

*Procurement Manual*  
**City of Kingston**  
**Central Purchasing Department**

**Steven T. Noble, Mayor**



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Purchasing Agent

# Table of Contents

<u>Section#</u>	<u>Section Title</u>	<u>Page#</u>
	INTRODUCTION	3
SECTION I	INSURANCE REQUIREMENTS	6
SECTION II	GENERAL PROVISIONS	14
	* Purchasing Procedures	14
	* The Bidding Process	14
	* Request for Proposals (RFP) Process	19
	* Emergency Procurements	26
	* Purchase Orders	27
	* Sole Source Procurements	29
	* Inter-Municipal Procurements	29
	* Procurements from Preferred Sources	30
	* True Leases	31
SECTION III	REVIEW OF PURCHASES; Determination of Bidding Requirements	32
	* Methods of Purchase (Quotations)	33
SECTION IV	PROCEDURES FOR HANDLING BIDDING PROTESTS AND APPEALS	35
SECTION V	PROCUREMENT CARD PROGRAM	39
SECTION VI	DISPOSITION OF SURPLUS PERSONAL PROPERTY	48

# INTRODUCTION

It is the intent of this manual to explain to users what the Purchasing Department (hereinafter “Purchasing”) does, and to provide users with information that will enable them to make the most effective use of the services offered by Purchasing. It is suggested that you read this manual closely, and ask any questions that you feel necessary to increase your understanding of the purchasing process, and refer to it as frequently as you need to in the course of carrying out your daily responsibilities. This manual will be reviewed frequently and updated accordingly.

## **A. Mission:**

Purchasing shall promote the City’s best interest by providing a professional purchasing system of quality and integrity whereby all persons involved in public purchasing are treated fairly and equitably, the value of public funds are maximized and a sufficient supply system is available for all departments/agencies.

Purchasing will implement and maintain the purchasing system in full accordance with the requirements set forth in the General Municipal Law of the State of New York, the City Charter, and with such local laws as passed by the City of Kingston Common Council, and with such directives as issued by the Mayor. Purchasing shall conduct the procurement system for the City in a cost effective, objective manner, devoid of favoritism or special influence.

In the absence of the Purchasing Agent any functions assigned to him/her can be fulfilled by the City Comptroller.

## **B. Goals:**

The goal of Purchasing is to make the purchasing process as competitive and objective as possible, while striving to promote high standards for all business relationships.

## **C. Objectives:**

The objective of the Purchasing Department is to obtain, on a timely basis, quality products and services as economically as possible, as well as to satisfy the specific needs of our various departments. We endeavor to assure that the taxpayers receive the maximum value for each dollar expended. The established purchasing objectives center on the need for efficient and effective operations which are responsive to users’ needs, and practices which promote sound purchasing management and render the greatest value for the City taxpayer’s dollars. With this in mind, Purchasing is charged with accomplishing the following objectives:

- Promote timely procurement of supplies, equipment, and services necessary to the daily operation of the City.
- Promote prudent spending of City funds by obtaining maximum value for purchasing dollars spent by ensuring competition. Promote fair and open competition among vendors in an impartial manner.
- Promote buying techniques that encourage economies of scale, thereby ordering materials and services in large quantities when applicable and practical.

- Provide guidance, oversight, and problem resolution to City departments, and ensure compliance with City purchasing policies and procedures.
- Simplify, clarify, and streamline the procurement process of the City. Make the purchasing policies and procedures practiced by the City as consistent as possible.
- Ensure fair and equitable treatment of all persons/vendors who deal with the City.
- Ensure that all interested suppliers understand how to do business with the City.
- Maintain liaison with vendors providing goods/services to the City, including the resolution of complaints regarding goods/services.
- Treat all prices and technical information submitted by suppliers as confidential when appropriate, in order to preserve a good business reputation and obtain competitive prices.

#### **D. Purchasing Department's Responsibilities**

Purchasing is charged with providing efficient service to the departments in the procurement of goods and services that are of the best value from responsible vendors. Purchasing is responsible for handling all aspects of the procurement process, including the identification and development of sources, assistance to departments in the development of specifications, solicitation of bids, proposals, and quotations and interacting with vendors.

All City departments shall adhere to the provisions detailed in GML Sections 103 and 104-b, (as such sections may be amended from time to time) regardless of whether they are covered in this Manual. So long as there is compliance with these sections of State Law, the Purchasing Agent shall have ultimate discretion regarding any and all procurements.

#### **E. Department Responsibilities**

Departments should plan purchases sufficiently in advance to allow Purchasing to obtain the best price and/or overall service.

Purchase orders are based upon the information and specifications shown on the Purchase Requisition (PR) form. Care should be taken so that specifications are adequate to allow someone with little or no knowledge of the merchandise to place the order properly. When requesting parts for machines or equipment, a manufacturer and part number or model number of the unit the parts are for, should be stated on the PR form.

The Purchasing Agent has the right to make alternative suggestions to the requisitioning department if, in his/her judgment, the specifications would restrict competition, or otherwise preclude the most economical purchase of the required items.

Departments must record instances of vendor inconsistency and any evidence of unsatisfactory vendor performance during the course of any contract, and must provide this information to the Purchasing Office immediately. This procedure should be followed each time a vendor does not perform to the standards of our bid or request for proposal. The Purchasing Agent will review the issue and will contact the Corporation Counsel for legal assistance if necessary or prudent.

Purchases to be made with grant money should be planned well in advance of the expiration date of the particular grant. The departments shall immediately notify Purchasing of what commodities need to be purchased with the grant money to allow for a cost effective purchase and prompt payment. Notifying Purchasing in a timely manner will help ensure that grant money will not be lost.

Employees who are involved in their department's procurement process are to familiarize themselves with these policies and procedures. Supervisors are to ensure that new employees have read these policies.

No purchase shall be divided for the purpose of bringing the value of the order down to avoid using more stringent purchasing methods or restrictions, or to avoid statutory competitive bidding requirements.

#### **F. Payments**

All invoices and signed vouchers are sent to the requisitioning department by the vendor.

#### **G. Change Orders**

Change orders are required when it becomes necessary to increase the dollar amount (10% or more) of a purchase order to cover product price increases, or to cover shipping charge increases. The requisitioning departments are instructed to communicate in writing to Purchasing, any and all change orders. Purchasing will then determine if the particular change order is sufficient to warrant an amended purchase order.

A Change Order may not be used to change the vendor. If you must change the selected vendor, the original purchase order must be cancelled and the requisitioning department must then create a new purchase requisition.

#### **H. Public Works Projects/Contracts**

It is important to distinguish between contracts for public works and purchase contracts, as these items are not defined in the General Municipal Law. This distinction is especially important because there is a \$15,000 difference between the bidding thresholds.

In general, purchase contracts involve the acquisition of commodities, materials, supplies or equipment, while contracts for public work involve services, labor or construction. Many times contracts involve both goods and services and it is difficult to determine which bid limit to apply. Each procurement action must be reviewed on a case by case basis and determination must be made as to what kind of contract is involved. As a general rule, if the contract involves a substantial amount of services, such that services are the focal point and the acquisition of goods is incidental, it will be considered a contract for public works. Conversely, if services or labor are only minimal or incidental to the acquisition of goods, it is considered a purchase contract.

For example, a contract for interior painting of a building involves both material (paint) and labor (painting). In most instances, the labor component of the contract will be predominant, making it a contract for public work.

Any contract for public works in the amount of \$5000 or more shall require a fully executed standard agreement contract accompany the purchase order.

## Section I

### **I. City of Kingston Standard Contract Insurance Requirements**

**(THIS TEMPLATE IS NOT TO BE USED FOR THE FOLLOWING TYPES OF CONTRACTS: Bridges, Demolition, Blasting, Hazardous Waste/Material Handling or Disposal, Professional Medical Services, Hospitals/Laboratory or Capitol Projects. Please contact the City’s Purchasing Office to determine the proper schedule for these types of contracts.)**

**PRIOR TO SENDING THIS AGREEMENT TO CONTRACT MANAGEMENT FOR REVIEW, PLEASE CHECK WITH THE PURCHASING DEPARTMENT TO VERIFY THAT YOU HAVE THE PROPER INSURANCE SCHEDULE ATTACHED.**

**UNLESS OTHERWISE AUTHORIZED BY THE CITY OF KINGSTON PURCHASING DEPARTMENT, STRICT ADHERENCE TO THIS SCHEDULE IS REQUIRED. ANY DEVIATION FROM THESE REQUIREMENTS WITHOUT PRIOR AUTHORIZATION FROM THE PURCHASING DEPARTMENT WILL RESULT IN A DELAY IN FINALIZING AN AGREEMENT.**

#### **WORKERS COMPENSATION AND DISABILTY INSURANCE:**

The VENDOR shall take out and maintain during the life of this Agreement, Workers’ Compensation (WC) Insurance and Disability Benefits (DB) Insurance, for all of its employees employed at the site of the project, and shall provide to the City’s Purchasing Office Certificates of Insurance evidencing this coverage. **If a VENDOR is not required to carry such insurance, the VENDOR must submit form CE-200 attesting to the fact that it is not required to do so.**

**WORKERS’ COMPENSATION REQUIREMENTS:** To assist the State of New York and municipal entities in enforcing WCL Section 57, a business entity (the VENDOR) seeking to enter into contracts with municipalities (the CITY) MUST provide ONE of the following forms to the municipal entity (the CITY) it is entering into a contract with:

- **IF THE VENDOR IS REQUIRED TO CARRY COVERAGE AND HAS AN OUTSIDE CARRIER, submit form C-105.2, “Certificate of Workers’ Compensation**

Insurance.” The VENDOR’S insurance carrier will send this form to the CITY at the VENDOR’S request. **PLEASE NOTE:** The State Insurance Fund provides its own version of this Form (the U-26.3).

- **IF THE VENDOR IS REQUIRED TO CARRY COVERAGE AND IS SELF INSURED,** submit Form SI-12, “Certificate of Workers’ Compensation Self-Insurance.” The VENDOR’S Group Self-Insurance Administrator will send this form to the CITY at the VENDOR’S request.
- **IF THE VENDOR IS NOT REQUIRED TO CARRY COVERAGE,** SUBMIT Form CE-200, “Certificate of Attestation of Exemption from New York State Workers’ Compensation and/or Disability Benefits Insurance Coverage.” This form and instructions for completing it are available from the link below.

