

	MANAGEMENT POLICY	POLICY NUMBER: 200
	SUBJECT: PROCUREMENT POLICY AND PROCEDURES	EFFECTIVE DATE: 03/15/79 Revised: 01/17/2019

I. PURPOSE

The purpose of this Management Policy (“Policy”) is to:

- Clarify and standardize the City’s Procurement procedures;
- Provide for economy and efficiency in City Procurements to maximize the value of monies spent; and
- Provide safeguards that ensure the quality and integrity of the City’s Procurement process.

This Policy applies to the Procurement of Materials, Professional and Non-Professional Contract Services, and Concessions by the City. As to the Procurement of Capital Improvements by the City, this Policy applies only where it specifically references Capital Improvements and will not be deemed to conflict with Title 34 of the Arizona Revised Statutes (if applicable). This document supplements the requirements of Section 609 of the City Charter and Title 1, Chapter 21 of the City Code.

II. DEFINITIONS

A.R.S.: Arizona Revised Statutes

Capital Improvements: The construction of a building or structure, or additions to or alterations of existing buildings or structures. The term structure shall include without limitation paving, concrete, or other mortar work, streetlights, traffic signals, drainage facilities, pipes, grading, major improvements to landscaping and other construction work. Capital Improvements do not include the routine operation, routine repair or routine maintenance of existing facilities, structures, buildings or Real Property.

Change Order: A written order signed by a Chief Procurement Officer or Designee that authorizes a change in the scope, quantities, items, time for performance or pricing of a previously issued Contract.

Chief Procurement Officer: An employee appointed by the City Manager with the authority and responsibility to administer day-to-day Procurement activities pursuant to the City Charter, City Code, this Policy and applicable law.

Competition Impractical: A Procurement option utilized for Professional Services where, because of the proprietary nature, existing experience, warranty, statutory requirements or other relevant factors to the Procurement, a Competitive Selection is deemed not practical or advantageous to the City.

Competitive Selection: A process whereby a public Solicitation is used to select the best provider of Materials, Services, Concessions or Capital Improvements. Methods of

Competitive Selection include Request for Bids (all types including Multi-Step Request for Bids, Online Bidding, Reverse Auctions), Request for Proposals, and Request for Qualifications.

Concession: An authorization allowing the use of City property for the purpose of making profit by the Contractor, the City or both. A Concession does not include Real Property leases, licenses, easements or other, similar authorizations for the use of Real Property.

Contract: All types of agreements, regardless of what they may be called, for the Procurement of Materials, Services, Concessions or Capital Improvements. Oral Contracts are strictly prohibited.

Contractor: A person who has a Contract with the City. A person is defined as any individual or business entity of whatever legal form, union, committee, club, other organization or group of individuals or subsidiary thereof, their representatives or affiliates.

Department: The applicable City of Mesa department.

Designee: A representative duly authorized in writing.

Emergency Procurement: A Procurement necessary for the immediate preservation of the public peace, health, or safety and for which compliance with established Procurement procedures are impractical or contrary to the public interest.

Materials: Materials, supplies, commodities, equipment and insurance. Materials do not include land or an interest in Real Property.

Name Brand Only: A specific product is required and no other brand or product will suit the specific need of the Department.

Non-Professional Contract Services: Services which are primarily provided through semi-skilled labor. The primary criteria in the selection process will be qualifications of the Vendor and price.

PCI DSS: Payment Card Industry Data Security Standards.

Personal Property: Tangible or intangible property, other than Real Property.

Procurement: The purchase, rent or lease of Materials, Services, Concessions or the Contracting for Capital Improvements. Procurement includes development of requirements, Solicitation and selection of sources, and Contract administration.

Procurement Rules: Rules promulgated by the Chief Procurement Officer to administer the day-to-day Procurement functions of the City and ensure compliance with the City Charter, the City Code, the requirements of this Policy, and applicable law.

Professional Services: Services which require special knowledge, education or training. The primary criteria in the selection process will be the qualifications of the Vendors.

Professional Services include, but are not limited to; advertising, appraisers; architects; attorneys; consultants; certified public accountants; engineers; entertainers; environmental studies; financial and operational audits; personnel and benefits studies; physicians and other health professionals; land surveyors; landscape architects;

renewals of proprietary computer hardware and software licensing; trainers and teachers; and other technical registrants as defined in Arizona Revised Statutes.

Purchase Order: A form of Contract between the City and a Vendor to acquire Materials, Services, Concessions or Capital Improvements for an agreed upon price.

Real Property: Land and its permanently affixed buildings or structures.

Services: Professional Services and Non-Professional Contract Services.

