City of Birmingham
A Walkable Community

MEMORANDUM

Finance Department

DATE: **December 29, 2014**

TO: **Joseph A. Valentine, City Manager**

FROM: **Mark Gerber, Assistant Finance Director**
Tim Rowland, Purchasing Agent

SUBJECT: **Purchasing Guideline Changes**

On December 26, 2013, the Office of Management and Budget (OMB) issued the *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Grants*, an omnibus circular which streamlines what were previously eight existing circulars into a single comprehensive policy guide for grant recipients. Grant recipients receiving Federal grants after December 26, 2014, must start following this new circular.

One of the most important changes to this circular involves procurement. The circular prescribes methodologies to be used, contract provisions which must be included, bonding requirements, and other "best practice" procurement policies. These procurement policies must be included in the City's written policy. To accomplish this, a new section has been proposed to the City's purchasing guidelines which address the requirements of the circular (section XI).

While we have included these requirements in the proposed additions to the purchasing guidelines, we have had to modify the procurement methodologies from the Federal circular in order to comply with the City's charter. The circular requires five methods to be used when procuring goods and services on Federal grants. The first method is the Micro-Purchase which allows purchases of up to $3,000 without obtaining quotes. The second method is the Small Purchase which allows purchases of between $3,000 and $150,000 using price quotes. Purchases $150,000 or greater require using Sealed Bids or Competitive Proposals. The final procurement method is Noncompetitive Proposal (sole source). The City charter requires formal bids for purchases made in excess of $6,000, therefore, the Sealed Bid and Competitive Proposal threshold has been lowered from $150,000 to $6,000. The Micro-Purchase threshold has been lowered from $3,000 to $2,500. This is higher than our current standard ($500) we use for obtaining price quotes for non-Federal purchases. Allowing for a higher threshold before obtaining price quotes will allow for reduced staff time in entering and preparing purchase orders for small purchases which don't have a high risk.

In addition to the changes being made for federal grants, we are proposing changes in the limits for when price quotes are required for non-Federal purchases from $500 to $2,500 to match what is proposed for Federal purchases and more closely match the new OMB circular. These changes are italicized and bolded in the document. In addition there were a couple of minor changes related to when departments can request purchase orders and references to our old accounting system.

SUGGESTED RESOLUTION: To approve the suggested amendments to the purchasing guidelines as outlined in the memo dated December 29, 2014 relating to Federal grant and non-federal purchases.

City of Birmingham
Purchasing Guidelines

I. Purpose of Guidelines.

These guidelines have been prepared to provide standardized policies and procedures for the purchase of supplies and contractual services by the City. The guidelines also define the responsibilities of both the Purchasing Agent and the operating departments regarding the purchase and/or sale of goods. These guidelines are to be followed for the purchase of supplies and contractual services (as defined in the City Code, Title I, Chapter 7, Section 1.192):

Supplies -- all supplies, materials and equipment, but excluding land or any interest in land.

Contractual Services -- the rental, repair or maintenance of equipment, machinery and other City-owned property. It does not include professional, insurance, personal services or other contractual services which are in their nature unique.

II. General Policies.

A. Comply with the City of Birmingham Charter and the City Code as it pertains to Purchasing. Specific references are:

1. Charter, Chapter VI, Sections 1, 4 & 5
2. Charter, Chapter II, Section 2, paragraph 2
3. Charter, Chapter VII, Section 3(h)
4. City Code, Title 1, Chapter 7

B. Obtain from responsible vendors sufficiently high quality goods for the lowest possible price.

C. Implement purchasing procedures which will facilitate the purchase of and payment for goods yet will provide sufficient internal controls.

D. Provide departments with timely financial reports for purposes of budgetary controls. Order goods only if funds have been appropriated by City Commission.

E. Purchase in quantity when practical in order to obtain discounts and minimize paper flow throughout the year.

F. Purchase recycled materials when practical.

G. Encourage competitive bidding among vendors; however, the City reserves the right to reject any or all bids or quotes and need not purchase from the lowest bidder.

