



## Administrative Policies and Procedures

Policy Title: Purchase of Goods and Services	Policy Number: 204
Effective: 8/23	
Supersedes: APR #208, dated 9/92, revised APP#208, dated 2/08, revised APP#204 dated 4/13, 12/13, 10/16, 3/17	
Approval: <i>Milton Dohoney Jr.</i>	Page 1 of 12

### 1. Purpose

To define the general process and procedures by which the City purchases materials, supplies, equipment, and contractual services in accordance with the applicable statutes, City Charter and City Code. Procurement of goods and services through federally funded contracts must conform to APP 207, where APP 207 and APP 204 conflict, APP 207 shall supersede APP 204. This policy does not apply to the purchase or lease of real estate, or any interests in real estate.

### 2. Policy

The City of Ann Arbor is committed to securing the best products, repairs and services available for the purposes intended in the most efficient and economical manner.

### 3. Definitions

3.1 Contractor means any person having a contract with the City.

3.2 Invitation to Bid (ITB) - a formal request to prospective vendors soliciting price quotations or bids; contains, or incorporates by reference, the specifications or scope of work and all contractual terms and conditions.

3.3 Personal Property – another term for “goods.” It refers to tangible items, such as parts, supplies, equipment, etc.

3.4 Procurement - buying, purchasing, renting, leasing, or otherwise acquiring any goods, or services, including construction. It also includes all functions that pertain to obtaining any goods or services, or construction, including description of requirements, selection, and solicitation of sources, preparation, and award of contracts, and all phases of contract administration.

3.5 Professional Services - services rendered by members of a recognized profession which involve extended analysis, exercise of discretion, and independent judgment in their performance, and an advanced, specialized type of knowledge, expertise or training customarily acquired either by a prolonged course of study or equivalent experience in the field, and for these reasons are unique and not subject to price competition in the usual sense. Examples of “professional services” typically acquired by the City include appraisal, architectural and engineering services, software development/design, legal services and medical service.

3.6 Qualified bidder - a person who has the capability in all respects to perform fully the contract requirements and who fits the criteria identified in the invitation for bids.

3.7 Quote - an informal solicitation or request for information, where oral or written quotes are obtained from vendors, without formal advertising or receipt of “sealed” bids. Used only where Ordinance does not require formal “sealed” bids, such as small emergency purchases, but price competition is desired.

3.8 Request for Information (RFI) - a request to potential bidders for information concerning an item or service that will assist the responsible Service Unit of the City in the development of specifications.

3.9 Request for Qualification (RFQ) - a solicitation or request for information, where written qualifications are obtained from vendors.

3.10 Request for Proposal (RFP) - means a bid solicitation method used for requirements exceeding authorized limits when it is expected that negotiations with one or more bidders may be required with respect to any aspect of the requirements and several factors will be considered in the selection of the contractor/consultant.

3.11 Responsive bidder - a person who has submitted a bid, which conforms in all respects to the requirements set forth in the invitation for bids.

3.12 Services - the furnishing of labor, time, or effort by a contractor not required to deliver a specific end product, other than reports, which are merely incidental to required performance. This term includes consultant services in addition to Professional Services.

3.13 Sole Source - the only known vendor possessing the unique and singularly available capability based on technical qualifications, time constraints, or personnel expertise, to meet the requirements of the Service Unit’s need.

3.14 Statement of Qualifications – identifies a prospective bidder’s experience, financial capacity, key personnel, current profile of the vendor’s activity, and other information pertinent to a particular project. This is often used in artist selection process.

3.15 Vendor - any person or entity that offers goods for purchase or services for hire.

#### 4. Policy Implementation

4.1 Purchase of Goods and Services - No commitment of City funds shall be given for any purchase of materials or services exceeding \$5,000 until a Purchase Order has been issued in accordance with this policy. A Purchase Order may be used as the contract document for expenditures relating to supplies, materials, equipment, services, or similar items. A confirming Purchase Order also must be completed when another form of contract document is executed (i.e., professional services, construction, or similar work). Depending on the amount and scope of the purchase, approval of the purchase and authorization to issue the Purchase Order may require administrative or Council actions. Purchase Orders are not required for a limited number of exceptions. See list in Section 4.4 below. If the purchase is funded by a federal grant, please refer to APP# 207 for additional requirements.

4.1.1 Purchases Requiring Non-discrimination/Living Wage Compliance - All purchases of goods and services must comply with the requirements of the Non-discrimination (NDO) and Living Wage Ordinances (LWO) and APP #206. LWO applies to contracts in excess of \$10,000; NDO applies to contracts \$25,000 and above.