Sole Source Procurement: A Procurement in which there is only one source for the required Material, Service, Concession or Capital Improvement.

Solicitation: A Request for Bids, Request for Proposals, or Request for Qualifications in which the City invites a Vendor(s) to participate in a Procurement related activity.

Vendor: A supplier, provider or seller of Materials or Services.

III. RESPONSIBILITY FOR PURCHASES

A. **No Procurement shall be made without proper authorization.**

B. The City Manager may appoint one or more employees as a Chief Procurement Officer(s), delegating authority and responsibility to: develop Procurement Rules and procedures; administer the day-to-day Procurement functions; and ensure compliance with the City Charter, the City Code, the requirements of this Policy, and applicable law. By way of this Policy, the City Manager has designated responsibility and authority as follows:

1. The City Engineer is designated Chief Procurement Officer responsible for Procurements related to Capital Improvements.
2. The Business Services Director is designated Chief Procurement Officer responsible for non-Capital Improvement Procurements.

The Chief Procurement Officer may delegate responsibility in writing to a Designee(s) for specific types of Procurements or certain Procurement activities within the rules and procedures established by the Chief Procurement Officer pursuant to appropriate training and oversight.

C. Assistant City Managers and the City Manager's Executive Staff are delegated the authority as Designees to approve Emergency Procurements and to determine exceptions to Competitive Selection for Professional Services and Concessions. The City Manager may appoint additional employees as Designees.

D. Department heads are responsible to ensure: their staff comply with all Procurement policies; controls are established for appropriate internal approvals; Procurements are of an appropriate nature; and that Procurements are required for the effective and efficient operation of their areas. Department heads may delegate Procurement authority to Designee(s); however Department heads are responsible for ensuring Designee(s) are aware of and comply with all applicable policies and procedures. All delegations of authority must be documented in writing.

Departments are responsible for maintaining documentation of the Procurements they make for audit purposes and for compliance with records retention requirements (available on the Purchasing division's pages of the Intranet).

Departments must maintain oversight of Contracts to ensure that Contractors perform in accordance with the terms, conditions, and specifications of their Contracts and Purchase Orders.

- E. Accounts Payable is responsible for paying claims that arise from the City's Procurements.
- F. The City Attorney's Office is responsible for providing appropriate legal guidance and insurance requirements related to Procurements.
- G. All Procurements are subject to audit by the City Auditor's Office.

IV. PROCUREMENT ETHICS

A. General

The responsibility for implementing this Policy rests with each individual who participates in the Procurement process, including employees and other agents of the City, respondents to Solicitations, and Contractors.

B. Employee Responsibilities

City employees responsible for the expenditure of public funds have a responsibility to ensure their conduct will not violate the public trust placed in them. Employees must make certain their conduct does not raise suspicion or give the appearance they are in violation of the public trust.

Employees and agents of the City having responsibility for Procurement at all levels shall:

1. Encourage competition, prevent favoritism, and obtain the best value in the interest of the City and the public.
2. Place professional responsibilities above personal interests.
3. Ensure fair, competitive access to City Procurement opportunities.
4. Deal with the public, Vendors and Contractors with courtesy, consideration, and even-handedness.
5. Use information gained confidentially in the performance of City duties solely in the City's interest.
6. Disclose any potential conflict of interest to their supervisor and the Chief Procurement Officer.
7. Recuse themselves from any specific Procurement for which they have a conflict of interest.
8. Report corruption and unethical practices, wherever and whenever discovered, to the appropriate official and take other such action as is warranted by the situation.

C. Contractor Responsibilities

The Chief Procurement Officer(s) will develop Solicitation language specific to a Contractor's responsibilities for ethical practices when Contracting with the City.

V. SOURCE SELECTION

When possible and reasonable, Procurements should be viewed on a rolling annual basis for the purposes of determining the appropriate Procurement process. Procurements shall not be artificially divided to avoid the requirements set forth in this Policy or applicable law. The dollar values in this Section are applied on a rolling annual basis for term Contracts.

A. Capital Improvements

All Procurements related to Capital Improvements shall be awarded in accordance with the requirements of Arizona state law, specifically A.R.S. Title 34.

Procurements for public improvements that exceed the dollar amounts established in accordance with A.R.S. § 34-201(C) shall be awarded in accordance with the procedures established in A.R.S. Title 34, including the procedures for alternative contracting.

Procurements for public improvements that do not exceed the dollar amounts established in accordance with A.R.S. § 34-201(C) may be awarded in accordance with the requirements of Section 1-21-5 of the City Code or in accordance with the procedures established in A.R.S. Title 34 for alternative contracting.