**DISABILITY BENEFITS REQUIREMENTS:** To assist the State of New York and municipal entities (the CITY) in enforcing WCL Section 220(8), business entities (the VENDOR) seeking to enter into contract with municipalities (the CITY) **MUST** provide ONE of the following forms to the municipal entity (the CITY) it is entering into a contract with:

- **IF THE VENDOR IS REQUIRED TO CARRY COVERAGE AND HAS AN OUTSIDE CARRIER,** submit Form DB-120.1, “Certificate of Disability Benefits Insurance.” The VENDOR’S insurance carrier will send this form to the CITY at the VENDOR’S request.
- **IF THE VENDOR IS REQUIRED TO CARRY COVERAGE AND IS SELF INSURED,** submit Form DB-155, “Certificate of Disability Self-insurance.” The VENDOR must call the Workers Comp. Board's Self-Insurance Office at (518)402-0247.
- **IF THE VENDOR IS NOT REQUIRED TO CARRY COVERAGE,** submit Form CE-200, “Certificate of Attestation of Exemption from New York State Workers’ Compensation and/or Disability Benefits Insurance Coverage.” This form and the instructions for completing it are available from the link below.

Form CE-200 and the instructions for completing the application and obtaining the form are available on the New York State Workers' Compensation Board's website, [www.wcb.state.ny.us](http://www.wcb.state.ny.us), under the heading "Common Forms." Business entities without access to a computer may obtain a paper application for the CE-200 by writing or visiting the Customer Service Center at any District Office of the Workers’ Compensation Board. However, business entities using the manual process may wait up to four (4) weeks before receiving a CE-200. **Employees of the Workers’ Compensation Board cannot assist business entities in answering questions about this form. Please contact an attorney if you have any questions regarding Form CE-200. However, if you have questions regarding workers’ compensation coverage requirements, please call the Bureau of Compliance at (866) 546-9322.**

**\*NOTE: ACORD forms are NOT acceptable proof of New York State Workers' Compensation or Disability Benefits Insurance Coverage. The manner of proof related to Workers' Compensation and Disability Insurance is controlled by New York State Laws, Rules and Regulations.**

**COMMERCIAL GENERAL LIABILITY INSURANCE:**

The VENDOR shall take out and maintain during the life of this Agreement, such bodily injury liability and property damage liability insurance as shall protect it and the CITY from claims for damages for bodily injury including accidental death, as well as from claims for property damage that may arise from operations under this Agreement, whether such operations be by the VENDOR, by any subcontractor, or by anyone directly or indirectly employed by either of them. It shall be the responsibility of the VENDOR to maintain such insurance in amounts sufficient to fully protect itself and the CITY, but in no instance shall amounts be less than those set forth below. The amounts set forth below establish the minimum acceptable levels of coverage.

Bodily Injury Liability Insurance in an amount not less than **ONE MILLION AND 00/100 (\$1,000,000.00) DOLLARS** for each occurrence and in an amount not less than **TWO MILLION AND 00/100 (\$2,000,000.00) DOLLARS** general aggregate.

Property Damage Liability Insurance in an amount not less than **ONE MILLION AND 00/100 (\$1,000,000.00) DOLLARS** for each occurrence and in an amount of not less than **TWO MILLION AND 00/100 (\$2,000,000.00) DOLLARS** general aggregate.

**OTHER CONDITIONS OF COMMERCIAL GENERAL LIABILITY INSURANCE:**

1. Coverage shall be written on Commercial General Liability form.
2. Coverage shall include:
  - A. Contractual Liability
  - B. Independent Contractors
  - C. Products and Completed Operations
3. The City of Kingston, located at P.O. Box 1627 in Kingston, New York, 12402, shall be added to the Commercial General Liability policy as an "Additional Insured" and this insurance shall be primary and non-contributory with any other valid and collectable insurance.

**AUTOMOBILE LIABILITY INSURANCE:**

Automobile Bodily Injury Liability and Property Damage Liability Insurance shall be provided by the VENDOR with a minimum Combined Single Limit (CSL) of **ONE MILLION AND 00/100 (\$1,000,000.00) DOLLARS.**

**OTHER CONDITIONS OF AUTOMOBILE LIABILITY INSURANCE:**

1. Coverage shall include:
  - A. All owned vehicles
  - B. Hired car and non-ownership liability coverage
  - C. Statutory No-Fault coverage

**PROFESSIONAL LIABILITY INSURANCE (e.g. MALPRACTICE INSURANCE)**

[    ] If this box is checked, Professional Liability Insurance shall be provided by the VENDOR as follows:

Professional Liability Insurance in an amount not less than **ONE MILLION AND 00/100 (\$1,000,000.00) DOLLARS.**

**ADDITIONAL CONDITIONS OF INSURANCE:**

1. The VENDOR shall submit copies of any or all required insurance policies as and when requested by the CITY.

**CERTIFICATE OF INSURANCE:**

The VENDOR shall file with the CITY CLERK'S OFFICE, prior to commencing work under this Agreement, a Certificate of Insurance.

1. The Certificate of Insurance shall include:
  - A. Name and address of Insured
  - B. Issue date of certificate
  - C. Insurance company name
  - D. Type of coverage in effect
  - E. Policy number
  - F. Inception and expiration dates of policies included on the certificate
  - G. Limits of liability for all policies included on the certificate
  - H. "Certificate Holder" shall be the City of Kingston, P.O. Box 1627, Kingston, New York 12402.

2. If the VENDOR'S insurance policies should be non-renewed or canceled, or should expire during the life of this Agreement, the CITY shall be provided with a new certificate indicating the replacement policy information as requested above. The CITY requires thirty (30) days prior written notice of cancellation [fifteen (15) days for non-payment of premium] from the Insurer, its agents or representatives.

**J. City of Kingston Standard Contract Insurance Requirements for all Capital Projects**

**PRIOR TO SENDING THIS AGREEMENT TO CONTRACT MANAGEMENT FOR REVIEW, PLEASE CHECK WITH THE PURCHASING DEPARTMENT TO VERIFY THAT YOU HAVE THE PROPER INSURANCE SCHEDULE ATTACHED.**

**UNLESS OTHERWISE AUTHORIZED BY THE CITY OF KINGSTON PURCHASING DEPARTMENT, STRICT ADHERENCE TO THIS SCHEDULE C IS REQUIRED. ANY DEVIATION FROM THESE REQUIREMENTS WITHOUT PRIOR AUTHORIZATION FROM THE INSURANCE DEPARTMENT WILL RESULT IN A DELAY IN FINALIZING THIS AGREEMENT.**

**WORKERS' COMPENSATION AND DISABILITY INSURANCE:\***

The VENDOR shall take out and maintain during the life of this Agreement, Workers' Compensation (WC) Insurance and Disability Benefits (DB) Insurance, for all of its employees employed at the site of the project, and shall provide to the CITY'S Insurance Department Certificates of Insurance evidencing this coverage. **If the VENDOR is not required to carry such insurance, the VENDOR must submit form CE-200 attesting to the fact that it is not required to do so.**

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Property Damage Liability Insurance in an amount not less than **TWO MILLION AND 00/100 (\$2,000,000.00) DOLLARS** for each occurrence and in an amount of not less than **TWO MILLION AND 00/100 (\$2,000,000.00) DOLLARS** general aggregate.

**OTHER CONDITIONS OF COMMERCIAL GENERAL LIABILITY INSURANCE:**

1. Coverage shall be written on Commercial General Liability form.
2. Coverage shall include:
  - A. Contractual Liability
  - B. Independent Contractors
  - C. Products and Completed Operations
3. The City of Kingston, located at P.O. Box 1627 in Kingston, New York, 12402, shall be added to the Commercial General Liability policy as an “Additional Insured” and this insurance shall be primary and non-contributory with any other valid and collectable insurance.

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Automobile Bodily Injury Liability and Property Damage Liability Insurance shall be provided by the VENDOR with a minimum Combined Single Limit (CSL) of **TWO MILLION AND 00/100 (\$2,000,000.00) DOLLARS**.

**OTHER CONDITIONS OF AUTOMOBILE LIABILITY INSURANCE:**

1. Coverage shall include:
  - A. All owned vehicles
  - B. Hired car and non-ownership liability coverage
  - C. Statutory No-Fault coverage

**PROFESSIONAL LIABILITY INSURANCE (e.g. MALPRACTICE INSURANCE)**

[ ] If this box is checked, Professional Liability Insurance shall be provided by the VENDOR as follows:

Professional Liability Insurance in an amount not less than **TWO MILLION AND 00/100 (\$2,000,000.00) DOLLARS.**

**ADDITIONAL CONDITIONS OF INSURANCE:**

1. The VENDOR shall submit copies of any or all required insurance policies as and when requested by the CITY.

**CERTIFICATE OF INSURANCE:**

The VENDOR shall file with the CITY CLERK'S OFFICE, prior to commencing work under this Agreement, a Certificate of Insurance.

1. The Certificate of Insurance shall include:
  - A. Name and address of Insured
  - B. Issue date of certificate
  - C. Insurance company name
  - D. Type of coverage in effect
  - E. Policy number
  - F. Inception and expiration dates of policies included on the certificate
  - G. Limits of liability for all policies included on the certificate
  - H. "Certificate Holder" shall be the City of Kingston, P.O. Box 1627, Kingston, New York 12402.
2. If the VENDOR'S insurance policies should be non-renewed or canceled, or should expire during the life of this Agreement, the CITY shall be provided with a new certificate indicating the replacement policy information as requested above. The CITY requires thirty (30) days prior written notice of cancellation [fifteen (15) days for non-payment of premium] from the Insurer, its agents or representatives.

# **Section II**

## **General Provisions**

### **I Authority**

The Central Purchasing Department is authorized to execute the Procurement Policy as it is prescribed in chapter 103 of the city code (Refer to Section 2) that was adopted by the common Council on September 1, 1992

### **II Purpose**

The purpose of the Central Purchasing Department is to centralize all purchases of supplies, materials, equipment and services necessary to operate the government of the City of Kingston in a sound, professional and businesslike manner.

