

PURCHASING AND PAYABLES (AP)

This group of policies and procedures provide guidance upon the acquisition of services, supplies and capital items and the settlement of obligations for purchases made on account.

AP 1: PURCHASING

PURPOSE

These Purchasing Procedures implement the City's purchasing ordinance, San Pablo Municipal Code ("SPMC") Chapter 3.16, as authorized by Section 3.16.020 A, and ensure that City procurements which are subject to federal funding, in whole or in part, comply with all applicable Federal Procurement Requirements, as defined below, and as further specified in Section 22, Federal Procurement. (See 2 CFR § 200.317.) These procedures define in more detail the policies and procedures for the procurement and disposition of goods and services for the City. Procurement of public works contracts must be made in compliance with the Uniform Public Construction Cost Accounting Act, as set forth in Chapter 3.16 of the Municipal Code, the State Public Contract Code, Sections 22000 through 22045 (as may be amended from time to time), and these Purchasing Procedures. The dollar thresholds set forth in the Public Contract Code shall take precedence over the dollar thresholds set forth in the Municipal Code.

POLICY

The City Manager directs and supervises the acquisition of all goods and services under the authority of §2.04.230.⁴ The City Manager has assigned the responsibility for administering purchasing policies and procedures to individual departments through the Administrative Services Director (§ 3.16.020). This decentralized system of purchasing (§3.16.030) provides the departments with the ability to contact vendors directly.

It is the City's policy to utilize best management practices for the purchase of goods and general services at the lowest possible cost commensurate with quality needed, to do so in the most efficient manner possible, to exercise positive financial control over purchases, to clearly define authority for the purchasing function, and to assure the quality of purchases.

DEFINITIONS

Best value – The best value to the city based on all factors, including: cost; contractor's ability, capacity or skill; ability to perform within the time required; character, integrity, reputation, judgment, experience and efficiency; quality of contractor's performance on previous purchases or contracts, if applicable; and the ability of the contractor to provide future maintenance, repair, parts and services, if necessary.

Bid – A written offer, more formal than a quote, to furnish supplies, equipment, vehicles, services, etc., in conformity with the specifications, delivery terms, and conditions required at a guaranteed maximum cost. As required by this policy, the initiating Department will sometimes prepare a Notice Inviting Bids, which is formal notification, through posting and advertisement, that the City is soliciting goods or services (see §3.16.080 A.1.). This gives widespread exposure to the City's needs, expands the vendor base, and fulfills the legal responsibility of giving a fair opportunity to all vendors for supplying the City's needs. The notice must include a general description of the goods or general services to be purchased; state where bid forms and specifications may be secured; and state the final time and place for submitting bids. For purchases greater than \$25,000, the notice must be published at least 10 days before the bid

⁴ Section 2.14.230 outlines the powers and duties of the City Manager: "The City Manager shall be responsible for the purchase of all supplies for all of the departments or divisions of the City. No expenditures shall be submitted or recommended to the City Council except on report and approval of the City Manager".

opening date. The Purchasing Officer, or a designee, will publicly open and declare the content of bids received at the time and place specified in the notice. The bid results will be made available to all interested parties as soon as possible following the bid reading.

Bid security – Financial security provided to guarantee that a bidder will enter into a contract with the city if a bid is awarded. Bid security may be in the form of cash, cashier's check, certified check, or surety bond, in an amount not to exceed 10% of the aggregate amount of the bid.

Community Services Department Instructors & Service Providers – Private contractors providing instruction, coaching, classes, services and/or programming to residents in support of Community Services goals and objectives and receiving less than \$25,000 in compensation from the City per fiscal year. Such vendors may be held to lower insurance requirements and are exempt from business license requirements.

DIR - the California Department of Industrial Relations.

Federal Procurement Requirements – The post federal award procurement requirements set forth in 2 CFR §§ 200.317 – 200.326, as may be amended from time to time, which apply to federally funded procurements, and any additional federal requirements that apply to a particular federally funded procurement.

On-call Contract – Arrangement under which the City establishes contracts for goods or services under specified prices, terms, and conditions in anticipation of a potential need. Using an on-call contract provides flexibility to the contracting department to utilize contract services on an as-needed basis. Generally, on-call contracts do not encumber budgeted funds until a work order is placed with the contractor.

Professional services or consultant services – The services of an attorney, architect, accountant, engineer, financial consultant, planning or environmental consultant, investment advisor, bank or trustee officer, or other professional.

Public works project – A public works project shall be defined as construction, reconstruction, erection, alteration, renovation, improvement, demolition or repair work involving any publicly owned, leased, or operated facility; or painting or repainting of any publicly owned, leased or operated facility. A public works project does not include maintenance work such as: (1) routine, recurring, and usual work for the preservation or protection of any publicly owned or operated facility for its intended purposes; (2) minor repainting; (3) resurfacing of streets and highways at less than one inch thickness; or (4) landscape maintenance, including mowing, watering, trimming, pruning, planting, replacing plants, and servicing of irrigation and sprinkler systems. (Public Contract Code 22002).

Purchase order (PO) – A document generated by the Finance Division to formalize a purchase transaction with a vendor or to assure the proper set-aside of funds for a purchase. The purchase order should contain sufficient information to fill the order in an accurate and timely fashion. The vendor's acceptance of a purchase order constitutes a contract.

Quote – A verbal or written promise from the vendor/contractor guaranteeing the cost of specific goods, supplies, or services.

Request for proposal (RFP) – All documents used for soliciting competitive proposals. The RFP defines, in detail, the terms, conditions, and specifications of goods or services required by the City. An RFP is primarily intended for large, complex projects where cost and performance are equally important.

Request for qualifications (RFQ) – A request seeking a written presentation of the professional qualifications and experience of a proposed contractor, vendor or professional.

