**

#### **Return, Credits, and Disputed Charges**

Should a problem arise with a purchased item of service, or with billing:

- ❖ Every attempt should be made to resolve the issue directly with the Supplier/Vendor. Review of future statements is vital to ensure the account is properly credited for returns, credits and disputed charges.

If you are unable to come to an agreement with the Vendor regarding a purchase made with your Purchasing Card:

- ❖ Contact Customer Service at the bank
- ❖ Notify the Program Administrator

#### **Lost, Stolen, or Misplaced Cards**

If a Purchasing Card is lost or stolen

- ❖ Immediately contact Bank's 24 hour/7 day Customer Service number
- ❖ Notify the Program Administrator by phone AND in writing (e-mail is fine)

#### **Transfers or Terminations**

- ❖ Cardholder should return the Purchasing Card to his /her supervisor upon transfer or termination.
- ❖ Supervisor should contact The Program Administrator who will deactivate the Purchasing Card and destroy it.

#### **Erroneous Declines**

Should a vendor erroneously decline the Purchasing Card, your purchase may have exceeded a limit placed on your Purchasing Card.

- ❖ Contact the Site Administrator (the individual responsible for maintaining transactions)
- ❖ Contact your Program Administrator for assistance.

Title: Purchasing Manual		Contents:	
PP-104.4 Using the Purchasing Card for Travel		Submitted By: E. Martinez	
Effective Date: 3/24/23		Approved By:	
Supersedes No.:		Page No.: 1 of 1	

## PP-104.4 USING THE PURCHASING CARD FOR TRAVEL

### Purpose of Procedure

To provide guidelines for the use of the Purchasing Card (PC) for travel.

### Scope

The Purchasing Card may be used for any legitimate travel expense while traveling on City business making it unnecessary to obtain a travel advance in most cases.

### General

Until recently, the use of the Purchasing Card was expressly PROHIBITED. Cases of misuse or abuse for travel will result in the card being removed as a choice for that employee to pay travel expenses.

### Travel Uses

- Airline tickets
- Lodging
- Meals
- Auto rental
- Any reimbursable expense

### Prohibited Uses

- Purchase of Fuel
- Purchase of any alcoholic beverage
- Any other prohibited use listed in the Purchasing Card Policy

### Expense Reporting

In order to use the Purchasing Card, the following steps shall be adhered to. **These are not optional**

#### Receipts

- Any expense that is charged on the PC must be evidenced by a charge receipt.
- The receipts must be detailed receipts. (i.e. the one listing each expense item that was charged)

#### Meals

Expenses for meals shall be provided with the detailed receipt, NOT the summary receipt. This is very important. If the detailed receipt is not included, ***it will not be allowed.***

<b>Title:</b> <b>P-105 Office Supplies</b>		<b>Contents:</b> P-105
		<b>Submitted By:</b> E. Martinez
		<b>Approved By:</b>
<b>Effective Date:</b> 3/23/23	<b>Supercedes No.:</b>	<b>Page No.:</b> 1 of 2

## P-105 OFFICE SUPPLIES

### **SCOPE:**

This policy applies to all office Supplies purchased for use by the City. All office supplies shall be purchased from the Contracted supplier. Computer, drafting and other specialized supplied may be purchased from another source if costs are competitive and appropriate.

### **PURPOSE:**

This policy is intended to set the standards by which office supplies will be procured for the City's Use.

### **GENERAL:**

Each manager (Departmental and Division) is charged with the responsibility of managing the acquisition of office supplies for his or her respective Department and /or Division. Managers shall ensure that only supplies adequate and appropriate for the job are being procured.

### **EXAMPLES:**

#### **Paper clips:**

Gem Brand or equal plated metal paperclips are adequate product to hold pieces of paper together. Plastic and colored metal paperclips may be adequate, but are also considered extravagant and shall not be considered appropriate purchases.

#### **Pens:**

Pens such as any of the "stick" pens, Sanford Uni-Ball Impact or other of equal quality may be considered the top of the line pens that are appropriate for City use. However, the Uni-Ball Impact RT pens may be considered the low end of extravagance in pens. Any writing instrument in excess of \$3.00 is prohibited.

#### **Ink, Toner and Film Cartridges**

For various printing and fax needs shall be purchased from the Contract Supplier. Procurements from any other source is prohibited without written approval.

#### **Computer Supplies**

Supplies such as CD's, DVD's, Surge Protectors, etc. may be less costly at one of the national name office, discount or computer/electronics stores. However if the savings is small, and the product is not delivered, consideration should be given to the suppliers that deliver, beginning with the office supply contractor, since that price is heavily discounted on many items. Remember that when an employee is picking up something at one of these locations, your cost is the product plus lost time for the person sent. The "shopping" factor should also be considered, because it may be impossible for one to resist doing a little shopping while in the store; more lost time plus the loaded rate for the individual sent.

#### **Copy/Computer Paper**

This paper is stocked by the warehouse. ALL papers of these types shall be obtained from the warehouse without exception unless otherwise authorized in writing.

<b>Title:</b> <b>P-105 Office Supplies</b>		<b>Contents:</b> P-105
		<b>Submitted By:</b> E. Martinez
		<b>Approved By:</b>
<b>Effective Date:</b> 3/23/23	<b>Supercedes No.:</b>	<b>Page No.:</b> 2 of 2

**Other Items:**

Items such as hand sanitizer, room deodorizers, batteries, miscellaneous paper products, and other items not necessarily falling under the definition of Office Supplies\* may be stocked at the warehouse. Please remember that any item that is stocked shall be obtained from the warehouse. If not available from the warehouse, some things may be procured at less cost at one of the above-indicated locations (see computer supplies), remaining cognizant of the cost to pick up vs. the cost of free delivery.

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\* When unsure if an item should be considered an office supply that has to be obtained from the Contracted Supplier, please contact the Purchasing office for clarification.

