



# **PURCHASING POLICY**

**FOR**

**CITY OF CLOQUET**

**1307 Cloquet Ave., Phone (218)879-3347, Fax (218)879-6555**

## **PURPOSE**

The purpose of this policy is to establish the procedures for purchases made on behalf of the City of Cloquet. This policy has the following objectives:

1. To ensure that purchases comply with all applicable laws (listed at end of policy);
2. To ensure that taxpayers receive the lowest price and the best value for their tax dollars when the City purchases goods and services;
3. To provide clear and consistent guidelines for contractors to follow;
4. To provide clear and consistent guidelines for authorized City employees/purchasers to follow;
5. To limit the discretion of City officials and thus limit the possibility of fraud or favoritism.

## **PURCHASING OVERSIGHT**

The City Administrator or their designee is responsible for the overall purchasing function. Department heads shall be responsible for purchasing items within their respective budgets. All contracts, bonds, and instruments of every kind to which the City is a party shall be signed by the Mayor and/or the City Administrator or Council approved designee on behalf of the City and shall be executed in the name of the City. All credit applications must be submitted to and approved by the Finance Director.

## **PURCHASING PROCEDURES**

Purchases may be made by the following methods:

1. Regular purchasing procedures
2. Price agreements
3. Best Value Alternative
4. Emergency purchasing
5. Disaster purchasing
6. Cooperative purchasing
7. Capital Improvement Plan purchasing

## **PURCHASE ORDERS**

Purchase orders are not mandatory but can be used if requested by the vendor or preferred by Department Head. Purchase orders can be obtained from the Finance or Public Works Departments.

## **PERFORMANCE AND PAYMENT BONDS**

Public work contracts \$175,000 and over must require contractors to provide a performance bond and a payment bond.

## **WITHHOLDING CERTIFICATES**

Contractors and subcontractor must show compliance with withholding tax laws by submitting a withholding affidavit to the Minnesota Department of Revenue. The City shall obtain a completed Form IC134 "Withholding Affidavit for Contractors" either electronically or signed copy before the final payment is released.

## **STATE BIDDING LAW**

State bidding law applies to:

Contracts for the sale, purchase, or rental of supplies, materials, or equipment.

Contracts for the construction, alteration, repair, or maintenance of real or personal property.

## **PURCHASES FOR UP TO \$25,000**

Purchases for less than \$25,000 maybe made either upon quotation or in the open market. Quotations may be obtained by telephone or in written form via facsimile, delivery service, or Internet. Quotations must have a specific date and time period for which they are valid. All quotations should be kept on file for a minimum of one (1) year and include the names of vendors providing the quotations, the amounts of the quotations, and each successful quotation signed and dated. Quotations from unsuccessful bidders should be attached to the payment voucher of the successful bidder.

All purchases between \$10,000 and \$25,000 shall be discussed with the City Administrator. The City Administrator will determine if the purchase shall be made by quotation or in the open market and whether the item will be presented to the Council for approval regardless of whether the purchase was already included in the annual budget or not.

Local Vendors - If the local vendor's price or quote does not exceed the lowest non-local vendor's price or quote by more the 5%, the purchase must be made from the local vendor for purchases less than \$10,000.

Related party purchases (City employees, spouse or equivalent, relatives, Council member's employers, CAFD employees) should be based on a minimum of one written quotation from a nonrelated party vendor (local if possible).

## **PURCHASES FROM \$25,000 to \$175,000**

The proposed purchase must be presented to Council for approval before the commencement of the purchasing process unless it is for fuel or other operating supplies (examples - budgeted street & park stockpiles, and budgeted utility inventories) that are replenished regularly. The purchase may be made either via sealed bids or by obtaining two (2) or more written quotations, without advertising for bids or otherwise complying with the requirements of competitive bidding laws. Quotations may be obtained by telephone or in written form via facsimile, delivery service, or Internet. Quotations must have a specific date and time period for which they are valid. All quotations should be kept on file for a minimum of one (1) year and include the names of vendors providing the quotations, the amount of the quotations, and each successful quotation signed and dated. If quotations are obtained by phone, they must be followed up with a signed quotation to be considered a valid quotation. The quotations must be forwarded to the City Council for selection and approval.

The approval shall be accomplished by a Request for Council Action form submitted for consideration at a regularly scheduled Council meeting. The City Council may consider, in addition to the quoted price, the quality, suitability, servicing, and adaptability of the article for its intended use.

For purchases estimated to exceed \$25,000, the City, must consider the availability, price and quality of supplies, materials, or equipment available through the state's cooperative purchasing venture, national municipal association's purchasing alliance, or cooperative created by a joint powers agreement that purchases items from more than one source on the basis of competitive bids or competitive quotations before purchasing through another source.