Simplified Acquisition Threshold – The dollar amount below which the City, as a non-Federal entity, may purchase property or services subject to the Federal Procurement Requirements using small purchase methods, as set forth in 2 CFR section 200.88, as it may be amended from time to time.

Supplies – Goods in a manufactured state kept in the ordinary course of business for regular use or consumption (e.g., pencils, light bulbs, street signs, etc.).

TYPES OF PURCHASING TRANSACTIONS

There are many types of purchasing transactions in the City. These policies relate **ONLY** to the first two types below: the purchase of goods and services. For information on the purchase of public works contracts, franchise agreements and labor contracts, the reader should refer to other appropriate literature and state law.

Goods

Goods include tangible goods, supplies, equipment, vehicles, materials, printing and insurance. If goods and services are combined in one contract, the requirements for a general services contract apply.

Services

General services. (See SPMC §3.16.110.)

Professional services contracts. (See SPMC § 3.16.110.)

PURCHASING GUIDELINES

FAIR COMPETITION AND STANDARDS OF BEHAVIOR

All purchasing functions shall be conducted impartially to assure fair and open competition for City business by responsible vendors. (See 2 CFR § 200.319.) In addition, City employees should conduct themselves--and the purchasing process--in a professional manner that will promote equal opportunity and foster public confidence in the procurement process. City employees will treat all vendors equally and fairly, with equal information given to each vendor who participates in the procurement process. City employees will ensure that all prequalified lists of persons, firms, or products used in acquiring goods or services are current and include enough qualified sources to ensure maximum open and free competition. City employees may not place unreasonable restrictions on competition, including any of the following restrictions:

- (A) Placing unreasonable requirements on vendors to qualify for the procurement;
- (B) Requiring unnecessary experience and excessive bonding;
- (C) Noncompetitive pricing practices between vendors or affiliates;

- (D) Noncompetitive contracts to consultants that are on retainer contracts;
- (E) Organizational conflicts of interest;
- (F) Non-compliance with sole source restrictions, and “or equal” requirements, including Public Contract Code section 3400;
- (G) Precluding potential bidders from qualifying during the solicitation period; and
- (H) Any arbitrary action in the procurement process.

CONFLICTS OF INTEREST

No employee, officer, or agent of the City may participate in the selection, award, or administration of a contract if he or she has a real or apparent conflict of interest.

(A) A conflict of interest includes any circumstances under which the employee, officer, or agent, or any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of those parties, has a financial interest in or a tangible personal benefit from a vendor considered for a contract. No officer, employee, or agent of the City may solicit or accept gratuities, favors, or anything of monetary value from vendors or parties to subcontracts. Disciplinary actions, up to and including termination for cause, will apply to any violation of these conflict of interest standards, in accordance with City policy, and/or, as applicable, a collective bargaining agreement, employment contract, or contract for services. (See 2 CFR § 200.318(c)(1).)

(B) City employees may not accept gifts, rebates, kickbacks, personal services, or in any way incur personal gain from a vendor, or potential vendor, doing business with the City or otherwise violate laws pertaining to conflicts of interest, political contributions, or unlawful activities.

(C) A City employee may not participate in the vendor selection process if the employee has (1) a financial relationship with the person or firm seeking a contract, as set forth in Government Code section 87100 et seq., or (2) a real or apparent conflict of interest under California Government Code section 1090, or pursuant to the Federal Procurement Requirements.

(D) A vendor that develops or drafts specifications, requirements, statement of work, invitation for bids, request for qualifications, or request for proposals for a procurement must be excluded from competing for that procurement. (See 2 CFR § 200.319(a).)

ECONOMICAL APPROACH

All procurements must be undertaken in a manner that will avoid acquisition of unnecessary or duplicative items, which may include consideration of consolidating or breaking out procurements, lease alternatives, and other appropriate analysis to determine the most economical approach, subject to the limits of applicable law, including prohibitions against bid-splitting. (See 2 CFR 200.318(d).)

OVERSIGHT

Each department must maintain oversight over its procurements to ensure that vendors perform in accordance with the terms, conditions, and specifications of the contracts or purchase orders, as further specified in AP 3, Monitoring and Oversight of Receipt of Goods or Services. (See 2 CFR § 200.318(b).)

LOCAL PREFERENCE

Purchasing goods and services from local vendors is desired because it stimulates the local economy and recognizes that our local vendors are valued members of our community. For the purchase of goods or services, excluding public works contracts or procurements subject to the Federal Procurement Requirements, if factors such as quality, previous performance, and availability are equal among vendors, a vendor whose business is located in City of San Pablo shall be awarded a contract if their quote or bid is within 5% of the low bid (SPMC §3.16.100.C). Additionally, the City Council adopted a local economic opportunity policy pursuant to Resolution 2018-023. Staff shall follow the policy and attached administrative procedures (see Exhibit A).

MULTI-YEAR CONTRACTS

A contract for supplies or services may be entered into for any period of time deemed to be in the best interest of the City, provided that the term of the contract and renewal provisions are included in the original solicitation process, as well as the ability on the part of the City to terminate the contract. Adequate funds must be available to fulfill the first fiscal year's obligation at the time of contract execution. Subsequent years' appropriations are subject to authorization by the City Council. (Cal. Const. Art. XVI, §18).

BUSINESS LICENSE

Any person or company providing services or delivering goods within the City limits must have a City business license, unless otherwise set forth in the bid solicitation. The department making the purchase or contracting for the service is responsible for checking that the vendor or contractor has a business license. Community Services Department instructors and service providers as defined are able to obtain a minimal- cost business license (see Section 21.9 entitled "Community Services Department Instructors & Service Providers").