<b>Title:</b> <b>P-110 Product Endorsements</b>		<b>Contents:</b> P-110
		<b>Submitted By:</b> E. Martinez
		<b>Approved By:</b>
<b>Effective Date:</b> 3/23/23	<b>Supersedes No.:</b>	<b>Page No.:</b> 1 of 1

# P-110 Product Endorsements

## Purpose

To ensure a consistent policy for suppliers wishing to have the city endorse their product.

## General

In general, the City does NOT endorse any product. Any requests for product endorsement shall be forwarded to the Purchasing division.

<b>Title:</b> <b>P-120      Make, Buy or Rent Decisions</b>		<b>Contents:</b>
		<b>Submitted By:</b> E. Martinez
		<b>Approved By:</b>
<b>Effective Date:</b> 3/23/23	<b>Supersedes No.:</b>	<b>Page No.:</b> 1 of 1

## P-120      Make or Buy Decisions

### Purpose

To formulate a policy to guide those making decisions whether to make or buy parts or equipment.

### Policy

Many items that various divisions use can be made by other divisions of the City, and many construction requirements can be met by City divisions. These products and services may also be provided by suppliers and contractors. The question is usually when to do one or the other.

As a basic policy a user who has a need that can be fulfilled by another division, should always collaborate and determine whether the city can economically do this and if there is sufficient time for the city to accomplish the desired end within the time constraints that may exist.

Normally, if the item can be manufactured or work performed by a City division at the same cost as a private firm, the City should do so. The reason for this is that while funds may be paid out from the user division budget, the money remains in the City bank account.

The user should always consult the Purchasing Manager to assist in making this decision.

<b>Title:</b> <b>P-130 Prequalified Products</b>		<b>Contents:</b> P-130
		<b>Submitted By:</b> E. Martinez
		<b>Approved By:</b>
<b>Effective Date:</b> 3/23/23	<b>Supersedes No.:</b>	<b>Page No.:</b> P-130-1

## P-130 Prequalified Products

### **Purpose**

To establish a policy for the approval and or pre-qualification of products for use by various departments.

### **Scope**

This policy applies to all products used by the City.

### **General**

To ensure the highest level of quality for products used regularly by certain City departments, procedures have been established in order that all vendors wishing to provide products for the City's use may do so without reducing the effective savings brought about by competition.

Refer to the following procedures:

- PP-113 Testing of chemicals for use in the City of Midland, Texas water supply.
- PP-114 Testing of body armor to be worn by Midland Police Officers.
- PP-115 Testing of traffic paint used by Traffic Maintenance for striping City streets.
- PP-116 Testing of water meters for use in the City water distribution customer delivery system.

<b>Title:</b> <b>PP-101 Requisition Preparation and Submission</b>		<b>Contents:</b> PP-101
		<b>Submitted By:</b> E. Martinez
		<b>Approved By:</b>
<b>Effective Date:</b> 3/23/23	<b>Supercedes No.:</b>	<b>Page No.:</b> 1 of 2

## PP-101 Requisition Preparation and Submission

### **PURPOSE**

To request the Purchasing Division to purchase goods and services for City Departments and Divisions.

### **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.

#### ***Requisition Approval:***

Each requisition shall be signed or electronically approved by the operating executive or Division Manager in charge of the department issuing the requisition.

#### ***Description/Specification:***

Each Department submitting a requisition shall specify in full upon the requisition, the article or service desired in such terms as to make all specifications as open to competition and as least restrictive as possible. Every effort must be made such that the stated specifications provide adequate competition among as many bidders as possible.

#### ***Routing of Requisitions:***

All requisitions should be forwarded to the Finance Department for certification of funds and then to the Purchasing Manager in sufficient time to permit careful purchasing of the consolidated requirements of all departments of the City.

#### ***Capital Outlay Requests:***

When required by the Capital Asset Acquisition & Management Policy, the Capital Outlay Request shall be completed and forwarded to the Accounting Division with a copy of the purchase order. In addition, a Request for Asset Disposition Authorization shall be attached for items being replaced. (See Asset Disposition Procedure PP-110)

#### ***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 the policy prescribed by Statute, Charter, Ordinance, or Administrative order. Penalties for violation are stated in ***Employee Responsibilities*** of the Purchasing Policy

#### ***Budget Transfers:***

When funds are not specifically 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 prior to submitting the requisition to the Purchasing Division.

<b>Title:</b> <b>PP-102 Use of Purchase Orders under \$3K</b>		<b>Contents:</b> PP-102
		<b>Submitted By:</b> E. Martinez
		<b>Approved By:</b>
<b>Effective Date:</b> 3/23/23	<b>Supersedes No.:</b>	<b>Page No.:</b> 1 of 1

## PP-102 USE OF PURCHASE ORDERS UNDER \$3K

### PURPOSE

To provide using departments a means to accomplish the purchase of everyday incidental items as expediently as possible without negating necessary safeguards and controls necessary to govern this activity.

### SCOPE

Purchases of \$3,000.00 or less may be made by authorization of the Department Head or Division Head when so delegated in writing from the Materials Manager/ Purchasing Manager. Such purchases shall be made using an electronic requisition through the designated procurement software and in strict accordance with these written procedures.

Failure to follow the provisions of this procedure could result in revocation of authority to make departmental purchases and/or adverse action under the provisions of the Purchasing and Personnel Policies of the City of Midland.

### GENERAL

Types of material that generally qualify for purchase through the departmental P.O. System are expendables, consumables and incidentals necessary to the daily operation of the department. The following rules apply to the use of the departmental purchase order:

- The using department will first ascertain that the items contemplated to be purchased are not available from the Municipal Warehouse.
- Misuse or abuse may be cause for adverse action.
- Items covered by the provisions of the Capital Outlay Procedure may be purchased on a departmental purchase order in accordance with that procedure.
- \*Bids shall be secured on departmental purchases in excess of \$3,000.00 unless it can be demonstrated that it is not to the City's advantage to secure competitive bids. Bids obtained will be scanned and attached to the electronic requisition as supporting documentation and all such documentation shall be available for review and audit at any time by the Purchasing Division.
- Invoices, unless issued at time of receipt of the material ordered, will be directed to the City of Midland Accounting Division. Vendors are not to be instructed to mail invoices to the Department/Division issuing the purchase order.
- Receipt of the material ordered will be verified by the person receiving the goods. Any overages, shortages, damages or other nonconformities shall be so noted on the receiving copy and freight bill if applicable.