Efforts should be made to promote Mesa business participation in procurement opportunities.

B. Procurements Up to \$5,000 (Other Than Capital Improvements)

Multiple quotes are not required for Procurements up to \$5,000, but it is the Department's responsibility to ensure the Procurement is made in a manner consistent with sound business practices and that the City receives the best value for the price paid.

Departments should use Mesa businesses whenever possible and economical.

If an individual Procurement is less than \$5,000, but will be procured again on an ongoing basis, the Department should request guidance from Purchasing.

Departments are responsible for maintaining any documentation related to these Procurements for audit purposes and for compliance with records retention requirements.

Purchasing generally does not quote or process these Procurements, though they are available for assistance upon request.

C. Procurements of Materials and Non-Professional Contract Services Greater than \$5,000 and Up to \$25,000 and Professional Services Greater than \$5,000 and Up to \$50,000 (Other Than Capital Improvements)

The Department should obtain at least three written quotes or proposals. In the event three quotes are not available, the Department shall obtain as many quotes as are reasonably available and documentation must accompany the purchase requisition explaining why three quotes were not obtained.

Departments should use Mesa businesses whenever possible and economical.

Before approving a Purchase Order, Purchasing will review the quotes and has the right to reject quotes or to obtain additional quotes. Purchasing generally does not obtain quotes for these Procurements, though they are available for assistance upon request.

D. Procurements of Materials and Non-Professional Contract Services Over \$25,000 (Other Than Capital Improvements)

Procurements of Materials and Non-Professional Contract Services shall be made by Competitive Selection as provided in the Procurement Rules except for those Procurements: (i) excluded from the Competitive Selection requirements by law or this Policy; (ii) deemed a Sole Source Procurement; or (iii) which are an Emergency Procurement.

E. Procurements of Professional Services Over \$50,000 (Other Than Capital Improvements)

Procurements of Professional Services over \$50,000 should be made by Competitive Selection to the extent practical and advantageous to the City, but in any case in a manner consistent with sound business practices that ensure the City receives the best value and service.

The City Manager, Assistant City Managers and the City Manager's Senior Executive Staff may deem a Procurement Competition Impractical upon written recommendation by the Department head. A copy of the written recommendation and approval of the Competition Impractical status shall be kept in the Department's Procurement file and a copy shall be forwarded to Purchasing.

This Subsection V(E) does not apply to renewals of proprietary computer hardware and software licensing which are governed by Subsection V(H) below.

F. Concessions

Concessions where the resulting agreement is exclusive to one or more awardees shall be Procured pursuant to Competitive Selection as provided in the Procurement Rules.

The City Manager, Assistant City Managers and the City Manager's Executive Staff may grant an exception to the Competitive Selection requirement upon written recommendation by the Department head that Competitive Selection is not practical or advantageous to the City. A copy of the recommendation and approval of the exception shall be kept in the Department's Procurement file and a copy shall be forwarded to Purchasing.

Concessions where the resulting agreement is inclusive of all those who meet the minimum requirements may be made without Competitive Selection, but must be done in a manner that affords fair and equal opportunity to Vendors.

G. Services/Expenditures Excluded from Quote and Competitive Selection Requirements

The following Services are excluded from the requirements set forth in Subsections V(B) through V(E) above:

1. Artists, entertainers, professional (expert) witnesses, attorneys and pro-tempore judges
2. Advertising
3. Former employees contracted on a temporary or consulting basis
4. Attendance at standard commercially available training seminars
5. Memberships in professional associations
6. Subscriptions to trade/professional magazines or journals, and subscriptions to library materials
7. Travel-related expenses for employees or others while traveling on authorized City business
8. Payments for regulated Services, such as postage and utilities, where there are no practical competitive alternatives
9. Non-profit corporations partnered with the City as approved by the City Manager or City Council to provide certain Services

H. Computer Licensing and Maintenance

The initial purchase of computer hardware and software is considered a purchase of Materials for determining the Procurement method herein.

Ongoing licensing and maintenance costs should be identified and estimated to the extent practical during the initial purchase approval process.

Subsequent hardware and software licensing renewals, which may include software upgrades and maintenance, is considered a Professional Service under the City Code and shall be procured through Competitive Selection, Cooperative Contract, Sole Source Procurement, multiple Quotes, or as Competition Impractical.

Use of a Sole Source Procurement over \$25,000 or use of multiple Quotes or Competition Impractical above \$50,000 requires the approval of the Chief Procurement Officer.

I. Leasing Tangible Personal Property (Other Than Leases Governed by A.R.S. Title 34)

Departments leasing tangible Personal Property from a Vendor shall be procured as a Material or Non-Professional Contract Service (as applicable) following the procedures set forth in this Policy.

