



PURCHASING POLICY

COUNCIL POLICY

Adopted: 8/8/2006

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A. Purpose and Scope

To establish policy and procedures for the purchase of goods and services in the most efficient, effective, economical, environmental, ethical, and responsible manner possible.

B. General

Purchases of goods, materials, equipment, supplies, professional services, and maintenance and repair services are regulated by Title 3, Division 6, of the Laguna Niguel Municipal Code (LNMC). Purchases related to public projects are regulated by Title 3, Division 7 of the LNMC. Requirements for each purchase depend on its type. The types of purchases are listed below and procedures related to each follow. In the event there is a discrepancy between the LNMC and this policy, the LNMC will govern the purchasing rules & regulations.

Departments are responsible for including all ancillary costs (i.e., sales and use tax, freight, etc.) when reviewing a vendor's quote in order to determine the applicable quoting/bidding requirements.

The Finance Department has the authority to review and audit any purchase order (PO), contract, and professional services agreement to ensure compliance with the City's procurement procedures. The Finance Department may require Departments to solicit bids or request proposals for goods and services that are repetitively purchased throughout the fiscal year.

Employees shall not make multiple purchases and/or split multiple purchases of less than \$3,000.00 from the same vendor or from different vendors with the intent to avoid the PO or contract requirement. Except in an emergency, with the approval of the City Manager, no employee of the City shall request a supplier to deliver goods, material, equipment, supplies, professional or non-professional services to the City unless a PO and/or contract has been issued by the Finance Department according to the requirements of this Policy.

C. Procedures

1. Local Merchant Preference

City of Laguna Niguel (City) staff shall make every attempt to purchase supplies and equipment from City businesses whenever practicable. LNMC 3-6-2(b)(1), establishes a local merchant purchasing preference in the form of a one-percent (1%) price

advantage in the evaluation of bids or proposals for the purchase of goods, supplies, and equipment subject to sales and use tax.

2. Environmental Preference Aligned with Senate Bill 1383

City staff shall make every effort to purchase goods that are environmentally responsible. City staff shall incorporate environmental considerations, including recycled-content paper and recovered Organic Waste product use, into purchasing practices and procurement wherever practicable, as outlined.

- a. Per LNMC 3-6-2(b)(3), departments shall purchase and use goods made of recycled and/or recyclable materials whenever practicable. Departments shall be aware of the following environmental guidelines when purchasing goods, materials, equipment or supplies:
 - i. Equipment that meets Energy Star specifications
 - ii. Products that contain non-hazardous materials
 - iii. Products that will not emit harmful air emissions
 - iv. Products that are readily bio-degradable and non-persistent in the environment after its use
 - v. Keep informed of current developments in market conditions and new products.
- b. Per LNMC 6-3-708, departments, direct service providers, and vendors should comply with State requirements as contained in 14 CCR Division 7, Chapter 12, Article 12 (SB 1383 procurement regulations) to procure a specified amount of Recovered Organic Waste Products to support state mandated Organic Waste disposal reduction targets and to purchase Recycled-Content Paper Products and Recycled-Content Printing and Writing Paper. Departments, direct service providers, and vendors shall:
 - i. Use Compost and SB 1383 Eligible Mulch produced from recovered Organic Waste for landscaping maintenance, renovation, or construction, as practicable, whenever available, and capable of meeting quality standards and criteria specified in Appendix A.
 - ii. Provide recycled-content paper products and recycled-content printing and writing paper that consists of at least 30 percent, by fiber weight, postconsumer fiber instead of non-recycled products whenever recycled paper products and printing and writing paper are available at the same or

lesser total cost than non-recycled items, or at a total cost of no more than ten percent of the total cost for non-recycled items.