Please visit COMETS [COMETS - MUNIS Resources \(sharepoint.com\)](https://sharepoint.com) for all instructional material.

- Any questions regarding this shall be directed to the Purchasing Division.

\* Bids shall include all charges such as Freight, Shipping and Handling, etc. The person obtaining bids shall make the Vendor aware that these charges are to be included.

<b>Title:</b> <b>PP-101 Requisition Preparation and Submission</b>		<b>Contents:</b> PP-101
		<b>Submitted By:</b> E. Martinez
		<b>Approved By:</b>
<b>Effective Date:</b> 3/23/23	<b>Supercedes No.:</b>	<b>Page No.:</b> 2 of 2

***Requisitions are subject to budgetary control:***

Therefore, requisitions shall be certified by the Finance Department as to the availability of funds prior to receipt by Purchasing, and no purchase order involving an amount in excess of \$3,000 shall be issued unless and until the requisitions have been so certified, or in case of an emergency as stated herein.

***Correct Dollar Amounts:***

Where possible, requisitions and departmental purchase orders shall state the correct amount involved, to enable the City to know exactly where it stands in the matter of encumbrance of funds.

***Document Review:***

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

***Inventory Items:***

Remove any item from the requisition that can be supplied from the municipal warehouse.

***Request Explanations:***

Question an item and require an explanation in writing from the Manager of the requesting department. If resolution of the question can't be accomplished with such Department Manager, the matter shall be referred to the General Services Director who will resolve the conflict or refer it to the City Manager for resolution.

Please visit COMETS [COMETS - MUNIS Resources \(sharepoint.com\)](#) for all instructional material regarding entry.

<b>Title:</b> <b>PP-103 Use of Contracts Under \$3K</b>		<b>Contents:</b> PP-103
		<b>Submitted By:</b> E. Martinez
		<b>Approved By:</b>
<b>Effective Date:</b> 3/27/23	<b>Supersedes No.:</b>	<b>Page No.:</b> 1 of 1

## PP-103 USE OF CONTRACTS UNDER \$3K

### PURPOSE

To provide using departments a means to accomplish the purchase of services as expediently as possible without negating necessary safeguards and controls necessary to govern this activity.

### SCOPE

The purchase of services of \$3,000.00 or less may be made by authorization of the Department Head or Division Head when so delegated in writing from the Materials Manager/ Purchasing Manager. Such purchases shall-be-made using an electronic requisition through the designated procurement software and in strict accordance with these written procedures.

Failure to follow the provisions of this procedure could result in revocation of authority to make departmental contract purchases and/or adverse action under the provisions of the Purchasing and Personnel Policies of the City of Midland:

### GENERAL

Types of services that generally qualify for purchase through the departmental contract System are any services that require the contractor to do work on City property necessary to the daily operation of the department. The following rules-apply to the use of the departmental contract:

- The using department will first ascertain that the services contemplated to be purchased are not available on any other City contracts and the contractor has City approved insurance.
- Misuse or abuse using this form may be cause-for adverse action.
- \*Bids shall be secured on contract purchases in excess of \$3,000.00 unless it can be demonstrated that it is not to the City's advantage to secure competitive bids. Bids obtained will be scanned and attached to the electronic requisition as supporting documentation and all such documentation shall be available for review and audit at any time by the Purchasing Division.
- An insurance certificate with General Liability, Automobile Liability and Worker's Compensation naming the City as an additional insured with a waiver of subrogation is required from the successful contractor.
- Invoices, unless issued at the time of contract completion, will be directed to the City of Midland Accounting Division. Contractors are not to be instructed to mail invoices to the Department/Division issuing the contract order.
- Contract completion will be verified by the person receiving the goods.

Please visit COMETS [COMETS - MUNIS Resources \(sharepoint.com\)](#) for all instructional material.

Any questions regarding this shall be directed to the Purchasing Division.

\* Bids shall include all charges such as Freight, Shipping, and Handling, etc. The person obtaining bids shall make the Contractor aware that these charges are to be included.

<b>Title:</b> <b>PP-105 Proper Use of Check Requests</b>		<b>Contents:</b> PP-105
		<b>Submitted By:</b> E. Martinez
		<b>Approved By:</b>
<b>Effective Date:</b> 3/24/23	<b>Supercedes No.:</b>	<b>Page No.:</b> 1 of 1

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## PP-105 Proper Use of Check Requests

### **PURPOSE**

To request the Accounting Division to print check(s) as needed for payment. Check Requests are to be submitted through MUNIS

### **USE OF CHECK REQUESTS**

Check requests may be used for the following classes of transactions as long as a Purchasing Card or PO can't be used:

- a. Expense Advances
- b. Professional Meetings Expense
- c. Professional Association Dues
- d. Seminar and Conference Fees
- e. Employee Training Expense
- f. Subscriptions
- g. Petty Cash Reimbursements

Check requests may also be used for the following transactions as long as a formal, legal contract exists for such transactions:

- a. Progress Payments on Construction Contracts
- b. Leases
- c. Service Contracts
- d. Personnel Services Contracts

Check requests shall not be used to facilitate payment for the direct purchase of material, equipment, supplies or short term contractual services of any kind.

<b>Title:</b> <b>PP-106 Petty Cash</b>		<b>Contents:</b> PP-106
		<b>Submitted By:</b> E. Martinez
		<b>Approved By:</b>
<b>Effective Date:</b> 3/24/23	<b>Supercedes No.:</b>	<b>Page No.:</b> 1 of 1

## PP-106 Petty Cash

### **PURPOSE**

To reimburse City employees for minor purchases (\$50.00 or less). These are general procedures. The exact procedures you are following may be more specific to your department's own internal policy.

