

# CITY OF MERCER ISLAND PURCHASING GUIDELINES



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## Chapter 1 Introduction

The purpose of City of Mercer Island purchasing procedures and guidelines is to help employees get the best price and quality for the taxpayers' dollars and is intended to help staff understand purchasing expectations. While we believe that City employees make careful use of the City's money, we want to assure ourselves that we can provide good back up documentation of these thoughtful, legal purchases. Also, as one would expect, it is important to avoid conflict of interest or the appearance of conflict of interest in purchasing and contracting. Other goals of good purchasing procedures are to eliminate the impact of favoritism and to prevent fraud. Thus, we have these guidelines to provide direction and clarification for those who spend public money. Competitive bidding, at certain purchasing thresholds, with open advertisement for all qualified bidders, and public opening of bids, is seen as the best way to accomplish these goals.

There are three reasons to spend well: First, as public employees, we have the responsibility and public trust to spend the public's money wisely and well. Second, we are increasingly under public scrutiny regarding spending procedures. Finally, we must meet the requirements of an annual state audit that review our purchases to ensure that we are following state requirements.

All Washington cities and towns, regardless of population, class, or "code" city status, can use competitive bids for purchasing anything from paper clips to multi-million-dollar city halls and any kind of service or equipment. The problem is that following the competitive bid laws is counterproductive for small projects, service contracts, and equipment/supply purchases. It becomes more expensive and time consuming to do competitive bids than is warranted. The legislature has recognized this problem and, over the years, has established and modified dollar amounts below which competitive bids are not required for projects and equipment/supply purchases. In addition, it has provided for alternatives to the competitive bidding process.

### **A. State and Local Legal Requirements for Purchasing**

Mercer Island is a Code City (over 20,000) operating under the Optional Municipal Code of Washington (RCW 35A). All purchasing at the City of Mercer Island is also governed by the Mercer Island City Code, Chapter 4.04. This "Purchasing Guidelines" document lays out both the state required procedures as well as what the City considers to be "best practices". The matrix below lays out in summary format the basic requirements for all purchasing decisions. The page number included by each type of purchase is for the full discussion of the topic.

**MATRIX OF BIDDING REQUIREMENTS FOR MERCER ISLAND**

Type of Purchase	Competitive Bids Requirements
Supplies, material, and equipment other than computers and telecommunications	Bids not required by law; MI requirements are: <ul style="list-style-type: none"> <li>• Less than \$5,000, use discretion</li> <li>• Between \$5,000 and \$24,999, check with 3 suppliers and use a written process to document the quotes.</li> <li>• Over \$25,000 get written price quote and/or call for public bids</li> </ul>
Telecommunications and computers	Must use either a formal bid process or a "competitive negotiation" process.
Professional Services	Bids are not required; contract must be approved by City Attorney
Architecture & Eng. Services	Require an advertising and negotiation process in accordance with RCW 39.80.
<b>Public Work Projects* (RCW 39.04.155)</b>	<b>Competitive Bids Requirements</b>
All Projects – Formal Bid Process	Any project may be bid using a formal competitive bid process. All projects estimated to cost over \$350,000 (including sales tax) <b>require</b> competitive bids, under \$350,000 the City follows the small works roster procedure.
Small Works Roster \$250,000 - \$350,000 (including Sales Tax)	For projects between an estimated cost of \$250,000 and \$350,000 invitations are sent to at least 5 contractors in a given work category on the small works roster. However, the City must notify all appropriate contractors in the given work category that they are soliciting bids (by mail, email, or public notice).
Small Works Roster \$50,000 to \$250,000 (including sales tax)	Quotations may be invited from at least 5 contractors in a given work category.
Limited Public Works \$0 to \$50,000 (including sales tax)	Quotations may be invited from at least 3 contractors in a given work category.
Multi-Craft or Trade	For a project with multiple crafts or trades, under \$116,155, follow the limited public works, over \$116,155 follow small works, over \$350,000 the formal process required.
Single Craft or Trade	For a project with a single craft or trade, under \$75,500, follow the Small works roster, over \$75,500 the formal process is required.
<i>Note: In the event the threshold limits in the Revised Code of WA (RCW) are different from the values above, the RCW limits shall control.</i>	

RCW 39.04.010 defines the term "public work" as follows:

*"The term public work shall include all work, construction, alteration, repair or improvement other than ordinary maintenance, executed at the cost of the state or of any municipality, or which is by law a lien or charge on any property therein."*

This definition of public work includes construction and repair but excludes ordinary maintenance.

## **B. General Procedures for Purchasing**

Before you place an order, sign a contract, or go out and buy, refer to the following procedures:

### **1. Assure Budgeting/Spending Approval**

The budget process gives approval for planned spending. All unappropriated and unbudgeted expenditures must go before the Council before they are made. Who has the authority to spend or encumber the City's money? Department Directors are responsible for their department's budget. Directors may delegate this authority to department staff; delegation varies by department. Some Department supervisors have the authority and responsibility to administer their part of the budget with the Director providing the final sign off.

### **2. Compare Prices**

When purchasing goods or services be smart consumers:

- For most purchases get two to four quotes. The amount of time you spend on price and quality comparison depends on the cost and intended use of the item.
- Use price quote sheet to note the information.
- Use lowest quote or note why you did not choose the lowest price (concerns about service, quality, etc. are valid reasons to go with a higher quote).
- Attach the quote sheet to the approved Purchase Order – that way it is saved for the auditor's review.
- When using the same vendor over a period of time refer to 5. Review Vendors below.

The following dollar guidelines can help purchasers decide how much work should go into comparison pricing for a single item or a combined order of the same item:

<b>Item Amount</b>	<b>Required Action</b>
< \$5,000	Use discretion in comparing prices and choosing a vendor. You may use telephone bid forms for convenience.
\$5,000-\$24,999	Check 3 suppliers and document price quotes.
> \$25,000	Get written price bids or call for public bids before making a choice.

If you are purchasing from a WA State DES contract, you do not have to follow the above guidelines because they have already negotiated the best price.

### **3. Obtain Purchase Order Approval**

Any authorized employee can make a **purchase request**. To get a PO number and to get the invoice paid, the Department Director or designee needs to give approval. The exact dollar amount limits and the

person giving approval varies by department. All POs over \$5,000 require the approval of the Finance Director.

#### 4. Use Standard Contracts

There are standard City contracts that should be used. Basically, any time we are buying someone's time to do work for the City, we should have a contract. Legally the City cannot pay a vendor without a contract. There are several kinds of contracts that employees might use to enlist the work of a contractor. These include:

- **Professional Services**--used when the product is primarily intellectual in nature and does not produce a physical product other than a report, i.e., consultants, facilitators. All professional services contracts must be approved by the City Attorney's office.
- **Maintenance and Non-professional Services**--bonded, licensed, insured contractors providing physical products or services, i.e., janitorial services, grounds maintenance, etc. (*business license needed.*)
- **Employment Agreement**--one person, time-limited, renewable, provisions and benefits vary by the individual agreement. These are usually generated out of and kept on file in the Human Resources office.
- **Instructor Agreement**--Parks & Recreation class instructors typically use this. These are kept on file at the Parks and Recreation office.
- **Public Works**--includes all work, construction, alteration, repair, or improvement *other than ordinary maintenance.*

All contracts need to be "approved as to form" by the City Attorney and must contact a Contract Routing Sheet. Contract templates and the routing sheet can be found on MI Hub at [mihub.mercerisland.gov/contracts](http://mihub.mercerisland.gov/contracts) See **Appendix C: Contracts Policy** for more detailed information.

