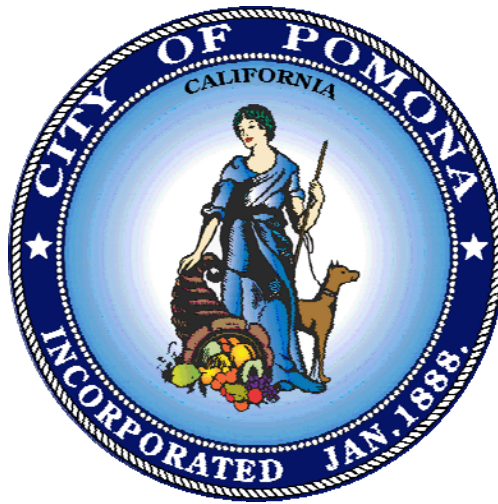


The City of Pomona



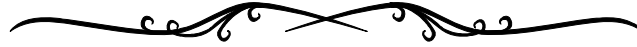
Purchasing Policies & Procedures Manual

Purchasing Phone: (909) 620-2381

Revised November 2020

City of Pomona
Purchasing Division Policy and Procedures Manual
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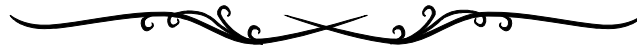
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Mission Statement

Purchasing Division
City of Pomona

Procurement is a strategic partner to all departments, working together to procure goods and services at the best price, the best value, that's in the taxpayers best interests.



About this Document and Internal Controls

The purpose of this document is to guide staff members in the purchasing of goods and services on behalf of the City by establishing responsibilities and authorization levels, outlining statutory requirements, and setting forth the policies and procedures that govern purchasing activities.

These guidelines are not intended to address every issue, exception or contingency that may arise in the course of purchasing activities. Accordingly, the basic standard that should always prevail is to exercise good judgment in the use and stewardship of City resources that have been entrusted to staff and are the responsibility of all City employees.

These policies and procedures were developed to protect both staff and the citizens we serve. It is imperative that we seek not only to avoid any impropriety, but even the appearance of an impropriety. For this reason, employees are expected to uphold the highest professional standards in conducting the City's business and adhere to the guidelines set forth within this document.

The Purchasing Department offers procurement services, monitors policy compliance, administers Citywide contracts, manages vendor relationships, oversees the procurement card program and establishes electronic procurement system functionality.

While many of the procedures may seem 'bureaucratic', they are necessary to maintain internal controls of the purchasing process and are a key tool in helping the City meet its fiscal responsibilities. The objective of internal control systems is to provide reasonable, but not absolute, assurance that assets are safeguarded against loss from unauthorized use or disposition, and to ensure that transactions are properly recorded to permit the preparation of financial statements in accordance with generally accepted accounting principles.

The three most common types of internal controls are using and documenting standard operating procedures (this document); formalizing approval authorizations; and separation of duties. None of these approaches in themselves can guarantee the appropriate use of City assets at all times, but they represent a reasonable effort to reduce the opportunity for misuse of City assets.

Of the three approaches noted above, "separation of duties" is the most common internal control method used to ensure that no one individual has total control over an accounting transaction. For this reason purchasing makes the purchase, the department approves the payment, and accounts payable makes the disbursement. It is still the City's responsibility to establish reasonable controls to reduce the opportunity and temptation to misuse City assets. Additionally, it is the responsibility of every City employee to detect, report and prevent fraud, misappropriations, and other irregularities as stated in the City's Fraud Prevention Policy (No. 23).

If you have any questions, please do not hesitate to ask a member of the purchasing staff.

Ed Segura
Purchasing Manager
909-620-2039
Ed_segura@ci.pomona.ca.us

Sonia Gil
Buyer
909-620-2381
Sonia_Gil@ci.pomona.ca.us

Section 1 - Ethics in Purchasing

City employees involved in any aspect of the procurement process are required to conduct themselves according to the Ethics in Public Contracting as described in City Ordinance No. 4276 (Appendix A). The competitive nature of public procurement and the expenditure of public funds require strong ethical standards at all levels of purchasing activities.

Staff must balance fostering mutually beneficial vendor relationships while not creating an appearance of impropriety. The City's Conflict of Interest Code allows an employee to report any potential conflicts.

Examples of conflict of interest and gratuities and kickbacks are as follows:

- Accepting gifts, favors or items of value from a vendors or potential vendors.
- Having a legal conflict of interest when a City employee has influence in the selection process and has a financial interest in the company receiving the award from the City.
- An employee should never disclose a vendor's current price quote to other vendors. This type of behavior is frequently reported to authorities by vendors who have been harmed by such activity. Prices and other information provided in the purchasing process must not be divulged until made public.

If there is a potential conflict of interest, the staff member should immediately notify their supervisor and the Purchasing staff member they are working with to ensure proper precautions are taken to safeguard the procurement process.

Unfair Advantages

Fairness and transparency are the cornerstones of the municipal procurement process. During an open solicitation, a term called the "cone of silence" is often used to describe the time period, which begins with the solicitation being advertised through successful award of a contract. The cone of silence is meant to safeguard any information that could provide an unfair advantage to prospective bidder/proposer. The cone of silence means that no communication is undertaken with any prospective bidders in any form. The Purchasing Division will always ask to control all communications once a solicitation has gone public to ensure that there is no appearance of inappropriate communications or unfair advantages being created.

Understanding the 1090 Rule:

In the state of California, consultants who often work closely with agencies in developing project plans, scoping out terms of service or planning long-term program goals often have the potential of running into the California Government Code 1090 issue.

