

CHAPTER 3.16
Purchasing System

§ 3.16.010. Adoption.

In order to establish efficient procedures for the purchase of supplies, services and equipment, to secure for the city supplies, services and equipment at the lowest possible cost commensurate with quality needed, to exercise positive financial control over purchases, to clearly define authority for the purchasing function and to assure the quality of purchases, a purchasing system is adopted.

§ 3.16.020. Purchasing officer.

The finance director is appointed the purchasing officer having general supervision of the purchasing department. The purchasing officer shall have the authority to:

- A. Purchase or contract for supplies, services and equipment required by any using department in accordance with purchasing procedures prescribed by this chapter, such administrative regulations as the purchasing officer shall adopt for the internal management and operation of the purchasing department and such other rules and regulations as shall be prescribed by the city council and city manager. Notwithstanding Section 1.16.010, all contracts and purchase orders entered into pursuant to the provisions of this chapter may be authorized and signed by the purchasing officer or city manager. Any purchase or contract whose cost to the city exceeds one hundred thousand dollars shall be authorized by the city council;
- B. Negotiate and recommend execution of contracts for the purchase of supplies, services and equipment;
- C. Act to procure for the city the needed quality in supplies, services and equipment at least expense to the city;
- D. Discourage uniform bidding and endeavor to obtain as full and open competition as possible on all purchases;
- E. Prepare and recommend to the city council revisions and amendments to the purchasing rules;
- F. Keep informed of current developments in the field of purchasing, prices, market conditions and new products;
- G. Prescribe and maintain such forms as reasonably necessary to the operation of this chapter and other rules and regulations;
- H. Supervise the inspection of all supplies, services and equipment purchased to insure conformance with specifications;
- I. Recommend the transfer of surplus or unused supplies and equipment between departments as needed and the sale of all supplies and equipment which cannot be used by any department or which have become unsuitable for city use;

- J. Inspect supplies and equipment delivered, and contractual services performed, to determine their conformance with the specifications set forth in the order or contract. The purchasing officer shall have authority to require chemical and physical tests of samples submitted with bids and samples of deliveries which are necessary to determine their quality and conformance with specifications.

§ 3.16.030. Decentralized purchasing.

The purchasing officer may authorize any department to purchase or contract for specified supplies, services and equipment independently of the purchasing department, but he shall require that such purchases or contracts be made in conformity with the procedures established by this chapter, and may further require periodic reports from the department on the purchases and contracts made under such authorization.

§ 3.16.040. Estimates of requirements.

All using departments shall file detailed estimates of their requirements in supplies, services and equipment in such manner, at such time, and for such future periods as the purchasing officer shall prescribe.

§ 3.16.050. Purchases.

Purchase orders may be used for the purchase of supplies, services and equipment. If a purchase order is not used, the purchasing officer prescribes using approved invoices coded and signed by appropriate staff.”

§ 3.16.060. Encumbrance of funds.

Except in cases of emergency, the purchasing officer shall not issue any purchase order for supplies, services or equipment unless there exists an unencumbered appropriation in the fund account against which said purchase is to be charged.

§ 3.16.070. Public projects.

- A. Public projects, as defined by Section 20002 of the California Public Contract Code, in an amount equal to or less than the force-account, negotiated-contract, and purchase-order limit established under Section 22032 of the California Public Contract Code, as it may be amended from time to time, may be performed by city employees by force account, by negotiated contract, or by purchase order. Public projects in an amount equal to or less than the informal bidding limit established under Section 22032 of the California Public Contract Code, as it may be amended from time to time, may be let to contract by informal procedures as set forth in this section. Public projects in an amount greater than that informal bidding limit shall, except as otherwise provided herein, be awarded following formal bidding procedure. Notwithstanding anything to the contrary in this section, these monetary thresholds and all other procedural requirements shall be adjusted automatically so as to remain in conformance with the limits and requirements set forth in Section 22032 of the Public Contract Code, as it may be amended from time to time.