4.1.2 Purchases Requiring City Council Approval - The City Charter requires City Council approval when a contract for the purchase of goods or services purchased from a single vendor exceeds \$75,000. Emergency purchases of goods and services necessary to alleviate the emergency are exempt from this requirement if approved by the City Administrator in writing and reported to the City Council in accordance with the emergency procedures outlined in Section 4.3. Service Units are expected to make accurate estimates of needs and quantities to be purchased. If a Service Unit issues a Purchase Order to a single vendor distributed to several different accounts for the same project or purchase, the total of those accounts cannot exceed \$75,000 without being approved by the City Council.

4.1.2.1 Cumulative Purchases Exceeding \$75,000 - City Council approval is required for any single purchase that exceeds the specified limit of \$75,000. Cumulative purchases that are individually and competitively bid, and awarded to a single vendor throughout the fiscal year, shall not require City Council approval when the cumulative total of those purchases exceeds \$75,000.

4.1.3 Purchases; Form of Contract - In general, if the purchase is \$75,000 or less, and the standard terms and conditions on the back of

the Purchase Order are representative of the scope of services, a Purchase Order may be used as the sole contract document. If the purchase is in excess of \$75,000 or the scope of the service being provided is complex, non-routine, or multi-divisional, a Purchase Order may not be used as the form of contract. See Section 5.1.3 and APP# 109 for further details.

4.2 Quotes, Request for Proposals, or an Invitation to Bid – Except as provided below or where written bids are required by law, Charter or City ordinance or administrative policy, an attempt to secure a minimum of three (3) competitive quotes are required for purchases exceeding \$5,000 and shall be awarded to the lowest cost source representing the overall best value. The following table illustrates when a Service Unit should use a quote, invitation to bid document, or request for proposal, in preparation of the Purchase Order:

<u>Type of Document Needed</u>	<u>Goods/Services</u>
Quote (i.e., documented by fax, e-mail, etc.)	Over \$5,000-\$25,000.00
Invitation to Bid (ITB)(Sealed) (i.e., The Service Unit has delineated specifications) (NOTE: A sealed bid process may be used for any amount to obtain the best cost through competitive bidding).	Can use for any amount
Request for Proposal (RFP) (i.e., The Service Unit does not have certain specifications but has a desired outcome).	Can use for any amount
Request for Qualifications (RFQ)/Statement of Qualifications (SOQ): Used to determine qualifications of proposed contractor.	Can use for any amount
Request for Information (RFI): Used to determine information to develop an RFP or sealed bid.	Can use for any amount

All Invitations to Bid, Request for Proposals, Request for Qualifications, and Request for Information must be issued by the Procurement Unit. If your purchase is funded by a Federal grant, please refer to APP# 207 for additional requirements.

4.3 Emergency Purchases - Exceptions to the above may be made for emergency purchases. Emergency purchases must be made in the form and manner specified by City Code 1:317, which states:

*1:317 Emergency purchases and contract.*

(1) *In case of emergency, any service area administrator, with the approval of the City Administrator, may make an emergency purchase from any vendor deemed appropriate by the City Administrator of any goods or*

*services, the immediate procurement of which is necessary to the continuation of the work of the service area or to otherwise alleviate the emergency. Such purchases and the emergency causing them shall be reported in detail to the Purchasing Agent within a week from the time when made and such reports shall be preserved by the Purchasing Agent for a period of 2 years.*

*(2) If an emergency purchase under this section 1:317 exceeds the cost limits of City Code section 1:313, the City Administrator shall, within 2 weeks of the purchase, report to City Council the emergency requiring the purchase and the details of the purchase.*

*(3) If an emergency purchase under this section 1:317 is for professional services or for construction, the contract must be approved as to form by the City Attorney and content by the City Administrator.*

#### 4.4 Exceptions

4.4.1 The following is a list of types of contracts that are automatic exceptions to the competitive bidding requirement. No bidding or solicitation is required but may be performed if desired. These exceptions are not subject to the rules of “sole source or best source” outlined in Ann Arbor City Code Section 1:316(4) and addressed in Section 4.5 below. These purchases DO require a Purchase Order:

- Cooperative Purchasing Participation (Ann Arbor City Code Section 1:316(2))
- Software maintenance agreements or licensing costs on existing implemented software
- Conference and Training Expenses
- Dues, licenses, professional memberships and accreditation services
- Insurance Coverage and Third-Party Administrator/Brokerage Services procured through a brokered process
- Professional Services Agreements for Legal Services
- Items purchased for resale (e.g., Golf Pro Shop stock)
- Repairs to existing public art installations
- Advertisements and media buys in all forms (digital, print, radio, etc.)
- Expert witnesses
- Grants and Event Sponsorships