### **PETTY CASH FUNDS**

Petty cash funds not to exceed three hundred dollars (\$300.00) are established, upon approval by the Purchasing Manager, for the purpose of making purchases of fifty (\$50.00) or less.

- Petty cash purchases shall be of the nature that they will benefit the operation of the City by saving time and money.
- Petty cash purchases shall not be made for the purpose of evading the Purchasing Policy, such as splitting purchases to evade the fifty dollar (\$50.00) 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.

### **PROCEDURE**

1. After making a qualifying purchase with personal funds, return the receipt to the individual (in the department or division) in charge of the petty cash along with a petty cash form with appropriate approval(s).

The receipt and form will be placed in the "petty cash box" and you will be given cash to reimburse the expense.

<b>Title:</b> <b>PP-107.1 Informal Bids up to \$3,000 (Phone, fax, etc.)</b>		<b>Contents:</b> PP-107.1
		<b>Submitted By:</b> E. Martinez
		<b>Approved By:</b>
<b>Effective Date:</b> 3/24/23	<b>Supercedes No.:</b>	<b>Page No.:</b> 1 of 1

## PP-107.1 Informal Bids up to \$3,000 (Phone, email, etc.)

### **OBJECTIVE**

To obtain the lowest and most advantageous bid for the City of Midland.

### **GENERAL**

Call for a telephone quote or fax a request to interested bidders for items that are estimated to cost up to \$3,000.00. Try to get at least 3 bids. These bids should include freight costs if applicable.

### **INFORMATION FOR BIDDERS**

Description of item(s) to be purchased.

1. Quantity of item(s) to be purchased.
2. Ask for model number(s), etc. for items bid.
3. Ask for freight costs if any. F. O. B (Free On Board) Destination, Freight Included.
4. Ask for delivery date.

### **PURCHASE INFORMATION**

After bids have been obtained, items may be purchased as follows:

1. Orders up to and including \$3,000 may be purchased by the User, using the Purchasing Card or Purchase Order.

The user attaches quotes and receipts in MUNIS for audit purposes.

<b>Title:</b> <b>PP-107.2 Bids for amounts of \$3,000 up to \$50,000</b>		<b>Contents:</b> PP-107.2
		<b>Submitted By:</b> E. Martinez
		<b>Approved By:</b>
<b>Effective Date:</b> 3/24/23	<b>Supercedes No.:</b>	<b>Page No.:</b> 1 of 2

## PP-107.2 Bids for amounts of \$3,000 up to \$50,000

### **OBJECTIVE**

To obtain the lowest and most advantageous bid for the City of Midland.

### **GENERAL**

Purchase requisitions with estimated costs of \$3,000 and over must be forwarded to the Purchasing Division for bids.

### **HUBs – Historically Underutilized Businesses**

Chapter 252, Sec. 252.0215 of the Texas Local Government Code requires that any solicitation under \$50,000, but over \$3,000 shall include at least two (2) inquiries to Historically Under-utilized Businesses or HUB's within the jurisdiction's County. These companies are certified through the Texas Comptroller of Public Accounts (TCPA) and subsequently listed on the Texas Comptroller of Public Accounts Website "Window of State Government". Furthermore, if there are no certified vendors listed, the requirements are subsequently nullified. In order to assure compliance, the following requirements have been implemented.

### **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 will be processed through the Purchasing Office. All bids for purchases in this range shall be obtained by the Purchasing Office, except as otherwise specifically approved by the Purchasing Manager.

### **BID FORMAT**

Bids shall be requested by fax or letter. Sealed bids may be issued at the discretion of the Purchasing Manager. 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. **If not advertised, the requirement for contacting two or more HUBs applies.**

### **BID RECEIVING ADDRESS**

The bids shall be received in the office of the Purchasing Manager and opened (as applicable) at the time and place designated by him. The Purchasing Manager along and in cooperation with the requisitioning Department Manager(s) shall determine the most advantageous bid or he may reject any or all bids.

### **SINGLE BID**

In the case where only one bid can be obtained, acceptance or rejection of the single bid shall be at the discretion of the Director of General Services for bids up to \$25,000. For bids of \$25,000 and more, the City Manager's office will need to approve the acceptance or rejection of the single bid.

### **PURCHASE APPROVAL**

The final approval for purchase (Signature/initials on requisition: "Authorized Purchase") for this range is made by the Director of General Services.

<b>Title:</b> <b>PP-107.2 Bids for amounts of \$3,000 up to \$50,000</b>		<b>Contents:</b> PP-107.2
		<b>Submitted By:</b> E. Martinez
		<b>Approved By:</b>
<b>Effective Date:</b> 3/24/23	<b>Supercedes No.:</b>	<b>Page No.:</b> 2 of 2

## **EMERGENCY PURCHASES**

In case of emergency,

The Department Manager, Division Manager, or his authorized representative may have the discretion to make such purchases or obligations as necessary.

1. ALL such actions shall be documented on the standard requisition form and supported by a memo that completely explains the nature of the emergency.
2. This documentation shall be submitted within two working days to the Purchasing Manager who will then obtain approvals from the appropriate level of management or Council depending upon the amount and signature authority.

<b>Title:</b> <b>PP-107.2 Bids for amounts of \$3,000 up to \$50,000</b>		<b>Contents:</b> PP-107.2
		<b>Submitted By:</b> E. Martinez
		<b>Approved By:</b>
<b>Effective Date:</b> 3/24/23	<b>Supercedes No.:</b>	<b>Page No.:</b> 1 of 2

## PP-107.2 Bids for amounts of \$3,000 up to \$50,000

### **OBJECTIVE**

To obtain the lowest and most advantageous bid for the City of Midland.

### **GENERAL**

Purchase requisitions with estimated costs of \$3,000 and over must be forwarded to the Purchasing Division for bids.