The rule states that one cannot serve in two capacities on the same contract. For example, a consultant cannot assist in scoping a proposal document and then compete to win the award of the resulting contract. It is a direct violation of 1090. Although more often relevant in engineering and architecture consulting, 1090 violations can occur in all disciplines and vendors that have partnered with the City on projects should be warned in advance that scope planning will preclude them from competition.

Public Information

Information in the Purchasing Division is considered "Public Information" subject to certain provisions. All bid and proposal documents, including the Request for Bid, Request for Quotation, Request for Proposal, or Request for Qualification, the public notice advertisement, all amendments and attachments, and all submittals shall be a matter of public record. The City Attorney will review all requested documents prior

to being released. Documents are located and available on the City's on-line bid management system and is available to those seeking information.

Section 2: Purchasing Authority

City Departments must procure and establish contracts in accordance with purchasing ordinance 4276. Purchases obtained by any other methods not permitted under the ordinance may be considered void and subject to termination.

Invoices without a valid purchase order number may be returned to the supplier unpaid. Employees involved in the procurement process must consider the following when requesting and approving purchases:

- Only the City Council, City Manager or Procurement Officer can commit the City to a contract for goods or services. Vendors must be made aware of staff's limited authority in contract approval.
- The authority to increase contracts for goods and services, prior to implementation of the change, is as follows:
 - If the total expenditure is less than 25% of the original contract or will not cause the total contract to exceed \$100,000, the Finance Director or Procurement Officer have the authority to approve the amendment.
 - Increase of more than 25% or that cause the total contract to exceed \$100,000 must be approved by the City Council, unless there has been a delegation of authority.

Procurement Officer and Finance Director

The Finance Director has the authority to designate an individual(s) as the Procurement Officer of the City. The Procurement Officer's authority and responsibilities include:

- The authority to approve any purchase or contracting of competitive supplies, services and equipment where the annual cost, per scope of service, per vendor and does not exceed \$100,000 during a Fiscal Year period.
- Authority to approve informal and formal sole or single source purchases between \$5,000 and \$50,000.
- Negotiates and recommends execution of contracts.
- Ensures a full and open competition as often as possible on all purchases.
- Designate individuals including, but not limited to the Buyer to function as Procurement Staff.
- Authority to resolve protest.
- Authorize emergency purchases.
- Manage surplus City property, including sale and disposition.

City Manager

The City Manager must approve procurements that exceed the authority of the Finance Director and Procurement Officer. The City Manager has the following authority:

- Award any formal bid or proposal between \$100,000 and \$150,000.
- Approve formal agreements between \$100,000 and \$150,000.

- Approve maintenance and software agreements exceeding \$50,000 for equipment and software maintenance agreements previously approved by the City Council. The award of a maintenance or software agreements must be to the same company as approved by City Council.
- Approve and execute contracts for Public Works/Water Resource Projects between \$60,001 and \$200,000.
- Approve and execute contracts for Professional Services for all CIPS between \$60,001 and \$200,000.
- Approve informal and formal sole or single source purchases between \$50,000 and \$100,000.

City Council

The Council must approve procurements that exceed the authority of the City Manager. Typical purchases that require City Council's approval include:

- The City Council has the authority to award any formal bid or proposal in excess of \$150,000.
- Approve formal agreements over \$150,000.
- Approve and execute contracts for Public Works/Water Resource Projects over \$200,000.
- Approve and execute contracts for Professional Services for all CIPS over \$200,000.
- Approve informal and formal sole or single source purchases over \$100,000.

Staff Reports

When preparing Staff Reports to award a Formal RFP, please include the following language in the *Procurement Process Section*:

On *(Insert Date)* a Request for Proposal (RFP) No.*(Insert RFP No – and "RFP Name")*- was issued on the City's electronic bidding platform. The solicitation notified *(Purchasing will provide this number)* potential suppliers, of which *(Purchasing will provide this number)* suppliers downloaded the RFP, resulting in the City receiving *(Purchasing will provide this number)* proposals. All *(Purchasing will provide this number)* proposals met minimum qualifications and were then evaluated on a *(Purchasing will provide this number)* point scale based on Responsiveness and Compliance, Qualifications, Past Performance, Project Approach and Price Proposal. *(Insert Vendor/Contractor/Consultant Name)* proposal was selected as the highest-ranking proposal by the Evaluation Committee. *(Add language pertaining to price proposal)*. Therefore, Staff recommends that the City Council authorize the City Manager to execute the attached agreement *(Attachment #)* to start on Month XX, 20XX, or as soon as possible thereafter.

Section 3: Contract Formation and Source Selection

There are several purchasing mechanisms used in the procurement process. Each has specific guidelines for use.

A purchase order (PO) is a legal contract with pre-determined terms and conditions. The terms and conditions are stipulated on the issued PO. The financial management system assigns each PO a number. The Finance Department approves every PO.

Procurement Card Purchases (P-Card)

P-Card purchases are to allow a quick, easy method of procuring inexpensive, non-recurring items for departmental operations. Departments have been delegated the authority to procure up to \$3,000 per single transaction within certain parameters established by Purchasing. Please review the P-Card Program Policy and Procedures for further information regarding P-Card purchases.

Purchase Order

The Purchase of services, supplies, professional services and equipment of \$5,000 and over shall be made by purchase order issued by the Purchasing Agent. Appropriate documentation, demonstration of selection process, appropriate approval, non-competitive documentation (if applicable), scope of work and contracts are required as part of the purchase order.