- iii. Procure Renewable Gas made from recovered Organic Waste for transportation fuel, electricity, and heating applications to the degree that it is appropriate and available for the City and to help meet the Annual Recovered Organic Waste Product Procurement Target.
- iv. Departments releasing request for proposals (RFP) and request for qualifications (RFQ) for contractors that procure fuel in the course of their services to the City shall include 10 percent (10%) price preference to contractors that propose to use the amount or percentage of Renewable Gas specified in the RFP or RFQ to be eligible for said price preference. Such use, if it occurs, shall be documented in a written contract or agreement.
- v. Keep records, invoices, or proof of Recovered Organic Waste Product procurement and submit records to the Recordkeeping Designee of all Paper Products and Printing and Writing Paper purchases made by a department or employee as outlined in Appendix A.
- vi. Comply with all State requirements as contained in 14 CCR Division 7, Chapter 12, Article 12, LNMC 6-3-708, and further defined by Appendix A.

3. Purchases NOT REQUIRING a PO

A PO is not required for purchases less than \$3,000.00; however, such purchases must be approved by the appropriate department director before the order is placed. Soliciting competitive bids is not required; however, staff is encouraged to seek competition when possible to support the effort of obtaining optimum pricing for the City.

- a. **Purchases of \$100.00 or less**, per LNMC 3-6-4(1): Departments may utilize petty cash or a credit card for purchases up to \$100.00; however, employees shall make every attempt to use their City-issued procurement card. Justification for the use of petty cash must be documented on the cash receipt.
- b. **Purchases of \$100.01 to \$2,999.99**, per LNMC 3-6-4(2): A department director may authorize purchases over \$100.00 and less than \$3,000.00 without issuing a PO or contract. Employees may use their City-issued procurement card to make the purchase, or may request that the City be invoiced through its existing accounts payable/cash disbursement process.

4. Purchases REQUIRING a PO or Contract

A PO or contract is required for all purchases of goods, materials, supplies, and equipment purchases of \$3,000.00 or greater. POs are obtained from the Finance Department through the accounting system. A PO must be filled out in its entirety and include all appropriate supporting documentation prior to being submitted to the Finance Department for approval. POs must be signed by the City Manager or designee prior to authorizing the purchase.

Purchases of supplies and equipment that include a service component, such as installation or maintenance, require a contract when the service component cost equals or exceeds the purchase cost of the supplies and equipment.

Funding for a PO or contract is verified by the Finance Department; however, responsibility lies with the department director to ensure that adequate funding is available and that the total annual expenditure does not exceed the authorized budget appropriation.

- a. **Purchases of \$3,000.00 to \$9,999.99**, per LNMC 3-6-4(3): Purchases of goods, materials, supplies, and equipment of an estimated expenditure of \$3,000.00 and less than \$10,000.00 require an attempt to receive three (3) verbal bids from vendors and each of these bids and the efforts to obtain them must be documented.
- b. **Purchases of \$10,000.00 to \$49,999.99**, per LNMC 3-6-4(4): Purchases of goods, materials, supplies, and equipment of an estimated expenditure of \$10,000.00 and less than \$50,000.00 require soliciting at least three (3) written competitive bids prior to submitting the PO or contract to the Finance Department for approval. Documentation for written bids should include the following:
 - i. Vendor information such as business name, contact person, phone number, etc.
 - ii. Quote details such as the total amount proposed, shipping information, and the date the quote was received. (For reorders, the Purchasing Manager shall review and confirm the written bids.)

b. **Purchases of \$50,000.00 or more**, per LNMC 3-6-4(5): Purchases of goods, materials, supplies, and equipment of an estimated expenditure of \$50,000.00 and greater require City Council approval of the PO and/or contract and explicit authorization from the City Council allowing the City Manager or his/her designee to execute the PO or contract. The requesting department must solicit at least (3) written competitive bids and attach those bids to the City Council Agenda Report.

5. Blanket Purchase Orders

A blanket Purchase Order is issued to cover all amounts expected to be paid to the vendor for the fiscal year through the contract term, up to \$49,999.99. Blanket Purchase Orders expire at the end of the fiscal year or as soon as the contract ends, whichever is sooner.