#### 5. Review Vendors

Many departments have vendors or distributors that they are comfortable with and like to use for purchasing. However, staff needs to check the marketplace for better service and prices on a regular basis. Doing this at least every two to three years (or more frequently if needed) seems practical and responsible. We want to be able to assure the public that we are using these vendors because they provide consistent good value, not because we do not have the time or inclination to check around for better providers. We also have an obligation to allow opportunities for businesses to bid on City work.

#### 6. Follow Bidding Requirements

The City Bidding Book, Washington State by the Municipal Research & Services Center, December 2020, is an excellent resource "intended to familiarize city officials with: (1) competitive bidding requirements; (2) the recommended bidding procedures for the contracting of public works and improvements; and (3) public purchasing procedures." The publication deals with the requirements imposed by the state statutes. A thorough reading of the book is recommended for any staff whose work requires following the State Bid laws. Much of the purchasing guidelines in this manual come from the MRSC guide. The book can be ordered from MRSC, or it can be viewed online at [www.mrsc.org](http://www.mrsc.org).

## Chapter 2 Procedures for Supplies, Materials, and Equipment

Items in this category include supplies, materials, and equipment that are for general government purposes or will not be used in conjunction with a specific public works project. Office supplies and equipment are obvious examples. Another obvious example is vehicle purchases. Other, not so obvious examples are discussed below.

If acquisition of a telephone system requires installation of cable, conduits, and other devices, it may fall within the definition of the term public work. If, however, the acquisition is merely of hardware, such as telephones, it would probably be considered purchase of equipment.

If the city is merely purchasing a number of parking meter heads, which will be stockpiled in a warehouse and used over a period of time to replace defective heads, it would be an equipment purchase. However, if the heads are being purchased in connection with a specific project and the heads would be installed within a short period of time, it probably is a public work. Similarly, stockpiling of traffic signal heads, poles, wire, etc., for routine maintenance and repair would be an equipment purchase.

The City of Mercer Island is a code city and therefore does not have to go to bid for regular supplies, material, and equipment at any price. However, in keeping with the principal of being good stewards of the public's money, we have developed our own internal standards that we need to follow in buying anything in this category.

Item Amount	Required Action
< \$5,000	Use discretion in comparing prices and choosing a vendor
\$5,000-\$24,999	Check 3 suppliers and document price quotes
> \$25,000	Get written price bids or call for public bids before making a choice

The overriding principle is that we are obtaining the best price/quality for the goods we are purchasing. Going to the same vendor again and again because it is easy is not an acceptable practice. We need to be getting the best price and quality and we need to document what we are doing. Even for purchases less than \$5,000 staff should be obtaining quotes from different sources, however, we are not requiring written documentation at that level of purchase.

When purchasing goods or services be smart consumers:

- For most purchases get three quotes. The amount of time you spend on price/quality comparison depends on the cost and intended use of the item.
- Use price quote sheet to note the information.
- Use the lowest quote or note why you did not choose the lowest price. Concerns about service, quality, or other concerns all are valid reasons to go with a higher quote.
- Attach the quote sheet to the approved Purchase Order – that way it is saved for the auditor's review.
- When using the same vendor over a period of time do a periodic vendor review as described below.

Many departments have vendors or distributors that they are comfortable with and like to use for purchasing. However, departments need to check the marketplace for better service and prices on a regular basis. Doing this at least every two years (or more frequently if needed) seems practicable and responsible. We want to assure the public that we are using these vendors because they provide consistent good value, not because we do not have the time or inclination to check around for better providers. We also have an obligation to allow opportunities for businesses to bid on City work.

## Chapter 3

### Procedures for Telecommunications and Computers

The purchase of telecommunications and computers is called out in RCW 39.04.270. In that section of the law, cities are authorized to use a "competitive negotiation" process as an alternative to the competitive bid process or other allowable processes when purchasing telecommunications and data processing (computer) equipment or software. This alternative process requires publishing a request for proposals (RFP) that identifies significant evaluation factors, including price, and their relative importance and provides reasonable procedures for technical evaluation of the proposals, identification of qualified sources, and the selection process for awarding the contract.

Although the City is not required by bidding laws to use a competitive bid for telecommunications or computers, our own bidding limits need to be followed, and if the purchase of the equipment will be over \$25,000, the competitive negotiation bidding procedure outlined below should be followed:

***RCW 39.04.270***

***Electronic data processing and telecommunications systems -- Municipalities -- Acquisition method -- Competitive negotiation -- Findings, intent.***

- (1) The legislature finds that the unique aspects of electronic data processing and telecommunications systems and the importance of these systems for effective administration warrant separate acquisition authority for electronic data processing and telecommunication systems. It is the intent of the legislature that municipalities utilize an acquisition method for electronic data processing and telecommunication systems that is both competitive and compatible with the needs of the municipalities.
- (2) A municipality may acquire electronic data processing or telecommunication equipment, software, or services through competitive negotiation rather than through competitive bidding.
- (3) "Competitive negotiation," for the purposes of this section, shall include, as a minimum, the following requirements:
  - (a) A request for proposal shall be prepared and submitted to an adequate number of qualified sources, as determined by the municipality in its discretion, to permit reasonable competition consistent with the requirements of the procurement. Notice of the request for the proposal must be published in a newspaper of general circulation in the municipality at least thirteen days before the last date upon which proposals will be received. The request for proposal shall identify significant evaluation factors, including price, and their relative importance.
  - (b) The municipality shall provide reasonable procedures for technical evaluation of the proposals received, identification of qualified sources, and selection for awarding the contract.
  - (c) The award shall be made to the qualified bidder whose proposal is most advantageous to the municipality with price and other factors considered. The municipality may reject any and all proposals for good cause and request new proposals. [1996 c 257 § 1.]

## Chapter 4

### Procedures for Professional Services

Competitive bids are not required for any professional services by any Washington city or town, except for architectural and engineering services (A&E) which are covered under RCW 39.80. For example, professional services offered by attorneys, computer programmers, financial analysts, bond counsels, accountants, etc. may be procured by direct negotiation with a selected firm or individual. All cities may negotiate for professional services (other than A&E). What constitutes a profession? A profession has been defined in Black's Law Dictionary, Revised 4th Ed., p. 1375, as follows:

*"A vocation, calling, occupation or employment involving labor, skill, education, special knowledge and compensation or profit, but the labor and skill involved is predominately mental or intellectual, rather than physical or manual. In addition to the well-established professions such as law, medicine, theology, architecture, and engineering, the term "professional" has come to include a much wider variety of skills and occupations."*

Professional services for which cities may negotiate services include:

- Accountants
- Artists
- Attorneys
- Bond Brokers
- Computer Programmers/Consultants
- Insurance Brokers
- Economists
- Financial Analysts
- Planners
- Real Estate Appraisers
- Codification of Municipal Ordinances

However, to select the best-qualified firm to provide required professional services, the procedures for architectural and engineering services are a good guide to follow in procuring all professional services. Complete details about the policies to follow for Architectural and Engineering Services are covered in Chapter 5.

This area of purchasing is different from other types of procurement in that the service being bought often times does not produce a physical product. Use the following guidelines when seeking professional services:

1. Assure budgeting/spending approval.
2. Develop a "scope of work"; a list of the duties to be performed by the provider, including presentation of results, report, etc.
3. Consider whether the City Manager needs to be informed and/or give approval for work to be done. If the scope of work goes beyond the routine, addresses a new idea, or issue you want to learn about, or is designed to help solve a problem, consult with the City Manager. *When consulting with City Manager, come prepared with complete scope of work and budget for project.* If the project is planned, scheduled work, just do it.