H. Issue purchase orders for all capital outlay and/or large ticket items which exceed ~~$500~~ ***$2,500***.

I. Orders shall not be artificially subdivided in order to avoid complying with the bidding requirements.

III. Responsibilities of the Purchasing Agent.

A. Oversee the entire purchasing operation.

B. Monitor the purchase of supplies and contracted services as well as the disposal of obsolete or surplus fixed assets.

C. Place orders less than $6,000.

D. Assist departments with their purchasing needs and ensure that proper purchasing procedures are being followed.

E. Examine each requisition for purchase order and each requisition for payment to ensure that requests have been properly documented and authorized, that budgeted funds are available and that the account number classification is correct.

F. Seek competitive, sealed bids as required by the purchasing ordinance and assist departments with invitations for bids as needed.

IV. Responsibilities of Operating Departments.

A. Be familiar with and abide by the legal requirements for Purchasing as specified in General Policies (II-1).

B. Obtain price quotes from at least three (3) vendors when the purchase exceeds ~~$1,000~~ ***$2,500*** but is less than $6,000, or document reason for not obtaining price quote.

C. Obtain price quotes for purchases under ~~$1,000~~ ***$2,500*** when practical.

D. Prepare a request for purchase order for the following:

1. Orders for non-capital items which exceed ~~$500~~ ***$2,500***.

2. Orders for capital outlay which exceed ~~$500~~ ***$2,500***.

3. Blanket orders when requested or required.

E. Prepare a request for payment for:

1. Any items ordered directly.

2. Any invoices received by the department for which a purchase order had not been prepared.

F. Maintain a current bidders list and/or use the Michigan Intergovernmental Trade Network (MITN) vendor data base as the current bidders list.

V. <u>Purchasing Policies Under $6,000</u>.

A. Legal requirements.

1. Only the City Manager, Purchasing Agent or Department Heads are authorized to approve purchases from $1 to $6,000.

2. Budgeted funds must be available prior to placing the order.

B. City policy.

1. Blanket orders -- Blanket orders are to be issued as requested at the beginning of the fiscal year to those vendors from whom we purchase minor supply items repeatedly throughout the year. Blanket orders will not be encumbered against departmental budgets but will be expensed as payments are made.

2. Orders for capital outlay -- Purchase orders are to be issued for all capital outlay items exceeding ~~$500~~ ***$2,500***.

3. Other orders -- Purchase orders are to be issued when required by the vendor and/or the amount of the order exceeds ~~$500~~ ***$2,500***.

C. Procedures.

1. Blanket orders.

a. Upon the request of the Purchasing Agent, user department head or vendor, departments are to prepare approved requests for blanket purchase orders for approved vendors from whom they will be purchasing small repetitive items or services throughout the fiscal year and from whom items or services need to be acquired quickly in order to maintain operating efficiency. On the request, the department should list all funds and activities (e.g., 101-1008-708, 585-2518-942) which may be used under this blanket order. It is not necessary to specify the individual expenditure accounts.

b. The estimated annual expenditure per vendor should be specified on the request for purchase.

c. Blanket orders may not be used for any items properly chargeable to capital outlay accounts or for individual items in excess of $100 with the exception of items bid on a per unit basis and purchased as needed, such as salt, gasoline, slag, top soil, etc.

d. As items are received against the blanket order, the packing slip or delivery ticket should be initialed by an authorized supervisor, the proper account number should be indicated and the payment should be entered by the receiving department as a direct pay into ~~HTE~~ ***BS&A*** per established procedures.