6. Cumulative Purchase Threshold

- a. If the average fiscal year annual expenditures for any vendor is equal to or exceeds \$50,000.00, the requesting department is required to issue a multi-year agreement with such vendors. City Council approval will be required prior to contract execution.
- b. Departments should utilize budget requests to anticipate the need for a contract. If a budget amount requested exceeds \$50,000.00, departments should explore the option of obtaining competitive bids and award a contract prior to issuing multiple purchase orders to avoid exceeding the cumulative purchase threshold.
- c. For vendors that do not have average annual expenditures of \$50,000.00 or greater, a multi-year agreement is not required; however, if such vendors reach annual expenditures of \$50,000.00 or greater in a particular fiscal year due to an unforeseen demand in the goods or services provided, City Council approval of a PO and/or contract will be required.
- d. The PO or contract resulting in the annual expenditures of such vendors to equal or exceed \$50,000.00 will require City Council approval. All previous purchases must be identified in the City Council Agenda Report.
- e. The Finance Department will track vendors' annual expenditures utilizing a vendor detail report. This report will be printed bi-monthly to identify vendors who are approaching or have exceeded \$50,000.00. Departments shall be notified of

vendors approaching or exceeding the cumulative purchase threshold amount and shall evaluate if a multi-year agreement is needed.

7. Cooperative Purchasing Agreements

Purchases to vendors who have been awarded contracts by another public agency for the same supplies, equipment, or services may be authorized by the Purchasing Officer without soliciting competitive bids, per LNMC 3-6-6, if the following conditions are met:

- a. The public agency who awarded the contract to the vendor utilized competitive bidding procedures similar to that of the City's.
 - i. The amount of the purchase shall be based on the vendor's price bid to the other public agency.
 - ii. The contract between the vendor and the City must have a contract termination date equal to or prior to the contract termination date listed in the cooperative purchase agreement.

8. Exemptions from Bidding

The requirement to solicit competitive bids can be waived at the discretion of the City Manager if any of the exemptions listed in LNMC 3-6-7 applies to the purchase.

Exemptions must be identified in the 'Justification' section of the PO or in an inter-office memorandum accompanying the contract. Any additional information or supporting documentation to support an exemption from bidding shall be attached to the PO and/or contract.

- a. The product is proprietary.
- b. After a reasonable attempt has been made to obtain bids, and it has been determined by the city manager that no additional vendors can be located.
- c. The city manager finds that emergency conditions require the immediate purchase of supplies or equipment.
 - i. The City Manager or person(s) designated by the City Manager to act in the event of an emergency may declare an emergency situation exists, waive competitive bidding requirements, and award contracts and POs to address the emergency situation.

- ii. If the City Manager deems a situation to be an emergency and authorizes an emergency purchase, a PO and/or contract is required to be submitted to the Finance Department within two (2) days of authorizing the purchase. At the earliest opportunity, the requesting department shall submit an agenda report to the City Council for approval of the emergency purchase.
- d. Sufficient, satisfactory bids are not received.
- e. Supplies or equipment are procured through a cooperative purchasing program with the federal, state, county, or other public agencies.
- f. The product can be obtained from only one vendor (sole source).
- g. The purchase of a specific brand name, make, or model is necessary to match existing city equipment or facilitate effective maintenance and support.
- h. The bidding requirements of this division are waived by the city council.
- i. Non-discretionary Payments - Payments to utility providers and governmental agencies for routine obligations and expenditures essential to the City's ability to provide service to residents and that have been approved in fiscal year operating budgets. This shall also include contracts with vendors previously approved by the City Council, which would require significant advanced planning and complications/interruptions in service delivery to change service providers, such as but not limited to banking services, software license and other technology agreement renewals, insurance providers, and healthcare providers. Such non-discretionary payments/purchases do not require City Council approval, including those over the City Manager's purchasing limit.

9. Professional Services

POs or contracts should be utilized for the purchase of professional services. The requesting department shall issue a contract/PO with consultants and/or contractors providing any professional services as defined in LNMC 3-6-8(a).

Professional services contracts shall not be awarded on the basis of cost alone; rather, they shall be awarded based upon the competence, qualifications, and a fair and reasonable cost per LNMC 3-6-8(b).

When obtaining professional services, the department director should always consider soliciting competitive proposals from qualified consultants, taking into account the uniqueness of the professional service and the timing of the need to have the service provided.