4. Check with several potential consultants before selecting.
5. Select a consultant who has the skills, qualifications, and the best fit for the work needed. Information such as prior knowledge of Mercer Island, specific and particular expertise, and personality fit are some of the many considerations to use. All are good reasons to select a particular consultant.
6. Negotiate the cost of services. Price is an important consideration but is second to finding the best fit for the work needed. Bidding is not required for professional services.
7. Use standard Agreement forms approved by the City Attorney's office.
8. [Contract Routing Sheets](#) should be prepared for all Agreements and require the following authorization and signing:
  - (a) If a project for which an Agreement is being prepared is LESS THAN \$25,000, the Director authorizes same by initialing and dating the Contract Cover Sheet (inserting the Budget Code) and also signing the Agreement on behalf of the City. Route the contract and cover sheet to the City Attorney for legal review of the proposed Agreement.
  - (b) If a project for which an Agreement is being prepared is \$25,000 OR MORE, then the Director and Finance Director shall authorize same by initialing and dating the Contract Cover Sheet. The Agreement shall then be routed to the City Attorney for approval and signature, who will forward the Agreement to the City Manager for signature.
9. The City Clerk shall maintain all original Agreements for professional services.

## Chapter 5

### Procedures for Architectural and Engineering Services

#### A. Introduction

The State of Washington has established a uniform policy for the procurement of architectural, engineering and land surveying services for all state, county, and municipal governments. The procurement policy is specified in RCW 39.80. The basic steps in the contracting process are namely:

- Determination of services desired.
- Advertisement of services desired.
- Evaluation of qualifications submitted.
- Selection of most qualified firm or individual.
- Negotiation with the most qualified firm or individual.
- Contract execution.

The above basic steps can also be considered a guide for the selection of all professional services, whether required by the state statutes. Because the selection of the most qualified professional is based upon the subjective evaluation by the city, it should be approached with adequate guidelines for all to understand. The selection procedure should be what the city feels will determine the most qualified professional in the city's opinion. Whatever the reason for seeking professional services, the city is faced with two basic tasks:

1. Identifying and selecting the professional best qualified to meet the city's needs; and
2. Ensuring that the selected professional understands and provides for the city's needs in the most cost-effective manner.

#### B. Professional Services Under Chapter 39.80 RCW

In general, the following professional services should be procured under the provisions of RCW 39.80:

- Architectural design
- Engineering study and design
- Land surveying
- Landscape architecture
- Structural design

RCW 39.80.020 (5) provides:

“Architectural and engineering services” or “professional services” means professional services rendered by any person, other than an employee of the agency, contracting to perform activities within the scope of the general definition of professional practice in RCW chapters 18.08, 18.43, or 18.96.

Chapter 18.08 RCW defines the professional practice of architecture. Chapter 18.43 RCW defines the professional practice of engineering and land surveying. Chapter 18.96 RCW defines the professional practice of landscape architecture. As a guideline for the application of the provisions of 39.80 RCW, any service that would be provided by one of the above listed professionals, in their capacity as a registered architect, engineer, or land surveyor, should be procured under the provisions of 39.80 RCW. These

additional professional services might include geo-technical, environmental, aerial photography, and GIS mapping services provided by registered professionals.

### Why Chapter 39.80 RCW Exists

For most municipal construction, the lowest priced design of a project may not be the best for the municipality. By determining the most qualified firm or individual to provide a professional report or design the municipality is more likely to receive the most cost-effective project. The professional's plans and specifications should specifically describe the project and closely define how the project is to be constructed. The most qualified firm or individual should produce the best set of plans and specifications. Since the project is well defined, the competitive bidding process is likely to result in the best construction for the lowest possible price.

Recognizing that design costs are only a small fraction of the overall project cost, the best design usually provides the best project for the monies expended. The facility owner, the City, generally pays for costs arising from defective or incomplete design. When the City provides the design to the contractor, then the design's adequacy is implicitly guaranteed. The contractor is not expected to prove fault or negligence in the design to establish the City's liability for defective design. The design consultant's liability to the City for design defects is not as clear as the City's liability to the contractor for the same defects. In order for the consultant's liability to be established, the City must demonstrate that the consultant failed to exercise reasonable judgment and professional skill. Reliance upon price may not be substituted for the exercise of judgment in selecting the provider of needed architectural, engineering, or land surveying services.

## **C. The Selection Procedure**

### **1. Why Follow These Procedures?**

Occasionally the selection of a professional service is left to the whim or "gut feeling" of someone who may not understand the full extent of services desired, or the qualifications of the candidates to provide those services. The "nice fellow that was wearing the gray suit with the red tie" might not be the best qualified. Similarly, the other consultants who prepared and presented their qualifications may not feel that selecting the "nice fellow wearing the gray suit with the red tie" was the proper procedure for the city to have followed. Because the selection of the most qualified professional is based upon the subjective judgment of the city, both the consultants and the city benefit when a planned and documented selection procedure is followed. Certainly, not all of the procedures suggested herein may be needed for selecting all professional services, but the steps involved should be considered in the implementation of the selection process. The purpose of these procedures is:

1. To obtain the best professional services at a reasonable cost.
2. To establish an open, documented procedure for selection of professional services.
3. To avoid potential conflicts of interest, or the appearance of favoritism in the selection.
4. To permit all qualified professionals to have an opportunity to be considered.

### **2. Determination of Services Desired**

Before the city solicits consulting services, it is necessary that clear and specific answers be developed for the following questions:

- What needs to be done?
- Why does it need to be done?
- Why should a professional service provider do it?

- What level of effort will be required to do it?
- What qualifications and resources are required to do it?
- Is funding available for this service and for the resulting project?

If these questions are not answered before the professional is retained, the professional's experience and services may not be used most efficiently. In some cases, the answers to these questions are easily made. For example, if the city has made the decision to extend the sanitary sewer system by building a new interceptor line and pump station, and the city has no experienced design staff, the need for a professional design consultant with experience in sanitary sewer and pump station design is clear. In other instances, the answers may not be easily developed. For example, if the wastewater treatment plant is not in compliance with effluent standards, does the city need a design consultant, a process consultant, or an operations consultant? Must the consultant identify and solve the problem, or is the problem already identified? After the answers to the above questions are written down, management then needs to answer the following questions:

- Is this an actual immediate need?
- Is it compatible with ongoing projects?
- Is it sufficiently detailed?
- What can city staff provide?
- Is funding available for the professional services?
- Is funding available for the resulting project?

To avoid responses from unqualified professionals, the determination of services required should include:

1. A specific description of the proposed project, and the specific degree of services to be provided:
  - a. Preliminary studies and recommendations
  - b. Design services
  - c. Construction supervision/management
  - d. Peer review
2. Time frame to perform required work.
3. The minimum qualifications required:
  - a. Experience of the organization
  - b. Experience of each professional who would participate
  - c. References
  - d. Availability of the organization to meet established time frame.

### **3. Advertisement for Services Desired--The Request For Qualifications (RFQ)**

RCW 39.80.030 provides that:

Each agency shall publish in advance that agency's requirements for professional services. The announcement shall state concisely the general scope and nature of the project or work for which the services are required and the address of a representative of the agency who may provide further details. An agency may comply with this section by:

- (1) Publishing an announcement on each occasion when professional services provided by a consultant are required by the agency; or
- (2) Announcing generally to the public its projected requirements for any category or type of professional services.

For major projects, most cities choose to publish a separate **Request For Qualifications** (RFQ) that specifically describes the services to be provided and the qualifications needed. The second option, often used, is the publication of an annual general Request For Qualifications for those routine design services anticipated to be needed in the coming months. The statute does not require an annual publication of anticipated projects, but usual practice dictates that receiving qualifications from professionals at least annually assures the city that it is aware of all available professional services, in order to select the most qualified for each particular service.