B. Informal bid procedures for public contracts.

1. Contractors' list. The public works director shall develop and maintain a list of contractors in accordance with the provisions of Public Contract Code Section 22034 and the criteria promulgated from time to time by the California Uniform Construction Cost Accounting Commission ("Commission").
2. Notice inviting informal bids.
 - a. If a public project subject to the provisions of this subsection is to be performed, a notice inviting informal bids shall be mailed to all contractors for the category of work to bid as shown on the list referred to above or to all construction trade journals as specified by the commission in accordance with Section 22036 of the Public Contract Code. Additional contractors and/or construction trade journals may be notified at the discretion of the department soliciting bids; provided, however:
 - i. If there is no list of qualified contractors maintained by the city for the particular category of work to be performed, the notice inviting bids shall be sent only to the construction trade journals specified by the commission; and
 - ii. If the project or service is proprietary in nature such that it can be obtained only from a certain contractor or contractors, then the notice inviting formal bids may be sent exclusively to such contractor.
 - b. All mailing of notices to contractors and construction trade journals pursuant to this subsection shall be completed not less than ten calendar days before bids are due.
 - c. The notice inviting informal bids shall describe the project in general terms and how to obtain more detailed information about the project, and state the time and place for the submission of bids.
 - d. If all bids received are in excess of the informal bidding limit established under Section 22032 of the California Public Contract Code, the city council may, by adoption of a resolution by a four-fifths vote, award the contract to the lowest responsible bidder at the amount authorized under Section 22034 of the California Public Contract Code, as it may be amended from time to time, if it determines the cost estimate was reasonable.
3. Award of contracts. The city manager is authorized to award and execute all contracts of one hundred thousand dollars or less. The city manager or designee shall make recommendations to the city council for purposes of award of all other contracts under this section.

C. Formal bid procedures for public contracts.

1. As set forth in Public Contract Code Section 22037, notice inviting formal bids shall state the time and place for the receiving and opening of sealed bids and distinctly describe the project. The notice shall be published at least fourteen calendar days before the date of opening the bids in a newspaper of general circulation, printed and published in the jurisdiction of the city; or, if there is no newspaper printed and published within the jurisdiction of the city, in a newspaper of general circulation which is circulated within the jurisdiction of the city, or, if there is no newspaper which is circulated within the jurisdiction of the city, publication shall be by posting the notice in at least three places within the jurisdiction of the city as have been designated by ordinance or regulation of the city as places for the posting of its notices. The notice inviting formal bids shall also be mailed to all construction trade journals specified in Public Contract Code Section 22036. The notice shall be mailed at least thirty calendar days before the date of opening the bids.
 2. In its discretion, the city may reject any bids presented, if the city, prior to rejecting all bids and declaring that the project can be more economically performed by its own employees, furnishes a written notice to an apparent low bidder. The notice shall inform the bidder of the city's intention to reject the bid and shall be mailed at least two business days prior to the hearing at which the city intends to reject the bid. If after the first invitation of bids all bids are rejected, after reevaluating its cost estimates of the project, the city shall have the option of either of the following:
 - a. Abandoning the project or readvertising for bids.
 - b. By passage of a resolution by a four-fifths vote declaring that the project can be performed more economically by the employees of the city, may have the project done by force account without further complying with this section.
 - c. If a contract is awarded, it shall be awarded to the lowest responsible bidder. If two or more bids are the same and the lowest, the city may accept the one it chooses.
 - d. If no bids are received through the formal or informal procedures, the project may be performed by city employees by force account, or negotiated contract without further complying with this section.
 3. The city council shall adopt plans, specifications, and working details for all public projects exceeding the formal bidding limit established under Section 22032 of the California Public Contract Code, as it may be amended from time to time. Any person may examine the plans, specifications, or working details, or all of these, adopted by the city for any project.
- D. Emergencies. In cases of emergency when repair or replacements are necessary, the city manager is delegated the authority to take any action pursuant to Chapter 2.5 (commencing with Section 22050) of the Public Contract Code. In such an emergency and notwithstanding subsection A of this section, the city manager is also delegated the

authority to make a purchase or enter into a contract in an amount up to and including one hundred thousand dollars which shall be reported to the city council at its next regularly scheduled meeting. In the event of a declaration of emergency and activation of the emergency operations center pursuant to Chapter 2.36, those procedures shall apply and not be subject to the contracting authority limits in this chapter.