Under no circumstance should any officer or employee of the City request a supplier to deliver goods and/or services, professional services or equipment prior to an issue of a PO by the Purchasing Division.

City departments must verify an available budget prior to submitting purchase requisitions to Purchasing. Purchase orders, once approved will encumber funds in the City's financial management system.

Under certain circumstances, there are exemptions for obtaining purchase orders:

- Subscriptions
- Refunds
- Membership Dues
- Credit Card Purchases
- Registration Fees
- Authorized Meal Expenses
- Conference Expenses
- Travel Expenses
- Reimbursements
- Other Government Agency Fees
- Petty Cash Reimbursements
- Training (Outside City of Pomona)
- Rentals
- Library Books, subscriptions, periodicals, journals
- Uniform Allowances
- Mileage reimbursements

Open Purchase Order

Open Purchase Orders are used at the department level to secure goods, services, and professional services on an as needed basis to support ongoing City Operations and support various City departmental functions. Open Purchase Orders are only valid for one (1) fiscal year.

Blanket Purchase Order

Blanket Purchase Orders are established by Purchasing in the financial management system for the purchase of Citywide goods and services. Examples of blanket purchase orders are Home Depot, Waxie and Konica Minolta. Purchasing will release a list of blanket purchase orders at the beginning of every fiscal year. Departments will reference the Citywide Blanket Purchase Order when creating the requisition for their own Department.

Contracts

Contract Approvals

City Council must approve all formal contracts with an **aggregate** amount in excess of \$150,000. Signature authority will be delegated to the City Manager unless City Council authorizes otherwise. Formal contracts are required for all consulting/professional service agreements and construction contracts.

All contracts require City Attorney approval as to legal form. The Risk Manager shall review the contract company's insurance certificate. Use the Contract/Agreement Checklist to ensure all reviews are completed. Departments should print three (3) copies of the contract and have the vendor sign them in blue ink.

Contract Terms

City Code does not allow contracts to exceed five (5) years. Current practice allows for an initial term of three (3) years and two (2), one (1) year extensions. After the fifth year, no extensions will be approved unless extenuating circumstances exist.

Contract Amendments

The Finance Director and Purchasing Manager have the authority to approve contract amendments that will not increase the contract more than 25% and/or cause the total amount of the contract to exceed \$100,000. If either of these conditions exceed the approval authority for the Finance Director or Purchasing Manager, the department will be required to obtain City Council approval to increase the contract.

For example, a department has a contract with XYZ Corp for \$80,000. Staff creates an amendment for 15%, increased the total contract to \$92,000. Another amendment is requested to increase the contract another 10%, increasing the total contract to \$101,200. Because the second amendment to the contract exceeded the informal amount set by City Code, staff will be required to obtain City Council approval for the second amendment increase.

Retroactive Contracts

Retroactive contracts are not permitted and if they occur, the contract will be considered invalid unless it is ratified by the City Council.

Public Works Projects and Professional Services for All CIPs

Public Works projects and Professional Services for All CIPs are performed on property owned by the City. The City utilizes Public Contract Code § 22032(a-c) to establish the limits defining if the bid should be informal or formal.

Informal Changes Orders – Public Works Projects

Change orders will be identified as an unforeseen construction event once the project has begun. If the project was awarded by an informal procedure the aggregate of all change orders cannot exceed 25% or exceed the informal limit defined in Public Contracts Code § 22032(b). If the cumulative amount of the change orders is greater than 25% of the original contract or will cause the amended contract amount to exceed the informal limit set by Public Contracts Code § 22032(b), approval of the change order will require City Council approval.

Formal Change Orders – Public Works Projects

Change orders will be identified as an unforeseen construction event once the project has begun. The City Manager has the authority to approve and execute aggregate change orders up 25% of the original contract amount. If aggregate change order exceed 25% of the original contract amount, change order will require City Council approval.

Informal Amendments – Public Works Projects

An amendment will be identified as adding additional projects not included in the contract's original scope of work. The City Manager has the authority to approve and execute aggregate amendments up 25% of original contract. If aggregate amendments exceed 25% of the original contract amount, amendment will require City Council approval.

Formal Amendments – Public Works Projects

An amendment will be identified as adding additional projects not included in the contract's original scope of work. The City Manager has the authority to approve and execute aggregate amendments up 25% of original contract. If aggregate amendments exceed 25% of the original contract amount, amendment will require City Council approval.

Amendments – Professional Services for all CIPs

An amendment will be identified as adding additional projects not included in the contract's original scope of work. The City Manager has the authority to approve and execute aggregate amendments up 25% of original contract. If aggregate amendments exceed 25% of the original contract amount, amendment will require City Council approval.

Section 4: Solicitation Methods

Informal Quotes

Informal quotes are for the purchase of goods, supplies and services up to \$4,999. Informal quotes may be solicited by email, fax, informal correspondence or the internet, as well as the electronic procurement system. Informal quotes are required to solicit at least three vendors. This type of solicitation method should be used for micro-purchases.

Invitation for Bid (IFB)

This process is for the procurement of goods, services and equipment between \$5,000 and \$100,000. IFBs is used to establish an open purchase order and establish pricing for a set term of years. The bid is often awarded to the lowest, most responsive and responsible bidder.

Request for Quote (RFQ)

An informal solicitation normally used to solicit quotes for the one time purchase of goods, services and equipment between \$5,000 and \$100,000. The bid is often awarded to the lowest, most responsive and responsible bidder.