### **HUBs – Historically Underutilized Businesses**

Chapter 252, Sec. 252.0215 of the Texas Local Government Code requires that any solicitation under \$50,000, but over \$3,000 shall include at least two (2) inquiries to Historically Under-utilized Businesses or HUB's within the jurisdiction's County. These companies are certified through the Texas Comptroller of Public Accounts (TCPA) and subsequently listed on the Texas Comptroller of Public Accounts Website "Window of State Government". Furthermore, if there are no certified vendors listed, the requirements are subsequently nullified. In order to assure compliance, the following requirements have been implemented.

### **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 will be processed through the Purchasing Office. All bids for purchases in this range shall be obtained by the Purchasing Office, except as otherwise specifically approved by the Purchasing Manager.

### **BID FORMAT**

Bids shall be requested by fax or letter. Sealed bids may be issued at the discretion of the Purchasing Manager. 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. **If not advertised, the requirement for contacting two or more HUBs applies.**

### **BID RECEIVING ADDRESS**

The bids shall be received in the office of the Purchasing Manager and opened (as applicable) at the time and place designated by him. The Purchasing Manager along and in cooperation with the requisitioning Department Manager(s) shall determine the most advantageous bid or he may reject any or all bids.

### **SINGLE BID**

In the case where only one bid can be obtained, acceptance or rejection of the single bid shall be at the discretion of the Director of General Services for bids up to \$25,000. For bids of \$25,000 and more, the City Manager's office will need to approve the acceptance or rejection of the single bid.

### **PURCHASE APPROVAL**

The final approval for purchase (Signature/initials on requisition: "Authorized Purchase") for this range is made by the Director of General Services.

<b>Title:</b> <b>PP-107.2 Bids for amounts of \$3,000 up to \$50,000</b>		<b>Contents:</b> PP-107.2
		<b>Submitted By:</b> E. Martinez
		<b>Approved By:</b>
<b>Effective Date:</b> 3/24/23	<b>Supercedes No.:</b>	<b>Page No.:</b> 2 of 2

## EMERGENCY PURCHASES

In case of emergency,

The Department Manager, Division Manager, or his authorized representative may have the discretion to make such purchases or obligations as necessary.

1. ALL such actions shall be documented on the standard requisition form and supported by a memo that completely explains the nature of the emergency.
2. This documentation shall be submitted within two working days to the Purchasing Manager who will then obtain approvals from the appropriate level of management or Council depending upon the amount and signature authority.

<b>Title:</b> <b>PP-107.3 Formal Sealed Bids</b>		<b>Contents:</b> PP-107.3
		<b>Submitted By:</b> E. Martinez
		<b>Approved By:</b>
<b>Effective Date:</b> 3/24/23	<b>Supercedes No.:</b>	<b>Page No.:</b> 1 of 2

## PP107.3 Formal Sealed Bids

### **OBJECTIVE**

To obtain the lowest and most advantageous bid for the City of Midland.

### **GENERAL**

A formal bid request is required when the estimated cost of the items to be purchased are \$50,000.00 or more. The bid request is generated from a Purchase Requisition which is sent from the using Department to the Purchasing Division. The Purchasing Manager will review and forward purchase requisitions that require formal sealed bids with instructions written at the top pertaining to posting and legal notices to a Buyer or Purchasing Technician.

### **LEGAL NOTICE**

A legal notice must be published in the local newspaper as follows:

1. Estimated cost is \$50,000 or more – use City Secretary legal notice – receive bids in City Secretary’s office and open bids in the Council Chambers – Post as normal and on City Website

#### ***Non-Public Works Bid Requests***

- Publish legal notice in newspaper twice, 1 week apart with the last ad at least (7) days prior to opening

#### ***Public Works Projects Bid Requests***

- Publish legal notice in newspaper twice, 1 week apart, but the bid opening date must be at least 10 days after the second legal notice is published in the newspaper.

### **BID REQUEST NUMBER AND OPENING DATE**

#### ***Bid Request Number***

The file number assigned to the purchase requisition is the bid request number. The file number and pertinent information shall be entered into the Bid Log.

#### ***Bid Opening Date and Time***

Assuming a minimum turnaround for the bid:

1. The bid opening date for non-public works bid requests should be 15 days after the day the first legal notice is published.

The bid opening date for public works projects should be 17 days after the day the first legal notice is published.

Open bids on Wednesdays if possible.

The bid opening time is 2:00 PM unless otherwise specified.

### **SINGLE BID**

In the case where only one bid is received, it shall be opened in the City Secretary’s Office.

<b>Title:</b> <b>PP-107.3 Formal Sealed Bids</b>		<b>Contents:</b> PP-107.3
		<b>Submitted By:</b> E. Martinez
		<b>Approved By:</b>
<b>Effective Date:</b> 3/24/23	<b>Supercedes No.:</b>	<b>Page No.:</b> 2 of 2

2. The results of the opened bid shall be recorded.
3. Bids in the amount of \$25,000 to \$50,000 will be sent to the City Manager with a recommendation to accept or reject the bid.
4. Authorization to re-advertise for bids in this range will be by the City Manager.
5. Any single bid so opened over \$100,000.00 will be sent to the City Council with a recommendation to accept or reject the bid and any subsequent authorization for re-advertisement.

<b>Title:</b> <b>PP-107.4 Sealed Request for Proposals</b>		<b>Contents:</b> PP-107.4
		<b>Submitted By:</b> E. Martinez
		<b>Approved By:</b>
<b>Effective Date:</b> 3/24/23	<b>Supersedes No.:</b>	<b>Page No.:</b> 1 of 2

## PP-107.4 Sealed Request for Proposals

### **PURPOSE**

To allow flexibility to secure the best economic advantage utilizing best value to purchase the product or service for the User.

### **USE OF RFP's**

To use this procedure a determination is made that the use of competitive sealed bidding is either not practical or is not advantageous to the City. RFP's are generally used for purchases of highly technical supplies and services and insurance. See the **RFP Manual** for detailed instructions.