INSURANCE AND INDEMNITY

Insurance and indemnity may be required in connection with a purchase or contract which: (1) involves service performed on city property, or to city facilities, or right of way; (2) is a professional services contract; or (3) whenever there is an inherent risk of personal injury or property damage in the activity involved. When insurance and indemnity are required, the contractor / consultant / vendor should hold the city harmless, agree to defend the city against law suits, and maintain insurance for property damage, general liability and workers' compensation (if the vendor employs any employees) in the form and amounts determined by the City Attorney in conjunction with the Municipal Pooling Authority, the city's pooled self- insurance agency. See the Insurance section of the City's Master Agreements for further information. Indemnity requirements for public works contracts must comply with Civil Code section 2782, and indemnity requirements for architectural, landscape architectural, engineering, and land surveying services must comply with Civil Code sections 2782 and 2782.8.

RECORD KEEPING

Each department is responsible for maintaining its own purchasing records. Records must be maintained for each procurement of goods or services and document the history of the procurement, including (1) records of the rationale for procurement method, (2) selection of contract type, (3) contractor selection or rejection, and (4) the basis for the contract price. (See 2 CFR § 200.318(i).) At the conclusion of a contract, the original contract and any bids, specifications, and other pertinent data shall be retained by the department for the period specified in the City's approved Retention Schedule, typically at least three years. These are public records, available for public inspection upon request. [To meet requirements of CCR Section 18993.3 and 18993.4, each department shall keep electronic records of copies of invoices, receipts or other proof of purchase describing the procurement of paper products by volume and type for all paper purchases, including the percentage of postconsumer material in all paper products and printing and writing paper sold to the City and certifications of recyclability. This requirement is also described in the City's Environmentally Preferable Purchasing policy included as an Appendix to this document.](#)

DISPUTE RESOLUTION

Any and all protests, disputes, claims, and the like, arising from a procurement will be addressed promptly in accordance with good administrative practice and sound business judgment, and in compliance with all applicable legal or contractual requirements. (See 2 CFR § 200.318(k).)

SPECIFICATIONS AND REQUIREMENTS

All procurement solicitations should incorporate a clear and accurate description of the technical requirements or functions of the goods or services to be procured. However, such descriptions should not be drafted to unduly restrict competition among qualified vendors. (See 2 CFR § 200.319(c).)

PREVAILING WAGES

Public works or maintenance projects (excluding routine janitorial services) over \$1,000, are subject to prevailing wage requirements set forth in the California Labor Code, beginning at section 1720. This includes any construction, alteration, demolition, installation, repair work, carpet-laying, certain tree- removal work,

maintenance, and certain hauling and delivery of ready-mix concrete. For procurements subject to prevailing wage requirements, the procurement solicitation and contract documents must include information on prevailing wage requirements and compliance as specified in the Labor Code.

(A) DIR Registration

For each contract subject to prevailing wage requirements, the City may not accept a bid from or award a contract to any contractor or subcontractor that is not registered with the Division of Industrial Relations, as required under Labor Code section 1771.1. Contracts for construction, alteration, demolition, installation, or repair work for \$25,000 or less and maintenance contracts of \$15,000 or less are exempt from this requirement.

(B) DIR Notification

For contracts subject to DIR registration requirements, Department Directors must ensure that a PWC-100 form is filed online with the DIR within 30 days after the contract is awarded, but no later than the first day that workers are employed on the project. City personnel are encouraged to file the PWC-100 as soon as possible following award to avoid the penalties that may be imposed for late filing.

LEGAL COMPLIANCE AND INTERPRETATION

All City procurements must be made in compliance with these purchasing procedures and currently applicable state and federal laws and regulations. To the extent that any provision in these purchasing procedures conflicts or is inconsistent with any state or federal law or regulation, the more restrictive of any such provisions will control.

PURCHASING AUTHORITY

Contracting authority (see SPMC §2.04.230). The City Manager, or his or her designee, is authorized to enter into and sign on behalf of the City the following contracts in an amount up to and including \$50,000 (SPMC §3.16.020.A):

Goods and services contracts - A purchase or contract for goods or services if funds are available within existing budget resources.

Professional services contracts - A purchase or contract for professional services if funds are available within existing budget resources.

For these contracts, the City Manager also has authority to enter into change orders or amendments which do not exceed 15% of the original contract price, provided the increase in contract price does not exceed \$50,000.

All other purchases and any unbudgeted purchases of goods or services or change orders that total more than \$50,000 require City Council approval. Purchase of goods and services from any one vendor that are expected



to total over \$50,000 over the course of a fiscal year (e.g. gasoline, vehicle repair and maintenance, etc.) should receive City Council approval at the beginning of the fiscal year.

Contracts for public works projects are governed by a separate set of rules under the Public Contract Code, including section 22000 et seq. Departments may request expenditure authority from the City Manager for change orders or amendments for projects previously approved by City Council, but any such change exceeding \$50,000 must receive separate Council approval.

At the discretion of the City Manager, any contract may be submitted to the City Council for its approval.

AP 2: PURCHASING PAYMENT PROCEDURES

PAYMENT OF INVOICES

Attach the original invoice and packing slips, if provided, to substantiate the payment and the receipt of the goods or services. Finance will not pay vendors using forms for “estimates” or “quotes.”

Stamp the invoice and obtain appropriate signatures for approval, depending on the amount.

Approval limits are as follows:

- AIE employees, Police Support Services Manager and Police Lieutenants: up to \$2,500
- Division Managers, the Recreation Supervisor and Police Captains: up to \$5,000
- Executive Management and the City Attorney: up to \$10,000
- Assistant City Manager: up to \$25,000
- City Manager: up to \$50,000

Purchases over \$50,000 require City Manager approval plus City Council Resolution (budget adoption resolution for budgeted items or separate resolution for unbudgeted items). Submit these documents to Finance at the time of the payment request.

Invoices and requests for payment are due by 12 noon on Wednesdays. Checks are generally cut once per week on Thursdays and mailed the following Monday.

REQUEST FOR PAYMENT WITHOUT AN INVOICE

If you wish to have a check cut without having received an invoice (e.g. paying for an anticipated, known cost such as registering for a conference or hand-carrying a check to the County for a permit fee), prepare a Request for Payment Form. Sign the request as the preparer. A sample copy of the form is included in the forms section of this manual.