2. Orders for Capital.

a. Any order for capital outlay which exceeds ~~$500~~ ***$2,500*** but is less than $6,000 shall be placed via purchase order.

b. A Requisition for Purchase Order should be prepared after having obtained quotations from at least three (3) vendors and after having determined the lowest responsible bidder. In selecting the lowest responsible bidder, the Department Head should consider the standards set forth in the Purchasing Ordinance, Chapter 7, Title 1, Section 1.193 (1) (a) (vii).

c. Purchase orders are normally issued every day ~~except on Fridays~~. Therefore, Requisitions for Purchase Orders may be entered into the system at any time by the requesting department(s). ~~If a Purchase Order is needed on a Friday,~~

~~individual arrangements should be made with the Purchasing Agent or Purchasing Clerk.~~ The receiving/department copy of the Purchase Order will be delivered to the requesting department once the Purchase Order has been prepared.

d. Vendors will be instructed to send invoices directly to the department for which the goods are being ordered.

e. When the order and invoice are received, the invoice should be initialed, dated and forwarded to Purchasing, with any packing slip(s) attached. The Purchase Order number should be noted on the invoice. This document gives Purchasing the authority to pay the invoice.

3. All Other Orders.

a. Orders which are not for capital outlay and which do not exceed ~~$500~~ ***$2,500*** may be placed directly by departments without the need for a Purchase Order. Vendors should be instructed to send invoices directly to the department placing the order.

b. Whenever practical, quotations should be obtained from at least three (3) vendors and the order placed with the lowest responsible bidder in consideration of the standards set forth in the Purchasing Ordinance Chapter 7, Title 1, Section 1.192 (1)(a((vii).

c. When the order and invoice have been received, the payment should be entered by the receiving department as a direct pay into HTE per established procedures.

4. If order forms, registration forms or other types of paperwork are to be sent to the vendor along with the payment, these items, *along with one copy of each*, should be attached to the payment's supporting documentation.

VI. <u>Purchases Over $6,000</u>.

A. Legal Requirements.

1. All contracts for purchases which exceed $6,000 must be approved by City Commission after the competitive bidding process has been

completed.

2. Competitive bidding need not be conducted under the following circumstances:

    a. Competitive bidding need not be conducted for purchases greater than $6,000 but less than $12,000 if 5/7 of City Commission members vote to dispense with this process.

    b. A contract may be awarded by the City Commission for the purchasing of supplies and/or contractual services without submitting the purchase through the competitive bidding process as set forth herein when there is only a sole-source for the purchase and the requesting department head has provided reasonable justification to the city manager in writing that circumstances exist that preclude obtaining competition.

3. An invitation for bids must be publicized "no less than five (5) days preceding the last day set for the receipt of ... bids."

4. The invitation must include a general description of the supplies or services to be purchased. It must also state where bid forms and specifications may be obtained, when they must be filed and when the bids will be opened.

5. Bidders shall be instructed to submit sealed bids which are clearly identified as bids on the outside of the envelope.

6. Bids are to be opened publicly at the time, place and date specified in the invitation for bids.

7. Bids are to be recorded, tabulated and available for public inspection.

8. The Purchasing Agent or Department Head shall determine and recommend the name of the lowest responsible bidder based on the criteria established in the Ordinance.

B. City Policies.

1. Competitive Bidding

a. Invitation for bids

1. Invitations for bids are to be placed in suitable trade or other publications, and/or on acceptable e-procurement systems (such as the Michigan Intergovernmental Trade Network).

2. In addition, the Purchasing Agent or Department Head may solicit sealed bids from all persons who are on the most current "bidders" list by mailing them a copy of the public advertisement so as to acquaint them with the proposed purchase.

3. Invitations for bids sent to prospective bidders on the "bidders' list" shall be limited to commodities that are similar in character and ordinarily handled by the trade group to which the invitations are sent.

b. Bid opening

1. All bids received should be time-stamped and remain unopened until the date and hour of the bid opening.

c. Selection of Lowest Responsible Bidder

1. The City is not obligated to purchase from the lowest bidder. In addition, all bids may be rejected by City Commission if deemed to be in the best interests of the City.