### **STATEMENT OF WORK**

Submission of the Statement of Work/Technical Specifications with the requisition which functionally defines the needs and requirements is the responsibility of the User agency. Purchasing's responsibility is to ensure that the SOW is quantified and structured in such a manner as to:

1. Secure the best economic advantage utilizing best value;
2. Be clearly stated;
3. Be contractually sound;
4. Be unbiased and non-prejudiced toward offerors;
5. Encourage innovative solutions to the requirement described; and
6. Permit free and open competition to the maximum extent reasonably possible.

### **TIME ALLOWANCE**

The RFP process is a complex procedure. It cannot be rushed. The offeror must be given adequate time to prepare a comprehensive and complete proposal. Several months is not unusual.

1. Minimum of 4 weeks from issuance to opening
2. Minimum of 4 weeks for evaluation and award after opening
3. If site visit or a pre-proposal conference is required, additional time should be allowed.

### **POSTING AND ADVERTISING**

Since normally an RFP is not issued for small sums (under the sealed bid limit of \$50,000):

1. Advertisements must be published in the local newspaper
2. Post RFP announcement on City's website
3. Send notices to known interested bidders

### **PROPOSAL OPENING**

**No information is revealed** at the time as contents of the offers must remain confidential until the date of contract execution. The names of the offerors will not be revealed either, since that information may compromise final negotiations, especially in the event of a single submission.

<b>Title:</b> <b>PP-107.4 Sealed Request for Proposals</b>		<b>Contents:</b> PP-107.4
		<b>Submitted By:</b> E. Martinez
		<b>Approved By:</b>
<b>Effective Date:</b> 3/24/23	<b>Supersedes No.:</b>	<b>Page No.:</b> 2 of 2

## EVALUATION

Only information provided with the proposal, subsequent discussions and clarifications provided in writing, and the offeror's written Best and Final Offer, is 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 Agency should:

1. Put together an Evaluation Team
2. Develop an evaluation matrix for scoring the proposals
3. Evaluation Team meets with the Purchasing Agent to score and evaluate the proposals

## SELECTION/RECOMMENDATION

The offeror who receives the best total aggregate score by the evaluation team is recommended for award of the contract.

## AWARD

A memo is prepared by the User agency to the Purchasing Manager which identifies the successful offeror and the basis for the award decision. A final recommendation will be written by the Purchasing Manager to the City Manager for Council's consideration.

## PURCHASE ORDER

All documentation generated by the evaluation team, all individual team member's reports and supporting written rationale and the final recommendation are included in the contract (Purchase Order) file. The purchase order is prepared the same as other central orders except that the purchase order will reference the entire RFP contract file, including:

1. All responses;
2. All Best and Final Offers;
3. Memoranda of discussions;
4. Related correspondence;
5. Evaluation scoring;
6. Memorandum of award; and
7. Other pertinent documentation

This file then becomes a matter of public record and is open for review by the public and offerors upon final disposition for the Purchase Order.

<b>Title:</b> <b>PP-107.5 Request for Qualifications</b>		<b>Contents:</b> PP-107.5
		<b>Submitted By:</b> E. Martinez
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<b>Effective Date:</b> 3/24/23	<b>Supersedes No.:</b>	<b>Page No.:</b> 1 of 3

## PP-107.5 Request for Qualifications

### Scope

All RFQ's that are issued shall follow this procedure. Chapter 2254 of the Government Code sets the requirements for this process.

### Purpose

To request proposals from interested companies for evaluation to determine the most qualified firm to perform a professional service.

### General

An RFQ (Request for Qualifications) differs from other requests in that it is used to acquire information concerning the qualifications of an individual or business to perform Professional Services for the City and not costs. There are some instances where ONLY an RFQ can be used. In other words you can not take bids (RFB) or use the RFP process. These types of services are specifically stated in the Statutes. 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 should be used please contact Purchasing.

## Services That Require the Use of an RFQ (BY STATUTE)

### *Definitions as given in Sub-Section 2254.002.*

In this subchapter:

(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;

<b>Title:</b> <b>PP-107.5 Request for Qualifications</b>		<b>Contents:</b> PP-107.5
		<b>Submitted By:</b> E. Martinez
		<b>Approved By:</b>
<b>Effective Date:</b> 3/24/23	<b>Supersedes No.:</b>	<b>Page No.:</b> 2 of 3

3. a landscape architect;
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, on occasion, other services that may be acquired under this format, but may be more practical to acquire using one of the other forms of request. Please contact Purchasing for additional information or guidance in choosing the proper form of request when other professionals service may be required.

## **Format and Content of the RFQ**

### ***Format***

Normally the simplest form is the letter.

### ***Content***

The RFQ needs to state the important issues that the issuer needs to know about the submitter of the response to the RFQ:

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

included.

### ***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:

1. Completeness of the information for each requested item,
2. Apparent ability to perform the work,
3. Responses from the references submitted.

<b>Title:</b> <b>PP-107.5 Request for Qualifications</b>		<b>Contents:</b> PP-107.5
		<b>Submitted By:</b> E. Martinez
		<b>Approved By:</b>
<b>Effective Date:</b> 3/24/23	<b>Supersedes No.:</b>	<b>Page No.:</b> 3 of 3

4. How the time frame for completion fits our requirements.
5. Their location from which they 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 then the team should meet and review the results. After which a selection should be made based on the teams evaluation of the proposals received etc.

### ***Negotiation***

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

#### **The professional fees under the contract:**

1. must be consistent with and not higher than the recommended practices and fees published by the applicable professional associations; and
2. may not exceed any maximum provided by law.

This process shall continue until an agreement can be reached.

### ***Contract Execution***

The negotiated terms are integrated into the original contract and the contract is sent to the Contractor for signature. The signed contract should be returned with the properly endorsed insurance certificates.