- E. Pursuant to California Public Contract Code Section 22160 et seq., the city is authorized to use design-build contracts for public works projects as defined in Public Contract Code Section 22161 over one million dollars with an award of contract either to the low bid or the best value as defined by statute or in any other situations that may be authorized by state law. As required by Section 22162, a design professional or other consultant who under contract with the city provides assistance related to the design-build procurement, including but not limited to preparing the documents for the request for qualifications or request for proposals documents envisioned in Section 22164 shall be prohibited from participating with the design-build entity.

§ 3.16.080. Formal bid requirements—Contracts exceeding one hundred thousand dollars.

Except as otherwise provided in this chapter, purchases and contracts for nonpublic projects, as that term is defined in Public Contract Code Section 20002, or for supplies, services and equipment, for which the city's expenditure exceeds one hundred thousand dollars, shall be by written contract with the lowest responsible bidder pursuant to the procedure prescribed in this section.

- A. Notice inviting bids. Notices inviting bids shall include a general description of the articles to be purchased, shall state where bid blanks and specifications may be secured, the location at which completed bids shall be delivered to the city, and the time and place for opening bids.
 - 1. Reasonable method. The purchasing officer shall solicit bids by written requests to prospective vendors, by telephone, by email or Internet inquiry, or by any other reasonable method.
 - 2. Bidders' list. The purchasing officer shall also solicit sealed bids from all responsible prospective suppliers whose names are on a bidders' list or who have requested their names to be added thereto.
 - 3. Website. The purchasing officer shall also advertise pending purchases by a notice posted on the city's website.
- B. Bidder's security. When deemed necessary by the purchasing officer, bidder's security may be prescribed in the public notices inviting bids. Bidders shall be entitled to return of bid security; provided, that a successful bidder shall forfeit his bid security upon refusal or failure to execute the contract within ten days after the notice of award of contract has been mailed, unless the city is responsible for the delay. The city council may, on refusal or failure of the successful bidder to execute the contract, award it to the next lowest responsible bidder. If the city council awards the contract to the next lowest bidder, the amount of the lowest bidder's security shall be applied by the city to the difference between

the low bid and the second lowest bid, and the surplus, if any, shall be returned to the lowest bidder.

- C. Bid opening procedure. Sealed bids shall be submitted to the purchasing officer and shall be identified as bids on the envelope. Bids shall be opened in public at the time and place stated in the public notice. A tabulation of all bids received shall be open for public inspection during regular business hours for a period of not less than thirty calendar days after the bid opening.
- D. Rejection of bids. In its discretion, the city council may reject any and all bids presented. If all bids are rejected or if no responsive bids are received, the council may readvertise for new bids, or authorize the city manager to negotiate in the open market for a contract at a reasonable price.
- E. Award of contracts. Contracts shall be awarded by the city council to the lowest responsible bidder except as otherwise provided in this chapter.
- F. Tie bids. If two or more bids received are for the same total amount or unit price, quality and service being equal and if the public interest will not permit the delay of readvertising for bids, the city council may accept the one it chooses or accept the lowest bid made by negotiation with the tie bidders at the time of the bid opening.
- G. Performance bonds. The city council shall have authority to require a performance bond before entering a contract in such amount as it shall find reasonably necessary to protect the best interests of the city. If the city council requires a performance bond, the form and amount of the bond shall be described in the notice inviting bids.