### **III Purchasing Procedures**

The following procedures are to be followed when a given supply, material, piece of equipment or service is needed.

- 1) The requisitioning department shall complete and sign in duplicate a Purchase Request (PR) form; which shall include sufficient data and background to allow for the preparation of a purchase order by the Purchasing Agent. After the particular department head or authorized official approves the purchase, the white copy is forwarded to Central Purchasing and the yellow copy is retained by the requisitioning department.
- 2) The requisitioning department shall prepare all specifications according to their needs. The PR shall then be reviewed by the Purchasing Department. A determination in accordance with the city code and New York State General Municipal Law (Refer to Section 3) is then made whether or not the particular requisition will require the receipt of formal bids. The requisitioning department shall be notified of the decision.

### **IV The Bidding Process**

Competitive bidding is required for the purchase of commodities or groups of commodities with an anticipated value of \$20,000 or more and for non professional public works purchases with an anticipated value of more than \$35,000. The competitive bidding process ensures that all bidders receive the same information, and the bid award shall be made to the lowest responsible bidder. Once a determination is made that a particular requisition for a purchase, service or public works project meets the required threshold for a public bid the Purchasing shall then commence the bidding process.

Planning and gathering information is vital. To achieve the best results sufficient lead-time should be built into the procurement process to permit adequate planning, specification writing,

bidding, vendor selections, documentation, etc. Departments should allow sufficient time for the Purchasing to review product specifications and/or scopes of work and complete the bid or proposal documents. Additional time will be needed for bids and requests for proposals (RFP's) where the resulting contracts require the approval of the Mayor's Office or the Common Council.

Each bid or RFP shall be numbered before being published.

- Advertisements for public bids and RFP's shall be published in the official City newspaper as designated by the Common Council.

Bids and RFP's may also be published on the Hudson Valley Municipal Purchasing Group (HVMPG) website where they'll be available for viewing and down loading.

Purchasing will issue bid or proposal specification packages to vendors/contractors at the advertised location, or the vendors/contractors may download them from the HVMPG website. Bid or proposal packages may also be sent to vendors/contractors via First Class Mail.

All bid or proposal specification packages picked up at Purchasing or sent out from Purchasing are recorded in the bid file. The HVMPG website maintains a record of all firms who download the bid or proposal specification documents from the website.

### **A. Developing Bid Specifications**

Purchasing writes a bid using the department's list of specifications as the specific criteria against which vendors' are evaluated. These specifications must be absolutely clear to all potential bidders. The bid will be awarded to the lowest cost supplier to meet all of the department's needs, exactly as it was defined by the department in the specifications.

Departments will not be allowed to add or delete requirements after the bids open; the evaluation will be based solely on the requirements set forth in the bid. During the bid process, the vendors must be absolutely certain they are all considering the same thing. The vendor needs to offer the appropriate product at the right price.

A good bid specification should do four things:

- Identify minimum requirements;
- Allow for competition;
- List reproducible test methods to be used for testing compliance with specifications; and
- Provide for an equitable award at the lowest possible cost.

#### **1. Brand Names**

Brand names can be used in a bid specification. If you supply Purchasing with a brand name, the Purchasing Agent will generally specify, "brand name or equal" on the bid request for quote. A brand name gives the parties involved an idea of what type and quality of product you require. In

many cases, several distributors can supply a given brand. You still must address your most important features or requirements. Since no two brands are identical in all respects, describe in which respects you need any product offered to be equivalent. Make it clear at the outset what you consider “equivalent” to be.

## 2. Use of Vendor Specifications

Only departments are qualified to know exactly what their respective needs are. Avoid turning the job over to a vendor. Vendors’ literature is written to describe and promote their products. It is their job to sell their company’s product and it is to their benefit to emphasize the uniqueness of their product both verbally and in their product literature.

By copying a vendors’ literature rather than writing their own specifications, departments are likely to over-restrict the specifications to the point where only the vendor whose literature has been copied can meet them. This may reduce competition and result in higher costs.

Purchasing requests that departments write their specifications using their own thoughts and words. If Purchasing unknowingly issues a bid based on specifications supplied by a department that are from a specific vendor’s literature, a competing vendor may challenge the bid or purchase decision, saying the requirements unfairly favored one vendor and restricted competition. The bids may need to be rejected (or the order canceled), and a new list of requirements developed to more accurately reflect the departments true needs. Delays can be avoided by spending quality time up-front writing your own, well-thought-out list of requirements.

## 3. Avoid Over Specifying

Avoid writing down more that what you actually require to meet your operational needs. The more requirements you add, the more likely it is you will limit the number of vendors that can offer a product or service to meet them. Think about the use of a product that you need for a service to your department and limit yourself to what actually makes sense in your particular setting.

### **B. Electronic Advertisement of Bids**

In addition to public advertisement, Purchasing posts its Bids/RFPs/Quotes on the Empire State Purchasing Group (ESPG) website. Any vendor wishing to receive automatic notification must register on the ESPG website and pay a small fee for that service. Vendors who do not wish to have automatic notification may register for free to obtain access to downloading any document. Vendors who register for free have the responsibility of checking the ESPG website to look for business opportunities. Purchasing will no longer maintain lists of vendors for commodities or services. In order for specifications to be sent to any vendor, that vendor must first contact Purchasing by mail, email, or fax, requesting that the specifications be sent via regular mail or email. Vendors may pick up specification in person at the Purchasing Office during the business hours indicated in the notice of bid advertisement. Bid or proposal packages will not be “faxed” or sent via overnight carrier (Fed-X) under any circumstances.

### **C. Bid Security**

There are two different types of circumstances that may require bid securities.

1. PURCHASE OF GOODS OR SERVICE – A percentage of the estimated bid is required as security and must be in certified check form and/or bid bond. The certified check and/or bid bond of the awarded vendor is held until Purchasing receives written notification from the requesting department head the bid items or services have been received. The bid security is then returned to the awarded vendor.

2. CAPITAL IMPROVEMENT or PUBLIC WORKS PROJECTS – A percentage or fixed dollar amount bid security in the form of a certified check or bid bond is required. Bid security will be five percent of the total bid amount or a fixed dollar amount. Bid security will be returned once the required performance bonds have been received and the contracts are fully executed.

### **D. Performance Bond**

Performance bonds shall be required when bidding capital improvement or public works projects. Bidders shall be required when bidding capital improvement or public works projects. Bidders are required to submit their performance bonds before or at the time that they sign a contract. This bond will ensure that the bidder fully completes its performance requirements for the municipality between the date of award and the date of completion stated in the contract.

### **E. Prevailing Wages**

Prevailing wages consist of pay scales that have been bargained for by various unions throughout The State of New York, and are set by the NYS Department of Labor. Vendors must pay these rates to those employees who work on public works projects in any municipal building. These wage rates apply regardless of the dollar amount of the contract. It is extremely important to make sure that bidders/proposers understand that prevailing wages apply for any public works project in City buildings regardless of the dollar value of the contract.

### **F. Addendums**

As stated in the Request for Bid terms and conditions, “only formal, written addenda can alter the bid specifications.” When a discrepancy, ambiguity, or omission is revealed, Purchasing will issue an addendum to clarify the bid requirements. The addendum is sent via fax and/or US Mail to all vendors that have picked up or were mailed bid packages, and the addendum is also posted on the HVMPG website. The first addendum will be labeled “Addendum #1”. Subsequent addendums issued will be sequentially labeled.

Purchasing will make every effort to ensure that all vendors of record receive addenda.

The addendum procedure will also be used to extend the bid date where additional time is necessary to give the vendors/contractors sufficient time to submit a responsible bid.

### **G. Receipt of Bids**

Vendors or contractors must mail, express, or otherwise physically deliver sealed bids to the Purchasing Department office on or before the bid deadline specified in the legal advertisement. The Purchasing Agent shall maintain a bid receipt log; the purpose of which is to record when, and by what method each bid was received. No bids are accepted after the bid deadline. Those received after the bid deadline will be returned to the sender unopened. The best practice is to refuse delivery of any late bids. However, if a carrier delivery of a late bid is inadvertently received then the late bid shall be returned to the prospective bidder in the original unopened envelope along with a letter explaining that their bid was late and cannot be accepted.

No “fax” machine transmission or other electronically submitted bids will be accepted under any circumstances. All bids are kept in a secure location.

Except by issuing an addendum, the bid opening time and date may never vary once they are set.

At the public bid opening the Purchasing Agent shall supply a bid opening attendance form; all representatives from the prospective bidders shall be required to sign in along with the representative from the requisitioning department and the Purchasing Agent. Any member of the general public that attends the bid opening merely for the purpose of observation is not required to sign in and their signature shall not be requested.

### **H. Bid Recommendation and Award Process**

After the bids are opened the Purchasing Agent shall prepare a bid tabulation of the bids that were received. The tabulation shall be forwarded to the Mayor, Comptroller and the head of the requisitioning department. For the purpose of review the requisitioning department head will also receive a copy of all the bids received. The department shall review the bids and send a memorandum of their recommendation or rejection to Purchasing. If the lowest responsible bidder is not recommended, then a detailed written explanation from the department head must be attached. The Purchasing Agent will review the bids and department recommendation, and, if necessary, contact Corporation Counsel to clear up any legal technicalities and then will approve or disapprove the department’s recommendation.

If a contract is required for an individual department, the department head must submit the package with recommendations to Corporation Counsel for appropriate contract review, drafting, and approval. All contracts must be approved by Corporation Counsel and by the Mayor. After approval for the contract is granted, Purchasing will process the necessary notice of award or purchase order. When the award process is finalized, the entire bid package becomes a permanent file in Purchasing.

## **I. Requests for Proposals (RFP)**

An RFP is a competitive process for choosing an individual or firm with which to contract for services. The contract is awarded based on factors such as cost, qualifications, experience and demonstrated ability, and not necessarily to the proposer with the lowest price. These guidelines are for the development, solicitation, evaluation, and award of RFP's consistent with the applicable laws and regulations of the City of Kingston. Generally, a RFP is to be used as a procurement vehicle when the end-user does not have a pre-defined product specification or service requirement, but rather a set of outcomes or deliverables needed to meet the project objective(s). A RFP allows responding proposers to use their best resources to propose solutions that meet the project objective(s).