- a. **Professional services of \$9,999.99 or less**, per LNMC 3-6-8(d): The department director may execute contracts/POs for professional services less than \$10,000.00. The department director shall attempt to receive three verbal bids.
- b. **Professional services of \$10,000.00 to \$24,999.99**, per LNMC 3-6-8(e-f): For contracts for which the estimated costs of services is more than \$10,000.00, but less than \$24,999.99, the department director shall issue a request for quotes.
- c. **Professional services of \$25,000.00 to \$49,999.99**, per LNMC 3-6-8(e-f): For contracts for which the estimated costs of services is \$25,000.00 or more, the department director shall issue a request for proposal (RFP). The Purchasing Officer may execute contracts/POs for professional services less than \$50,000.00.
- d. **Professional services \$50,000.00 or more**, per LNMC 3-6-8(c): City Council approval is required, prior to contract execution, for professional services contracts equal to \$50,000.00 or greater.
- e. **"On call" agreements**, per LNMC 3-6-8(h): If the City Council has approved an "on call" agreement for professional services, individual amendments to that agreement that provide for different scopes of work between the amendments, such as work on separate projects or for different types of professional services, and which do not exceed \$50,000.00, may be approved by the City Manager even if the cumulative amount of the amendments to the on-call agreement exceeds \$50,000.00.

The department director shall attempt to receive three proposals from the list of pre-qualified vendors when engaging an "on call" vendor.

10. Maintenance and Repairs

POs shall not be utilized for the purchase of maintenance or repair services. The requesting department shall issue a contract with contractors providing any maintenance and/or repair of City facilities. The Purchasing Officer may execute such contracts for less than \$50,000.00.

- a. **Maintenance and repairs of less than \$3,000.00**, per LNMC 3-6-9(1): For contracts for which the estimated cost of services is less than \$3,000.00, the department director may enter into and execute contracts or purchase orders procuring professional services. It is not required that bids be obtained for such services.

- b. **Maintenance and repairs of \$3,000.00 to \$9,999.99**, per LNMC 3-6-9(2): For contracts for which the estimated cost of services is more than \$3,000.00 but less than \$10,000.00, the applicable department shall attempt to receive three verbal bids from vendors, and each of these bids and the efforts to obtain them must be documented. Such contracts shall be awarded based on the qualifications and experience of the contractor and the amount of the contract prices. Such contracts may be awarded and executed by the department director for the provision of such services.
- c. **Maintenance and repairs of \$10,000.00 to \$49,999.99**, per LNMC 3-6-9(3): For contracts for which the estimated cost of services is more than \$10,000.00, a (RFP) shall be prepared and submitted to prospective bidders, bids shall be obtained from prospective bidders and reviewed, and the contract shall be awarded based on the responsiveness of the bids to the RFP, the qualifications and experience of the contractors and the amount of the price or prices included in the bids. Contracts in which the estimated cost of services is more than \$10,000.00 and less than \$50,000.00 may be awarded and executed by the city manager or the purchasing officer.
- d. **Maintenance and repairs of \$50,000.00 or more**, per LNMC 3-6-9(4): For maintenance and repair contracts of an estimated expenditure of \$50,000.00 and greater, the requesting department must prepare a request for proposal (RFP) and submit to potential bidders. Contracts shall be awarded based on the contractor's responsiveness to the RFP, qualifications, experience, and cost. City Council approval is required, prior to contract execution, for maintenance and repair contracts equal to \$50,000.00 or greater.
- e. Maintenance and repair contracts are subject to the cumulative purchase threshold policy described above in Section 6 (c).