4.4.2 The following list of purchases do not require any form of competition and they do NOT require a Purchase Order:

- Government Units and Public Entities (e.g. public schools, universities and taxing authorities) [a PO may be requested at the

- discretion of City Finance]
- Purchases of \$5,000 or less (See Section 5.1.3.1.1 Limit Exception for Vendors)
  - Utilities (Gas, Water, Electricity, Telephone, etc.: inclusive of, pager/cellular telephone and/or related services)
  - Debt Service Payments
  - Refunds
  - Banking/Payment Processing Services
  - Payroll and pension related items (withholdings, PHSA payouts)
  - Staff/Non-Staff Reimbursements
  - Interdepartmental Transfers of Goods or Services
  - Postage
  - Subscriptions and Publications (incl. newspapers)
  - Rent for Leased Space (excluding storage and provided Finance has lease on file)

Note: Real estate transactions, tax payments, and legal settlements are not subject to these procurement rules and do not require a Purchase Order.

4.5 Sole Source or Best Source – Procurement of goods (i.e., supplies, equipment, or other tangible things) or services, where competition is either clearly not practical, or no advantage would result to the City by requiring competitive bidding, may be sole or best sourced. Sole/Best Source may be used when the goods or services cannot be obtained from any other source or it is not feasible to obtain them from another source due to previous set-up work with vendor, familiarity with City's system, confidentiality concerns, technical qualifications, time constraints, or personnel expertise or other reasonable circumstances. All Sole/Best Source purchases at any value must be approved by the City Administrator (or designee).

4.5.1 A Service Unit must submit written documentation that demonstrates the necessity of the purchase, and that the purchase may only be made from a sole source or otherwise document that it is not to the City's advantage to bid the purchase.

4.5.2.1 For purchases of goods over \$25,000, the above documentation must be part of the City Administrator's written recommendation to City Council requesting Council authorization for the purchase (Ann Arbor City Code Section 1:316(4)). A copy of the resolution approving the sole or best source purchase must be attached to the Purchase Order for it to be processed by the Procurement Unit.

4.5.2.2. For purchases of services over \$75,000, the above documentation must be part of the City Administrator's written recommendation to City Council requesting Council

authorization for the purchase (Ann Arbor City Code Section 1:316(4)). A copy of the resolution approving the sole or best source purchase must be attached to the Purchase Order for it to be processed by the Procurement Unit. For purchases of services, only those contracts over \$75,000 require council approval, whether procured through competitive bidding or sole/best source.

4.5.2.3 For purchases of goods \$25,000 or less, the required documentation must be submitted to the Purchasing Manager for the Purchase Order to be processed. For purchases of services \$75,000 or less, the required documentation must be submitted to the Purchasing Manager for the Purchase Order to be processed.

4.5.2.4 If your purchase is funded by a Federal grant, please refer to APP# 207 for additional requirements. Service Units should also review the terms and conditions of the funding grant which may have project specific sole sourcing documentation requirements.

4.6 Conflict of Interest - The Procurement Unit is committed to providing an ethical, transparent and equitable purchasing process. It is the responsibility of all City employees involved in the procurement process to ensure that the City does not knowingly enter into any purchase commitment that results in a potential conflict of interest situation. All employees engaged in purchasing and related activities shall be thoughtful of their actions, decisions and relationships in order to avoid not only actual but also the appearance of unethical practices and prohibited conflicts of interest situations. Employees with questions about a particular situation should contact the City Attorney's Office before procurement interactions occur with a potential vendor.

4.6.1 Conflicts of Interest; Non-federally Funded Contracts No employee, officer or agent of the City shall participate in the selection of, or in the award or administration of a contract if a conflict of interest, real or apparent, would be involved. A City employee who willfully violates any of the provisions of this policy may be subject to appropriate discipline.

4.6.1.1 It is a prohibited conflict of interest for an employee to purchase or lease real property from the City or have any interest in or obligation to a company that purchases or leases real property from the City.

4.6.1.2 It is a prohibited conflict of interest for an employee to sell or lease real property to the City or have any interest in or obligation to a company that sells or leases real property to the City.

4.6.1.3 It is a prohibited conflict of interest for any officer, employee or agent of the City to solicit or accept gratuities, favors or anything of monetary value from contractors, potential contractors, or parties to contracts with the City in connection with any City solicitation for goods or as administrator of any contract for goods or services.

4.6.1.4 It is a prohibited conflict of interest for any employee to participate directly or indirectly in the purchasing process for City goods or services when the employee is contemporaneously employed or has begun the application process to be employed at the time of bid by a bidder, or subsequently at the time of award to a vendor or contractor.