§ 3.16.090. Informal bid requirements—Contracts under one hundred thousand dollars.

Purchases and contracts for nonpublic projects, supplies, services and equipment, for which the city's expenditure is one hundred thousand dollars or less, may be by written contract or purchase order with the lowest responsible bidder pursuant to the open market procedure prescribed in this section.

- A. Minimum number of bids. Open market purchases shall, wherever possible, be based on at least three bids.
- B. Notice inviting bids. The purchasing officer shall solicit bids by written requests to prospective vendors, by telephone, by email or Internet inquiry, or by any other reasonable method.
- C. Purchases under ten thousand dollars. Where an open market purchase will be less than ten thousand dollars, the purchasing officer may, but need not, solicit informal bids, where in his or her judgment such a solicitation would be advantageous to the city. For those purchases where informal bids are not requested, the city manager shall adopt regulations to encourage city staff to encourage and maximize the award of such contracts to small local businesses.

§ 3.16.100. Lowest responsible bidder and local business preference.

- A. For purposes of this chapter, “lowest responsible bidder” means that bidder which best responds in price, quality, service, fitness, or capacity to the particular requirements of the city, as recommended by the city manager or determined by the city council. Price alone shall not be the determining factor but shall be considered along with other factors including, but not limited to, the ability, capacity and skill of the bidder; whether the bidder can perform promptly, without delay or interference; the character, integrity, reputation, judgment, experience, and efficiency of the bidder; the quality of the bidder’s performance of previous city contracts or service; previous and existing compliance by the bidder with laws and ordinances relating to the contract or service; sufficiency of the financial resources and ability of the bidder to perform; quality, availability, and adaptability of the supplies or contractual service to the particular use required and conformance to specifications; ability to provide future maintenance and service; and the number and scope of conditions attached to the bid.
- B. Whenever it is recommended that the bid be awarded to other than the lowest monetary bidder, reasonable notice and an opportunity to be heard shall be given to such bidder before the award is made.
- C. Notwithstanding anything to the contrary in this chapter, and to the extent not prohibited under state or federal law, regulations, or funding restrictions, formal or informal bids for nonpublic projects, supplies, services and equipment that are made by small local businesses, as defined by this section, shall be tabulated as if five percent below the figure actually set forth in the bid for the purpose of determining the lowest responsible bidder, so long as the bids are otherwise equal in responsibility and quality. The total amount of preference granted in a single bid shall not exceed five thousand dollars. The city, when seeking bids for commodities, supplies, equipment, and nonprofessional services, will notify bidders that bids will be evaluated on the basis of a local preference of five percent of the bid price.
- D. A business shall be deemed a “small local business” for the purposes of this chapter if it has a place of business (other than a post office box) within the city and has a valid, current business license issued by the city. To qualify as a small local business under this chapter, the business shall submit with its bid a completed affidavit that documents that it has a facility within the city of San Pablo and with a San Pablo address; that it will attribute sales tax from the sale to the City of San Pablo, if applicable; that the business has had a city of San Pablo business license for at least three months prior to the opening of the bid; and that it either employs fewer than fifty employees or has average annual gross receipts of two million dollars or less. A business shall qualify even though it is a franchisee of a larger chain.

§ 3.16.110. Exceptions to bid policy.

The bidding procedures may be dispensed with in the following circumstances:

- A. Consultants. Contracts involving the acquisition of professional or specialized services, such as but not limited to services rendered by architects, attorneys, engineers, accountants and other classes where the city must depend upon the skill, integrity, judgment and ability of the service, are exempted from the formal and

informal contracting requirements of this chapter. All such contracts shall be awarded by the city to the consultant whose proposal is evaluated to be the most responsive to the needs of the city, as determined by the city manager or, in the case of contracts exceeding one hundred thousand dollars, the city council.