A lease or lease-purchase Contract may be entered into only after the Department identifies that a lease or lease-purchase is advantageous to the City.

Departments should notify Accounting of any lease payments to ensure that the expenditures are allocated appropriately.

It is the Department's responsibility to determine if the City Attorney's Office should be involved in the creation or review of any lease agreements based on the requirements of Management Policy 356.

A purchase option in a lease may be exercised only if the lease containing the purchase option was awarded pursuant to this Policy and after the Department determines that the exercise of the purchase option is advantageous to the City based upon estimated costs and benefits of alternative methods of procuring comparable commodities.

J. Cooperative Procurements

Where a Procurement process conducted by another Governmental Agency or Governmental Organization reasonably satisfies the Competitive Selection processes required by the City, the City may make a cooperative purchase utilizing the governmental Contract. Due diligence must be performed to ensure the Contract provides the best value for the City, was conducted in a manner consistent with this policy's Competitive Selection requirements, and was established with the intent to be used for cooperative Procurement.

K. Sole Source Procurements

Sole Source Procurements should be avoided when possible by using generic specifications or multiple manufacturers' products that meet the City's need. Generally, Procurements become Sole Source Procurements because they use a Name Brand Only specification. Often Name Brand Only specifications can be multi-quoted or bid by using multiple distributors of the Material or Service. When only one Vendor sells the Name Brand Only material or service, this is a Sole Source Procurement.

Sole Source Procurements are exempt from Competitive Selection requirements and are processed as outlined in the Procurement Rules.

Justification shall be attached to any Sole Source Procurement by the Department requesting the purchase. The justification must include: (i) a letter from the manufacturer or service provider indicating the sole Vendor of the Material or Service; and (ii) an written explanation of why a specific Material or Service must be purchased to the exclusion of others. The written explanation shall be approved by the appropriate Department head, pursuant to the approval thresholds in this Policy.

Examples of circumstances allowing for a Sole Source Procurement include, but are not limited to: compatibility of parts or Services; trial use or testing; purchases for commercial resale; only authorized reseller of brand name product or service; and copyrighted or patented items.

L. Emergency Procurements

Emergency Procurements are authorized pursuant to Section 1-21-8 of the City Code. Emergency Procurements shall be made with such competitive evaluation as is practical under the circumstances. Emergency Procurements are conducted as outlined in the Procurement Rules.

Emergency Procurements exceeding \$25,000 must be placed on a City Council agenda for ratification at the next reasonably available Council Meeting.

M. Use of Existing City Contracts

Departments shall utilize existing City Contracts to satisfy their needs for those same Materials and Services covered by such Contracts where available and practical.

VI. PAYMENT METHODS

Procurements and payments shall not be artificially divided to avoid the thresholds set forth in this Policy.

A. Petty Cash

Procurement cards are the preferred Procurement method for small purchases; however, petty cash may be used in accordance with Management Policy 203A, when no other method of payment is feasible.

B. Procurement Card

The City Procurement Card program is available to authorized employees (cardholders) for expediting Procurements. Each card has a maximum transaction limit and a monthly maximum limit (See Management Policy 211).

C. Award Documents

Purchases of \$5,000 or less may be awarded directly by Departments using an award document in the City's Financial System. Purchases over \$5,000 are approved by Purchasing before award.

1. Purchase Orders (PO)

An award document used when the nature of the purchase is relatively simple, with a set quantity and there is little need for tracking anything other than compliance and delivery.

2. Contract (CT)

An award document used when the nature of the purchase is more complex, with a set quantity and there is a greater need to track multiple project milestones.

3. Service Contract (SC)

An award document used for Services when the nature of the purchase is relatively simple and with a set quantity.

4. Master Agreement (MA)

An award document used to establish a term agreement with estimated quantities. Delivery Orders are used to place specific orders against Master Agreements.

D. General Accounting Encumbrance (GAE)

A GAE is used to request payment for non-commodity expenditures. A GAE pre-encumbers funds at the time the GAE is submitted. A list of items eligible to be processed on a GAE is available on the Purchasing page of the Intranet.

VII. LICENSE, INSURANCE, SECURITY/BOND, AND PCI DSS COMPLIANCE REQUIREMENTS

When making a Procurement, issuing a Solicitation or developing a Contract, Departments should consider whether licenses, insurance, security/bonds, and PCI DSS compliance should be required.