#### **4. Publication**

The **Request For Qualifications** (RFQ) and its publication is intended to reach those potentially interested consultants that can provide the services desired, and within the established time frame. For instance, a small local project would probably not need to be published in a major newspaper with a statewide circulation. In fact, practice indicates that most projects might appropriately be published in the local newspaper. However, the previous example of a wastewater treatment plant problem might require very specific experience, and its advertisement might be published in a larger circulation newspaper, or even in national trade magazines.

#### **5. Format of the Request for Qualifications**

Whether the RFQ is for a specific project or for a “category or type” of professional service, the basic format should include the following items:

- Project title.
- Project description.
- Scope of services desired.
- Submission deadline.
- Agency representative.
- Format of response.
- Criteria for selection.
- Number of copies desired.

Examples of advertisements for the Request For Qualifications (RFQs) are in **Appendix D**.

#### **6. Additional Information to the RFQ**

Often a city will prepare an additional detailed project summary that is mentioned in the RFQ and made available to interested consultants. The project summary supplements the information in the RFQ to assist the interested consultants in understanding the desires of the city. It might include the following information:

- Transmittal letter.
- Reason for project.
- Scope of services being requested.
- Estimated budget or cost of project.
- Instructions for submittal of qualifications.
  - Format of response.
  - Number of copies of response.
  - Deadline for response.
- Criteria to be used to evaluate submittals.
- Special contract provisions.
- Name and telephone number of City contact person.

Note that the city contact person only provides the information already available. No additional information or data is to be provided to only one or a few interested professionals. If additional information is provided to those responding to the RFQ, and later further information is deemed to be necessary, it must be issued to all interested professionals before the deadline for submittal of qualifications. This might be issued in the form of a registered/return receipt mailing to all who responded to the advertised RFQ.

**7. Format of Response**

To simplify the evaluation of responses received, it is a common practice to limit the responses to a specific number of pages, say for example 20. A suggested format might include the following items:

1. A letter of interest signed by a principal of the professional firm with a statement as to the availability of the firm to complete the work within the stated time period, the firm’s insurance coverage, and a statement of its financial stability (limited to 3 pages).
2. A demonstration of the firm’s understanding of the project through an outline of their suggested approach to the project (limited to 10 pages).
3. Evidence of the firm’s ability to perform the work (limited to three pages).
4. Experience of the staff who would be assigned to the project (limited to two pages).
5. Reference, including names and telephone numbers of previous clients with similar projects (limited to two pages).

**D. Evaluation of Qualifications Submitted**

The responses received to the advertisement are reviewed and the number narrowed to a manageable number of interviews, say three finalists. A major project might include a list of five or six finalists, while a smaller local project of lesser difficulty might have a list of two or three finalists. The list of finalists for interview should include only consultants which the city feels are qualified and which the city would be prepared to retain.

**1. Evaluation Committee**

One satisfactory procedure is to utilize an evaluation committee of three or five individuals, one or two of whom are technically familiar with the project. The other members of the committee should be generally familiar with the project requirements. The final selection is usually made by the project manager, in consultation with the evaluation committee.

**2. Evaluation Criteria**

To assist the evaluation committee, and to ensure a proper evaluation of the submittals, evaluation criteria should be developed before receipt of submittals. Often, the evaluation criteria are made a part of the advertisement for services, so the respondents may direct their responses to the weighted criteria. Sample evaluation criteria might be as follows:

<b>CRITERIA</b>	<b>POINTS</b>
Previous experience in the service required	0-25
Expertise of key personnel	0-25
Suggested project approach (understanding of project)	0-20
Response of references	0-10

Ability to meet time schedule	0-10
Previous experience on city projects	0-10
<b>MAXIMUM POINTS</b>	<b>100</b>

The evaluation criteria should be specifically developed for each project based upon size, complexity, time frame, etc. A specifically designed selection criteria makes it easier for the consultants to submit the desired information, makes it easier for the evaluation committee to perform its task, and reduces the possible problems of challenges to the selection process through careful evaluation and documentation of the procedure. It must be noted that smaller, or simple projects, might require only a short evaluation, such as:

<b>Criteria</b>	<b>Fair</b>	<b>Good</b>	<b>Best</b>
Previous			
Experience of key personnel			
Previous experience on city projects			

It is to the advantage of both the city and the consultants to advise the interested consultants of the weighted selection criteria to be used by the city.

## **E. Selection of Finalist**

In the advertisement, the number of copies of the submittal should be specified, usually one more copy than the size of the evaluation committee. Distribute one set of all submittals to the evaluation committee and give them time off from their normal duties to study the submittals. Good evaluations cannot be completed if there is insufficient time. Set a deadline for return of the completed written evaluations of each submittal. Each committee member should individually evaluate each submittal based upon the prescribed criteria and submit a written score for each submittal. The committee should meet and review their scores for each submittal and develop a list of finalists for submittal to the department or division manager.

### **1. Notification of Finalists**

Before making a final selection, know the principals of the professional firm and know and be comfortable with the personnel they intend to use on your project! The top three to five finalists should be notified of their selection and their scheduled interview. Those not selected should also be notified. In this notification, set a prescribed time when they might critique their submittal with the city's decision maker. This scheduled critique, if requested, is when the selection criteria score can be reviewed for the benefit of those not selected. A set criterion also assures that the selection was made on a sound basis without any presumed bias.

### **2. Interview Procedure**

The notification of the finalists should indicate a scheduled interview procedure. Most interviews follow a procedure similar to the following example:

1. Time and Place for Interview
2. Interview Procedure
  - a. General introduction by consultant (limited to five minutes).
  - b. Project approach by consultant's project manager (limited to 25 minutes).
  - c. Questions by selection committee (limited to 15 minutes).

The suggested time periods used in the above example are typical for most presentations but can be varied based upon the project involved. Very large and complex projects require considerably more presentation time. The city should either provide each consultant with the following suggested questions or ask these questions during the oral interview if they have not been responded to in the consultant's presentation:

1. What organization structure do you propose to successfully organize your staff and to complete this project?
2. Please have your proposed project manager explain to the committee your firms' approach to this project.
3. How long do you anticipate it will take to complete this scope of services?
4. How does your firm coordinate the staff commitments for this and your other projects?
5. Where will the work be performed?
6. Do you plan scheduled project status meetings with city staff? - If so, how often?
7. What services do you propose to subcontract to others?
8. Who will be the major subcontractors?
9. Have you previously worked with these subcontractors?
10. Explain how you will meet the minority requirements of our City? (*Optional*)

The interview schedule should permit the evaluation committee time after each presentation to record their thoughts and evaluation while fresh in their minds. Usually allow at least 20 to 30 minutes after each interview for the committee to complete their records. It is advisable to limit the interviews to no more than five in a day.

### 3. Finalist Selection Committee

The finalist selection committee could be the same evaluation committee previously used, or a new committee composed of other qualified individuals. Again, this committee should be composed of three or five individuals, at least one or two of whom are technically familiar with the project being considered.

### 4. Finalist Rating Criteria

This committee should utilize a review criteria rating form, as was previously done. However, the rating criteria might be modified to reflect more closely the desires of the city, after reviewing the initial submittals. Often, the experience and bearing of the actual individuals that will be working on the project and relating to the city staff has a stronger bearing on the project implementation, than the experience of the organization being considered. Since the finalists are all qualified firms, any one of which the city would be satisfied with, the importance of the individuals is stronger in this final evaluation. An example of the revised rating criteria, might be as follows:

CRITERIA	POINTS
Previous experience in the service required	0-10
Expertise of key personnel	0-40
Suggested project approach (understanding of project)	0-20
Response to committee questions after presentation	0-10
Ability to meet time schedule	0-10

Previous experience on city projects	0-10
<b>MAXIMUM POINTS</b>	<b>100</b>

**5. Interview**

It is important to provide adequate space for the interview. Set aside a room with adequate space for the committee and the finalists to make their presentation and to respond to the committee questions. Schedule adequate time for the interviews and allow time between interviews for the committee to make their notes. In procuring services for some projects, the selection process may include visits to each of the candidates’ offices to view their equipment and in-house procedures.