A thorough, well written RFP will help ensure that meaningful and responsive proposals will be received and that the desired ends for the project will be achieved. The RFP must provide the offeror with a clear, unambiguous statement of work for the project, the rules for submitting responsive proposals, a detailed statement of the requirements and goals of the project, instructions on the preparation of the proposal, and the method and criteria for proposal evaluation.

### **RFP Administration and Process**

#### **1. RFP Development**

Purchasing shall work with the requesting department in the development and review of the RFP. The department shall be given a final draft of the RFP for approval before the notice has been advertised.

The evaluation team, evaluation criteria, and evaluation weights shall be determined prior to solicitation. The weight for each evaluation criteria item shall be determined by the evaluation team with the advice of Purchasing prior to the solicitation. The weight shall be based on a percentage where the combined weights for all the evaluation criteria shall equal 100%.

#### **2. Forming a RFP Development Team**

Assembling a competent development team at the outset of the process is essential. RFP development team members should be carefully selected on the basis of their individual skills and potential contributions. The team should consist of staff members from the department that have an interest or expertise in the services to be procured. The team should be given sufficient time and resources to participate in the planning and implementation process.

#### **3. Forming the Evaluation Team**

Prior to solicitation, the requesting department shall form an "evaluation team" of knowledgeable personnel to evaluate and recommend an award of the RFP. It should be clear to evaluation team members from the outset that their duties will require significant time and effort.

There is no restriction as to how many people there may be on the evaluation team. It is suggested that a minimum of three individuals be considered and the team should be diverse with expertise and knowledge of the product or service being procured.

Each Evaluation Team member will be provided with the RFP guidelines and a copy of the RFP for review prior to commencement of the evaluation process.

#### 4. Purchasing's Role

Purchasing's experience, influence, and consistency are critical to the successful completion of the RFP process. Purchasing usually will not serve as a scoring member of the evaluation team, but shall perform the following responsibilities:

- Support department staff in drafting the RFP;
- Manage the RFP process;
- Instruct the proposal evaluation team regarding the RFP process, the terms of the subject RFP, and the evaluation process detailed in the RFP so that team members understand the RFP process and their responsibilities in it;
- Manage the proposal evaluation process;
- Oversee the review of technical proposals for responsiveness to mandatory requirements;
- Conduct and coordinate any oral presentations and written clarifications with proposers; and
- Maintain the project file during the RFP process.

In the event of any protests, or appeals related to and RFP; it shall be Purchasing's responsibility to work with the Corporation Counsel's Office and provide them with the full record of the procurement process. Such actions may or may not center on the activities of the evaluation team. However, it is not uncommon for a protestor to review the scoring of the evaluation team. It is essential that evaluators work hard to score the proposers in a consistent and explainable manner.

#### 5. Role of the Evaluators

- Evaluators are instructed not to discuss any part of the proposals outside the evaluation team members;
- For uniformity in scoring, the evaluators are to use the evaluation form supplied by Purchasing;
- All scores must be supported by rational and sufficient documentation to substantiate the evaluators' judgment;
- A team leader, usually from Purchasing, should be established to serve as a proctor for all meetings of the evaluation team, and keep records of all evaluation discussions, forms, scoring and recommendations.
- The team as a whole will discuss the findings of each member, and develop a composite score for each proposal after the evaluators have evaluated the proposals separately. If it is apparent that one or more of the evaluators' scores differ greatly from the majority, the team should discuss the situation to be sure the criteria was clear to all. If an evaluator

feels at this point that he did not understand the criteria or did not understand the proposal, he/she may, at his/her discretion, revise the evaluation. All evaluation forms are turned into Purchasing to become part of the public record.

Do's and Don'ts for evaluators:

<u>Do's</u>	<u>Don'ts</u>
Do evaluate each proposal independently, then as a team.	Don't confer with the other team evaluators concerning a particular proposal until after you have first evaluated it independently.
Do record the detailed rationale for scoring each proposal.	Don't use vague or contradictory statements in your evaluation rationale.
Do ask Purchasing for guidance with any question you may have.	Don't discuss the evaluation scores with non-team evaluators prior to an award being made. If you get an inquiry from an offeror, your response should only indicate that you are in the "evaluation process." Any further questions should be directed to Purchasing.
	Don't assume. If you have a question, please ask.

## 6. Conflict of Interest

A conflict of interest exists whenever there is a situation in which an evaluation team member, advisor or consultant may have a financial or other interest or prejudice through current or past association or relationship with any responding offeror. Any individual who believes a potential conflict of interest exists must inform Purchasing immediately. The Purchasing Agent will contact the Corporation Counsel's Office for an opinion if the Purchasing Agent deems it necessary to do so.

## 7. RFP Solicitation Phase

Legal Notices for RFP's shall be published in the official newspapers of the City of Kingston. RFP specifications may be obtained directly from the Purchasing Office. Additionally, RFP specifications may be available for downloading directly from the HVMPG website.

## **RFP Layout and Content**

The layout and content of all RFP's will include information and requirements from both the department and from Purchasing. Some sections of the RFP's will be the primary responsibility of the department while some sections will include standard language from Purchasing. While RFP's will vary from project to project, they will typically follow a basic outline:

1. Background Information
2. Objectives and Technical Requirements (Scope of Work)
3. Cost/Budget Proposal Requirements
4. Contractual Terms and Conditions
5. Administrative Information
6. Proposal Format and Content
7. Proposal Evaluation Criteria
8. Any relevant attachments provided by the department

The department will be primarily responsible for developing the background information, objectives and technical requirements (scope of work), cost/budget proposal requirements and evaluation criteria. The department is also responsible for any attachments to the RFP that may be required.

Purchasing will provide the language for the contractual terms and conditions, administrative information (e.g., contact and pre-bid conference information), proposal format and content (e.g., required proposal sections and their order).

### 1. Background

This section of the RFP contains background information for those interested in responding to the RFP (hereinafter "proposers"). Background information should include a description of the function of the department for which the services are required, a fairly detailed explanation of why the services are needed, a description of the method or system presently employed (including its deficiencies), the staff and resources available, and the objectives of the department. This is a reasonably brief summary of the existing problem and the approach to a solution preferred by the department. The details of tasks are reserved for the scope of work section. For human services RFP's, any current data and demographic information on the target population of utilization of services should also be included here.

### 2. Objectives and Technical Requirements – Scope of Work (SOW)

This is a detailed description of the work to be performed by the proposer. A well-written SOW enhances the opportunity for all potential proposers to compete equally for City projects and serves as the standard for determining if the proposer meets the stated performance requirements. The SOW should specify in clear, understandable terms the work to be performed by a proposer. Preparation of an effective SOW requires both an understanding of the services that are needed to satisfy a particular requirement and an ability to define what is required in specific, performance-based, quantitative terms. A SOW prepared in explicit terms will enable proposers

to clearly understand the City's needs. This facilitates the preparation of responsive proposals and delivery of the required services while shifting the responsibility for preparing the SOW from the City to those responding to the RFP.

Any technical requirements that proposers must meet as an organization or comply with in their proposed program should be detailed in this section. This section should also include any regulatory or legal requirements that must be followed.

The department will need to develop the objectives that the selected proposal will be expected to accomplish. Note: Objectives are not simple benchmarks or milestones (e.g., X number of vehicles serviced per month). They should be outcomes you are looking to achieve (e.g., reduce by X% the number of vehicles with lost service hours).

### 3. Cost/Budget Proposal Requirements

The department requesting the RFP will be responsible for the details in this section, although some language will be standard in all RFP's and will be provided by Purchasing. You should describe the form and cost breakdown that you will require for this particular project. If you will be attaching a budget form for proposers to complete, you should indicate that here. You may also want to repeat here any funding information that you provided in the previous background or objectives/requirements sections.

### 4. Evaluation Criteria

Proposers will need to know the criteria that they will be judged upon. Evaluation criteria should be carefully developed, well-thought out and should provide a comprehensive array of qualities on which to judge the proposers. Avoid multiple criteria that are similar to one another, or criteria that can be ambiguous or unclear. Criteria should be chosen and weighted based upon their importance to the project and your mission and as a factor in successfully meeting your project objectives. You should not include criteria that are not relevant or important to the project.

## **RFP Proposer-City Communication/Contact**

### 1. Proposer Questions and/or Inquiries

Once the legal notice has been published, and the RFP's have been distributed, all proposer questions should be directed to Purchasing in writing. Under no circumstances should a department answer hypothetical or speculative "what if" questions.

### 2. Pre-Proposal Conferences

Based upon the scope and technical requirements of a RFP, a pre-proposal conference may be necessary. If a pre-proposal conference is conducted, modifications to the RFP may result. The pre-proposal conference provides an opportunity to:

- Review the requirements
- Facilitate a clear understanding of the scope of work; and
- Promote competition.

The pre-proposal conference is a meeting of potential respondents, Purchasing, and the requesting department's technical representative. A sign-in sheet will be distributed to collect the attendee names, company names, and telephone numbers. Some questions are answered immediately, while others may require additional analysis. For questions requiring additional analysis, Purchasing will indicate to the attendees that there will be a response in writing made in a timely manner before the scheduled opening, or of necessary, the opening date will be rescheduled. All questions will be addressed in a subsequent addendum.

### 3. Addendum

If needed, an addendum to the RFP may be issued to correct any inconsistencies in the RFP, revise elements of the RFP, and/or respond to inquiries by potential respondents. Purchasing will be responsible for coordination of the subject matter and for issuing the addendum. The addendum is sent to all vendors who possess a copy of the RFP.

## **Post RFP Deadline and Evaluation**

### 1. RFP Closing

After the proposal due date and time, names of the respondents are released. No other information is given until the City has a signed contract with the awarded proposer.

### 2. RFP Evaluation

After the RFP has closed, Purchasing will distribute copies of all responses to the requesting department, with the original responses kept in Purchasing's file. The requesting department shall distribute copies of all responses, along with the scoring matrix, to the identified evaluation team. Each team member is to score all proposals against the evaluation criteria identified in the RFP specification.

Each evaluation team member should provide written justification/explanations for each score given under each criterion. When all evaluation team members have completed their scoring, the scores shall be collected by the team leader for tabulating the results, and identifying the top rated proposer(s) for award consideration.