A governmental entity may not select a provider of professional services or a group or association of providers or award a contract for the services on the basis of competitive bids submitted for the contract or for the services, but shall make the selection and award:

1. on the basis of demonstrated competence and qualifications to perform the services; and
2. for a fair and reasonable price.

<b>Title:</b> <b>PP-110 Central Purchase Orders</b>		<b>Contents:</b> PP-110
		<b>Submitted By:</b> E. Martinez
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## PP-110 USE OF CENTRAL PURCHASE ORDERS

### **Purpose**

To provide using departments a means to accomplish the purchase of everyday items as expediently as possible without negating necessary safeguards and controls necessary to govern this activity.

### **Scope**

All purchases may be made using the Central Purchase Order by authorization of the Director of General Services or the Purchasing Manager. Such purchases may be initiated by submission of a Purchase Requisition (see Procedure PP-101 Requisition Preparation and Submission).

### **General**

After bids have been taken (see Procedures PP-107.2 Bids for Amounts of \$3,000 up to Sealed Bid Threshold; PP-107.3 Formal Sealed Bids) then a Central Purchase Order will be issued to facilitate the purchase and payment of items requested. Types of material that generally qualify for purchase through the Central P.O. System are expendables, consumables and incidentals necessary to the operation of the department.

### **Central P.O. Generation and Procedure:**

- 1) Enter purchase information into MUNIS program.
- 2) Attach a price list to the request.
- 3) MUNIS automatically prints and emails purchase order to the Using Department and to the Vendor at the quarter hour or the purchase order can be printed manually.
- 4) If the vendor does not have an email address, mail the purchase order to the vendor using the address on the purchase order.

<b>Title:</b> <b>PP-111</b>		<b>Contents:</b> PP-111
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## PP-111 Procurement of Office Supplies

### Scope

This procedure applies to all City of Midland employees for the procurement of office supplies.

### Purpose

To provide instructional information for procuring office supplies in accordance with the Office Supply Policy.

### General

- ALL orders shall be approved by the Division or Department Manager Prior to Purchase.
- Supplies shall be obtained through the Office Supply Contractor, unless otherwise approved in writing.
- Purchases shall be made utilizing the City of Midland Purchasing Card.
- All orders will be placed on the current vendor's electronic ordering system. Instructional information on its use is available from Purchasing or the Contractor.
  - In the event a division Manager is out of the office the day supplies are ordered and the delivery is necessary prior to his or her return, contact Purchasing for approval. If the Division Manager or his/her Department Manager has previously given the Purchasing Manager his consent to proceed in such a case, Purchasing will approve the purchase.

<b>Title: Purchasing Manual</b>		<b>Contents:</b>	
<b>PP-112 Asset Disposition Procedure</b>		<b>Submitted By:</b> E. Martinez	
<b>Effective Date:</b> 3/24/23		<b>Approved By:</b>	
<b>Supersedes No.:</b>		<b>Page No.:</b> 1 of 2	

## PP-112 Asset Disposition Procedure

### Purpose of Procedure

This procedure exists to help those involved in the asset disposal process understand the various necessary steps to effect proper disposition of obsolete, surplus, abandoned and unclaimed property.

#### For the purpose of this procedure:

- Obsolete and Surplus property refers to personal property that the City of Midland has owned and for whatever reason has become of no further use for the City and is either being replaced or discontinued;
- Unclaimed property shall refer to Police evidence duly released by the court for disposition; and,
- Abandoned shall include articles turned in as Lost & Found items at various City facilities (Airport, Parks & recreation, Midland Center, Health Department, etc.)

### Asset Disposition Forms (ADF)

There are two forms available for this purpose, the single asset disposition form, [0040-100](#) and one that allows a list of items to be filled in, [0040-101](#). These forms are available on the City Intra-net on the Purchasing Division web page where they can be downloaded for completion on your computer or by hand.

The information on the ADF is important because the accounting office uses the information to “relieve” the City's asset inventory. Without accurate (as possible) information this cannot be done. Someone has to provide the information on the forms. Since the user is most likely to have this information concerning the items being disposed of, the user is expected to provide it. Therefore, ADFs that do not have all pertinent\* information filled in will be returned to the user for additional information including:

- the serial number if there is one.
- the original cost, or best estimate\*.
- the date purchased, as near as possible\*.
- the current condition of the item\*.
- the original PO number, if known.

### Asset Disposition Approval Required

All ADFs require the approval of the Department Manager and the Purchasing Manager prior to delivery to the auctioneer. These signed forms will also serve as inventory documents when the items are delivered to the Auctioneer.

### Fleet Equipment and Vehicles

All vehicles, light trucks, heavy-duty trucks, construction equipment, etc., will be disposed of through the utilization of the City contracted auctioneers online. This will be facilitated by the Garage and Purchasing Divisions.

### City Personal Property

If the obsolete or surplus property is disposed from an enterprise fund, it should be so noted on the inventory given to the Auctioneer, so the sale revenue can be properly credited.

Employees should note that all auction items are to be sold unless the Purchasing Manager has authorized, in writing, the removal of an item or items for use by a City Department or Division. Removal of any item for any other purpose, public or private, is strictly prohibited and will be treated as a theft of Public Property.

<b>Title: Purchasing Manual</b>		<b>Contents:</b>	
<b>PP-112 Asset Disposition Procedure</b>		<b>Submitted By:</b> E. Martinez	
		<b>Approved By:</b>	
<b>Effective Date:</b> 3/24/23	<b>Supersedes No.:</b>	<b>Page No.:</b>	2 of 2

## **Delivery to Auctioneer Or Other Approved Site**

All users are responsible for the delivery of their surplus etc. to the appropriate delivery point.

### **Furniture (City Owned)**

Furniture that is considered dilapidated or completely unusable shall be delivered directly to the Landfill along with the approved ADF.

Removal of any item for any other purpose, public or private, is strictly prohibited and will be treated as a theft of Public Property.