If the request is for a partial payment on a purchase order, include the purchase order number in the “PO Number” field on the form.

PURCHASE ORDERS

Purchase orders (PO’s) represent a commitment related to unperformed contracts for goods or services between a city department and a vendor. When a PO is issued, Finance staff enters the information into the accounting system and creates an “encumbrance” against the line-item budget identified in the PO. The use of encumbrance accounting is a critical element of budgetary control in governmental accounting systems and serves three distinct purposes:

- Provides a written record of the contract between the City of San Pablo and a vendor (which may be in addition to other contract documents).
- Decreases the available budget by an amount equal to the purchase order. This procedure lessens the chance of overspending a line-item budget.



- At the end of the fiscal year, unexpended encumbrances are added to the next fiscal year's line item budget so that sufficient funding is available to meet the prior fiscal year's contractual obligations. Encumbrances without any activity for a period of one year will be released at the end of the fiscal year.

Written quotations are not sufficient to encumber funds for carryover into the next fiscal year. An executed contract must be secured.

CIRCUMSTANCES UNDER WHICH A PURCHASE ORDER IS REQUIRED

Departments may request a purchase order from Finance for any obligation at any time. However, purchase order requests must be prepared under the following circumstances and when the obligation exceeds \$10,000 in any single fiscal year and payment will be made in more than one installment:

- Professional services contracts
- Purchases of goods, supplies and equipment
- Monthly maintenance contracts that exceed \$10,000 in any fiscal year
- Public works construction contracts
- Any contractual obligation over \$10,000 that is made in the last quarter of the fiscal year (April - June)

REQUESTING A PURCHASE ORDER

Preparing purchase orders is the responsibility of the Finance Division. Before staff can generate a PO, a Purchase Order Request form must be submitted. This form provides the relevant information needed to prepare the PO. A sample copy of the Purchase Order Request and Purchase Order form are included in the forms section of this manual.

PROCESSING PAYMENTS AGAINST A PURCHASE ORDER

When an invoice is received against a PO, the PO number shall be indicated on the invoice. This action will ensure that the invoice payment will be deducted from the outstanding encumbrance associated with the PO. Failure to do so will unnecessarily encumber funds and reduce available budget. Although Finance Division staff track the amount of remaining funding available in the purchase order, the processing department is responsible for ensuring that actual expenditures are properly recorded against the PO and that remaining encumbrances are appropriate.

WHEN A PURCHASE ORDER IS NOT REQUIRED

A PO is not to be used after receipt of goods or services. A PO should be requested when a contract is executed or goods or services are ordered.

Departments may request PO's for any purchase for budgetary control purposes, but PO's are only required when the purchase meets the conditions stated above (see Circumstances under which a Purchase Order is Required).

Purchases over \$10,000 that are made during the months of July through March and will be paid in a single installment.



SPECIAL SITUATIONS

If a PO request is for a project that was not included in the adopted Operating Budget or Capital Improvements Project budget but was later approved by City Council, attach a copy of the City Council Resolution or executed contract showing approval of the expenditures and the name of the contractor. Please be sure to indicate the account that should be encumbered.

If funding needs to be transferred from one or more accounts, please prepare a budget adjustment form to indicate the account where expenditures were originally budgeted. Finance will enter the budget adjustment into the financial system to transfer the funds at the same time the purchase order is prepared.

URGENT/EMERGENCY PAYMENT (MANUAL CHECK)

The issuance of manually prepared checks is discouraged and should be done only when the specific circumstances necessitate expediting payment. When requesting urgent/emergency payment, the requesting department should personally deliver the request to the Administrative Services Director with the required approval signatures. In addition:

- Complete a Request for Payment Form, noting on the request "HAND CHECK".
- Note the date and time the check is needed.
- Note whether the check should be mailed or held for pickup.

OPEN ACCOUNTS

Open accounts are created by the Finance Division and are entered into with vendors that are expected to supply products or services to the City on an ongoing and/or regular basis where the total volume or total dollar amount cannot be reasonably estimated.

When an employee purchases an item on an open account, he/she should sign the receipt (legibly) and show a City photo identification card. Examples of open accounts include recurring purchases from a single vendor such as paper and office supplies, building materials or gasoline.

CREDIT CARD PURCHASES

City credit cards are issued by the Finance Division only with the express authorization of the City Manager and shall be used for City business only. No cash withdrawals are allowed.

Whenever possible, City credit cards should NOT be used to pay for either general, large dollar amount or professional services to the City (e.g. maintenance agreements, rentals, large purchases, etc.). Due to past occasions of abuse in other public agencies, use of City credit cards should be limited to small online purchases, conference registrations, payments associated with travel, and other expenses that cannot be readily procured by a City check. An exception to this policy would be purchases made during a general safety emergency in which emergency rules would apply (see Exceptions section below).

Use of City credit cards for personal purchases shall be grounds for discipline, up to and including termination. A crime under Penal Code section 424 occurs when a City credit card is used to make a personal purchase or to pay for a personal item or when advanced funds that are not used or not promptly returned.

Restitution to the City is not a defense to the crime of misappropriation of public funds. (People v. Omar Bradley (Aug.1, 2012) 2012 DJDAR 10597). Violation of Section 424 may be punished by imprisonment in state prison and will disqualify the violator from holding any public office in the State of California.

City credit cards are issued as a means of facilitating financial transactions involving City business. Therefore, this transaction authority is not to be confused with expenditure authority. Those employees making a transaction still need to have the appropriate individual(s) approve the transaction (see the Approval Limits as established under AP 2 above.,).

The City Manager shall establish, maintain and amend from time-to-time based on best practices and operational needs, and consistent with this Purchasing Policy and all applicable state laws and provisions of the Municipal Code, specific policies and procedures pertaining to credit card issuance and usage. .