11. Miscellaneous Services

Miscellaneous services are defined as services that are not professional services or maintenance and repair services, per LNMC 3-6-10(a).

a. **Miscellaneous services of \$2,999.99 or less**, per LNMC 3-6-10(a):

For miscellaneous services contracts of an estimated expenditure of less than \$3,000.00, competitive bids are not required. Such contracts may be entered into and executed by the department director.

b. **Miscellaneous services of \$3,000.00 to \$9,999.99**, per LNMC 3-6-10(b):

For miscellaneous services contracts of an estimated expenditure of \$3,000.00 and less than \$10,000.00, the requesting department shall attempt to receive three verbal bids from vendors and each of these bids and the efforts to obtain them must be documented. Contracts shall be awarded based on qualifications, experience, and cost. The department director may execute miscellaneous services contracts less than \$10,000.00.

c. **Miscellaneous services of \$10,000.00 to \$49,999.99**, per LNMC 3-6-10(c):

For miscellaneous services contracts of an estimated expenditure of \$10,000.00 and less than \$50,000.00, the requesting department must prepare a request for proposal (RFP) and submit to potential bidders. Contracts shall be awarded based on the contractor's responsiveness to the RFP, qualifications, experience, and cost. The City Manager or Purchasing Officer may award and execute miscellaneous services contracts of \$10,000.00 and less than \$50,000.00.

d. **Miscellaneous services of \$50,000.00 or more**, per LNMC 3-6-10(d):

For miscellaneous service contracts of an estimated expenditure of \$50,000.00 and greater, the requesting department must prepare a request for proposal (RFP) and submit to potential bidders. Contracts shall be awarded based on the contractor's responsiveness to the RFP, qualifications, experience, and cost. City Council approval is required, prior to contract execution. The City Council may authorize the City Manager or Purchasing Officer to execute such contracts.

12. Public Projects

Per LNMC 3-7-1, the informal and formal bidding limits for "public projects", as defined in the Uniform Public Construction Cost Accounting Act, Public Contract Code § 22000, et seq., shall be as set forth in § 22032, as those limits may be amended from time to time. In accordance with the foregoing bidding limits and the current City Council Purchasing Policy, public projects may be: (i) performed by City employees by force account, by negotiated contract, or by purchase order; (ii) let to contract by informal bid procedures set forth in the LNMC 3-7; or (iii) let to contract by formal bidding procedures set forth in the LNMC 3-7.

Per LNMC 3-7-5, the City Manager is authorized to award informally bid contracts pursuant to this Section. The City Council is authorized to award formally bid contracts pursuant to this section.

Per LNMC 3-7-2, a list of contractors shall be developed and maintained in accordance with the provisions of Public Contract Code § 22034 and criteria promulgated from time to time by the State Uniform Public Construction Cost Accounting Commission.

13. Purchasing Cards

The City may provide purchasing cards to City staff to make purchases for official City business. These purchases are subject to the terms and conditions of this policy. A purchasing card shall not be used to avoid the requirements as listed in this policy or due to a lack of insurance and/or indemnification language associated with such transactions.

14. Disposal of Surplus or Obsolete Property

Per LNMC 3-6-11(a), department directors that identify any supplies or equipment as surplus may declare such property surplus or obsolete by sending a memo to the Purchasing Officer listing such property.

- a. If another department identifies a need for any listed property, the department director may request reassignment of such property. Reassignment of any property shall be approved by the Purchasing Officer.
- b. If no department has use of any listed property, the Purchasing Officer shall dispose of the surplus property by auction or sale per LNMC 3-6-11(c)(1) and LNMC 3-6-11(c)(2).
- c. Per LNMC 3-6-11(d), surplus property may be donated or sold to City employees if the Purchasing Officer has determined the auction or sale of surplus property will result in minimal return to the City.

15. Personal Financial Interest in City Contract

City Council members, City staff, and direct family members shall not have a financial interest in any contract made by them in their official capacity (Gov. Code Section 1090).

City Council members, City staff, and direct family members shall not participate in any way to influence a governmental decision in which they have a financial interest (Gov. Code Section 87100).

The Political Reform Act (Gov. Code Sections 81000-91014) requires designated City officials and employees to publicly disclose their personal assets and income using a Statement of Economic Interests form (Form 700).

16. Violations

Employees who violate any purchasing procedures established in this Policy and LNMC Division 6, Title 3, and Division 7, Title 3, shall be subject to disciplinary action.

D. Exceptions

There will be no exceptions to this Policy.

E. Authority

By authority of the City Manager.