4.6.1.4.1 Such a conflict would arise when: (i) the employee, officer or agent, (ii) any member of his/her immediate family, (iii) his/her partner, or (iv) an organization that employs, or has begun the employment process to employ, any of the foregoing, has a financial, or other interest in the bidder or the vendor or contract awarded the contract for goods or services.

4.6.1.5 It may be a breach of ethical behavior for any employee to participate directly or indirectly in the purchasing process for City goods or services if a City employee's partner or immediate family member has an ownership interest in or receives financial gain from a procurement transaction.

4.6.2 Conflicts of Interest; Federally-Funded Contracts - No employee, officer or agent of the City shall participate in the selection of, or in the award or administration of, a contract supported by Federal funds if a conflict of interest, real or apparent, would be involved. A City employee who willfully violates any of the provisions of this policy may be subject to appropriate discipline.

4.6.2.1 Such a conflict would arise when: (i) the employee, officer or agent, (ii) any member of his/ her immediate family, (iii) his/her partner, or (iv) an organization that employs, or has begun the employment process to employ, any of the foregoing, has a financial or other interest in the firm selected for award of the contract. Provided, that if the direct benefit to any of the foregoing is de minimus amount (based on the applicable federal regulation) , the conflict may be waived.

4.6.2.2 It is a prohibited conflict of interest for any officer, employee or agent of the City will solicit or accept gratuities, favors or anything of monetary value from contractors, potential contractors, or parties to contracts with the City in connection with any City



solicitation for goods or as administrator of any contract for goods or services.

4.6.3 Conflicts of Interest; Vendors - Before any vendor may be awarded a contract for goods or services, the prospective vendor will be required to complete a Conflict of Interest Disclosure form. The contract may not be awarded to the selected vendor unless and until the Procurement Unit has received and reviewed the Disclosure form and determined no Conflict is disclosed or if a Conflict has been disclosed referred it to the City Administrator or his/her designee, who must approve the disclosure. A copy of the Conflict of Interest Disclosure Form must be included in all bids and solicitations (see also Section 5.1.2.1 below).

4.6.3.1 For all purchases of \$25,000 or less: Where a conflict of interest is disclosed, documentation must be provided that demonstrates the vendor offers competitive pricing. Please note: this includes ALL purchases over \$5,000. The City Administrator must approve the purchase with the proposed vendor.

4.6.3.2 For purchases in excess of \$25,000 or when Council approval is required: Where a conflict of interest is disclosed, the information provided to Council in the approval resolution must include any conflicts of interest and the recommendation of the City Administrator or his/her designee concerning the conflict and proposed purchase.

4.6.3.3. Conflict of Interest Disclosure Forms must be completed by all vendors or contractors annually during the life of an awarded contract. For purposes of this provision the annual term of the disclosure runs from date of the vendor's signature on the disclosure form submitted with the selected bid or solicitation.

## 5. Procedures

5.1. Components to execute a Purchase Order are as follows:

5.1.1 Quotation Sheet - A quotation form should be prepared, completed by the solicited vendors or City staff and submitted with all Purchase Orders for purchases in excess of \$5,000 and equal to or less than \$25,000.00, if written bids were not required by law, Charter, City ordinance or administrative policy. All information shown on the quotation form should be filled in, including but not limited to: Service Unit, name and signature of the person soliciting quotes, date of quotes, item(s) requested, vendors contracted, delivery date, terms, discount, delivery location, etc.

5.1.2 Request for Proposals or Invitations to Bid - For purchases in excess of \$25,000, the Service Unit shall prepare, when required by law, Charter,

City ordinance or administrative policy, either a request for proposal or invitation to bid in conformance with the Procurement Unit specifications.

5.1.2.1 All ITB and RFP documents shall have a Vendor Conflict of Interest Disclosure form included as part of the ITB/RFP posting to the public.

5.1.3 Contract Requirements - The form of any contract must be approved by the City Attorney. Purchase Order Standard terms and conditions have been reviewed and preapproved and may not be modified without City Attorney approval (i.e. additional terms may not be inserted/attached or existing terms modified or deleted). All other types of contracts must be reviewed and approved before work can begin. The responsible Service Unit shall have the City Attorney review and approve the form of contract and the terms thereof. See APP #109 for additional requirements.

5.1.3.1 For services of \$25,000 or Less – The Service Unit must obtain necessary approvals following the City Administrator's procedures.

5.1.3.1.1 For services \$5,000 or less: Service Units may process services for routine repairs or general services as an Accounts Payable Invoice in the financial system. If a contract document is required by the Vendor or by law or regulation, the Service Area Administrator may execute it after approval as to form by the City Attorney.