ACCOUNTING FOR AND DISBURSING PETTY CASH

Petty cash is available to City staff as a reimbursement if personal funds have been used. A petty cash fund is maintained in the Finance, Recreation and Police departments. Petty cash may be used to make minor purchases of up to \$50 when no other purchasing option is available. The petty cash account should be used for reimbursements of \$20 or less.

For reimbursement of personal funds already spent:

- Complete the petty cash form including the date, amount, account code, and description. (A copy of this form appears in the forms section of this manual).
- Attach the receipt to the form.
- Write the name of the person being reimbursed on the "Received By" line.
- If someone other than that person collects the funds, they must initial the form.
- Have an authorized signer for that department approve the reimbursement.

For a large cash advance (several hundred dollars), please plan ahead and request a check in the weekly A/P check run.

INSURANCE REQUIREMENTS

Insurance may be required in connection with a purchase or contract which involves service performed on City property, city facilities, or right of way; is a professional services contract; or whenever there is an inherent risk of personal injury or property damage in the activity involved. When insurance and indemnity are required, the contractor should hold the City harmless, agree to defend the City against potential claims, and maintain insurance for commercial general liability, automobile liability and workers' compensation (if there are any employees) in the form and amounts determined by the City Attorney. Required coverages and amounts are incorporated into the City's standard master agreements. It is the responsibility of the

department staff preparing the contract to obtain insurance certificates from the contractor evidencing the required insurance, and to attach such certificates to the original contract to be filed with the City Clerk.

If using a vendor-provided agreement or contract, standard insurance and indemnification may still be required and should be incorporated into the contract. These standards may be lessened in particular cases upon a determination by the Assistant City Manager, City Attorney, and City's joint risk pool Municipal Pooling Authority that the risk is manageable and acceptable.

VERIFICATION OF COVERAGE

Contractor / Consultant shall furnish the City with endorsements effecting coverage required by this clause. The endorsements are to be signed by a person authorized by that Insurer to bind coverage on its behalf. All endorsements are to be received and approved by the City before work commences. However, failure to do so shall not operate as a waiver of these insurance requirements. As an alternative to the City's forms, the Contractor / Consultant's insurer may provide complete copies of all required insurance policies, including endorsements effecting the coverage required by the specifications. If the project extends beyond the expiration of the current coverage period show on the certificate of insurance, the contractor must submit a new certificate of insurance to City.

CONTRACTS

GENERAL SERVICES CONTRACTS

The following provisions apply to general services agreements for goods or services. City procurements which are subject to federal funding, in whole or in part, must also comply with the applicable Federal Procurement Requirements. (See 2 CFR § 200.317.) Splitting of the purchase of goods or services into smaller orders for purposes of evading the competitive bidding provisions is not permitted. Contracts already appropriated in the budget do not need City Council approval. If funds have not been appropriated in the budget for this particular purpose, City Council approval must be obtained if such contract exceeds the City Manager's expenditure authority (see AP-2, Purchasing Payment Procedures above).

All vendors providing printing services to the City via a printing contract or written agreement, shall use Printing and Writing Paper that consists of at least thirty percent (30%), by fiber weight, postconsumer fiber, or as amended by Public Contract Code Section 12209.

GENERAL SERVICES CONTRACTS LESS THAN OR EQUAL TO \$25,000 IN ANY ONE FISCAL YEAR. (SEE SPMC §3.16.090)

1. Obtain verbal or written quotes for services (preferably three).
2. Select quotation representing the best value and considering any local preference.

3. Prepare contract and PO request form. If necessary review vendor's contract form, and submit to the City Attorney for approval.
4. If work is to be performed on City property or involves unusual risk, consult with City Attorney.

5. Obtain appropriate insurance certificates from vendor, if required.
6. Have vendor sign agreement two agreements (one for the vendor and one for the City) and obtain business license.
7. Complete a Contract Routing Form and submit to the City Attorney for approval.
8. The City Manager or his/her designee is authorized to sign contracts for goods or services if funds are available.
9. Request a purchase order

GENERAL SERVICES CONTRACTS GREATER THAN \$25,000 (SEE SPMC § 3.16.080)

1. Prepare notice inviting bids including a general description of the articles or general services to be purchased; where bid forms and specifications may be secured; and final time and place for submitting bids.
2. As pertaining to construction projects, publish notice 10 days before the bid opening date by posting on the City's website, and if appropriate, by inviting known individual vendors to bid as well as sending invitations to a bidder's list.
3. Open sealed bids at a public place and time as specified in the bid documents and prepare a tabulation of all bids received.
4. Department director awards contract to lowest responsible bidder, taking local preference into account.
5. Prepare a City contract form and purchase order.
6. If using vendor's contract form, attach standard insurance requirements, and consult with City Attorney.
7. If work is to be performed on City property or involves unusual risk, consult with City Attorney.
8. Obtain appropriate insurance certificates from vendor.
9. Have vendor sign two copies of agreement (one for City and one for vendor) and obtain business license.
10. Complete a Contract Routing Form and submit to the City Attorney for approval.
11. The City Manager or his/her designee, is authorized to sign contracts for goods or services.
12. Request a purchase order to encumber contract funding, if appropriate.
13. If funds have been appropriated, but the amount of the contract exceeds \$50,000 cumulatively spent on any particular vendor in any one fiscal year, then City Council approval must still be obtained at the point in time when the \$50,000 threshold is crossed. If in doubt, check with Finance staff to determine the total amount spent year-to-date.

PUBLIC WORKS CONTRACTS

Procurement of a public works contract, which, for purposes of this Section means an agreement for the erection, construction, alteration, repair or improvement of any public structure, building, road, or other public improvement of any kind, must be made in compliance with the applicable requirements of Chapter 3.16 of the Municipal Code and in compliance with the applicable requirements of Section 5.12, Prevailing Wages, above. The indemnity provision in any contract for public works services must comply with Civil Code Section 2782, and the contract documents must include all provisions required by law, approved as to form

by the City Attorney. A payment bond must be required for all public works contracts in excess of \$25,000, in compliance with Civil Code section 9550 et seq., and approved as to form by the City Attorney.