Request for Qualifications (RFQual)

This is a solicitation method used to solicit qualified contractors and consultants for services. Examples of when an RFQual is used, but not limited to, are the Master On-Call List, Landscaping, and Security Services. Responders that meet the qualification criteria listed in the RFQual documents will be included in the subsequent Request for Proposals solicitations.

Request for Proposal (RFP)

A formal solicitation used for the purchase of services, complex systems and high value equipment. Procurements \$100,000 and greater are required to be an RFP, but RFPs may be used for purchases under this threshold. Public notice for invitations for all RFPs will be posted on the City's electronic procurement system and the City website. The City uses a best value evaluation when evaluating an RFP, whereby evaluation criteria may include qualifications and experience, technical and functional specifications, cost, financial stability and references. The establishment of the evaluation criteria should occur prior to the release of the RFP and the categories of evaluation should be included in the RFP. The evaluation panel reviews and scores the proposals using the predetermined evaluation criteria. Contracts for certain professional services including architecture, professional engineering, environmental, land surveying and construction project management are selected on the basis of expertise and competence before cost proposals are opened.

Arts in Public Places (AIPP) Exception

The Finance Director has the authority to allow exceptions to the formal and informal procedures. The Arts in Public Places Program shall operate as exception to formal and informal procedures, as procedures for procurement of art and artists were adopted separately by City Council. The Arts in Public Places Program procurements shall follow provision specifically laid out in Ordinance 4151 and the Public Art Manual (Resolution No. 2011-150).

Section 5: Competitive and Non-Competitive Procurement

Sole Source/Non-Competitive Procurement

A sole source or non-competitive procurement allows the City to bypass the formal solicitation process. Examples of possible sole source/non-competitive purchase of goods and services include, but are not limited to:

- Availability through a single source
- Items or systems that are proprietary
- To match existing system
- Manufacture-direct acquisition
- Something available only from a vendor with a geographically protected distribution area.

The Department Head must approve sole source procurements before sending the memo for final approval. The reasoning the department is pursuing a sole source/non-competitive procurement must be provided in the memo. The department should request information from the vendor or supplier that confirms the sole source of the goods or service.

Emergency Procurement

An emergency is an event or condition that has an operational effect on a department that requires the securing of goods or services that could not be planned for by operational staff. Examples of possible emergency purchases are as follows:

- Require immediate preservation of health
- Safety and welfare of the people
- Immediate repair to existing City equipment that affects ongoing city operations
- Protection of property and with a present immediate and existing emergency, which could not be reasonably foreseen.

Additionally, if a local emergency has been declared pursuant to City Code § 14-76, the City Manager, Finance Director, Police Chief, Water Resource Director or the Purchasing Manager have the authority to authorize emergency purchases. Emergency purchases over \$50,000 will require ratification by the City Council at the earliest opportunity after conclusion of the emergency.

In either case, standard procurement procedures should be utilized, to the extent practical, during any emergency.

Cooperative Purchasing

The Pomona City Code allows the City to engage in cooperative purchasing or “piggyback” agreements. A cooperative agreement is an instance where a different agency takes the lead on carrying out a formal solicitation to benefit a region or body of agencies so that the benefit of economies of scale can occur. An example of cooperative agreements that are common are those for office supplies, custodial supplies or furniture.

In order to utilize a cooperative agreement, the following must occur:

1. Purchasing must review the original solicitation and resulting awarded contract and verify it meets the City’s bidding requirements.
2. After review and recommendation to use the cooperative agreement, the requesting department

must issue a memo or staff report depending on the cost. Memos should be routed through Finance for Purchasing and Finance Director approval or review and City Manager approval, if necessary.

3. If a staff report is required to finalize the purchase, the report should include a statement referencing purchasing's review and recommendation of the cooperative agreement.
4. The approved memo/staff report should be attached to the requisition.

Section 6: Competitive and Non-Competitive Procurement
Purchase Guidelines Table
QUICK REFERENCE - GENERAL GOODS, SERVICES AND PROFESSIONAL SERVICES

DESCRIPTION/TYPE OF PURCHASE	TOTAL PURCHASE AMOUNT	THREE BIDS REQUIRED?	CITY MGR OR CITY COUNCIL REPORT REQ'D?	Sole Source Rules
Micro Purchase	Up to \$5,000	No	No	
Open Market - Informal Procurement Procedure	\$5,000 - \$100,000	Yes, IFB must be used to obtain bids.	No	\$5,000 to \$50,000 will be approved by Purchasing Manager (PM) and Finance Director (FD) \$50,000 to \$100,000 will be reviewed by PM and FD and approved by the City Manager (CM) \$100,000+ will be reviewed by PM, FD and CM and approved by the City Council
Formal Procurement	\$100,001 and above	Yes, must use RFP or RFQ to obtain bids.	\$100,000 to \$150,000 shall be award by CM \$150,000+ shall be awarded by City Council	\$5,000 to \$50,000 will be approved by Purchasing Manager (PM) and Finance Director (FD) \$50,000 to \$100,000 will be reviewed by PM and FD and approved by the City Manager (CM) \$100,000+ will be reviewed by PM, FD and CM and approved by the City Council
Public Works/Water Resources Public Projects	<\$60,000	No, can be established by negotiated contract or by PO	No	
Public Works/Water Resources Public Projects	<\$200,000	Yes, IFB must be used to obtain bids.	Yes, CM has the Authority to execute informal contracts	
Public Works/Water Resources Public Projects	>\$200,000	Yes, must use RFP to obtain bids.	Bid shall be award by the City Council	

DESCRIPTION/TYPE OF PURCHASE	TOTAL PURCHASE AMOUNT	THREE BIDS REQUIRED?	CITY MGR OR CITY COUNCIL REPORT REQ'D?	
Professional Services for all CIPs	<\$60,000	No, can be established by negotiated contract or by PO	No	
Professional Services for all CIPs	<\$200,000	Yes, IFB must be used to obtain bids.	Yes, CM has the Authority to execute informal contracts	
Professional Services for all CIPs	>\$200,000	Yes, must use RFP to obtain bids.	Bid shall be award by the City Council	

Section 7: Glossary of Procurement Terms and Abbreviations

-A-

Acknowledgement

A written or electronic communication sent by the supplier to the City that indicates that the supplier has accepted the purchase order. It may be a form of acceptance and create a bilateral contract. However, it may also be a form of counter-offer from the seller to the buyer.