- **Licenses** - The purpose of a license is for a government agency to regulate businesses and occupations within its jurisdiction to determine if the business/occupation is operating within applicable law, maintaining safety standards for the health and welfare of the general public, and/or properly remitting its taxes. A valid license is an indication a Contractor meets minimum qualification standards to perform a job. Licensing is required for certain types of work and a Vendor awarded a Contract should have all applicable licenses.
- **Insurance** – Insurance protects the financial interests of the City against particular types of risks should something go wrong in the Contractor’s performance under a Contract.
- **Security/Bonds** – Bid, performance and payment security (a bond or other form) helps mitigate the loss to the City if a Contractor fails to perform as required by the Contract.
- **PCI DSS** – The PCI DSS standards are the global data security standards adopted by the payment card industry designed to protect personal consumer information. The standards apply to all entities that store, process or transmit debit or credit cardholder data. PCI DSS compliance should be required any time a Contractor is handling a customer’s payment card information on behalf of the City.

For Procurements performed by Departments - The Department is responsible for ensuring Contractors: (1) have, maintain, and provide to the City the appropriate business/occupational licenses, insurance, and security/bonds; and (2) maintain PCI DSS compliance requirements. The Department will maintain copies of the relevant documents demonstrating Contractor compliance with such requirements.

For Procurements performed by Purchasing - Purchasing is responsible for ensuring Contractors: (1) have, maintain, and provide to the City the appropriate business/occupational licenses, insurance, and security/bonds; and (2) maintain PCI DSS compliance requirements. Purchasing will maintain copies of the relevant documents demonstrating Contractor compliance with such requirements.

All licenses, insurance, security/bonds, and PCI DSS documentation required for a Procurement shall be obtained before any work is initiated. Questions regarding these requirements should be directed to Purchasing, Contract Administration, Engineering or the City Attorney’s Risk Management section.

VIII. APPROVAL LIMITS

Employees shall not approve their own Purchases and Purchases shall not be artificially divided to prevent review by a higher level.

A. Department Head Approval

This Policy delegates authority to Department heads and their Designees to approve purchase requisitions, Agreements, Change Orders, and payments up to

\$25,000. Department heads may establish lesser approval limits within their Department so long as such decisions are made in accordance with this Policy.

An approval level will be maintained in the City's Financial System to allow Departments the option to have a separate approval group for requests over \$10,000. Any other delegation limits will be facilitated outside of the Advantage System.

B. City Council Approval

The Procurement of Materials, Non-Professional Contract Services and Capital Improvements exceeding \$25,000 must receive prior approval from the City Council.

C. Professional Services and City Council Reporting

The Procurement of Professional Services exceeding \$25,000 must receive prior approval by the City Manager or the City Manager's Senior Executive Staff except that agreements for: (i) legal related Professional Services over \$25,000 may instead be approved by the City Attorney; Capital Improvement related Professional Services up to \$100,000 may instead be approved by the Chief Procurement Officer; and (ii) hardware and software licensing renewals over \$25,000 may instead be approved by the Chief Procurement Officer.

Professional Services shall be reported to City Council quarterly.

D. Contract Amendments

1. Contract amendments and value increases are subject to the approval requirements in Subsections VIII(A) through VIII(C) above.
2. Contract Amendments or value increase requests that will take a previously approved Contract over a threshold shown in Subsections VIII(A) through VIII(C) above, will require appropriate approval based on the revised amount.
3. Contract amendments or value increases that are within the allowance previously approved pursuant to Subsections VIII(A) through VIII(C) above may be approved by the City Manager, the Chief Procurement Officer, or their Designees.

E. Signature Authority

See Management Policy 356 on delegation of document signature authority to determine the appropriate City employee to sign a Contract.

IX. PAYMENT POLICIES

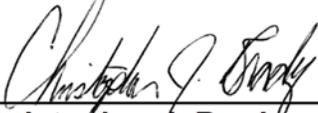
Prepayment of invoices is limited to those required by Contract or approved by the City Council, City Manager, an Assistant City Manager, or the City Manager's Executive Staff.

Where operationally possible, there should be a separation of duties between the persons creating the award document, receiving the Materials or Services, and approving the invoice.

A properly formatted invoice is required to process payment. A guide to the required elements of an acceptable invoice is available on the Purchasing page on the Intranet.

The City's normal payment terms with suppliers and Contractors is Net 30, unless otherwise required by law or negotiated in a Procurement. Net 30 means the City has thirty calendar days to make payment after the Materials or Services are received and accepted. Staff should not promise shorter payment terms without consulting Accounts Payable.

ISSUED BY:

A handwritten signature in black ink, appearing to read "Christopher J. Brady", written over a horizontal line.

Christopher J. Brady
City Manager