### 3. Oral Presentations

Oral presentations are used to clarify or verify the proposer's written proposal and should be used when appropriate. They may be restricted to only those proposers with the highest scores after the initial evaluation of all proposals. Purchasing, in coordination with the requesting department, shall develop discussion points and questions for the proposers to address during their presentations. All proposers will be afforded equal time for their presentations.

All members of the evaluation team should be present for each presentation. Details of competing proposals should not be discussed during presentations. The proposer's presentation and answers to the evaluation team's questions may enhance the proposer's score in the evaluation areas of the RFP. The evaluation team may re-evaluate and make changes to the scores of the proposers based on the information received from the presentations.

#### 4. RFP Award Phase

After the responses to the RFP have been evaluated and tabulated, or re-evaluated after oral presentations, the department head shall make a formal written recommendation to Purchasing. Attached to the recommendation shall be the scoring matrix with supporting documentation justifying why the successful proposer was selected.

Purchasing will issue a Notice of Award to the highest scoring proposer. The department head shall process contract approval through the City's Corporation Counsel's Office.

### **V     Vendor Lists**

Purchasing shall no longer maintain a vendor list for the procurement of either commodities or services. Purchasing regularly posts Bids, RFPs, and opportunities for Quotes on the Empire State Purchasing Group (ESPG) website. Any vendor wishing to receive automatic notification must register on the ESPG website and pay a small fee for that service. Vendors who do not wish to receive automatic notification may register for free to obtain access to downloading any document. Vendors who register for free have the responsibility of checking the ESPG website to look for business opportunities.

### **VI    Request for Price Quotations**

The Purchasing Agent shall prepare and seek price quotations based on the specifications provided by the requisitioning departments. Methods for obtaining quotes shall include but not be limited to telephone quotes, written quotes faxed quotes or online Request for Quotes (RFQ).

The purchasing agent shall receive and evaluate all price quotations; the selection of a vendor shall then be made. However, in the event of a technical or specialized purchase or where uncertainty remains the head of the requisitioning department shall be notified and be required to assist the buyer in vendor selection.

## VII Emergency Procurements

Section 103(4) of GML sets forth an exception to bidding requirements for emergency situations and provides as follows:

“Notwithstanding the provisions of subdivision one of this section, in the case of a public emergency arising out of an accident or other unforeseen occurrence or condition whereby circumstances affecting public buildings, public property or the life, health, safety or property of the inhabitants of a political subdivision or district therein, require immediate action which cannot await competitive bidding, contracts for purchase or public work or the purchase of supplies, material or equipment may be let by the appropriate office, board or agency of a political subdivision or district therein.”

Accordingly, the following three basic statutory criteria must be met in order to fall within the emergency exception:

1. The situation must arise out of an accident or unforeseen occurrence or condition;
2. Public buildings, public property, or the life, health, safety or property of the City’s inhabitants must be affected;
3. The situation must require immediate action that cannot await competitive bidding. Even when a governing board passes a resolution that a public emergency exists, the public interest dictates that public purchases are made at the lowest possible cost, seeking competition by informal solicitation of quotes or otherwise, to the extent practicable under the circumstances.

The Office of the State Comptroller has suggested that, to meet these criteria, there generally must be present, immediate and existing condition that is creating an “imminent danger to public or private property or the life, health or safety of the municipality’s residents which makes a further delay in action occasioned by compliance with competitive bidding requirements unwarranted” (1981 Opns St Comp, No. 81-224, P 241). Further, in as much as GML Section 103(4) provides that the emergency must arise out of an accident or unforeseen occurrence, it is doubtful that a local government may invoke the emergency provisions in a situation that is the result of inaction or dilatory behavior on the part of officials and which therefore, could have been foreseen (1978 Opns St Comp No. 78-780, unreported; see also, Rodin v. Director of Purchasing, 38 Misc. 2<sup>nd</sup> 362, 238 N.Y.S.2d 2 (1963)).

Note that even in an emergency situation, it is in the public interest that purchases be made at the lowest possible cost (Orange Paint v. Scaramuccia, 59A.D. 2d 894, 399 N.Y.S. 2d 52). Thus, the political subdivision should seek competition by informal solicitation of quotes or otherwise, to the extent practicable under the circumstances.

The law cannot be circumvented by a declaration of an emergency that is caused by lack of planning on the part of the department. A “sudden” emergency arising from the gradual

deterioration of a piece of equipment or an out-of-stock condition of a routine supply item, will not withstand the legal scrutiny.

The requesting department should contact the Purchasing Agent for the determination that the situation qualifies as an emergency. If the Purchasing Agent deems it necessary or prudent, he/she will contact Corporation Counsel for an opinion.

When circumstances support an emergency purchase, the requesting department should, with Purchasing's assistance, attempt to locate a source for the goods or services. An attempt should be made to obtain the lowest price from a vendor or contractor who will best meet the requirements. When the supplies and the price have been established, the department head or designee will call Purchasing for emergency purchase procedures. A written determination of the basis for the emergency and the selection of the particular supplier shall be included in the procurement file. As soon as practicable, a full record of each emergency procurement shall be made and set forth the supplier's name, the amount and type of contract, a listing of the item(s) procured under the contract and purchase order number.

The Mayor has the ultimate power to designate an "emergency purchase" or "emergency project," and may waive normal bidding requirements. If the emergency designation is approved and certified by the Mayor, the requesting department will submit all original backup information, such as the vendors' or contractors' proposed contracts or proposals, quotations, letters, etc. to Purchasing for its records.

## **VIII Purchase Orders**

Purchase Orders shall be required for procurements of **\$500** or more; employment of the Procurement Card (P-card) shall be the preferred method for processing transactions of lesser amounts.

The Purchasing Agent shall prepare all purchase orders and send copies to the vendors. A copy of the purchase order will be forwarded to the requisitioning department. The Purchasing Department shall keep and maintain a copy of the purchase order along with a signed PR from the requisitioning department.

Blanket Purchase Orders – When a particular department frequently makes small purchases from the same vendor several times a month it is more efficient to issue a single blanket purchase order to the vendor rather than to continuously issue multiple purchase orders.

Procurement Cards - The City recognizes that the use of procurement cards is a practical alternative to the use of purchase orders for high-volume, low-value procurements. The purpose of the procurement card program is to streamline and simplify the requisitioning, purchasing, and payment process for small dollar transactions of **\$499** or less. For additional procedural details please refer to Section VI of this manual.

A. Purchase Order Exceptions:

There are certain expenditures for which the NYS Comptroller has determined that the processing of a purchase order is unnecessary:

1. Contracts for personal services. Any encumbering should be on the basis of written contracts.
2. Employee expenses such as conference expenses, mileage and other reimbursable expenses in the performance of day-to-day duties.
3. Reimbursement of petty cash funds.
4. Utility bills.
5. Service contracts for a fixed monthly or annual amount (May be encumbered on the basis of the written contract).
6. Interdepartmental charges (water department billing to recreation; fire department billings for fire alarm systems, etc.)
7. Medical examinations.
8. Legal notices.
9. Claims for food for prisoners being transported.
10. Postage meter costs.

**IX Delivery**

The requisitioning department shall receive and inspect the delivery of all items. Any errors or damages shall be reported to the Purchasing Agent. Immediate notification shall then be made to the particular vendor. Requisitioning departments shall also bring to the attention of the Purchasing Agent any consistent and unresolved problems with any vendor

**X Payments**

All invoices will be sent to the requisitioning department. Upon verification of price, accepted delivery and terms, original invoice with a purchase order voucher attached will be processed for payment by the requisitioning department. This paperwork will then be sent to the Comptroller's Office for payment.

## **XI Sole Source Procurements**

A) A contract may be awarded without competition when the Purchasing Agent determines in writing, after conducting a good faith review of available resources that there is only one source for the required commodity, supply, service or construction item. The Purchasing Agent shall conduct negotiations, as appropriate, as to price, delivery and terms. A record of sole source procurements shall be maintained as a public record, and shall list each supplier's name, the amount and type of each contract, a listing of the item(s) procured under each contract, and the purchase order number of each contract file.

B) In determining whether procurement qualifies as a sole source, Purchasing and the Department requesting the procurement shall show, at a minimum:

- (1) The unique benefits to the City of the item as compared to other products available in the marketplace;
- (2) That no other product provides substantially equivalent or similar benefits as compared to other products available in the marketplace;
- (3) That there is no possibility of competition, as from competing dealers or distributors.

## **XII Cancellation of Invitations for Bids or Request for Proposals**

An invitation for bids, a request for proposal, or other solicitation may be cancelled, or any or all proposals may be rejected in whole or in part as may be specified in the solicitation, when it is for good cause, and in the best interests of the city. The reasons therefore shall be made part of the contract file. Each solicitation issued by the city shall state that the solicitation may be cancelled and that any bid or proposal may be rejected in whole or in part for good cause when in the interests of the city. Notice of cancellation shall be sent to all businesses solicited. The notice shall identify the solicitation, explain the reason for cancellation and, where appropriate, explain that an opportunity will be given to compete on any resolicitation or any future procurement of similar items. Reasons for rejection shall be provided upon request by unsuccessful bidders or offerors.

## **XIII Inter-Municipal Procurements**

Purchases of materials, equipment, supplies and or services through the NYS Office of General Services (OGS) may be exempt from competitive bidding or subject to a modified competitive bidding process. If a department's procurement item or service is available under an OGS contract, the department must review the OGS contract to determine the possible bidding requirements. Purchasing can assist with this determination if need be and the Purchasing Agent has the discretion to require competition in this area.

Procurements under contracts from NYS Counties are not subject to competitive bidding. (GML § 103(3))

#### **XIV Procurements From Preferred Sources**

New York State Finance Law, §162, provides that procurements from certain “preferred sources” are exempt from competitive bidding. Pursuant to this law and as determined by the Purchasing Agent, procurements from the following entities may be exempt from competitive bidding:

1. Commodities produced by the department of correctional services’ correctional industries program (CORCRAFT).
2. Commodities and services produced by any qualified charitable non-profit-making agency for the blind approved for such purposes by the Commissioner of the Office of Children and Family Services.
3. Commodities and services produced by any special employment program serving mentally ill persons, which shall not be required to be incorporated, and for which is operated by facilities within the office of mental health and is approved for such purposes by the Commissioner of Mental Health.
4. Commodities and services produced by any qualified charitable non-profit making agency for other severely disabled persons approved for such purposes by the Commissioner of Education, or incorporated under the laws of the State of New York and approved for such purposes by the Commissioner of Education.
5. Commodities and services produced by a qualified veterans’ workshop providing job and employment skills training to veterans, where such a workshop is operated by the United States Department of Veterans Affairs and is manufacturing products or performing services within New York State, and where such workshop is approved for such purposes by the Commissioner of Education.
6. Commodities and services produced by any qualified charitable non-profit making workshop for veterans approved for such purposes by the Commissioner of Education, or incorporated under the laws of New York State and approved for such purposes by the Commissioner of Education.