2. All bidders, successful and unsuccessful, are to be notified of City Commission's decision.

3. Any bid bonds received from unsuccessful bidders are to be returned in a timely manner. Any deposits for specifications are to be returned upon receipt of the specifications.

2. Award of Contract

a. Formal written contract --

1. The City Attorney's review and approval is required for all formal written contracts.

b. Purchase order --

1. Follow procedures as specified in Section V, C2.

VII. Emergency Purchases.

A. Legal Requirements -- Normal purchasing procedures may be circumvented only in the case of an emergency; that is, when there is "an apparent threat to the public safety, health or welfare of the City or its citizens."

B. City Policy -- Emergency purchases may be made in accordance with the ordinance at the discretion of the City Manager.

VIII. Petty Cash Purchases.

A. Legal Requirements -- The petty cash fund maintained by the Treasurer is to be used for the purchase of incidentals and may be authorized by Department Heads.

B. City Policy -- Petty cash is to be used for non-repetitive items not exceeding $50.

C. Procedures

1. Any cash removed from the fund must be replaced by a pre-numbered petty cash voucher accompanied by a receipt or invoice from the supplier of the item or service purchased.

2. The receipt or invoice must detail the type and amount of the expenditure. The petty cash voucher must indicate the appropriate account number to which the purchase should be charged, and indicate the department head's approval.

3. Each department that has a petty cash fund must designate one person to have custody and responsibility for the fund. This responsibility includes balancing the fund daily; requesting reimbursement of the fund; and insuring the funds are at all times in a locked and safe location.

4. To insure accountability for each petty cash fund, the fund must be balanced daily. Therefore, the sum of all unused cash and petty cash vouchers should equal the total of the respective department's petty cash total. If the actual balance is ever different from the amount that should be in the fund, the Finance Department should be contacted immediately.

5. When requesting reimbursement of petty cash funds, the appropriate petty cash vouchers, along with supporting receipt, etc., must be submitted to the Treasurer's Office. This should be done at regular intervals to avoid running the fund too low. No reimbursements will be made without the required supporting documentation.

IX. Request for Manual Checks.

A. City Policy

1. Because manual checks are issued prior to City Commission approval, they are to be used only when absolutely necessary and are subject to approval by the Finance Director.

B. Procedures

1. Prepare a written request for payment that:

a. Is clearly marked “MANUAL CHECK.”

b. Indicates the date the check is needed.

c. Includes all necessary information, including vendor name/number, account number, and the department head (or authorized designee’s) signature.

2. Attach all supporting documentation.

3. Deliver to Purchasing Agent or Purchasing Clerk.

4. The check will be prepared upon approval of the Finance Director.

5. The check will be mailed or delivered immediately upon completion.

X. Purchase of Recycled Materials.

A. City Policy -- City Commission recommended the purchase of recycled paper whenever possible at the meeting of May 23, 1988. Further, at its meeting of May 14, 1990, the City Commission passed a resolution whereby all attempts to purchase supplies, materials and equipment with recycled materials will be incorporated and aggressively pursued.

XI. Disposal of Obsolete, Worn or Surplus Supplies. Items determined to be of surplus nature, i.e., those items deemed of no further use to the city and/or which are obsolete or worn out, shall be subject to disposal in the following manner:

A. An item with an original value of less than ~~FIVE HUNDRED DOLLARS ($500)~~ ***$2,500*** shall be disposed of by the best and most efficient means in the judgment of the using department and the finance department, taking into account such factors as storage and handling costs and advertising.

B. An item with an original value of ~~FIVE HUNDRED DOLLARS ($500)~~ ***$2,500*** ~~TO SIX THOUSAND DOLLARS ($6,000)~~ ***to $6,000*** shall be disposed of in one of the following methods:

1. Sale after obtaining informal quotes.

2. Auction.

3. Manufacturer trade in.

4. By the best and most efficient means in the judgment of the using department and the finance department, taking into account such factors as storage and handling costs and advertising, with the approval of the city manager.

