

City of



ELLSWORTH
Business, Leisure, Life.

PROCUREMENT POLICY

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PROCUREMENT POLICY

SECTION 1

PURPOSE

The purpose of this Policy is to provide for the fair and equitable treatment of all persons involved in public purchasing by the City of Ellsworth, to maximize the purchasing value of public funds in procurement, and to provide safeguards for maintaining a procurement system of quality and integrity. Also to set forth the duties and responsibilities of the department heads, Finance Director and City Manager, thereby fostering interdepartmental cooperation and trust in the purchasing system.

SECTION 2

DEFINITIONS

- 1. Bid Most Advantageous to the City** - a bid chosen on the basis of price, quality of merchandise, suitability of merchandise, and service reputation of the vendor. This may not necessarily mean the lowest bid received.
- 2. Competitive Bidding** - the process of obtaining the bid most advantageous to the City for any purchase, whether through formal or informal bidding procedures.
- 3. Contract** - all types of City of Ellsworth agreements, regardless of what they may be called, for the procurement of supplies, services, or construction.
- 4. Cooperative Purchase** - a purchase made by the City in conjunction with or from another government or quasi-governmental agency, such as but not limited to, the State of Maine, the County of Hancock, Hancock County Planning Commission, or another Municipality.
- 5. Disqualification of Bidders** - the City Manager or City Council shall have the authority to disqualify bidders who default on their bids, quotations, contracts or purchase orders from receiving further awards from the City. Such decisions will be subject to the right of the disqualified bidder to appeal to the Council for a reversal or reinstatement.
- 6. Emergency Procurement** - any purchase that is needed and the regular procedure for procurement cannot be followed. This includes but is not limited to: repairs needed to ensure the safety or welfare of the public, tow truck services, or any other purchases deemed necessary by the department head at that time.
- 7. Field Purchase** - an informal purchase of supplies, less than \$1000 for day to day operations and made directly by a department head or their designated representative from any vendor.
- 8. Formal Bid** - a written quotation obtained from an approved vendor or through advertisement that is opened at a specific day, place and time.

9. Informal Bid - a written or oral quotation obtained from an appropriate vendor but not required to be opened publicly at a specified day, place and time.

10. Procurement - the buying, purchasing, renting, leasing, or otherwise acquiring of any supplies, services, or construction. It also includes all functions that pertain to the obtaining of any supply, service or construction, including description or requirements, selection, and solicitation of sources, preparation and award of contract and all phases of contract administration.

11. Purchase – the buying, renting, leasing, or otherwise acquiring supplies or services for a price.

12. Purchase Order – the City’s written document to a supplier formally indicating the types, quantities, and agreed prices for products or services the seller will provide. A purchase order commits the City financially by encumbering funds.

13. Request for Proposals/Invitation to Bid - all documents, whether attached or incorporated by reference, utilized for soliciting proposals.

14. Responsive Bidder - a person who has submitted a bid which conforms in all material aspects to the requirements set forth in the request for proposals.

15. Services - the lease or rental of any grounds, buildings, offices, space or equipment required by the City, the repair or maintenance of any equipment or real property owned by or the responsibility of the City, and any labor furnished to the City by persons, firms, individuals or corporations not part of or connected with the City government.

16. Specifications - any description of the physical or functional characteristics or of the nature of a supply, service, or construction item. It may include a description of any requirement for inspecting, testing, or preparing a supply, service, or construction item for delivery.

17. Supplies - any property, including but not limited to equipment, materials, printing, insurance, and leases of real property, excluding land or a permanent interest in land.

SECTION 3

APPLICABILITY

This policy applies to all sales and purchases made by departments and agencies of the City, except for library purchases or as otherwise specified herein.

SECTION 4

PURCHASE ORDERS

Purchases involving the encumbrance of City funds shall be made only on a written purchase order submitted by the Department Head and approved by the Treasurer as to availability of funds. Purchases on an overspent budget account can only be made with the written approval of the City Manager.

Department Heads will be responsible for the purchasing of all supplies and/or services for their departments.

If a Department Head issues a purchase order to a new vendor, they must submit the company name, remittance address and telephone number of the vendor on the purchase order.