Furniture that is in very good condition and that may be desired by another Division or Department must be transferred in writing. Users shall not offer the furniture on the intranet or by email. This will be done by the Purchasing Office.

If there are no City Divisions interested, then the furniture may be sold to employees or Citizens for personal use. Each case will be determined by the Purchasing Office. This may be accomplished through an online listing or advertising for bids or some other reasonable method for determining the value of a particular piece.

### **All other City Personal Property (Surplus and Obsolete Property)**

All other items that are no longer usable of any benefit to the City, will be delivered directly to the auctioneer. The agency making the delivery shall call first to assure that someone is present to accept the delivery. A complete inventory (ADFs) shall accompany the delivery. An Asset Disposition Form for each item that is City Personal Property shall have been completed and approved prior to such delivery. Any delivery of items not previously approved will be rejected by the Auctioneer until such time that an approved ADF is acquired.

### **Abandoned or Unclaimed Property (Not City Property)**

Property that falls in this category includes Lost & Found articles that are turned in to various City facilities such as the Airport, Parks & Recreation, etc., and Police evidence that has been released and is unclaimed or subject to forfeiture under Chapter 59 of the Texas Code of Criminal Procedure and subsequently released for disposal.

All of the articles that fall into this category shall be delivered to the Auctioneer with a list of the items being turned over for sale with the exception of cash.

### **Cash Items:**

All currency and coins shall be duly deposited into the appropriate fund through the cashier at City Hall. Currency and coins that may have numismatic value shall be delivered to the Auctioneer for sale at auction.

<b>Title:</b> PP-301 Calculating Escalation in Contract Amounts		<b>Contents:</b>	
		Submitted By: E. Martinez	
		Approved By:	
<b>Effective Date:</b> 3/27/23	<b>Supercedes No.:</b>	<b>Page No.:</b>	1 of 2

## PP-301 Calculating Escalation in Contract Amounts

### General

Many contracts have some sort of escalation clause. Normally it will be tied to a particular bench mark and index. An index that is most used is the Consumer Price Index (CPI).

### Purpose

To allow a fair and impartial increase or decrease in contract costs.

### What is CPI

The Consumer Price Index (CPI), published by the U.S. Department of Labor's Bureau of Labor Statistics (BLS), is a measure of the average change in the prices paid for a fixed market basket of goods and services purchased for consumption by the population covered by the index (either All Urban Consumers, CPI-U, or Urban Wage Earners and Clerical Workers, CPI-W).

### Guidelines for applying the CPI for escalation

#### ***Define the Base Payment Subject To Escalation.***

Define clearly the base payment (the contract price, a portion of the contract or list of commodities that may be included in the contract) that is subject to escalation.

#### ***Identify the Precise CPI Index***

Identify the precise CPI Index that will be used to escalate the base payment. This should include: the population coverage (CPI-U or CPI-W), area coverage (U.S. City Average, West Region, Chicago, etc.), series title (all items, residential rent, etc.), and index base period (1982-84=100).

#### ***Specify a Reference Period***

Specify a reference period from which changes in the CPI will be measured. This is usually a single month (the CPI does not correspond to a specific day or week of the month) or an annual average. There is about a 2-week lag from the reference month to the date on which the index is released (e.g., the CPI for May is released in mid-June). The CPI's for most metropolitan areas are not published as frequently as are the data for the U.S. City Average and the four Regions; further information on the **frequency of publication\*** for the 29 metropolitan areas is available. (\*<http://www.bls.gov/cpi/cpifaq.htm#Question 15>)

#### ***State the frequency of adjustment***

State the frequency of adjustment. Adjustments are usually made at fixed time intervals, such as quarterly, semiannually, or, most often annually.

#### ***Determine the Adjustment Formula***

Determine the formula for the adjustment calculation. Usually the change in payments is directly proportional to the percent change in the CPI index between two specified time periods. Consider whether

<b>Title:</b> <b>PP-301 Calculating Escalation in Contract Amounts</b>		<b>Contents:</b>	
		<b>Submitted By:</b> E. Martinez	
		<b>Approved By:</b>	
<b>Effective Date:</b> 3/27/23	<b>Supercedes No.:</b>	<b>Page No.:</b>	2 of 2

to make an allowance for a "cap" which places an upper limit to the increase in wages, rents, etc., or a "floor" which promises a minimum increase regardless of the percent change (up or down) in the CPI.

### ***Provide Methods for Handling Major Changes in the CPI***

Provide a built-in method for handling situations that may arise because of major CPI revisions or changes in the CPI index base period. The Bureau always provides timely notification of upcoming revisions or changes in the index base.

### ***The CPI and escalation: some points to consider***

The CPI is calculated for two population groups:

- All Urban Consumers (CPI-U) and;
- Urban Wage Earners and Clerical Workers (CPI-W).

The CPI-U represents about 80 percent of the total U.S. population as of 1982-84 and is based on the expenditures of all families living in urban areas. The CPI-W is a subset of the CPI-U and is based on the expenditures of families living in urban areas who meet additional requirements related to employment: more than one-half of the family's income has to be earned from clerical or hourly-wage occupations. The CPI-W represents about 30 percent of the total U.S. population.

There can be small differences in movement of the two indexes over short periods of time because of slight differences in the spending habits of the two population groups (resulting in slightly different weighting) as measured by BLS during the period 1982-84. The long-term change in the indexes is virtually identical. Both indices are calculated using measurement of price change for the same set of goods and services with the same specifications and from the same retail outlets. The CPI-W is used for escalation primarily in blue collar cost-of-living adjustments (COLA's). Because the CPI-U is more comprehensive, it is used in most escalation agreements other than COLA's.

## **Calculating The Difference Between A Benchmark CPI And The Current CPI**

CPI for current period	136.0
Less CPI for previous period	129.9 (the benchmark CPI)
Equals index point change	6.1
Divided by previous period CPI	129.9
Equals	.047
Result multiplied by 100	0.047 x 100
Equals percent change	4.7%

[See CPI Calculator](#)