The selection committee may wish to ask additional questions after the presentation by the consultants. For example, the committee might ask:

- Current workload of the professional firm?
- Time commitment of firm’s principals?
- Receipt of any design awards?
- Has the design team previously worked together? On what projects?
- Recent change order experience of the firm?
- Recent bidding experience? Bids above or below designers estimate?
- What is their preferred method of compensation?
- Affirmative Action Plan? (If applicable)

**6. Selection of the Most Highly Qualified Firm**

Upon conclusion of the last interview, the committee should convene to review their notes and criteria points. The candidate with the highest rating should be “deemed to be the most highly qualified” and selected for negotiation of a contract. The other candidates should be so advised. Because competition is usually keen, it is important to retain evaluation sheets, notes, and other documents, in a safe secure place, to support the ranking procedure and selection, until the final contract has been executed and the project commenced.

**F. Negotiation**

When a public agency selects a firm to perform architectural or engineering services, price and cost may be considered only after the most qualified firm has been selected, at which time the law provides for negotiation of a "fair and reasonable price." (Washington Attorney General Opinion No. 4, 1988.)

RCW 39.80.050 (1) provides:

The agency shall negotiate a contract with the most qualified firm for architectural and engineering services at a price which the agency determines is fair and reasonable to the agency. In making its determination, the agency shall take into account the scope, complexity, and professional nature thereof.

RCW 39.80.050 (2) adds:

If the agency is unable to negotiate a satisfactory contract with the firm selected at a price the agency determines to be fair and reasonable, negotiations with that firm shall be formally terminated and the agency shall select other firms in accordance with RCW 39.80.040 and continue in accordance with this section until an agreement is reached or the process is terminated.

## **1. Scope of Services**

The city and the selected professional further define the scope of services to be performed. The city may have benefited from the presentations of the other candidates in defining the scope of services desired. The selected professional firm, based upon its experience on similar projects adds to the scope of services. Once the scope of services is well defined, negotiation begins to determine a fair and reasonable price.

## **2. Compensation**

There are several methods used to compensate professional firms for their services. Some of these methods are as follows:

- Salary Cost Times a Multiplier Plus Direct Non-salary Expenses
- Per Diem
- Cost Plus Fixed Fee
- Lump Sum
- Percentage of Construction Cost

The methods or combination of methods used depends upon the nature, scope, and complexity of services required by the city. The first three methods listed above are based upon the consultants cost to perform the services and do not require a precise definition of scope of services unless a ceiling is superimposed upon the total contract amount. The last two methods are based upon a specific scope of services to be provided and do require that the project scope be well defined prior to final negotiations.

## Chapter 6 Procedures for Public Works

If the estimated cost of a project exceeds \$350,000 (including sales tax) the City must go out for bid on public works projects. What is a public works project?

RCW 39.04.010 defines the term "public work" as follows:

*"The term public work shall include all work, construction, alteration, repair or improvement other than ordinary maintenance, executed at the cost of the state or of any municipality, or which is by law a lien or charge on any property therein."*

This definition of public work includes construction and repair but excludes ordinary maintenance. But what is "ordinary maintenance"? The statutes provide no definition. However, WAC 296-127-010(7)(b)(iii), which defines "ordinary maintenance" in the context of prevailing wages, can be used to craft a definition that distinguishes ordinary maintenance from a public work for bidding purposes:

*"work...that is performed on a regularly scheduled basis (e.g., daily, weekly, monthly, seasonally, semiannually, but not less frequently than once per year), to service, check, or replace items that are not broken; or work...that is not regularly scheduled but is required to maintain the asset so that repair does not become necessary."*

For example, replacing a deteriorating bridge or roof or an overhead shop door would amount to a repair, or perhaps new construction, but not maintenance. Such a project would be considered a public work. On the other hand, jetting or cleaning a sewer, cleaning a roof, or replacing the motor on an overhead shop door would involve maintenance and, therefore, would not be a public work. Consequently, this expenditure would not be subject to the public works bid statutes.

Other examples:

- If a project entails providing light bulbs, pump bearing lubrication, and other small maintenance items, then the project is probably ordinary maintenance. However, if items like pumps and motors are being replaced, this project is a public work and should be bid if the cost exceeds the bid limits.
- Sidewalk replacement is not ordinary maintenance. Although replacing sidewalks is part of a city's ongoing maintenance program, it is not done annually. The asset is being replaced, rather than "maintained."
- Replacement of a carpet is not ordinary maintenance. A carpet is neither replaced annually nor is it used to maintain the asset, which in this case would be the sub flooring, so it would not fall into the ordinary maintenance category.
- Tree trimming would probably be considered ordinary maintenance. Although this activity may not take place annually, it is necessary either to prevent branches from falling on wires or to prevent damage to the trees in windstorms. This falls into the category of maintaining the asset.

If a city determines that it must go out for bids, it must follow certain procedures. It must advertise and give proper notice. After the bids are opened, the lowest, responsible bidder must be identified. The city will contract with that firm. Each of these steps will be discussed below, along with questions concerning irregularities in the bidding process.

## **A. Advertising for Bids**

The first-class city bid statute, RCW 35.22.620, provides that any public work may “be performed by contract pursuant to public notice and call for competitive bids.” The statute does not contain any detailed requirements for public notice. However, to receive the most competitive bids, the City will want to choose the newspaper that will reach the most contractors and allow enough time for responsive bids to be prepared.

### **1. Information Required in the Advertisement**

Advertisements for bids should contain definite specifications and procedures for bidders to use in estimating their bids. At a minimum, a bid notice for a public work should include the following items:

1. Title of project.
2. Nature and scope of work.
3. Where contract documents (plans and specifications) may be reviewed or obtained.
4. Cost to obtain a set of contract documents.
5. The place, date, and time that the bids are due.
6. Statement that a bid bond must accompany the bid.
7. Statements that the city retains the right to reject any and all bids and to waive minor irregularities in the bidding process.

Note that bid notices for the purchase of materials, equipment, and supplies not used in connection with a public work do not have to include a requirement for a bid bond (but a bid bond may be a good idea). The bid notice may or may not include any reference to contract documents, depending on the kind of purchase.

### **2. Bid and Performance Bonds**

Bid bonds are required on public works projects to help ensure that a bid has been made in good faith and that the bidder will enter into a contract if his or her bid is accepted. RCW 35.23.352(1) provides that each bid must be accompanied by a bid proposal deposit in the form of a cashier's check, postal money order, or surety bond to the council or commission for a sum of not less than five percent of the bid amount, including sales tax. The statute adds that "no bid shall be considered unless accompanied by such bid proposal deposit." **This statute does not apply to code cities such as Mercer Island, however, bid bonds are highly recommended.**

After bids are opened and the contract is awarded to the lowest responsible bidder as required by RCW 35.23.352, the bid proposal deposits or bid bonds are returned to the unsuccessful bidders. The successful bidder's bid bond or deposit is retained until the bidder enters into a contract with the municipality and furnishes a performance bond in the full amount of the contract price. If the successful bidder fails to enter into a contract with the municipality and does not provide a performance bond within ten days of being notified of the bid's acceptance, the bidder generally is required to forfeit the bid bond or deposit.

### **3. Performance Bonds for All Cities for All Public Works Contracts**

RCW 39.08.010 provides that a municipality must require a performance bond whenever it enters into a public works contract, to ensure that the job will be completed and that all workers, subcontractors, and suppliers will be paid. This performance bond requirement applies to all public works contracts, whether or not let pursuant to competitive bids.