Departments must consult the Purchasing Agent for a determination as to whether a particular procurement qualifies under this exemption.

## **XV True Leases**

Equipment leases are not subject to competitive bidding if they meet the following criteria:

1. the term of the lease is less than the useful life of the equipment being leased; AND
2. the lease does NOT provide for a buy out and the end of the term.

The Purchasing Agent has the discretion to require competition in this area.

Leases of real property are not subject to §§103 or 104 of GML.

## **XVI Procurements From Surplus Government Auctions**

If they meet the City's needs, surplus or second-hand supplies, materials, or equipment from the state or federal government or any other political subdivision, district, or public benefit corporation, may be purchased without competitive bidding pursuant to GML §103 (6).

## **Section III**

### **Review of Purchases; Determination of Bidding Requirements.**

Every purchase to be made must be initially reviewed by the Central Purchasing Agent of the city to determine whether it is a purchase contract or a public works contract. Once that determination is made, a good-faith effort will be made to determine whether it is known or can reasonably be expected that the aggregate amount to be spent on the item of supply or service is not subject to competitive bidding, taking into account past purchases and the aggregate amount to be spent in a year. The following items are not subject to competitive bidding pursuant to § 103 of the General Municipal Law:

- (1) Purchase contracts under \$20,000 and public works contracts under \$35,000.
- (2) Emergency purchases.
- (3) Goods purchased from agencies for the blind or severely handicapped.
- (4) Goods purchased from correctional institutions.
- (5) Purchases under state and county contracts.
- (6) Surplus and secondhand purchases from another governmental entity.

The decision that a purchase is not subject to competitive bidding will be documented, in writing, by the individual making the purchase. This documentation may include written or verbal quotes from vendors, a memo from the purchaser indicating how the decision was arrived at, a copy of the contract indicating the source which makes the item or service exempt, a memo from the purchaser detailing the circumstances which led to an emergency purchase or any other written documentation that is appropriate.

### **Requests for Proposals or Quotations; Exceptions.**

All goods and services will be secured by use of written requests for proposals, written quotations, verbal quotations or any other method that assures that goods will be purchased at the lowest price and that favoritism will be avoided, except in the following circumstances:

- A. Purchase contracts over \$20,000 and public works contracts over \$35,000.
- B. Goods purchased from correctional institutions pursuant to § 186 of the Correction Law.
- C. Purchases under state contracts pursuant to § 104 of the General Municipal Law.

D. Purchases under county contracts pursuant to § 103, Subdivision 3, of the General Municipal Law.

E. Purchases pursuant to § 103-6 of this chapter.

**Methods of Purchase**

A. The following method of purchase will be used when required by this policy in order to achieve the highest savings:

(1) Other than public works contracts.

<b>Estimated Amount of Purchase Contract</b>	<b>Method</b>
\$500 to \$2,999	2 verbal quotations
\$3,000 to \$19,999	3 written/fax quotations or written RFP

(2) Public Works Contracts.

<b>Estimated Amount of Public Works Contract</b>	<b>Method</b>
\$500 to \$2,999	2 verbal quotations
\$3,000 to \$4,999	2 written/fax quotations
\$5,000 to \$34,999	3 written/fax quotations or written RFP

A good-faith effort shall be made to obtain the required number of proposals or quotations. If the purchaser is unable to obtain the required number of proposals or quotations, the purchaser will document the attempt made at obtaining the proposals. In no event shall the failure to obtain the proposals be a bar to the procurement.

**Documentation required.**

Documentation is required for every action taken in connection with each procurement.

**Requirements when contract not awarded to lowest bidder.**

Documentation and an explanation is required whenever a contract is awarded to other than the lowest responsible offeror. This documentation will include an explanation of how the award will achieve savings or how the offeror was not responsible. A determination that the offeror is

not responsible shall be made by the purchaser and may not be challenged under any circumstances.

**Exceptions.**

Pursuant to General Municipal Law § 104-b, Subdivision 2f, it is determined by the Common Council of the City of Kingston that the solicitation of alternative proposals or quotations will not be in the best interest of the City of Kingston in the following circumstances:

A. Professional services or services requiring special or technical skill, training or expertise.

(1) The individual or company must be chosen based on accountability, reliability, responsibility, skill, education and training, judgment, integrity and moral worth. These qualifications are not necessarily found in the individual or company that offers the lowest price, and the nature of these services are such that they do not readily lend themselves to competitive procurement procedures. Where it is determined that a service fits into this category, the Mayor of the City of Kingston shall be responsible for choosing the alternative that best suits the needs of the City of Kingston.

(2) In determining whether a service fits into this category, the following guidelines shall be considered:

(a) Whether the services are subject to state licensing or testing requirements.

(b) Whether substantial formal education or training is a necessary prerequisite to the performance of the services.

(c) Whether the services require a personal relationship between the individual and municipal officials.

(3) Professional or technical services shall include, but not be limited to, the following:

(a) Services of an attorney.

(b) Services of a physician.

(c) Technical services of an engineer or architect engaged to prepare plans, maps and estimates.

(d) Securing insurance coverage and/or services of an insurance broker.

(e) Services of a certified public accountant.

(f) Investment management services.

(g) Printing services involving extensive writing, editing or art work.

(h) Management of municipally owned property.

(i) Computer software or programming services for customized programs or services involved in substantial modification and customizing of prepackaged software.

## **Section IV**

### **PROCEDURES FOR HANDLING BIDDING PROTESTS and APPEALS**

#### **I. Policy**

It is the policy of the City of Kingston Purchasing Department to provide all bidders with an opportunity to administratively resolve complaints or inquiries related to bid solicitations or pending contract awards. City of Kingston Purchasing encourages bidders to seek resolution of complaints concerning the contract award process through consultation with the Purchasing Department. All such matters will be accorded impartial and timely consideration.

#### **II. Informal Complaints/Protests**

It is strongly recommended that staff encourage, be receptive to and resolve issues, inquiries, questions and complaints on an informal basis, whenever possible. Information provided by any interested party should be fully reviewed by Purchasing Agent. As appropriate, our responses to the inquirer should indicate the existence of a formal protest policy available to them should the informal process fail to resolve the matter. Staff should document the subject matter and results of any informal inquiries.

#### **III. Formal Protests**

Bidders may file formal written protests. Final City determinations or recommendations for award generally may only be reconsidered in the context of a formal written protest.

Any potential bidder, who believes it has been aggrieved in the drafting or issuance of a bid solicitation, or by a pending contract award, may present to the City of Kingston Purchasing Department, a formal complaint and request for administrative relief concerning such action (“FORMAL PROTEST”).

##### **A. Submission of Protests:**

1. Concerning Bid Documents: Formal protests which concern the drafting of bid solicitations must be received by City of Kingston Purchasing at least ten (10) business days before the date set in the solicitation for receipt of bids. If the date set in the solicitation for receipt of bids is less than ten (10) business days from

the date of issue, formal protests concerning the bid document must be received by City of Kingston Purchasing at least twenty-four (24) hours before the time designated for receipt of bids.

Concerning Proposed Contract Award: Formal protests concerning a pending contract award must be received within ten (10) business days after the protesting party (“protester”) knows, or should have known of the facts which form the basis of a protest.

2. A formal protest must be submitted in writing to City of Kingston Purchasing by mail, or facsimile transmission.
3. A formal protest must include:
  - (a) a statement of all grounds for disagreement with a City of Kingston Purchasing bid solicitation or procurement determination,
  - (b) a description of all remedies or relief requested, and
  - (c) all applicable supporting documentation.
4. Protests should be delivered to the City of Kingston Purchasing Agent at the following address:

**City of Kingston Purchasing Department**

420 Broadway

Kingston, NY 12401

Facsimile: (845) 334-3944

Phone: (845) 334-3943

**B. Review and Determination**

1. Protests may be resolved through verbal or written correspondence, and/or either the protester or City of Kingston Purchasing may request a meeting to discuss a formal protest, at which time the participants may present their concerns. Where further formal resolution is required, the Purchasing Agent shall assign another City Official not involved in the procurement action to determine and undertake the resolution or settlement of any protest relative to bid solicitations or pending contract awards.
2. The Purchasing Agent will conduct a review of the records involved in the protest and create a memorandum summarizing the results of the review and her/his recommendation for resolution.
3. Acceptable Activity Prior to Final Determination: If a formal bid protest is received by City of Kingston Purchasing a final determination on the protest should be made prior to approval of the award. However, during the pendency of

the protest, bid evaluation and review of the recommended award may continue to be conducted at the discretion of the Purchasing Agent.

4. Notice of Decision: A copy of the decision, stating the reason(s) upon which it is based and informing the protester of the right to appeal an unfavorable decision to the Purchasing Agent shall be sent to the protester or its agent within thirty (30) business days of receipt of the protest, except that upon notice to the protester such period may be extended. The protest determination should be recorded and included in the Bid file.
5. The City of Kingston Purchasing Department reserves the right to waive or extend the time requirements for decisions and appeals herein prescribed when, in its sole judgment, circumstances so warrant.

The City of Kingston Purchasing Department will consider all information relevant to the protest, and may, at its discretion, suspend, modify, or cancel the protested procurement action including solicitation of bids or withdraw the recommendation of contract award prior to issuance of a formal protest decision.

If the City of Kingston Purchasing Department determines that there are compelling circumstances, including the need to proceed immediately with contract award in the best interest of the City, then these protest procedures may be suspended and such determination shall be documented in the Bid file.