- 1.) All purchases for over \$1000 must have a purchase order issued **prior to placing the order**. The purchase order number must be referenced when the vendor's invoice is submitted for payment.
- 2.) Purchase orders for over \$1000 but less than \$15,000 must be approved by the Treasurer as to the availability of funds, then approved by the City Manager for approval of the purchase.
- 3.) Purchases for \$15,000 and over must be approved by the City Council.
- 4.) Exceptions to the Purchase Orders Requirement are as follows: chemicals purchased for daily plant operations, purchases made by the Library, annual licensing fees, utility charges, debt payments, insurance payments, contractual charges (examples of contractual charges are: sludge hauling, salt, solid waste curbside collection, etc.).

FIELD PURCHASES AND PURCHASES UNDER \$1000

Purchases of up to \$1000 may use a vendor of choice, based on reasonable price, stock availability and delivery requirements.

Departments may make any reasonable purchase under \$1000 without a purchase order **if** the item is reasonably priced, **not** covered by a City supply contract with another vendor and if there are budget funds available.

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SECTION 5

INFORMAL BID QUOTES

A reasonable effort will be made to obtain quotes from at least three (3) vendors for the purchase of supplies, services or materials in excess of \$2,500 but less than \$15,000. Written quotes/estimates will be attached to the purchase order before the City Manager will approve.

The Department Head or Finance Director shall solicit competitive quotes via mail, email, fax or telephone. The Department Head or Finance Director shall make a record of the quotation. The information required is as follows: the person from whom the quote was received, the amount of the quote, the date and time the quote was received, and any other information deemed necessary.

SECTION 6

ADMINISTRATIVE PROCEDURES AND CONDITIONS

Competitive Bids and Quotes shall be administered by the Department Head, Finance Director, or City Manager and will be subject to the following conditions:

1. The Department Head, Finance Director, or City Manager will keep a record of all bids submitted and such records will be opened to proper inspection by any person.
2. All bidders will be notified of the bid results within 10 days after the bids are opened.
3. All bids will be awarded on the basis of the bid most advantageous to the City.
4. The City reserves the right to accept or reject any or all bids, to investigate the qualifications of any bidder, and to waive or not waive any and all informalities in the bids when making an award.
5. All bids for purchases, services, or projects of \$15,000 or more will go before City Council for final approval with the Department Head's, Finance Director's, or City Manager's recommendation. If the recommendation is not for the low bidder, a full and complete statement of the reasons for determining that the low bid was not the bid most advantageous to the City, must be submitted along with all the papers relating to the bidding process.
6. The City retains custody of all bids submitted to the City pursuant to this policy.

SECTION 7

FORMAL BID PROCESS

The formal bid process will be used for the purchase of supplies, services, materials, and equipment in excess of \$15,000. The procedure for formal bidding is as follows:

1. Invitation for Bids. The Department Head will prepare the Request for Proposal/Invitation for Bids, describing the City's requirements clearly, accurately and completely (Bid Specs), but avoiding unnecessarily restrictive specifications or requirements that might unduly limit the number of bidders. The City Manager will determine that the requirements of the City are clearly, accurately, and completely stated within the invitation to bid. Every invitation to bid will state that all purchases are subject to the conditions set forth in Section 6 of this policy. All Capital Equipment purchase specifications must be submitted and approved by the Finance Committee prior to Request for Proposal/Invitation to Bid announcement.

2. The Department Head or Finance Director shall publicize the invitation for bids through direct distribution to prospective bidders, posting on the bulletin board at City Hall and in the office of the department(s) involved, advertising in a newspaper with local and/or regional circulation, or such other means as the City Manager determines is appropriate.

3. Bidders will submit bids to the City prior to the date and time specified in the Request for Proposal/Invitation to Bid. Late bids shall not be accepted and no bidder shall be permitted to withdraw a bid after the deadline for bid acceptance specified in the invitation to bidders, except as set forth in section 7-5 of this policy.

4. Bids shall be opened publicly in the presence of one or more City Clerk's Office employee at the time and place designated in the invitation for bids. The amount of each bid, and such other relevant information as the City Manager or his/her designee deems appropriate, together with the name of each bidder shall be recorded; the record and each bid shall be open to public inspection. A contract shall be awarded to the responsive bidder whose bid will be the most advantageous to the City. Award may be delayed pending verification of a bidder's credentials and references or review of the bids received, and the approval of the City Council.