### **PURCHASES EXCEEDING \$175,000**

The proposed purchase must be presented to Council for approval before the commencement of the purchasing process. Purchases or contracts exceeding \$175,000 require formal sealed bids solicited by public notice in accordance with Minnesota Statute 471.345, Subd.3. The purchaser shall prepare or cause to be prepared, the specifications, the advertisement to solicit sealed bids, the opening and tabulation of bids, and any necessary investigation of the bids. The City's designated representative shall recommend to the City Council which bid is the lowest, responsible bid. The City Council shall determine the lowest responsible bidder and shall accept such bid. In all cases, the City Council reserves the right to accept or reject any or all bids and waive informalities therein.

The City has reasonable discretion in determining the lowest responsible bidder. Not only must a successful bidder submit the lowest bid price and substantially meet the terms and conditions of the specifications, the low bidder must be considered "responsible" and have the capacity to perform the proposed contract. "Responsibility" includes such considerations as the bidders' financial responsibility, integrity, ability, skill, and likelihood of providing faithful and satisfactory performance. There is more latitude in purchasing items of equipment not capable of exact specifications. In making such a purchase, the City Council may exercise reasonable discretion in determining the lowest responsible bidder. The City Council may consider, in addition to the bid price, the quality, suitability, and adaptability of the article for its intended use.

### **EXCLUSIONS FROM COMPETITIVE BIDDING REQUIREMENTS**

It is not legally necessary to advertise for bids for:

1. Professional services such as those provided by doctors, engineers, lawyers, architects, accountants, and other services requiring technical, scientific, or professional training.

All purchases over \$10,000 shall be discussed with the City Administrator. The City Administrator will determine if the purchase shall be made by request for professional services or in the open market and whether the item will be presented to the Council for approval regardless of whether the purchase was already included in the annual budget or not.

2. The purchase or lease of real estate, City Council approval is required.
3. The purchase of non-competitive products patented or obtainable from only one source. Demonstration of this circumstance must meet statutory requirements for a "sole source vendor" purchase and before contracting over \$25,000, City Council approval is required.

4. The purchase of utility services.
5. Insurance contracts. The City shall review its workers compensation, and general property and liability insurances periodically.
6. Health insurance is purchased through the Northeast Service Cooperative. The Cooperative bids insurance as needed for the City. If the City purchases health insurance outright, written request for proposals would be prepared at least every five years.

### **PRICE AGREEMENTS**

Price agreements may be used to acquire items the City frequently purchases in small quantities, i.e. gasoline, propane, and heating fuel. A price agreement is a contract between the City and a vendor. Under it, the vendor agrees to supply all of the City's requirements for the specified commodity during the period of agreement. The price may be fixed or variable, such as a fixed discount from market price. Such price agreements expedite delivery, reduce paperwork, and generally result in lower prices.

### **BEST VALUE ALTERNATIVE**

As an alternative to the procurement methods described above, the City may award a contract for construction, alteration, repair, or maintenance work to the vendor or contractor offering the best value under a request for proposals. The solicitation document must state the relative weight of price and other selection criteria. The award must be made to the vendor or contractor offering the best value applying the weighted selection criteria. If an interview of the vendor's or contractor's personnel is one of the selection criteria, the relative weight of the interview shall be stated in the solicitation document and applied accordingly.

### **EMERGENCY PURCHASING**

Under Minnesota's Emergency Management Act, cities are given the authority to enter into contracts during emergencies without following many of the normally required procedures, such as the bidding requirements of state contract law. There are two types of emergencies that may be relevant on the local level: an "emergency" and a "public health emergency". An "emergency" is defined as an unforeseen combination of circumstances that calls for immediate action to prevent a "disaster" from developing or occurring. A "disaster" is defined as a situation that creates an actual or imminent serious threat to the health and safety of persons, or a situation that has resulted or is likely to result in catastrophic loss to property or the environment and for which traditional sources of relief and assistance within the affected area are unable to repair or prevent the injury or loss.

A "public health emergency" means an occurrence or imminent threat of an illness or health condition in Minnesota where there is evidence that the cause of illness or health condition is bio-terrorism, or an airborne infectious agent or toxin and that the illness poses a high probability of a large number of deaths or disabilities or widespread exposure to an airborne infectious agent that poses a significant risk to a large number of people.

When an emergency occurs that may jeopardize public safety or the health and welfare of employees or citizens, the City Administrator or appropriate department head may authorize a necessary emergency purchase. Department head emergency purchases and the reason for the purchase shall be reported in

writing including supporting documentation to the City Administrator within 24 hours of the situation and reported to the City Council as soon as possible. At least two (2) competitive quotations should be utilized whenever possible as part of the process.

If there is any question about whether an emergency exists per the definitions of the Minnesota Emergency Management Act, the City Council, City Administrator or designee shall consult with the City Attorney whenever practicable.

### **DISASTER PURCHASING**

The Mayor may declare a local disaster or emergency. The declaration shall not be continued for a period in excess of three (3) days except by, or with the consent of, the City Council. A disaster may result from fire, flood, tornado, blizzard, destructive winds, or other natural causes, or from sabotage, hostile action, or from hazardous material mishaps or catastrophic measures, or emergencies that are technological in nature.