C. An item with an original value in excess of ~~SIX THOUSAND DOLLARS ($6,000)~~ ***$6,000*** shall be disposed of in one of the following methods:

1. Sale after obtaining formal quotes and going through the bid procedure.

2. Auction.

3. Manufacturer trade in.

4. By the best and most efficient means in the judgment of the using department and the finance department, taking into account such factors as storage and handling costs and advertising, with the approval of the city commission.

XI. Procurement for Federally Funded Projects

A. City Policy – Purchases using federal grants shall conform to the Office of Management and Budget (OMB) Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Grants as revised below.

B. Methods of Procurement – The City will use one of five methods of procurement when using federal funds: Micro-Purchase; Small Purchase; Sealed Bids; Competitive Proposal; Noncompetitive Proposal (Sole Source).

C. Micro-Purchase Method

1. Purchases less than $2,500 can be made without soliciting quotes from qualified suppliers.

2. To the extent practicable, micro-purchases must be distributed equitably amongst qualified suppliers.

D. Small Purchase Method

1. Purchases between $2,500 and $6,000 requires quotations from at least 3 qualified sources.

2. If a Department Head chooses a supplier other than the lowest cost supplier, they must document the reasons for choosing the other supplier.

3. A purchase order must be created by the responsible department and the quotations and any other relevant

documents attached.

E. Sealed Bids

1. Purchases $6,000 or greater must use either sealed bid procurement or competitive proposal. Sealed bid is the "preferred method" for construction project funded with federal grant funds.

2. Requests for bids must be publicly advertised using the MITN vendor database. Other publications that are widely distributed may be used in addition to MITN.

3. The contract will be awarded to the lowest responsive and responsible bidder.

4. Any or all bids may be rejected if there is a sound documented reason.

5. Documentation of all the bids received and a bid table must be maintained by the responsible department for audit purposes. If the lowest bidder was not selected, the reasons for the non-selection must also be kept with the bids.

6. In purchases exceeding the Simplified Acquisition Threshold (currently at $150,000 and adjusted annually), the City must make an independent estimate of the cost of the procurement prior to receiving bids or proposals.

7. The City must negotiate profit as a separate element of the price for each contract in which there is no price competition and in all cases where a cost analysis is performed.

***F.* Competitive Proposal**

1. Purchases $6,000 or greater when the sealed bid method is not appropriate.

2. Requests for bids must be publicly advertised using the MITN vendor database. Other publications that are widely distributed may be used in addition to MITN.

3. Request for Proposals must include the evaluation factors and

their relative importance. Any response to publicized requests for proposals must be considered to the maximum extent possible.

4. A written method for conducting technical evaluations of the proposals and selecting of the supplier must be prepared before the receipt of proposals.

5. Documentation of the evaluation factors, the technical review, and the selection of the proposal must be maintained by the responsible department for audit purposes.

6. In purchases exceeding the Simplified Acquisition Threshold (currently at $150,000 and adjusted annually), the City must make an independent estimate of the cost of the procurement prior to receiving bids or proposals.

7. The City must negotiate profit as a separate element of the price for each contract in which there is no price competition and in all cases where a cost analysis is performed.

G. **Noncompetitive Proposals (Sole Source)**

1. City may only use noncompetitive proposals if one or more of the following circumstances apply:

a) The item is available only from one source;

b) The public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation;

c) The Federal awarding agency or pass-through entity expressly authorizes noncompetitive proposals in response to a written request from the City;

d) After solicitation of a number of sources, competition is determined inadequate.

2. Documentation of reason for procurement under noncompetitive proposals is crucial in preventing questioned costs. Therefore, all decisions under this procurement must be well documented and attached to a purchase order.