Addendum / Addenda

An instrument used to make changes to a solicitation after the solicitation has been sent to prospective contractors but before contractor responses are due. All addenda should state whether the deadline for submissions has changed or remains the same.

Aggregate Amount

The total dollar amount of an agreement.

Authority

The express right to perform certain acts governing the conduct of others or committing the City to a course of action.

-B-

Best And Final Offer (BAFO)

The term used to describe a basic approach to negotiations in which the agency asks one or more of the prospective contractors to submit a revision to their proposal that will not be subject to further negotiations. In some cases, the agency may provide a revised scope of work or other contract changes that should be considered when the contractor (or contractors) prepares their BAFOs.

Best Practice

A business process, activity, or operation that is considered outstanding, innovative or the bench mark as recognized by a peer group.

Best Value

A result intended in the acquisition of all goods and services that provides the greatest overall benefit to the City. Price must be one of the evaluation criteria when acquiring goods and services. Other evaluation criteria may include, but are not limited to environmental considerations, quality, cost of consumables, cost for maintenance or service and supplier performance.

Bid Bond

A written guaranty from a third-party guarantor (usually a bank or an insurance company) submitted with a bid to a principal (client or customer) by a contractor (bidder). A bid bond ensures that, on acceptance of a bid by the customer, the contractor will proceed with the contract and will replace the bid bond with a performance bond.

Bid Center

The City's externally hosted, web based application used to post, process, track and report solicitations. Also used for vendor registration and management.

Bid Evaluation

- 1.) The process of determining the bid(s) or quote(s) with the best value to the City.
- 2.) The form for tabulating bid responses and preferences.

Bid Closing

The deadline to submit a bid. Bids received after the deadline are late, deemed non-responsive, and returned unopened to the bidder.

Bid Opening

The stage in a bidding process where the received ebids are opened and examined by the City.

Bid Protest

- 1.) A formal complaint that is made against the methods employed or decisions made by the City in the administration of a process leading to the potential award of a contract.
- 2.) The process to resolve such a complaint.

Blanket Purchase Order

- 1) A purchase order with a maximum dollar amount for purchasing an indefinite quantity of small dollar goods where price has not been defined by a contract and are typically for \$5,000 or less.
- 2) A purchase order with a maximum dollar amount for purchasing an indefinite quantity of goods where the price has been determined through a market basket bid and contract.

Blanket Purchase Orders shall be closed at the end of the fiscal year.

-C-

California Public Contract Code

A series of State of California laws governing acquisitions and contracting by state agencies and political subdivisions. Sections 20160 – 20174 apply to general law cities.

California Public Records Act

A series of State of California laws designed to guarantee that the public has access to public records from governmental bodies like the City of Pomona. Statutes 6250-6270 define the law.

Change Order

A type of modification to a *contract* that is normally used to authorize a change in the scope of work required to become effective sooner than would be possible with

the more formal contract amendment. Change Orders in state and local government contracting are normally limited to construction contracts, and can normally be approved, within certain price parameters, at a lower organizational level than the original contract.

Competitive Bidding

The process of soliciting bids and awarding a contract to the lowest responsive and responsible bidder. Typically applies to an invitation for bid (IFB) or request for bid (RFB).

Contract

Any binding document, regardless of what it is called, between two or more parties, consisting of an offer, an acceptance of an offer and valid consideration. Any reference to a "contract" shall be deemed to include all documents attached to or incorporated in the contract. The City has specific rules (City Code; Administrative Policies; Procedures) depending upon types of contracts such as those for goods, services and public projects.

Other City contract types include, but are not limited to:

- Application/Software License Agreement
- Co-operative Agreements
- Development Agreement
- Employment Contract
- Grant Application/Receipt
- Individual Participation Agreement
- Inter-Agency Agreement
- Memorandum of Understanding (MOU)
- Real Property
- Agreement/Easement/Grand Deed
- Sewer Credit Agreement

Contract Amendment

A revision or extension of a contract that is fully executed by the contractor and the City. This term replaces "Contract Supplement".

-E-

Economies of Scale

A reduction in selling price because of an increase in the quantity ordered; the aggregation of quantities to obtain certain economic advantages.

Electronic Funds Transfer

The direct payment to contractors and businesses through electronic transfer of funds between financial institutions. Payment by paper check is eliminated.

Encumbrance

The commitment or appropriated funds to purchase goods or services. To encumber funds means to set aside or commit funds for a specified future expenditure. A purchase order is the method used by the City to encumber funds.

Escalation Clause

A contract provision, which permits the adjustment of contract, prices by an amount or percentage if certain specified contingencies occur, such as changes in the supplier's raw material costs or labor costs.

Ethics

A principle of right or good conduct or a body of such principles; a system of moral principles or values; a code of conduct. Prohibits breach of the public trust to realize personal gain by a City employee through conduct inconsistent with the proper discharge of the employee's duties.