RCW 39.08.015 subjects cities to claims of "laborers, material men, subcontractors, and mechanics" if city officials fail to obtain the required performance bond. In lieu of a performance bond on contracts of \$150,000 or less, RCW 39.08.010 allows a city, at the option of the contractor, to retain ten percent of the contract for a period of thirty days after the date of final acceptance or until receipt of all necessary releases from the Department of Revenue, the Employment Security Department and the Department of Labor and Industries, whichever is later. This statute is intended to help small contractors who may have trouble getting a bond.

## **B. The Bid Decision**

Deciding whom to award the bid to (if, indeed, it is awarded) has a number of components. The bids are opened at the place, date, and time set out in the bid package. City staff summarizes the bids before presenting them to the council and makes a recommendation to accept the bid from the lowest responsible bidder. The council then authorizes the City Manager to accept the lowest responsible bidder or reject all bids. Some bids may involve errors, omissions, or other irregularities. Decisions must be made on how to deal with these irregularities. Finally, the city must award the bid to the lowest responsible bidder or reject all bids. It may not negotiate with any of the bidders.

Bids must be opened in public at the time and place given in the advertisement. The bids do not have to be opened at a council meeting and no council members need be present at the bid opening.

### **1. Determining the Lowest Responsible Bidder**

Contracts are normally awarded to the lowest responsible bidder for a public works project or for the purchase of materials, equipment, or supplies. In determining who is the lowest responsible bidder, the city council is given discretion. Its decision, if made in good faith, will not be subject to interference by the courts unless it is arbitrary or there is an indication of fraud. However, if the city council awards a contract to a bidder other than the lowest bidder, it should include the reasons for its action in the council minutes or otherwise memorialize them.

RCW 43.19.1911 gives criteria that the state must follow in determining the lowest responsible bidder. Although there is no similar statute for cities, these criteria provide useful guidelines:

1. The ability, capacity, and skill of the bidder to perform the contract or provide the service.
2. The character, integrity, reputation, judgment, experience, and efficiency of the bidder.
3. Whether the bidder can perform the contract within the time specified.
4. The quality of performance of previous contracts or services.
5. The previous and existing compliance by the bidder with laws relating to the contract or services.
6. Such other information as may be secured having a bearing on the decision to award the contract.

Further, compliance with RCW 39.30.060, when applicable, is required for a bid to be considered responsive. That statute specifies that every bidder for a public works contract over \$1,000,000 must submit, as part of the bid, or within one hour after the published bid submittal time, **the names of all the subcontractors with whom the bidder will subcontract for heating, ventilation and air conditioning, plumbing, and electrical work** If such a list is not provided, the bid is considered non-responsive. If the general contractor does not plan to use covered subcontractors, it is not required that the bidder do anything to comply with this statute.

To determine the lowest responsible bidder, cities might find it helpful to include a "Statement of Bidder's Qualifications" as part of the bid documents. This statement normally requests both financial and technical experience summaries and a bank reference. A good rule of thumb to use when considering whether to accept a bid other than the lowest one: Would a private business determine that this firm would be the best one to satisfactorily complete the project at the lowest cost?

## **2. Accepting or Rejecting the Bid**

Assuming that there are no bidding irregularities, the city, after opening the bids, must award the contract to the lowest responsible bidder or reject all bids.

A city may not negotiate with the bidders once the bids have been submitted and opened. In *Platt Electric Supply, Inc. v. Seattle*, 16 Wn. App. 265 (1976), the City of Seattle invited bids on light bulbs. The advertisement for bids allowed bidders to set their own specifications. Platt submitted the lowest bid and Seattle offered to award the contract to Platt if it would lower its bid. Platt refused. Seattle then negotiated with the fourth lowest bidder out of a field of seven, eventually awarding the contract to that bidder. Seattle's justification was that this bidder had a better warranty and was, therefore, the best bidder. The court of appeals held the contract was void for either of two reasons: (1) the bidding laws were violated when the advertisement for bids allowed the bidders to set their own specifications, and (2) the city had negotiated with a bidder after the bids were submitted and opened. The court observed that both of these practices undermined the competitive bidding process. If bidders were allowed to set their own specifications, bids would not be comparable and there would be no objective criteria on which to award the contract. Negotiations with bidders after bidding has taken place undermines the fairness of the bidding process by not allowing all bidders to submit bids on the contract that is eventually awarded.

## **C. Small Works Roster**

When the contract amount for a public works project is less than \$350,000 a city may follow the small works roster process for construction of a public work or improvement as an alternative to the formal competitive bidding requirements. The City follows this procedure to simplify choosing a responsible bidder.

A small works roster lists contractors who have requested placement on the roster and who, when required, are properly licensed or registered to perform work in this state. RCW 39.04.155(2) describes the procedures that a city must follow if it chooses to use a small works roster.

- A city must publish a notice of the existence of its general small works roster in a newspaper of general circulation, at least once a year, and the city must solicit names of contractors for the roster(s).
- The city council must establish a procedure for securing telephone, electronic, or written bids from the contractors on the roster who have the necessary qualifications to competently complete the particular project.
- Invitations for contractors to submit bids must include an estimate of the scope and nature of the work to be performed and a list of the materials and equipment to be furnished: detailed plans and specifications need not be included in the invitation.
- Quotes may be invited from all appropriate contractors on the appropriate roster.
- Alternatively, quotes may be sought from at least five contractors on the roster who have indicated the capability of performing the kind of work being sought.

- After the bids have been submitted, the city must award the contract to the contractor submitting the lowest responsible bid.
- Immediately after an award is made, all bid quotes submitted must be recorded and made available to the public for inspection, or the bid figures must be supplied in response to telephone inquiries.
- At least once every year, the city must make a list of the contracts awarded available. The lists must contain the name of the contractor, the amount of the contract, a brief description of the public work, and the date of the award.

Small works roster procedures are “in lieu of the procedures” for competitive bids on public works projects. Therefore, specific requirements, such as those relating to advertising for bids or regarding bid deposits, required by RCW 35.23.352(1), are not mandatory for small works roster contracts. Performance bonds are required on small works roster projects, even though bid bonds are not. Although not required, bid bonds may be used to ensure that the contractor enters into the contract.

#### **Request for Quotes vs. Bid Advertisement**

The RCW requirement of 13 days advertising for a public works project in formal bid processes does not apply in a small works roster process. However, depending on the complexity of the project, between 7 and 14 days should be allowed for contractors to submit a responsible proposal and have adequate time to properly research the specifications.

#### **D. Prevailing Wages**

The City’s policy is to always pay prevailing wages as determined by the Washington State Department of Labor and Industries and as required by the Washington State Public Works Act.

#### **The Law**

The Washington State Public Works Act, enacted in 1945, is also known as the “prevailing wage law”. It is a worker protection act. It requires that workers be paid prevailing wages when employed on public works projects, and on public building service maintenance contracts. See: RCW 39.04.010, RCW 39.12.010, and RCW 39.12.020.

#### **Purpose**

The Public Works Act is modeled after the federal Davis-Bacon Act. The Davis-Bacon Act was enacted to protect the employees of contractors performing public works construction from substandard earnings and also so preserve local wage standards. The employees, not the contractor or its assignee, are the beneficiaries of the Act. It is remedial and should be liberally construed. In other works, the Washington State Department of Labor and Industries (department) is directed to apply the law in ways that carry out its intent, which is to protect workers.

#### **Application**

The Public Works Act regulates wages paid to workers, laborers and mechanics performing public work. It does not apply to work that is clerical, executive, administrative or professional in nature. For example, the Act does not apply to the work of a secretary, engineer, or administrator, unless they are performing construction work, alteration work, repair work, etc. Prevailing Wage application depends on the work that is performed, regardless of the worker’s job title. Any doubts or questions regarding the applicability of the prevailing wage law should be directed to the Prevailing Wage Office. See RCW 39.12.020 and WAC 296-128-510 through 530.