Landscaping contracts that include the procurement or application of compost or mulch, shall be required to use SB 1383 eligible compost or mulch.

EXCEPTIONS (See SPMC §3.16.110)

The department may dispense with quotation or bidding procedures for purchasing goods or general services in any of the following circumstances:

- Emergency. In an emergency as defined in SPMC §3.16.110 D. Any emergency procurement that may be eligible for Federal Emergency Management Agency (FEMA) funding or reimbursement must comply, to the extent practicable under the circumstances, with the Federal Procurement Requirements. (See also, Section 22.3(E), Noncompetitive Proposals, below.)
- Specialized Services Combined with Equipment/Products. (SPMC §3.16.110B). Examples include hardware, software or communications equipment combined with training and servicing.
- Sole or limited source (SPMC § 3.16.110 C). Occasionally, required goods are unique, of a proprietary nature, or of specific design or construction. In these cases, quotation or bidding procedures could be meaningless. The department shall keep a written record of the basis for this determination.
- Cooperative purchasing. (SPMC §3.16.110 E) If such purchases are based on an agreement or cooperative purchasing program entered into by any of the following, regardless of whether the City is a named party to the agreement or an actual participant in such a program: (a) any public agency situated within the state, if the underlying purchase was made using quotation or bid procedure substantially similar to the city's; or (b) the California Multiple Award Schedules (CMAS), or other similar procurement schedules (e.g. NJPA, etc.).
- Leases and Lease/Purchases, and Used Equipment. (SPMC §3.16.110 F and G) Used items, or items obtained by lease or lease purchase, are exempt from the bidding requirements.

The affected department head shall state in writing the basis for a determination that this section applies.

COMMUNITY SERVICES INSTRUCTORS & SERVICE PROVIDERS

In recognition of benefit to the community as opposed to risk to the City, all Community Services Department Instructors and Service Providers that offer programs and services either through or on behalf of the City of San Pablo are exempt from the business license requirements of this procedure.

Additionally, such contractors may be eligible for reduced insurance coverage requirements or exempt from insurance coverage altogether depending on the type and cost of class provided. Generally, classes that are offered for free as a community benefit are not required to obtain individual insurance. When insurance

coverage is required, the minimums are generally set at \$1 million each for general liability, auto liability and employer liability. Ultimately, the service agreements are completed through an interview process and individual negotiation conducted by the Community Services Department.

| Type | Free Classes | All Others |
|----------------------------------|--------------|------------|
| Fingerprints | Yes | Yes |
| Insurance - General Liability | No | Yes |
| Insurance - Auto | No | Yes |
| Insurance - Employer's Liability | No | Yes |
| * Business License | No | No |

Should the contractor decide to pursue another revenue generating venture within City limits and outside of their existing contract with the City of San Pablo, such will be required to apply for a business license and pay all standard Development Services fees.

Community Services staff shall comply with the Local Preference section of this policy as well as the local economic opportunity policy when hiring Community Services instructors and service providers.

FEDERAL PROCUREMENT

Any procurement made pursuant to a federal award or subject to reimbursement, in whole or in part, with federal funds must comply with the City’s purchasing procedures, including the Standards of Conduct and General Purchasing Guidelines set forth above in Section 5, state law, and the applicable Federal Procurement Requirements (Code of Federal Regulations (CFR), Title 2, Part 200, Subpart D, including 2 CFR 320 (“Methods of procurement to be followed”), 2 CFR § 200.322 (“Domestic Preferences for procurements”), 2 CFR § 200.323 (“Procurement of recovered materials”, 2 CFR 324 (“Contract cost and price”), 2 CFR § 200.325 (“Federal awarding agency or pass-through entity review”), 2 CFR § 200.326 (“Bonding requirements”), and 2 CFR § 200.327 (“Contract provisions”). In the event of any conflict between City, state, or federal requirements, the most stringent requirement must be used. City employees must comply with funding agency requests for review of technical specifications or procurement documents as provided in 2 CFR § 200.325.

GENERAL FEDERAL REQUIREMENTS AND RECOMMENDATIONS

(A) Required Contract Provisions

Pursuant to 2 CFR § 200.327, contracts for federally-funded procurements must contain the applicable provisions described in Appendix II to Part 200, Contract Provisions for non-Federal Entity Contracts Under Federal Awards. Sample Federal Provisions are attached as Exhibit B to these procedures. Contracts over \$10,000 must address City’s termination for cause and for convenience, including the manner for effectuating termination and the basis for any final payment to the terminated vendor. In addition, contracts for federally-funded procurements that exceed the Simplified Acquisition Threshold established at \$250,000 must address administrative, contractual, or legal remedies for vendor violation or breach of contract terms, and provide for sanctions and penalties, as appropriate.

(B) Department of Homeland Security Standard Terms and Conditions

Federally-funded procurements, including procurements eligible for FEMA funding, may be subject to the currently applicable Department of Homeland Security Standard Terms and Conditions, which can be accessed at <https://www.dhs.gov/publication/fy15-dhs-standard-terms-and-conditions>.

Field C
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Field C

(C) Domestic preferences for procurements

As appropriate and to the extent consistent with law, Federally-funded procurements, to the greatest extent practicable, should provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). The requirements of this section must be included in all subawards including all contracts and purchase orders for work or products under this award, as further specified in 2 CFR § 200.322.

(D) Solid Waste Disposal Act

Federally-funded procurements must comply with the Solid Waste Disposal Act, as further specified in 2 CFR § 200.323.