Evaluation Criteria (or Selection Criteria)

The factors considered for evaluation to select the successful contractor from submitted proposals. Evaluation criteria should be described in the solicitation to permit the prospective contractors to understand the basis for selecting the successful contractor. When evaluating proposals, it is essential to base the selection solely on the evaluation criteria stated in the solicitation.

Evaluation of Responses

The examination of quotes, bids, Request For Qualifications or Request For Proposals after opening to determine each respondent's responsibility and each solicitation's responsiveness to requirements and other aspects of the solicitation to determine the successful respondent.

-F-

Fixed Asset

A product or system over \$5,000 (including sales tax and shipping).

Free On Board (FOB)

A designation of which party, the Supplier or the City, pays for freight, bears the cost of the freight, files for damages in transit, and when title to the goods is passed from the seller to the City.

Refer to the chart below for various FOB designations are listed below from the most risk to the City down to the least risk:

-G-

GPO

Group Purchasing Organization; an entity that is created to leverage the purchasing power of a group of governmental agencies to obtain discounts from suppliers based on the collective buying power of the GPO members. Most GPOs are funded by administrative fees that are paid by the suppliers that the GPO oversees.

-I-

Indemnity/Indemnification

Indemnification provisions typically require one or both parties to a contract to accept responsibility for loss or damage to a person or entity, and to compensate the other party for losses or expense incurred that arise due to the other party's negligence or willful misconduct.

Informal Bid

An Invitation for Bids for goods or services where the total expenditure is anticipated to be \$25,000 or greater but less than \$100,000. Informal bids must be submitted in a sealed envelope. Informal bids can be received and opened by the department. Advertising in the City's Bid Center is required; advertising in the City's official newspaper is not required. Contrast with "Formal Bid".

Insurance

Insurance provisions typically describe the types of insurance coverage and limits of liability for insurance policies that must be maintained by the contractor during the entire term of the contract. Typical types of required insurance coverage are general liability, automobile coverage, and workers' compensation. Professional liability coverage is also required if the contractor is expected to provide professional services such as legal, engineering, architectural, accounting, or the services of similarly trained professionals.

Intangible Goods

Items for sale that do not have a physical nature, such as music downloads or software licenses. Because these goods do not have a physical nature, they are usually not subject to sales tax. Contrast with "Tangible Goods".

Invitation for Bids (IFB)

A written notice issued to potential bidders that includes bid specifications and specifies, among other things, the procedures for bid submittal and place, date and time of bid opening. A solicitation normally used to solicit bids for goods, equipment, supplies, services, capital equipment or construction work estimated to cost \$25,000 or more. IFBs are normally not used to solicit bids for services, but there are exceptions, such as for janitorial services. They are opened publicly and result in award of a contract to the responsive, responsible bidder with the lowest price. Refer to "Solicitation Terminology" for relationships to other types of solicitations. *This term was changed in 2018: see "Request For Bids".*

Invoice

A list of goods or services sent to the City showing information including prices, quantities and shipping charges for payment.

ISO

See "International Organization for Standardization".

IT

Information Technology.

-J-

Job Order Contracting (JOC)

Based on a competitively solicited indefinite delivery / indefinite quantity contract between the City and a construction or maintenance contractor. The contract sets parameters such as the type(s) of work to be performed, location(s) of the work, design criteria and maximum amount of work to be awarded. The contract also has a unit-price book that establishes a unit price to be paid for each of a multitude of line items.

-L-

Lease with Option to Purchase (Lease-Purchase Agreement)

Agreement under which the City has the right to purchase the leased item, either at the end of the lease term or within a specified period, from the lessor.

Line Item

An item of supply or service specified in a solicitation for which the supplier must specify a separate price.

Liquidated Damages

A specific sum of money, agreed to as part of a contract to be paid by one party to the other in the event of a breach of contract in lieu of actual damages, unless otherwise provided by law.

Local Business Enterprise (LBE)

A City program to provide enhanced business opportunities to individuals and firms based upon geographic criteria. The LBE provides for a 5% preference on City procurement opportunities under \$100,000. There is a 5% minimum participation requirement for Service and Public Project contracts \$100,000 or more.

Lowest Responsible Bidder

The bidder with the lowest price whose past performance, reputation and financial capability is deemed acceptable.

Lowest Responsive Bid

A properly-submitted bid response that offers the most advantageous pricing or cost benefit and that meets all the requirements stated in the bid documents.

-M-

Master Contract

A contract for on-call work for a specified term with a general scope of work.

Monitoring

A contract administration tool, whereby certain procedures are developed to assure that the City is being delivered the contracted services according to the terms and specifications of the contract.

M/WBE

Minority/Women Business Enterprise, a requirement in certain grant-funded projects that the prime contractor notifies or employs minority or women-owned businesses as subcontractors.

-N-

Negotiation

Requests for Proposals are often used as a starting point for negotiations to establish a contract. RFPs generally include more than just price considerations.

Net Price

Price after all discounts, rebates, etc., have been allowed.

Non-Responsible Bidder

A response to a bid from a bidder who has been determined not to have the ability or capacity to fully perform the requirements of the bid or contract. A business entity or individual who does not possess the integrity or reliability to assure contractual performance. This determination can only be made upon approval of the Office of the City Attorney.

Non-Responsive Bid

A response to a bid that does not conform to the mandatory or essential requirements contained in the Invitation for Bid.

-O-

Open Purchase Order

- 1.) Generally, a purchase order that has not been closed or completed.
- 2.) Specifically, a purchase order that has not yet been approved and dispatched.