**Requirements**

Public works contracts require that each and every employer on the project file the Statement of Intent to Pay Prevailing Wages (Intent), and Affidavit of Wages Paid (Affidavit) forms. The forms are filed with the department and, once they are approved, are submitted by the employer to the agency administering the contract. There is no lower dollar limit. That is, Intent and Affidavit forms are required for every public works contract regardless of the size of the contract. See: RCW 39.12.040.

**Intents**

The Intent form is filed immediately after the contract is awarded and before work begins if that is possible. The agency administering the contract may not make any payments until contractors have submitted an Intent form that has been approved by the Industrial Statistician. See RCW 39.12.020, RCW 39.12.040, and RCW 39.12.042.

**Affidavits**

The Affidavit form is not filed until after all the work is completed. The agency administering the contract may not release final retainage until all contractors have submitted an Affidavit form that has been certified by the Industrial Statistician. See RCW 39.12.020 and RCW 39.12.042.

## Chapter 7

### Purchasing from Other Governments and On Other Governments Contracts

Cities do have the authority to purchase from or through other governmental entities, however, in almost all cases an “Interlocal Agreement” with the governmental agency is required before the purchase is made. The City of Mercer Island does have such an agreement with the Department of Enterprise Services (DES). Following is more detailed information about purchasing from other governmental units.

#### A. State of Washington

Cities frequently use the authority granted in RCW 39.34.030 to make purchases through the Washington State Department of Enterprise Service (DES) master contract agreements. Cities may be able to realize savings through the DES quantity. In order to make such purchases, a municipality must enter into a written agreement (an intergovernmental cooperative purchasing agreement) with the state DES, a copy of which is filed with the secretary of state, the city clerk, and the county auditor. The DES provides online access to master contracts with suppliers (vendors) and which the city is eligible to use. These contracts are general in nature and are obtained by the department with the various vendors. The vendors agree to provide the same items to cities under the same terms and conditions as provided to state agencies.

If a city decides to make a purchase under one of the listed contracts, it notifies the department of its intent to do so, and the department provides an electronic copy of the particular contract. The contract contains instructions on the procedures used to make purchases. Under most contracts, the purchase is made by the city or town directly from the vendor. In some cases, such as the purchase of motor vehicles, the department requires the purchase to be made through its office.

#### B. King County

RCW 47.24.050 and RCW 35.77.020 provide authority for cities to enter into agreements with the county in which they are located for repair or construction of any or all of the cities' streets or bridges. No bidding requirements apply to such projects. RCW 36.75.200 provides that a county may expend funds for the repair, maintenance, or construction of any bridges within a city if the bridge is essential to continuation of the county road system.

#### C. Other Cities or Agencies

RCW 39.34.080, a section of the Interlocal Cooperation Act, authorizes one public agency to contract with another public agency to perform any function which each agency is authorized by law to perform. Under this statute, one public entity (e.g., the state, a city, a county, a special district, etc.) could act as agent or contractor for one or more public entities. RCW 39.34.030, another section of the Interlocal Cooperation Act, authorizes cooperative action, including joint purchases, by different governmental entities.

An indispensable element in such contracts is compliance with the purchasing statutes, including the bid law applicable to each public entity that is an ultimate "purchaser" under the agreement. A city must enter into an interlocal agreement with the other government entity in advance of the government

entity's advertisement for a vendor, and the agreement must obligate that government entity to follow all bidding requirements that apply to the city.

#### **D. Surplus Property**

A city may acquire surplus property from another government entity without regard to bid laws. RCW 39.33.010 authorizes such purchases "on such terms and conditions as may be mutually agreed upon by the proper authorities."

#### **E. Federal Government**

Authority for cities to purchase from or through the federal government is found in RCW 39.32.070 - 090. The first statute states the cities are authorized to purchase equipment, supplies, materials, and other property, without advertising, giving notice, or inviting bids. RCW 39.32.080 suspends any charter provisions, ordinances, or policies that require bidding when dealing with the federal government. RCW 39.32.090 requires that an ordinance or resolution be passed before any particular purchase is made from the federal government or through a federal government contract. Further guidance on procurement under authorized federal programs is available in the **Federal Awards Standards** policy document available at MI Hub.

## Appendix A Paying for Purchases

There are several appropriate methods to use in making purchases.

- **Purchase Order**-- All purchases require a purchase order, which is the official purchasing document used to place orders with vendors and then to process payments of invoices from vendors. The usual order of purchasing order of events includes:
  - making purchase request,
  - obtaining necessary approvals
  - placing order
  - receiving goods or services
  - payment sent to vendor.

Some “special” methods of purchasing allow the employee to spend first and do a PO later (see the following).

- **Monthly PO Accounts**--The City has accounts with local businesses due to the convenience and time savings of meeting a quick need for work. These are used when you do frequent purchases with a vendor and can be set up through Finance. POs are issued once per month and cover all activity for that month. These can be challenging to manage because of missing receipts and difficulty in sorting out the bill at the end of the billing cycle.
- **City Credit Card**—The City allows the use of credit cards when POs are not accepted or practical in carrying out City business. This includes the expenses of travel, small purchases, telephone orders, etc. Staff are not allowed to use a city issued credit card for personal purchases (even if they intend to pay it back), for cash advances, or for items where a purchase order could work just as well.
- **Costco**--Parks and Recreation manages a Costco check account due to the frequency of Costco purchases and the need to pay at checkout. These kinds of accounts are approved when frequency of use, cost and/or time savings indicate.
- **Reimbursement for Personal Expenditure**—on occasion, typically in a travel situation, an employee uses their own credit card and then is reimbursed by the City. This is the least desirable method to use.
  1. A receipt should always be obtained for any kind of expenditure.
  2. Credit card “phone orders” can be a headache to document, so must be done carefully with full documentation and a receipt obtained in some fashion.

Please Note: It is a good habit to document and turn in receipts within a few days of making a purchase. It is acceptable to do so within 7-10 days.

## **Appendix B**

### **Informal Quotations**

The following information is good to obtain when inquiring for prices in the informal quotation process

- Name of company
- Name of representative you spoke with
- Telephone number of company
- Required quantities of each item you are pricing
- A complete description of each item, including all applicable specifications, i.e., color, size, model number, service to be provided, etc. Each vendor will be given the same information and minimum specifications so you can compare price directly
- Unit price quoted by vendor
- Any other applicable charges, i.e., shipping, delivery, etc.
- Any applicable warranty information
- Purchase order number and budget code if you choose to buy one of the items quoted

Use the Information Quotation Form located on MI Hub to record the information from three companies.

## Appendix C Contracts Policy

### City of Mercer Island Contracting Policy

The policy of the City of Mercer Island when contracting for services or products is:

- To follow procedures designed to obtain the best and most useful product or service for the least possible expenditure of public moneys.
- To create a readily available record of the City's contracts.
- To minimize the number of steps or administrative requirements needed for departments to contract for services or products, while still following appropriate procedures and keeping the necessary documentation.

### Authority to Contract

At the City of Mercer Island, the City Manager is the only individual authorized to engage the City in a services or products contract. The City Manager may delegate the authority to contract to another individual within the City.

- Contracts for new, non-routine, or unscheduled work are approved by the City Manager before they are implemented.
- Contracts under \$25,000 for routine, scheduled, and budgeted work are delegated to the Department Director to sign on behalf of the City.
- Contracts for goods or services not already budgeted must go to City Council for approval. City Manager uses discretion in determining which other contracts go to Council.
- Standard contracts are used, or the City Attorney approves modified contracts as to form before they are signed.