5. Correction or withdrawal of inadvertently erroneous bids before or after bid opening, or cancellation of awards or contracts based on such bid mistakes, may be permitted where appropriate. Mistakes discovered before bid opening may be modified or withdrawn by written or electronic notice received in the office designated in the invitation for bids prior to the time set for bid opening. After bid opening, corrections in bids shall be permitted only to the extent that the bidder can show by clear and convincing evidence that a mistake of a nonjudgmental character was made, the nature of the mistake, and the bid price actually intended and if the bid price was based on incorrect information provided by the City. No other changes in bid prices or other provisions of bids prejudicial to the interest of the City or fair competition shall be permitted. In lieu of bid correction, a low bidder alleging a material mistake of fact may be permitted to withdraw its bid if:

- (a) The mistake is clearly evident on the face of the bid document but the intended correct bid is not similarly evident; or
- (b) The bidder submits evidence which clearly and convincingly demonstrates that a mistake was made. All decisions to permit the correction or withdrawals of bids, or to cancel awards or contracts based on bid mistakes, shall be supported by a written determination made by the City Manager.

6. Comprehensive general liability, fire hazard, property damage, workers compensation or other insurance coverage may be required in connection with any City contract, when the City Manager deems such insurance advisable to protect the City's interests. Any such insurance requirement shall be set forth in the Request for Proposals/Invitation for Bids. Insurance shall not be used as a substitute for determination of the bidder or offeror's financial or other responsibility.

7. Bid and performance bonds or other security may be requested for supply contracts or service contracts as the City Manager deems advisable to protect the City's interests. Any such bonding requirements shall be not used as substitute for a determination of a bidder or offeror's financial or other responsibility.

8. Nothing in this section shall preclude the City Manager or City Council from rejecting any and all bids as provided in Section 6 of this policy.

SECTION 8

PROFESSIONAL SERVICES

Purchase of professional services including architects and other consultants, but excluding engineers (see Section 9) shall be on the basis of demonstrated competence and professional qualifications for the type of service requested. Professional services estimated to exceed \$15,000 will require City Council approval.

SECTION 9

PROCUREMENT PROCESS FOR ENGINEERING SERVICES

When a City department has an approved project that requires engineering services, the department and the City Manager will select the firm they deem to be most appropriate for the project. The Department Head and City Manager will meet with the selected engineering firm and thoroughly review all requirements of the project.

The engineering firm must then provide the department a written estimate of the scope of service and cost of the project, including all engineering costs from design development through completion of construction. If the estimate is over \$15,000, the request will go before the City Council for approval.

NO ENGINEERING WORK IS TO BE DONE WITHOUT A PURCHASE ORDER AND CITY COUNCIL APPROVAL IF GREATER THAN \$15,000

SECTION 10

SOLE SOURCE PROCUREMENT

A contract of \$15,000 or more may be awarded without competitive bidding when the Department Head or City Manager, with approval of the City Council, determines in writing, after conducting a good faith review of available sources, that there is only one source for the required supply, service, construction item, or an unusual or compelling urgency exists. The Department Head, Finance Director, or City Manager shall conduct negotiations, as appropriate, as to price, delivery, and terms.

SECTION 11

EMERGENCY PROCUREMENTS

Notwithstanding any other provisions of this Policy, the City Manager may make, or authorize others to make, emergency procurements of supplies, services, or construction items when there exists a threat to public health, welfare, or safety; provided that such emergency procurements shall be made with such competition as is practical under the circumstances. A written determination of the basis for the emergency and for the selection of the particular contractor will be included in the contract file. On the next business day, the Finance Office shall be notified of any emergency procurement that was made.

SECTION 12

COOPERATIVE PURCHASES

The City may join other government or quasi-government agencies in the process of bidding for services, materials, and supplies. When involved with a cooperative purchase, the City is not required to hold their own bid process.

SECTION 13

CODE OF CONDUCT

No employee, officer or agent of the City of Ellsworth shall participate in the selection or in the award or administration of a contract if a conflict of interest, real or apparent, would be involved. Such a conflict could arise if the employee, officer or agent; any member of his/her immediate family; his/her partner; or an organization which employs or is about to employ any of the above, has a financial or other interest in the firm selected for award.

No officer, employee or agent of the City of Ellsworth shall solicit or accept gratuities, favors or anything of monetary value from contractors or firms, potential contractors or firms, or parties to sub-agreements; except where the financial interest is not substantial or the gift is an unsolicited item of nominal intrinsic value.