### **C. Appeals**

1. Should the protester be dissatisfied with the protest determination, a written appeal therefrom may be directed to:

**City of Kingston Mayor's Office**  
420 Broadway  
Kingston, NY 12401

2. Written notice of appeal of a determination regarding bid solicitations or a pending contract award must be received at the above address no more than fifteen (15) business days after the date the decision is sent. The decision of the Purchasing Agent shall be a final and conclusive agency determination unless appealed to the Mayor within such time period.
3. The Mayor shall hear and make a final determination on all appeals. The Mayor may designate a person or persons to act on his/her behalf.
4. A formal protest appeal may not introduce new facts unless responding to issues raised by the Purchasing Agent in the initial protest determination.

**D. Records Retention**

All records related to bidder protests and appeals shall be retained for at least one (1) year following resolution of the protest. All other records shall be retained according to the Records Retention Policy in place at the time.

# Section V

## Procurement Card Program

PURPOSE

SCOPE

APPLICABILITY

BACKGROUND

RESPONSIBILITIES

AUDIT REQUIREMENTS

ASSIGNMENT AND CONTROL OF THE PROCUREMENT CARD

CARD HOLDER USE OF THE PROCUREMENT CARD

PROHIBITED USE OF THE PROCUREMENT CARD

PROCEDURES FOR MAKING AND PAYING FOR PURCHASES

PROCEDURES FOR DISPUTES

REVIEW OF PURCHASES BY DEPARTMENTS

APPENDIX A – PROCUREMENT CARD PROGRAM FORMS

### **I. PURPOSE:**

The purpose of the City Procurement Card Program is to improve efficiency and streamline the purchasing process of small dollar items, thereby reducing the volume of individual purchase orders and payments processed by the City to suppliers. This program allows the cardholder to purchase approved commodities and services costing **\$499 or less**, directly from City suppliers. Each purchasing card is issued to a named individual and is designated with "City of Kingston" clearly shown on the card as the Governmental buyer of goods and services. The Purchasing Agent and the City Comptroller will monitor the performance of the program.

The intent of the Procurement Card Program is to provide an efficient method of purchasing and paying for goods and services **costing \$499 or less**. Exceptions to these limits may be allowed for emergency purchases, law enforcement extraditions, vendors who only accept credit cards as a form of payment, or particular vendors from whom it is impractical or unacceptably burdensome to receive signed vouchers, and for special contract incentives that provide the City with additional discounts. Any such exceptions shall be approved in advance and in writing, by both the City Comptroller and the Purchasing Agent. The use of procurement cards will:

- Reduce the need for petty cash accounts;
- Provide a better audit trail of low dollar purchases formerly made with Petty Cash;
- Reduce the cost of processing routine transactions;
- Decentralize purchasing authority for routine transactions **up to \$499**;
- Ensure purchasing card purchases are in accordance with the City's Purchasing Policy and Procedures;
- Provide for disciplinary action for misuse of the purchasing card;

Use of the card will obligate the City to make payment for the goods and services received. M&T Bank will bill the Comptroller's Office for all Purchases made during the billing period.

The Comptroller's Office will allocate the charges back to individual department accounts for purchases made using the department's cards.

## **II. SCOPE**

This policy will be applicable to those City departments who have requested and have been approved to use procurement cards to purchase goods and services for specific expenditures incurred under conditions approved by this policy.

## **III. APPLICABILITY**

This Policy applies to all agencies and departments within City government, with the exception of the Kingston Water Department. The policies and procedures provided herein are minimum standards. Departments may establish additional controls if necessary.

## **IV. BACKGROUND**

The Purchasing Department has used various methods to accomplish the purchase of goods and services. The method of purchase requisitioning, has proven to be time consuming and costly. To promote operational efficiency and vendor acceptance the Purchasing Department and Comptroller's Office are initiating a Procurement Card program.

The Procurement Card system simplifies the procurement/disbursement process. Procurement responsibility is delegated to the ordering Department enabling an authorized cardholder to place an order directly with the vendor. When a purchase authorization is requested by the supplier at the point-of-sale, the Visa Procurement Card system checks the transaction against preset limits. Transactions are approved or declined (electronically) based on the Procurement Card authorization criteria established.

The authorization criteria may be adjusted periodically as needed and shall include, but is not limited to, the following:

- Card purchase limit as set by the Purchasing Office and City Comptroller
- Single purchase limit as set by the Purchasing Office and City Comptroller
- Approved Merchant Category Codes

The authorization process occurs through the electronic system that supports the Procurement Card processing services under the City's agreement with the bank.

## **V. RESPONSIBILITIES**

The following are the responsibilities of the individuals and City Departments involved in the Procurement Card program.

### **1) Cardholder and or Department Representative (Individual(s) designated by Department Head)**

- Hold and secure procurement card issued to self
- Ensure availability of funds and proper account codes
- Order/receive materials and services
- Inspect all ordered goods and services, making sure there are no sales tax or backorders
- Collect, save sales receipts, and invoices
- Match receipts with monthly card statement

- Review monthly statements for validity of all transactions
- Process all billing statements in a timely manner
- Identify disputed charges
- Review monthly charges with supervisor
- Comply with all purchasing and procurement card policies and procedures.

**2) Department Representative [Individual(s) designated by Department Head]**

- Acts as the Department or Division contact & coordinator in matters pertaining to the Procurement Card Program
- Review monthly statement with cardholder
- Make sure there are no sales tax or back-orders
- Ensure availability of funds in proper account codes
- Approve the monthly statement authorizing charges
- Verify the appropriateness of account codes (i.e., Fund/Department/Cost Center /Object Code)
- Forward payment authorization, summarized reconciliation of statement(s) and supporting receipts to Department Head or Designee for review and signature, then forward to the Procurement Card Administrator
- Provides annual review/training on use of cards, as needed.
- Comply with all purchasing and procurement card policies and procedures

**3) Department Head**

- Request Procurement Cards for designated employee(s)
- Request Card spending limits within established guidelines
- Designate representatives responsible for authorizing charges and changes, (Designee)
- Collect cards from cardholders who end employment
- Evaluate the need to cancel or reissue cards when employees transfer
- Notify the Procurement Card Administrator of terminated cards
- Comply with all purchasing and procurement card policies and procedures
- Each department will establish internal controls to review purchases
- "Extraordinary or Emergency" purchases exceeding established limits will be processed through the Purchasing Department.

**4) Procurement Card Administrator and Purchasing Department  
(Appointed by the Comptroller)**

- Coordinate program policy issues
- Forward Procurement Card Transfer Requests to Comptroller's Office
- Update Authorized Cardholder List and annual limits
- Provide initial training on use of card
- Coordinate issuance and cancellation of cards
- Target new cardholders and expanded use of card
- Maintain policy and cardholder guidelines/manuals
- Evaluate procurement card feedback from suppliers and from departments
- Monitor missing documentation and notify the Cardholder
- Notify the Department Head of any violations or discrepancies

- Pursue supplier discount opportunities
- Monitor and maintain cardholder accounts and access (e.g. transaction limits, annual limits and reporting access)
- Establish and monitor benchmarking objectives
- Conduct semi - annual inventory of procurement cards in conjunction with the Purchasing Agent.

#### **5) Comptroller's Office**

- Monitor charges for proper account codes and fund availability
- Receive approved monthly statements from all card holders
- Receive consolidated statements from procurement card administrator
- Confirm that all charges are authorized by department representatives
- Notify departments when approved monthly statements are not received
- Pay all monthly charges from consolidated statement
- Process accounting data
- File and store statements, receipts, etc.
- Monitor missing documentation and notify the Procurement Card Administrator
- Notify the Procurement Card Administrator of any violations or discrepancies

### **VI. ASSIGNMENT AND CONTROL OF THE PROCUREMENT CARD**

#### **1. REQUESTS FOR AND ISSUANCE OF PROCUREMENT CARDS**

- a. Standard Procurement cards will be issued to individual employees who frequently purchase goods and services in single purchase amounts of **\$499** or less.
- b. The procurement card will have the employee's name, the City name, notation stating the City's tax exempt status, and the expiration date embossed on the face of the card.
- c. All requests for new card holders, changes to current cardholders, or changes to authorization must be made by the Department Head or Designee by submitting a completed application and request for transfer of funds forms (see Appendix A) to the Procurement Card Administrator.
- d. When the Procurement Card Administrator receives a procurement card from the issuing card company, the cardholder will be required to personally take receipt of the card and sign the receipt form.
- e. The Procurement Card Administrator will notify the requesting department and the Finance Department upon the issuance of all procurement cards.

## **2. LOST OR STOLEN PROCUREMENT CARDS**

- a. If a procurement card is lost or stolen, the cardholder or department representative must immediately notify the procurement card company – and the Procurement Card Administrator of the loss.
- b. The cardholder will be responsible for reporting all information necessary to reduce the liability to the City for a lost or stolen card.
- c. Disciplinary action will be taken in the event that the Procurement Card Administrator or bank is not notified.

## **3. TERMINATION OR TRANSFER OF CARDHOLDER**

When an employee ends his or her employment or is transferred to another department, and does not require the card in the new position, the Department Head must collect the procurement card and destroy it. The department must then submit the destroyed card to the Procurement Card Administrator, who will notify the bank to cancel the card.

If the department is unable to collect the procurement card when an employee terminates, the Department Head must immediately notify the Procurement Card Administrator. The Procurement Card Administrator will ensure that the card is cancelled.

# **VII. CARDHOLDER USE OF PROCUREMENT CARD**

## **1. CARDHOLDER USE ONLY**

The procurement card shall be used only by the employee whose name is embossed on the card. No other person is authorized to use the card. The cardholder is responsible and accountable for all transactions that occur on his/her card. The cardholder shall be held personally responsible for inappropriate charges.

Upon receipt of the Procurement Card, the cardholder should sign the back of the card.

## **2. CITY PURCHASES ONLY**

The procurement card is to be used for City authorized purchases only. The procurement card cannot be used for any personal use and any such use will require immediate reimbursement and shall result in disciplinary action.

## **3. STANDARD SPENDING LIMITS**

The Procurement Card Administrator and Department Head approving the assignment of a procurement card will set the annual limit for each cardholder. The maximum limit per transaction shall **be \$499**.

Requests for spending limit changes shall be initiated by a memo or email to the Procurement Card Administrator by the Department Head or Commissioner.