### Informing Council / Council Approval

Consider the following when making the decision on whether and how to inform Council of the contract, and whether they need to approve.

- Consider whether you want to inform Council or to ask for approval. Remember that email is an effective way to share information with Council
- If you are using consultant services or purchased goods for routine department work, just do it.
- If the nature of the services indicates broader community and/or political issues, consult with City Manager, you will likely need take it before the City Council.
- If the item is a new or modified project scope of services, a bid approval, or a hot political issue, you will probably need to take it to the City Council.
- The City Manager uses discretion in determining which contracts go to the City Council.

### Standard City Contracts

There are standard City Contracts which have been approved as to form by the City Attorney. They can be found on MI Hub at [mihub.mercerisland.gov/contracts](http://mihub.mercerisland.gov/contracts). There are several kinds of contracts that employees might use in enlisting the work of contractors. These include:

- **Professional Services:** These services often involve the presentation or delivery of professional opinion, assessment, or other information to the City. Examples of such services include (but are not limited to) engineering, architectural, training, education, accounting, consulting, survey and legal. This contract is used when the product is primarily intellectual in nature and does not produce a physical product other than a report.

- **Maintenance and General Services:** Services which are mechanical or labor intensive in nature. Specialized licensing and/or technical expertise is generally job related and/or narrower in scope than that required for professional and consulting services. Bonded, licensed, insured contractors provide physical products or services; janitorial services, grounds maintenance, general maintenance, mechanical inspections, and minor repairs, etc. (*business license needed or must be put on payroll*).
- **Employment Agreement:** One person, time-limited, renewable; provisions and benefits vary by the individual agreement. These are usually generated out of and are kept on file in Human Resources.
- **Instructor Agreement:** Parks & Recreation class instructors typically use this. These are kept on file at the Parks and Recreation office.
- **Public Works:** Includes all work, construction, alteration, repair, or improvement *other than ordinary maintenance*.

### **Standard Contract Criteria**

All contracts should contain the following standard criteria:

- Be in writing and signed by both the City and contractor.
- Include payment terms. If hourly, should include a “not to exceed” clause.
- Have sentence saying that contractor agrees not to discriminate.
- HAVE HOLD HARMLESS INDEMNIFYING CITY FROM NEGLIGENCE OF CONTRACTOR.
- Have requirement that contractor maintain insurance as appropriate to the type of contract.
- Have provision that contractor is an independent contractor
- Be “Approved as to Form” by City Attorney
- Have a routing cover sheet as established by the City Clerk
- Public works contracts must include language which requires the contractor to pay prevailing wage.
- Specific criteria to address the needs of the work to be done

### **Contract Cover Routing Sheet**

Every contract must have a Contract Routing Cover Sheet to collect pertinent contract information for review and approval. All executed contracts should be on file with the City Clerk (unless otherwise specified) and maintained in a log or database.

## Appendix D

### RFP, RFI, and RFQ – more than alphabet soup!

#### What is the difference between an RFP and an RFI and an RFQ?

1. An **RFP** is a **Request For Proposal** that allows contractors to bid for service or construction projects. It is a comprehensive document which outlines the City's specifications for the project and solicits vendors to provide the work. Vendors are required to follow all of the specifications in the RFP and deliver a written proposal to the City by a pre-determined deadline.
2. An **RFI** is a **Request For Information** from various service providers to assist the organization in determining what types of contractors are available.
3. An **RFQ** is a **Request For Qualifications** which allows contractors to demonstrate their qualifications to provide a particular service to the organization.

#### How do I write up my RFP, RFI or RFQ?

An RFP can be in any format so long as it communicates:

- Project or service requirements.
- The end product desired.
- The contractual obligations required of the contractor.
- The contractual obligations required by the City.
- A description of the contract selection process.

The RFP/RFI should also have attached to it a submittal sheet to be completed by potential contractors so that all returned proposals can be evaluated on a common basis. There are many samples of these available for reference throughout the City.

#### What should be included in an RFP?

Generally, an RFP should include the following items:

- A scope of work/services with detailed specifications.
- Any background information such as materials or information to be supplied by the City.
- A suggested time schedule for the project or product delivery.
- An estimated cost and source of funding.
- Any suggested contractors who should be contacted.
- A minimum of two staff members to participate in the selection process.
- A description of where RFP packets can be obtained within the City offices.

#### When am I required to use an RFP process?

Anytime the service you are seeking is called for by state bidding laws. See the *City Bidding Book, Washington State* by Municipal Research & Services Center at [www.mrsc.org](http://www.mrsc.org).

#### Who else needs to be involved when I consider an RFP process?

It is a good idea to consult with your department director and/or the City Attorney anytime you consider using an RFP. They can provide you with information that you may not have considered before going through the work of preparing an RFP.

It is also a good idea to consult with other City employees who may be end users of a product or service you are purchasing. They can help you develop specifications for the project and work with you to ensure that we are asking for the right proposal information.

**If I conduct an RFP (or other) process, do I have to sign a contract with the lowest bidder?**

Not necessarily. While in general, we are looking for the lowest responsible bid, we might want to consider past performance, customer service, and years a company has been in business before awarding a purchase. If you can document why you are rejecting a lowest bidder, you may go with a higher bidder. The City's philosophy on contracting expects that employees will purchase the best value for the organization. You will be evaluating the proposals as they come in and it is your responsibility to determine which of the contractors best meets your needs. If none of the respondents can provide what you are needing, you are not obligated to sign a contract with any of them.

Once you have gone through the process of receiving your proposals, reviewing them, and selecting a contractor, you are now ready to have them sign a contract. The City Attorney's Office has sample contracts for various types of services, and you can fill in the technical information such as scope of work, budget, and any terms. Contract samples are available on the network share drive.

Once your contract is signed by the appropriate level of authority, you can have your contractor sign the agreement and implement the contract. The original contract should be maintained by the City Clerk's Office. A copy of the contract should be retained in your own offices so you can ensure the contractor is meeting your expectations throughout the contract's life.

## Appendix E

### Disposal of Surplus City Equipment Other than Fleet Vehicles

The City of Mercer Island may need to sell or convey equipment or property which is no longer needed for municipal purposes.

The following steps shall be followed in connection with declaring property surplus and with the sale of such surplus property:

1. Prior to declaring an item as surplus, send an email to the City Manager and all Department Directors advising them that the item will be surplus and offering the item to another City department prior to the sale.
2. If no other department has an interest or use for the item, fill out the Surplus Declaration Form on MI Hub.
3. Prior to sale, always determine the fair market value of the item to be sold. If you sell it for less, you may be violating [Article VIII, 7](#) of the state constitution, the prohibition on gifts of public funds.
4. Hold a public hearing, if required by [RCW 39.33.020](#) or [RCW 35.94.040](#). AGO 1997 No. 5 concludes that the public hearing requirement in RCW 39.33.020 only applies to intergovernmental transfers of property.
5. In the event the item has a fair market value exceeding \$20,000, present a resolution to the City Council and obtain Council approval declaring the property to be surplus, and specifying how the property is to be sold, or delegating that task to a particular employee consistent with this policy.
6. Proceed with the sale pursuant to the resolution or if the item has a value of \$20,000 or less, in one of the following ways: (1) transfer to the Thrift Store for retail sale, (2) public auction, or (3) by receipt of highest offer after advertising the item to the general public in the City's official newspaper.
7. Certain City officials and City employees may be restricted from purchasing surplus property due to conflict-of-interest concerns. Those who are involved in the decision to surplus property and those in charge of administering the sale should not purchase the property. General City employees can purchase surplus City property at public sale which includes purchasing property from the Thrift Shop or being the highest bidder at auction or after public advertisement.