1. Notwithstanding any other provision of law, contracts for architectural, landscape architectural, engineering, environmental, land surveying, and construction project management services, and any other profession set forth in Government Code Section 4525, shall be on the basis of demonstrated competence and on the professional qualifications necessary for the satisfactory performance of services required and not solely on price, pursuant to Government Code Section 4529.10, et seq.
 2. Where the department head for whom such services are to be performed and the city's purchasing officer determines that the services needed are more of a technical nature and involve little professional judgment, they may determine that requiring bids pursuant to this chapter would be in the public interest.
- B. Specialized services combined with equipment and/or products. Contracts involving the acquisition and/or installation of equipment, intellectual property or other tangible products (collectively referred to as "products") and the retention of specialized services, such as consulting, training, installing, maintaining or servicing the products, which are an integral or important part of the use, operation, or functionality of the products, are exempted from the formal and informal bidding requirements of this chapter.
- C. Sole source contracts.
1. Sole source contracts shall be excepted from the formal and informal bidding requirements of this chapter. A sole source contract shall exist where the city's requirements can be met only by a single patented article or process, or when there is only one feasible source that meets the city's requirements.
 2. Except as provided for in Public Contract Code Section 3400, specifications for contracts for the construction, alteration or repair of public works shall not be drafted in such a manner as to limit the bidding, directly or indirectly, to any one specific concern, brand or trade name.
- D. Emergency. When an emergency requires the immediate procurement of supplies, equipment or services, such procurements are exempted from the formal and informal bid requirements of this chapter. For the purposes of this section, an emergency shall be deemed to exist only if:
1. There is a great public disaster; or
 2. There is an immediate need to prepare for national or local defense; or
 3. There is a breakdown in machinery or an essential service which requires the immediate procurement of supplies and equipment to protect the public health,

welfare or safety; or

4. An essential departmental operation affecting the public health, welfare or safety would be greatly hampered if the prescribed purchase would cause an undue delay in the procurement of the needed item; or
5. The city manager determines that an emergency purchase is necessary to ensure operational efficiency and/or fiscal responsibility for the city.

In such an emergency and notwithstanding subsection A of this section, the city manager is delegated the authority to make a purchase or enter into a contract in an amount up to and including one hundred thousand dollars which shall be reported to the city council at its next regularly scheduled meeting. In the event of a declaration of emergency and activation of the emergency operations center pursuant to Chapter 2.36, those procedures shall apply and not be subject to the contracting authority limits in this chapter.

- E. Cooperative purchasing. The city may join with other government agencies for the joint purchase of equipment, materials, supplies and services. The city may also buy directly from a vendor at a price established by competitive bidding by another public jurisdiction even if the city had not joined with that public agency in a cooperative purchase. The city may also purchase from the United States of America or any state, municipality or other public corporation or agency, or through a cooperative purchasing program established by the state or the United States, without calling for bids.
- F. Leases and lease purchases. The city may contract to lease or lease-purchase materials, vehicles and equipment without calling for bids.
- G. Used items. The city may purchase used items without calling for bids.

§ 3.16.120. Surplus supplies and equipment.

- A. All using departments shall submit to the purchasing officer, at such times and in such form as he shall prescribe, reports showing all supplies and equipment which are no longer used or which have become obsolete or worn out. The purchasing officer shall have authority to exchange or trade in all such supplies, equipment and materials; to sell by public auction, sealed bid, or agreement with other public agencies; or sell by direct negotiated agreement, or on a consignment basis. In the event the purchasing officer determines that any such obsolete or surplus property has no salvage value, he may dispose of it as he deems advisable.
- B. The purchasing officer shall have the authority to sign bills of sale or any other papers or documents evidencing the transfer of the title of obsolete or surplus personal property for and on behalf of the city.
- C. Prior to disposing of any obsolete or surplus personal property having an apparent market value, the purchasing officer shall inform the council of the nature of the personal property proposed for disposition and the price offered, if known, and obtain the council's approval for disposition.