During a declared disaster emergency, the City may enter into contracts and incur obligations necessary to combat the disaster by protecting the health and safety of persons and property, and providing assistance to victims of such disasters. The City may exercise such power as deemed necessary without complying with purchasing procedures prescribed by law pertaining to the performance of public work, entering into rental equipment agreements, purchase of supplies and materials, limitations upon tax levies, and the appropriation and expenditures of public funds, including, but not limited to, publication of resolutions, publication of call for bids, provisions of personnel laws and rules, provisions related to low bids, and requirement for budgets.

### **COOPERATIVE PURCHASING**

The City may increase savings from bulk discounts by making purchases jointly with one or more governmental units through joint powers agreements. Under these programs, several governmental units can enter into an agreement to authorize one party to solicit bids and provide for the purchase at the option of each participating governmental unit. Once the governmental units agree on the specifications of the item, one party may advertise for bids on behalf of all the parties that participate in the agreement. Rather than specify a specific number of items, the advertising participant will advertise for a range of quantities estimated for the entire group. Each participating unit can make the final decision on whether to purchase the items from the successful bidder.

The City currently participates in the Cooperative Purchasing Venture (CPV) administered by the Minnesota State Board of Administration and can use other national municipal association's purchasing alliance or cooperative agencies created by a joint powers agreement that purchases items from more than one source on the basis of competitive bids or competitive quotations.

### **CAPITAL PURCHASING**

Capital purchases will be identified and scheduled in the annual five year Capital Improvement Plan. The City Administrator or Department Head may request the alteration of the plan if in the best interest of the City. Inclusion in the Capital Plan is not blanket authority for purchasing items. The council must authorized the capital purchases based on a Request for Council Action submitted by the City Administrator or appropriate Department Head prior to purchase.

No department head may make any capital expenditure without the City Council's prior approval. No City employee may make a capital expenditure without their department head approval. Capital expenditure is a purchase of real estate, machinery, furniture, equipment, or a motor vehicle. Items needed for the repair of motor vehicles or equipment are not considered capital expenditures. Items costing less than \$5,000 will not be considered capital expenditures.

All purchases must follow the applicable purchasing requirements set by state statute mentioned above.

### **PURCHASES FROM PETTY CASH FUNDS**

The council approval is required for petty cash funds. The funds are to be used for payment of bills impractical to pay in the regular manner. Each fund has an appointed custodian responsible for its safekeeping and disbursements. Each disbursement must have proper documentation and the custodian must be able to justify the validity of the disbursements to the council.

To replenish the petty cash fund a detailed voucher must be given to the Finance Department for review and payment.

### **INSURANCE**

Each department making contracts for services/construction must check for proper property, liability, and worker's compensation (if applicable) insurance before services are started. Limits/requirements may vary so check with the City Administrator or City Attorney to verify amounts are sufficient.

### **SALE OF SURPLUS PROPERTY**

Vehicles and equipment is generally traded in to reduce the cost of acquiring new property. The property can also be sold through auction or by advertising for bids. The City is generally prohibited from selling property to city officers or employees. City property can be sold to city employees (but not officer) if the sale is made by sealed bids or through an auction and the employee is not involved in the process.

City property can also be sold using an electronic selling process in which purchasers compete to purchase the supplies, materials, or equipment at the highest purchase price in an open and interactive environment.

The City can also sell property, services, or equipment to other governments without complying with competitive bidding requirements.

### **INVOICE APPROVAL**

Department heads shall review all invoices for expenditures in their departments and verify the validity of the charges. Payments will only be made from the original invoice; payments from statements are not allowed. Department heads shall sign and appropriately code invoices after ascertaining that the goods or services have been delivered to the City in the quantities listed and that the amounts charged are correct. The packing list or other documentation of receipt should be attached to the signed invoice. Routine invoices are excluded from Department Head coding, such as utility bills (electric, phone, copier, heating, water, sewer, storm water), fuel purchase (yearly allocation determined by PW), etc. that are allocated by the finance office. The voucher will still be reviewed and approved by the Department Head. Health insurance, life insurance, and dental insurance, are allocated based on

employees and are reviewed and approved by the Finance Director. All purchases/payments shall be reviewed and ratified by the City Council at their regular meeting before payments are released.

The City Administrator can authorize the finance department to process a check before council approval, only if necessary, and it will be approved at the next council meeting.

Employee reimbursements must be submitted on the approved form and must be signed by the employee and the Department Head. All non-mileage reimbursements must have the original detailed receipts attached (summary credit charge slips are not sufficient). Also see the City's travel policy for more information of travel reimbursement requirements.

### **RELATED POLICIES**

Public Purpose Policy  
Travel Policy  
Credit Card Policy

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#### State Statutes:

16C.28 Contracts; Award  
471.345 Uniform Municipal Contracting Law  
471.6161 Group Insurance; Governmental Units  
574.26-32 Public Contractors' Performance and Payment Bond Act