(E) Cost/Price Analysis

For federally-funded procurements in excess of the currently applicable Simplified Acquisition Threshold established at \$250,000, including contract modifications, a cost or price analysis must be performed, and must include making independent estimates before receiving bids or proposals. (See 2 CFR § 200.324.) Costs or prices based on estimated costs for federally-funded contracts are allowable only as provided in 2 CFR § 200.324.

(F) Profit Negotiation

For a federal contract awarded without price competition, profit must be negotiated as a separate element of price. To establish fair and reasonable profit, consideration must be given to the complexity of the work, the contractor’s risk, the contractor’s investment, the amount of subcontracting, record of past performance, and industry profit rates, as further specified in 2 CFR § 200.324(b).

(G) Excess or Surplus Property

When it will reduce project costs and is feasible, use of federal excess and surplus property is encouraged over purchasing new. (See 2 CFR § 200.318(f).)

(H) Value Engineering

For larger federally-funded construction projects, a provision for value engineering may be added to the construction contract, subject to prior authorization from the Administrative Services Director. A value engineering provision must include a clear procedure for submission, approval, and cost-sharing of

savings, consistent with Public Contract Code section 7101, and approval as to form by the City Attorney. (See 2 CFR § 200.318(g).)

(I) Geographical Preferences

Notwithstanding the provisions of Section 5.5, Local Preference, above, geographical preferences may not be used for federally-funded procurements, except as specified in 2 CFR § 200.319(c).

(J) Time and Materials

A time and materials contract may not be used for a federally-funded procurement, unless the Administrative Services Director has determined that no other type of contract is suitable for the procurement, and provided the procurement complies with 2 CFR § 200.318(j). Similarly, a “cost plus” contract may not be used, as further specified in 2 CFR § 200.324(d).

(K) Intergovernmental Agreements

Use of intergovernmental agreements is encouraged where appropriate. (See 2 CFR § 200.318(e); and see SPMC § 3.16.110 E, Cooperative Purchasing.)

(L) Monitoring and Oversight

Procurements are subject to the requirements for monitoring and oversight in AP 3, Monitoring and Oversight of Receipt of Goods or Services. (See 2 CFR § 200.318(b).)

FEDERAL CONTRACTOR REQUIREMENTS

(A) Responsible Contractors

Contracts will only be awarded to responsible contractors possessing the ability to perform successfully under the terms and conditions of a proposed procurement, with consideration given to such matters as contractor integrity, compliance with public policy, record of past performance, and financial and technical resources. (See CFR § 200.318(h).) A contractor must also be “responsible” as determined under California law, including Public Contract Code section 1103.

(B) Small and Minority Businesses

The City will take all necessary affirmative steps, including those identified in 2 CFR § 200.321(b), to assure that minority businesses, women’s business enterprises, and labor surplus area firms are used when possible for contracts subject to the Federal Procurement Requirements. The bid documents or RFP must require the vendor to take all necessary affirmative steps pursuant to 2 CFR § 200.321(b), when procuring subcontractors, to ensure that minority businesses, women’s business enterprises, and labor surplus area firms are used when possible. (See Section 13, Small and Minority Businesses, in Exhibit B, Sample Federal Contract Provisions.)

FEDERAL METHODS OF PROCUREMENT

Depending on the type and amount of goods or services, the City will use one of the below methods for procurements subject to the Federal Procurement Requirements, consistent with 2 CFR § 200.320.

(A) Micro-Purchases

The City may acquire supplies or services, the aggregate dollar amount of which does not exceed the micro-purchase threshold of \$10,000 established in 48 CFR part 2, subpart 2.1. A micro-purchase contract may be awarded without soliciting competitive quotes provided the price is reasonable and is documented as specified in 2 CFR§ 200.320(a)(1), unless otherwise specified under the City's procurement procedures. To the extent practicable, the City will distribute micro-purchases equitably among qualified suppliers. (See 2 CFR § 200.320(a).)

(B) Small Purchase Procedures

The City may use simple and informal procurement methods for securing services, supplies, or other property that do not cost more than the Simplified Acquisition Threshold of \$250,000 established pursuant to 48 CFR part 2, subpart 2.1. If small purchase procedures are used, price or rate quotations must be obtained from an adequate number of qualified sources. (See 2 CFR § 200.320(b).)

(C) Sealed Bids (Formal Advertising)

The City may publicly solicit sealed bids to be opened in public and award a fixed price contract to the lowest responsible bidder, in the manner required for formal bidding as specified in Chapter 3.16 of the San Pablo Municipal Code, and in compliance with 2 CFR § 200.320(b)(1).

(D) Competitive Proposals

The City may use this method when the conditions for use of sealed bids is not appropriate and more than one source submits an offer following a request for proposal. If the City uses this method, it must comply with the requirements of 2 CFR § 200.320(b)(2), in addition to any other applicable City or state requirements, including, the requirements for procuring professional services set forth in Sections 21.4-21.6, above.

(E) Noncompetitive Proposals

The City may solicit a proposal from only one source when: (a) the acquisition of property or services does not exceed the micro-purchase threshold of \$10,000; (b) the item is available only from a single source, (c) the public exigency or emergency for the requirement will not permit a delay resulting from publicizing a competitive solicitation, (d) the federal awarding agency or pass-through entity expressly authorizes a noncompetitive procurement in response to a written request from the City, or (e) competition is determined to be inadequate after solicitation of a number of sources. The procurement

must comply with the provisions of SPMC § 3.16.110, in addition to the requirements set forth in 2 CFR § 200.320(c).

AP 3: MONITORING AND OVERSIGHT OF RECEIPT OF GOODS OR SERVICES

INSPECTIONS AND TESTING



The ordering department shall inspect and/or test all goods upon receipt (or services upon completion), to assure conformance with the specifications set forth in the order. If a product is determined to be unusable, or not what was ordered, the department shall reject it and return it to the vendor as the vendor directs, and at the vendor's expense for credit or replacement.