Option to Extend (or Renew) a Contract

In accordance with contract terms, an option that allows a continuation of the contract for an additional period. Requires a fully executed Contract Supplement.

-P-

Partial Payment

The payment authorized in a contract upon delivery of one or more units called for under the contract or upon completion of one or more distinct items of service called for thereunder.

Partial Shipment/Delivery

A delivery made against a purchase order or contract, which is less than the quantity ordered. It may be indicative of a back-order situation, or a temporary material shortage.

“Piggybackable” Contract

If mutually agreeable to both parties, a contract whose use may be extended to other government agencies. Generally, a larger entity will competitively award a contract that will include language allowing other agencies to utilize the contract, which may be to their advantage in terms of pricing. The agencies gain economies of scale and the contractor gains additional markets.

Pre-Bid / Pre-Proposal Conference (meeting)

A conference that is held by the City after a bid or RFP has been posted but several days before the submission deadline. Prospective respondents may meet to discuss the solicitation requirements. Pre-bid or Pre-Proposal conferences may be either optional (recommended) or mandatory.

Prevailing Wage

The rate of wages, including fringe benefits, paid to a majority of the workers in a geographic area for the same type of work on similar projects. **Refer to State of California Labor Code section 1770-1784 and City Code Chapter 3.60.18.**

Prequalification of Suppliers (Bidders or Proposers)

The screening of potential suppliers in which such factors as financial capability, reputation and management are considered when developing a list of qualified suppliers.

Procurement Card (P-Card)

A payment method whereby City staff is empowered to deal directly with suppliers for purchases using a credit card issued by a bank. A pre-established credit limit is established for each card issued with a limit per transaction and a limit per billing cycle.

Procurement Contract

Not a contract per se, but the module in PeopleSoft that can track financial and other data related to a Transactional Contract including items and expiration dates. Contrast with “Ad Hoc Contract” and “Transactional Contract”

Procurement Procedures

Written methods, developed by City staff and approved by the City Manager, that specify detailed operational requirements for City procurement that are consistent with applicable provisions of the City Charter, City Code and Administrative Policy Instructions (APIs).

Procurement Services

- 1.) The combined functions of preparing or reviewing solicitations, purchasing, contracting, and salvage and disposal operations.
- 2.) A division of the Finance Department principally charged with Procurement activities.

Professional Services

A service of a professional character of any type, description, or variety including,

but not limited to, services rendered by:

- Actuaries
- Archaeologists
- Architects
- Attorneys
- Auditors
- Budget Analysts
- Construction Project Managers
- Doctors
- Economic Analysts
- Engineers
- Environmental Analysts
- Historic and Cultural Resource Consultants
- Information Technology Providers
- Investment Advisors
- Land Surveyors
- Landscape Architects
- Lobbyists
- Planners
- Scientists (Biologists, Chemists, etc.)
- Telephone/Telecommunication Systems
- Title Companies
- Transportation Analysts
- Veterinarians

Professional Services often required “E&O” (Errors and Omissions) insurance. Contrast with “Non-Professional Services”.

Protest

The term used to describe a challenge to the solicitation, procedure for selecting a contractor, recommendation to award a contract, or actual contract award. An unsuccessful contractor (or contractors) generally initiate protests. Bid may be protested, but there is no process for protesting an award through an RFP.

Public Bid Opening

The process of opening and reading bid results at the time and place specified in the solicitation and in the presence of any member of the public who wishes to attend.

Public Works (Public Projects)

Construction, alteration, demolition, installation, or repair work done under contract and paid for in whole or in part out of public funds. **Refer to State of California Labor Code section 1720-1743 and State of California Public Contract Code sections 22000-22003.**

Purchase Order

A written authorization for a contractor to supply goods or services at a specified price and over a specified period. Acceptance of the purchase order constitutes a binding contract. If there is a pre-existing contract, the purchase order merely serves as the payment vehicle and the method used to encumber funds for payment.

PWC-100 Form

A State of California Department of Industrial Relations form used by the City to inform the DIR of a public works project award as required by Labor Code sec. 1773.3 and 8 Cal. Code Reg. sec. 16451(a).

-Q-

Quote

An informal procurement process, which solicits pricing information from a minimum of three sources but is not advertised on the City's Bid Center website or through the Official Daily Newspaper. A solicitation under \$25,000. Refer to "Solicitation Terminology" for relationships to other types of solicitations.

-R-

Request for Quotes or Request for Quotations (RFQ)

An informal solicitation normally used to solicit quotes for low-dollar-value merchandise that is easily described. RFQs are normally not used to solicit quotations for services.

Req

Diminutive form of "Requisition".

Request for Bid

A written notice issued to potential bidders that includes bid specifications and specifies, among other things, the procedures for bid submittal and place, date and time of bid opening. A solicitation normally used to solicit bids for goods, equipment, supplies, services, capital equipment or construction work estimated to cost \$25,000 or more. RFBs are normally not used to solicit bids for services, but there are exceptions, such as for janitorial services. They are opened publicly and result in award of a contract to the responsive, responsible bidder with the lowest price. Refer to "Solicitation Terminology" for relationships to other types of solicitations. *This term supersedes "Invitation for Bids".*

Request for Information (RFI)

A non-binding solicitation method whereby the City publishes a notice to interested parties for a possible upcoming solicitation. A procurement practice used to obtain comments, feedback or reactions from potential contractors prior to the issuing of a solicitation. Price or cost is not required. Refer to "Solicitation Terminology" for relationships to other types of solicitations.