A purchase may be made of multiple items, but the invoice cannot exceed **\$499** or the cardholder's limit if less. Splitting charges will be considered abuse of the purchasing card program, for example, artificially dividing similar purchases over different days and times to keep the total amounts below the limits for single purchases.

#### **4. PROHIBITED USES OF PROCUREMENT CARDS**

The following types of items will not be purchased with a procurement card, regardless of the dollar amount:

- a. Alcoholic Beverages
- b. Any Items for Personal Use
- c. Cash advances
- d. Professional Services
- e. Meals

#### **5. VIOLATIONS**

1. Using the Procurement Card for personal purchases.
2. Using the Procurement Card for purchases which solely benefit the cardholder.
3. Use of the Procurement Card by a suspended or terminated employee.
4. Assignment or transfer of an individual card to an unauthorized individual.
5. Making standard purchases that exceed the transaction limit of **\$499**. It is the responsibility of the ordering department to ensure all "extra" charges such as freight handling, set up, etc. are considered before a procurement card transaction is made. A vendor's willingness to honor a procurement card transaction exceeding **\$499** does not authorize departments to make such purchases.
6. Purchases from vendors that create conflicts of interest.
7. Multiple procurement card transactions (splitting) to circumvent the limit.
8. Procurement card transactions referenced in "Prohibited Uses of Procurement Cards".
9. Failure to produce proper documentation, receipts, invoices, monthly statements in a timely fashion, to the Comptroller's Office.
10. Failure to report lost or stolen procurement card as herein stated.

### **VIII. PROCEDURES FOR MAKING AND PAYING FOR PURCHASES**

#### **1. GENERAL INFORMATION**

When using the procurement card, the department will make the purchase at the best possible price.

#### **2. DOCUMENTATION OF OVER-THE-COUNTER PURCHASES**

- a. When a purchase is made, the cardholder must obtain the customer's copy of the charge slip in addition to the detailed invoice/receipt. The charge slip or related cash

register slip/receipt must show in sufficient detail the type and number of items purchased with the unit cost. Should a detailed receipt not be available, the cardholder shall submit a written detail along with the receipt.

- b. The charge slip and detailed invoice/receipt will be retained by the cardholder or by the department representative until forwarded to the Procurement Card Administrator in the PLOT (Procurement Log of Transactions) envelope with the monthly statement. The City is exempt from sales tax. The cardholder must ensure that the vendor is aware of this.

### **3. TELEPHONE ORDERS**

When placing a telephone order, the cardholder must confirm that the vendor will charge the procurement card when the item is shipped. Absolutely no back-orders will be allowed. Ensure the vendor knows that the City does not pay sales tax.

### **4. MISSING DOCUMENTATION**

If for some reason the cardholder does not have documentation of the transaction to send with the statement, the cardholder must try to obtain a copy and if this is not possible, a description of the purchase must be attached. The description will include a description of each item, the number of items purchased, the unit cost, the date of purchase, the vendors name and why there is no supporting documentation. Continued incidents of missing documentation shall result in the cancellation of the employee's procurement card.

### **5. STATEMENT AND PAYMENT PROCEDURES**

- a. The procurement card administrator will forward the consolidated statement for each billing cycle to the Comptroller's Office. Cardholders and or Department Representatives will be notified via email that their statements are available for reconciliation. The statement will list all transactions processed during the current billing cycle. If no purchases were made on the procurement card during the billing cycle, no statement of account will be generated unless adjustments for previously billed transactions have been processed during that cycle.
- b. The cardholder must review the statement and note any errors and apply the appropriate the accounting code (object of expense) for each transaction. Procurement card slips/receipts for all transactions listed on the statement should be placed in the PLOT envelope. The cardholder shall mark the statement reviewed, attach the statement to the outside of the PLOT envelope, and forward for approval within five (5) working days after statements become available. The Department Representative and the Department Head or Designee shall review and approve the statement. By signing the statement the designated department representative and Department Head or Designee are certifying that all charges are appropriate, funds are available, and payment is authorized based on the attached receipts. Once all reviews are completed, the statements and forms shall be summarized for the department (like Department and object of expense Codes grouped) and forward to the Purchasing Department within seven (7) working days after notification. The

Procurement Card Administrator will reconcile the City wide combined statement and forward all to the Comptroller's Office within five (5) working days.

- c. The Comptroller's Office will ensure that the procurement card charges are paid on a timely basis and that the consolidated statement received is reconciled against the individual cardholder statements forwarded from the departments. Department Heads will be notified when individual statements are not received in the allotted time. Continued failure to meet the seven (7) working day deadlines may result in the revocation of procurement cards at the discretion of the Procurement Card Administrator.

## **6. RETURNS**

All returns of merchandise must be credited back to the Procurement card.

## **7. DISPUTES**

1. If items purchased with the procurement card are defective, the cardholder must return the items(s) to the vendor for replacement or credit. If the service paid for with procurement card is faulty, the vendor must be notified and asked to correct the situation or provide a credit. If the vendor refuses to replace or correct the faulty item or service, the purchase will be considered in dispute.
2. It is essential that the time frames and documentation requirements established by the procurement card issuer be followed to protect the cardholder's rights in dispute. The bank must be notified of disputes within 60 days of receipt of the statement.
3. The cardholder contacts the Merchant about the transaction and supplies the necessary information to begin the resolution process, and; only if a resolution can not be reached, the cardholder completes a Dispute Form and faxes it to the Purchasing Department explaining the reason(s) for the dispute as well as a copy of the statement if the item has posted. The Purchasing Department will contact the bank. The bank will then place the transaction into a dispute status.
4. A disputed item must be explained with a note on the cardholder's statement of account before the statement is forwarded to the Purchasing Office and the Comptroller's Office for payment.
5. If an agreement cannot be reached the following steps will be completed:  
  
Based on the present Visa procedures for disputing transactions, all charges must be disputed within 60 days of receipt of the paper billing statement. Disputed items are not removed from the invoice and are still due and payable upon receipt of your monthly invoice.

A cardholder can initiate a dispute by contacting M&T's Commercial Card Customer Service at 1-800-443-8671 to close and reissue the card and identify the

transactions that need to be disputed. You will be notified upon resolution of the dispute in writing.

- a. If there continues to be a problem with a particular merchant, the cardholder should notify the Procurement Card Administrator of the problems.

## **IX. REVIEW OF PURCHASES BY DEPARTMENTS**

1. Because of their knowledge of the job responsibilities and requirements, department representatives are required to review each procurement card expenditure (item purchased, amount, and vendor) to ensure the goods or services were necessary, and for official use.
2. When purchases are questioned, the Department Head or designated department representative will be responsible for resolving the issue with the cardholder. If the Department Head cannot be satisfied that the purchase was necessary and for official use, the cardholder must provide a credit voucher proving the item(s) were returned for credit.
3. All misuse must be reported to the Procurement Card Administrator by the Department Head or Designee, or the Comptroller's Office.

## **X. PURCHASING DEPARTMENT USE OF CARD & SPECIAL CARD USAGE**

1. The Purchasing Agent shall be issued a card, for use during declared emergencies, with a card limit of \$50,000.
2. The Purchasing Department shall be able to use the procurement card for purchases if the vendor accepts no other form of payment.

# **Section VI**

## **Disposition of Surplus Personal Property**

### **I Purpose**

No statute prescribes a procedure for the sale of unneeded decommissioned City personal property, and therefore, there is no statutory mandate that such property be sold only after public advertisement for sealed bids or advertisement for public auction. The method chosen for sale is within the sound discretion of the Purchasing Agent, subject to the approval of the Mayor. However, in order to fill a fiduciary duty, the method of sale adopted should be one which is thought to bring the best price or maximum benefits and may include sale by auction, private negotiation, or competitive bidding.

### **II Procedures for determining whether dispositions should be subject to sealed bidding or public auction.**

The procedure for determining whether the disposition of unneeded and decommissioned personal property should be subject to competitive bidding or public auction is to obtain an independent source the estimated dollar value of the item(s) to be disposed; if the independent estimate is more than \$10,000, the item(s) to be disposed of should be advertised for competitive bid sale or public auction. The estimate obtained, indicating the source, date and amount, will be documented as part of the disposition record.

### **III Methods of competition to be used for non-bid or auction dispositions**

A. The methods of disposition to be used are as follows:

(1) For dispositions with an estimated value greater than \$3,000 but less than or equal to \$10,000, there shall be required a written offer for sale and a written offer to purchase from three suppliers;

(2) For dispositions with an estimated value more than \$1,000 but less than or equal to \$3,000, there shall be required a verbal offer for sale and a verbal offer to purchase from three suppliers;

(3) For dispositions with an estimated value less than or equal to \$1,000, the decision will be left to the discretion of the Purchasing Agent.

B. A good faith effort shall be made to obtain the required number of offers to purchase. If the City is unable to obtain the required number of offers to purchase, the attempts made shall be documented and become part of the disposition record. In no event will the inability to obtain the required number of offers to purchase be a bar to the disposition.

C. The above notwithstanding, the Purchasing Agent, at his/her discretion, may require standards which exceed those presented in this policy.

**IV Adequate documentation**

Documentation of actions taken in connection with each method of disposition is required, as follows, and will be maintained as part of the disposition record:

A. Where a written offer for sale is required or made, a copy of that written offer for sale, and any written offer for purchase submitted by suppliers in response to that request.

B. Where a verbal offer for sale is required or made, a listing of the suppliers contacted and the response, if any, that each supplier made.

C. Any memorandums, forms, notations, or other documentation used in establishing the basis of the disposition decision.

D. No documentation, other than the independent estimate itself, is required when the disposition is left to the discretion of the Purchasing Agent.

**V Awards to other than highest responsible dollar offerer**

Whenever any disposition is awarded to other than the highest responsible dollar offerer, the reasons such an award furthers the purpose of the City as set forth hereinabove shall be documented by the Director of Purchasing and be maintained as part of the disposition record.

**VI Items exempted from disposition policies and procedures.**

The Common Council will set forth, by resolution, circumstances when, or types of dispositions for which, in the sole discretion of the governing body, the solicitation of alternative offers to purchase will not be in the best interest of the City. Such resolution will state the reasons for such conclusion, and will become an attachment to the disposition record.