H. Competition

1. Policy – It shall be the policy of the City to encourage an open and competitive procurement process. This will be accomplished as follows:

a) Contractors that develop or draft specifications, requirements, statements of work, and invitations for bids or requests for proposals must be excluded from competing for such procurements.

b) No unreasonable requirements must be placed on firms in order for them to qualify to do business.

c) No unnecessary experience or excessive bonding requirements must be included in the bids/proposals.

d) Noncompetitive contracts to consultants that are on retainer contracts will not be made.

e) Brand names will not be used in bids unless "or equal product" is included and a description of the performance or other relevant requirement of the purchase is stated.

f) State or local geographical preferences will not be included in the evaluations of bids/proposals unless specifically allowed by Federal statute.

g) Bid advertisement must be placed in enough qualified sources as to ensure maximum open and free competition.

I. Use of Small and Minority Businesses, Women's Business Enterprises, and Labor Surplus Area Firms.

1. *The City must take all necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus firms are used when possible.*

2. *If the City's contractor is using subcontractors, the contractor must also take steps to assure that minority businesses, women's business enterprises, and labor surplus firms are used when possible.*

J. *Procurement of Recovered Materials*

1. *The City and its contractor must comply with Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR Part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition; where the purchase price of the item exceeds $10,000.*

K. *Bonding Requirements*

1. *For construction or facility improvement contracts or subcontracts exceeding the Simplified Acquisition Threshold (currently set at $150,000 and adjusted annually), the minimum bonding requirements must be followed (unless a Federal awarding agency has granted a lower amount or waiver of some of the requirements):*

   a) *A bid guarantee from each bidder equivalent to five percent of the bid price. The "bid guarantee" must consist of a firm commitment such as a bid bond, certified check, other negotiable instrument accompanying a bid.*

   b) *A performance bond on the part of the contractor for 100 percent of the contract price.*

   c) *A payment bond on the part of the contractor for 100 percent of the contract price.*

L. *Other Contract Provisions*

1. ***Contracts for more than the Simplified Acquisition Threshold (currently set at $150,000 and adjusted annually), must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.***

2. ***Contracts in excess of $10,000 must address termination for cause and for convenience by the City including the manner by which it will be effected and the basis for settlement.***

3. ***Contracts that meet the definition of "federally assisted construction contract" under 41 CFR Part 60, must include the equal opportunity clause provided under 41 CFR 60-1.4(b).***

4. ***When required by Federal program legislation, all prime construction contracts in excess of $2,000 awarded by the City must include a provision for compliance with the Davis-Bacon Act.***

5. ***A contract award must not be made to parties listed on the government-wide Excluded Parties List System in the System for Award Management (SAM).***

6. ***Contractors that apply or bid for an award of $100,000 or more must file the Byrd Anti-Lobbying Amendment required certification.***

M. Gifts, Rebates Prohibited; Conflict of Interest Prohibited

1. ***All officials and employees of the City are prohibited from soliciting, demanding, accepting or agreeing to accept directly or indirectly, from any person to which a contract might be awarded or is awarded any gift, offer of employment, rebate, money or anything of material value whatsoever, except where given for the sole use and benefit of the city.***

2. ***The City will not enter into a contract to furnish supplies or contractual services to the City from any city official, his or her spouse, child or parent, for from any corporation, association or partnership in which any city official, his or her spouse, child or parent, has any direct or indirect interest. Ownership of less than (1%) of the stock or other equity***

interest in a corporation or unincorporated business shall not be deemed to be a disqualifying interest. Employment by a business entity shall be deemed to be a disqualifying interest only if such employment is in an administrative, managerial or executive capacity in which the employee could in any way influence the decisions of the business entity with regard to contract proposals or other transactions contemplated by this section.

3. Every written contract entered into by the City shall contain a provision to the effect that if subsequent to entering into the contract a city official, has or her spouse, child or parent shall become directly or indirectly interested in the contract, the City shall have the right to terminate the contract without further liability if the disqualification has not been removed with thirty (30) days after the City has given notification of the disqualifying interest.

4. Violation of any part of this section will result in disciplinary action as outlined in the City's Ethics Ordinance.