5.1.3.1.2 For services over \$5,000 - \$25,000: Service Units may process services for routine repairs or general services on a Purchase Order, in lieu of a separate contract document unless another contract document is required by law, City Charter or City Code. After Service Unit approval, the Purchase Order will route to the Procurement Unit for processing. (NOTE: The Purchase Order uses standard contract language on the back of the Purchase Order.

However, the scope of services must be clearly defined in the text of the Purchase Order, including the ITB/RFP number if applicable, or attached document clearly referenced in the text of the Purchase Order.)

5.1.3.1.3 For services where a specific deliverable(s) is required, professional services or there is some other specific legal requirement which calls for a separate signed and executed contract, the Service Unit shall follow the provisions of Section 5.1.3.

5.1.3.2 For services over \$75,000 - The Service Unit must obtain City Council approval following the City Administrator's procedures for City Council action.

5.1.4 City Council Approval - City Council approval is required when the cost of supplies, materials, equipment, construction projects or contract services purchased from a single vendor are in excess of \$75,000 per purchase per project. Obtain City Council approval following the City Administrator's procedures for submission of items for City Council action. State the date of City Council approval and the City Council resolution number on any Purchase Order submitted to the Procurement Unit. A copy of the adopted Council Resolution must be furnished to the Procurement Unit along with the Purchase Order.

5.1.5 Non-discrimination/Living Wage Compliance - Contractors providing goods and/or services to the City must comply with the requirements of the City's Non-discrimination and Living Wage Ordinances. Copies of Non-discrimination and Living Wage Declaration Forms must be included with all ITB/RFPs. See APP #206 for additional requirements.

5.1.6 Prevailing Wage Compliance - All solicitations for projects that include federal, state, and/or local government funds with a contract value in excess of \$10,000 for the construction, alteration, or repair of public buildings/facilities or public works shall include the requirement to pay the greater of local prevailing wages or living wages to the covered trades involved who are directly involved in construction activities. Solicitation documents will provide a plain and obvious reference or link to the appropriate resource with the applicable rates and will specify the appropriate wage rate classification(s) (i.e. heavy, highway, building, or residential). If multiple classifications pertain to a contract, the City will specify which rate will be applied. City project and contracting staff will include and highlight the requirement to pay the appropriate wage during all pre-bid/pre-solicitation meetings.

On contracts where prevailing wage rates apply, contractors will provide payroll records compliant with applicable laws and sufficient to demonstrate contractor compliance with prevailing wage requirements. City staff will review the payroll documents and will conduct required and appropriate wage rate interviews. In cases where there is no requirement to comply with federal or state law, the City will require contractors to provide payroll records for the prime contractor and all "first-tier" subcontractors.

## 5.2 Purchase Order Approval Process

5.2.1 Each Service Unit will route Purchase Orders for approval according to their own workflow rules established and approved by their Service Area Administrator.

5.2.2 Once final Service Unit approval is given, the Procurement Unit receives the Purchase Order for processing, including verification of Non-discrimination/Living Wage Compliance, executed vendor conflict of interest disclosure form and its authorization, and Council approval if applicable. Unless the Purchase Order is marked as confirming the terms of a contract, the Purchase Order shall then be provided to the vendor by the Service Unit.

5.3 Changes to Purchase Orders - When the cumulative total cost of any purchase of services which, due to change orders or other contract modifications from a contractor/vendor, surpasses \$75,000 (plus any approved contingency if applicable), City Council approval is required. When the cumulative total cost of any purchase of goods based on an informal quoting process or non-competitive process which, due to change orders or other contract modifications from a contractor/vendor, surpasses \$25,000 (plus any approved contingency if applicable), City Council approval is required. These requirements shall apply to the total dollar amount of the contract and not to the amount of the change or modification to the Purchase Order. It shall be a violation of this policy to divide a purchase over several Purchase Orders to a single vendor to avoid City Council approval.

5.4 Completion Dates - When contracting for the purchase of goods/service by an outside contractor or vendor, always include a completion period or date for delivery of service. If a completion period is needed, a beginning or ending date must be specified. This completion period or date must be part of any written contract, or if a Purchase Order is being used, the completion period or date must appear on the Purchase Order.

5.5 Tolerance - When a vendor invoice exceeds the Purchase Order by less than 10% of the Purchase Order amount, the vendor invoice can be paid and the Purchase Order can be closed with no further change orders. However, if the Purchase Order (including tolerance) exceeds the limit approved by Council, the Service Unit must seek approval from Council for the additional amount.