ACCEPTANCE

When goods have been received or a project has been completed to the satisfaction of the ordering department and the specifications, the packing slip and/or other completion documentation shall be signed- off by the employee receiving or inspecting. Information to be noted on the documents must include, at a minimum, the employee's signature and a legible rendering of their name and the date of receipt/completion. The employee signing must note on the receiving documents any deviation from the exact ordering specifications.

AP 4: PURCHASING QUICK REFERENCE GUIDE

ISSUING PURCHASE ORDERS

| P.O. Requirements | |
|---|---|
| <p>A purchase order is REQUIRED when the purchase exceeds \$10,000 and the purchase is:</p> | <ol style="list-style-type: none"> 1. Professional services contract 2. Purchases of goods, supplies or equipment 3. Monthly maintenance contracts that exceed \$10,000 in any fiscal year 4. Public Works construction contracts <p><i>A purchase order is NOT to be used after receipt of goods and services. The P.O. should be requested when a contract is signed or goods are ordered.</i></p> <p><i>P.O.'s are not required for purchases made from July through March and paid in a single installment.</i></p> |

SIGNING AUTHORITY LIMITS AND EXCEPTIONS

| Signing Authority Limits | | Exceptions to Purchasing Policy |
|---|--|---|
| <p>Signing Authority</p> <p>Limits & Exceptions</p> | <ul style="list-style-type: none"> • AIE employees, Police Support Services Manager and Police Lieutenants up to \$2,500 • Division Managers, Recreation Supervisor and Police Captains up to \$5,000 • Executive Management and the City Attorney up to \$10,000 • Assistant City Manager up to \$25,000 • City Manager up to \$50,000 • City Council for purchases over \$50,000 | <ol style="list-style-type: none"> 1. Emergencies (e.g. natural disaster). 2. Specialized Services & Equipment (e.g. IT systems-hardware/software etc.), which may include training, consulting, installing, maintaining or servicing. 3. Sole Source (e.g. proprietary systems—no one else does it). 4. Cooperative Purchasing (e.g. piggybacking). 5. Leases or Lease Purchases. 6. Used items. |

SUPPLIES, SERVICES OR EQUIPMENT

| \$5K or Under | From \$5k to \$25K - INFORMAL | Over \$25K - FORMAL |
|---|---|---|
| <ol style="list-style-type: none"> 1. Bids are encouraged, but not required. 2. Open market process. 3. Buy local if possible. | <ol style="list-style-type: none"> 1. Verbal or written bids, preferably 3. 2. Invite bids “by reasonable method.” 3. Consider local preference (within 5%). 4. Lowest responsible bidder, considering local preference (if not lowest monetary bidder, City must justify). 4. Prepare contract & PO Request Form. 5. Obtain appropriate insurance certificates and copy of business license from vendor. 6. Executive Management can approve up to \$10,000 & Assistant City Manager up to \$25,000 if funding is available in budget. 7. Consult with City Attorney if problems awarding to low bidder. | <ol style="list-style-type: none"> 1. Award purchase by written contract only. 2. Formal bid process with 10 days’ published notice. 3. Open sealed bids. 4. Consider local preference within 5%. 5. Lowest responsible bidder, considering local preference (if not lowest monetary bidder, City must justify). 6. Prepare contract & PO Request Form. 7. Obtain appropriate insurance certificates and get a copy of business license. 8. Verify insurance acceptability & coverage. 9. City Manager approves up to \$50,000 if funding is available in budget. 10. Over \$50,000, contract must be awarded by Council. 11. Consult with City Attorney if problems awarding to low bidder. |

PROFESSIONAL SERVICES (CONSULTANTS)

| Process | \$25K or Under | Over \$25K |
|---|---|---|
| <p>Professional Services Agreements</p> | <ul style="list-style-type: none"> • Need not be competitively bid, but price is still a determining factor. Selection of certain enumerated consultants, however, must be based on demonstrated competence and professional qualifications first—then consider price. • Obtain written quotes (preferably 3) OR use an RFP process. May also request RFQ’s for large/complex projects. • Use Master Consultant Agreement—unless otherwise approved by City Attorney—and Routing Form (N:\RESOURCES\City Forms\Contracts). • Obtain insurance certificates and copy of Business License Tax. • Submit packet to City Attorney for review and approval. | <ul style="list-style-type: none"> • If funding is available City Manager can authorize up to \$50,000. Submit to City Council for approval over \$50,000. |

PUBLIC WORKS CONTRACTS

[Note: in emergency situations, consult city attorney and comply with PCC sec. 22050; (2) the thresholds for informal and formal bidding are expected to increase in 2018 or 2019.]

| \$45K or Under | Over \$45k up to \$175K - INFORMAL | Over \$175K - FORMAL |
|--|---|--|
| <p>Work may be performed by:</p> <ul style="list-style-type: none"> • City workers by force account or • Negotiated contract or • Purchase Order. | <ol style="list-style-type: none"> 1. Mail a notice to appropriate contractors and construction trade journals, inviting informal bids. 2. Provide at least 10 days before bids due. 3. If all bids received are in excess of \$175,000, City Council may award bid with 4/5 vote to lowest responsible bidder up to \$187,500. 4. City Manager can approve all projects up to \$50,000. 5. Consult with City Attorney if problems awarding to low bidder. | <ol style="list-style-type: none"> 1. Public notice 14 days before bid opening. 2. Notice appropriate trade journals 30 days before bid opening. 3. City can: <ul style="list-style-type: none"> • Award bid to apparent low bidder (lowest responsible bidder). • Reject bid with 2 days' notice to vendor. • Reject all bids and re-notice the project, change scope of work, rewrite job specs, have City workers do the job, etc. • Consult with City Attorney if problems awarding to low bidder. |

CONTRACTS, AGREEMENTS, MOU’S WITH OTHER PUBLIC AGENCIES OR NON-PROFITS

Must go to City Council for approval, regardless of dollar amounts, unless under \$25,000 and normal process is waived by the City Manager and City Attorney.