Request for Proposals (RFP)

The type of solicitation normally used to solicit proposals for professional services where cost is not the ultimate criteria for contract award. RFPs typically include a short introduction of the state or local government agency soliciting proposals; background of the service to be contracted, to include the present manner in which the service is being provided; a description of the service to be provided; evaluation

criteria to be used in selecting the successful proposer; rights reserved by the contracting activity; format for preparing proposals along with page limitations when appropriate; and a copy of a model contract that includes the terms and conditions, required insurance coverage, and scope of work. Refer to “Solicitation Terminology” for relationships to other types of solicitations.

Request for Qualifications (RFQual)

A solicitation to obtain statements of the qualifications or ability of potential contractors to perform categorized services during a specific time period. Used to develop a list of on-call contractors or to develop a short list of potential proposers for a future RFP. Abbreviated as “RFQual” by to avoid confusion with an RFQ (Request for Quotes). Refer to “Solicitation Terminology” for relationships to other types of solicitations.

Requisition

A request entered into the financial software system by a division; it contains details of materials needs or service requirements referencing the authorization to make the purchase. The requisition is automatically assigned a requisition number by the software system. It is routed for approval, and then electronically submitted to procurement services for review and expediting to create a purchase order. It is an internal document.

-S-

Scope of Work

The section of the solicitation or contract document that describes in detail the work to be performed by the contractor. It may be broken into specific tasks with deadlines. Contrast with “Statement of Work”.

Sealed Bid or Sealed Response

A bid or proposal submitted in an envelope or container closed in such a manner as to prevent the contents of being revealed or known before the deadline for submission of responses.

Services

Either non-professional or professional tasks performed by a contractor. The UCC does not apply to purchase of services.

Sole Source

A situation created due to the lack of competition in the marketplace. May result because only one supplier possesses the unique ability or capability to meet the requirements of the solicitation. May result because of territorial restraints on dealerships as determined by the manufacturer. May result because of standardization by the City. Requires submission of a signed Non-Competitive Bid/Contract Justification with the requisition.

Solicitation

The process of requesting or offering a good or service or public project (Quote, IFB,

RFB, RFP, RFQ, etc.). Solicitation can also include requests and negotiations for transactions between the City and other entities that do not go through the standard bid process such as labor, real estate, establishing/releasing authority, memorandums of understanding, etc.

Specification

A concise statement of a set of requirements to be satisfied by a product, material or process that indicates whenever appropriate the procedures to determine whether the requirements are satisfied. As far as practicable, it is desirable that the requirements are expressed numerically in terms of appropriate units, together with their limits. A specification may be a standard, a part of a standard, or independent of a standard.

Statement

A detailed listing from the supplier of transactions taking place over a stated period and usually concluding with the open or unpaid balance.

Statement of Work

The response from the potential contractor outlining very specifically how the supplier proposes to complete the work as outlined by the City in the Scope of Work.

Statement of Qualifications

Responses to Request for Qualifications from prospective contractors. It describes the contractor's qualifications to perform the services to be provided. A statement of qualifications does not normally include pricing.

-T-

Termination for Cause

Right of a contractor and of the City to completely or partially terminate performance of the contract under the provisions of a termination clause.

Termination for Convenience

Standard clause in contracts which gives the City the right to unilaterally terminate the contract at any time with or without giving any reason. The contractor is generally entitled to a negotiated settlement for an equitable recovery of costs and losses incurred. See also "Termination for Default".

Termination for Default

Standard contract clause which gives the City the right to unilaterally terminate the contract if the contractor fails to perform according to the specified terms. The contractor is generally not entitled to any payment for the unfinished part of the contract and, instead, may be liable for (1) repayment of monies advanced, (2) liquidated and other damages, and (3) excess cost incurred by the customer in completing the contract under a new contractor. See also "Termination for Convenience".

Terms and Conditions

Provisions that describe the rights and responsibilities of all parties to the contract.

Terms of Payment

The method of payment stipulated in the contract.

-U-

Uniform Commercial Code (UCC)

A comprehensive modernization of various statutes relating to commercial transactions, including sales, lease, negotiable instruments, bank deposits and collections, funds transfers, letters of credit, bulk sales, documents of title, investment securities and secured transactions. The UCC determines rights and obligations on the basis of fairness and reasonableness in the light of accepted business practice.

- The most important part of the UCC for the City is Article 2 entitled "Sale of Goods." Absent a specific state or federal statute or City administrative regulation, Article 2 will govern the contract for the sale of goods.
- The UCC does not apply to the purchase of services and is not applicable to Federal Government contracting.
- First published in 1952, the UCC was formulated by the National Conference of Commissioners on Uniform State Laws (NCCUSL) and the American Bar Institute. It was extensively revised over a fifteen-year period concluding in 2003.

-V-

Vendor

- 1.) Specifically, a supplier who maintains vending machines.
- 2.) Generally, a firm or individual who sells something; a "seller." The term is considered archaic and is being replaced by "supplier".

-W-

Women-Owned Business Enterprise

A business solely owned by a woman or a business where women own at least 51% of the stock.

We hope this manual has been helpful for you. If you have any questions please do not hesitate to contact the Purchasing Staff. We are here to assist you in providing service to our community. If any information in this manual is in conflict with the information contained in the City Code, the City Code prevails.

Appendix

The Following Documents listed below are available on the City of Pomona's Intranet site Go to Finance/Budget

- Contract Templates
- RFP Templates
- Sample Award of Bid - City Council Report
- P-CARD Manual
- Purchasing Code (Approved January 2020)