

CITY COUNCIL AGENDA ITEM
CITY OF SHORELINE, WASHINGTON

AGENDA TITLE: Adoption of Ordinance No. 335, Amending Shoreline Municipal Code Section 2.60 - Purchasing
DEPARTMENT: Finance
PRESENTED BY: Cathy Robinson, Purchasing Officer Debbie Tarry, Finance Director

PROBLEM/ISSUE STATEMENT:

In April 2002, Council adopted Ordinance No. 302, which amended the procurement policies to facilitate more efficient procurement processes. Since that time, staff has identified some areas of the adopted policies that should be amended to facilitate more efficient procurement processes. The primary areas that have been amended include:

- Clarification of authority of the City Manager and Department Directors to execute and amend agreements with other agencies.
- Reference state law thresholds rather than specific dollar limits for bidding public works to avoid frequent amendments of the purchase ordinance.
- Update the Small Works Roster process to authorize utilization of the Limited Public Works Process.

ALTERNATIVES ANALYZED:

There are basically two alternatives.

Alternative 1: Take no action.

This alternative will not provide for any improvements to the current policies and procedures and may result in inefficient procurement processes. In some cases this may delay the procurement of an item or service.

Alternative 2: Revise the Procurement Policies. (Recommended)


Amend the adopted procurement policies to allow for more efficient procurement processes.

FINANCIAL IMPACT:

There is no financial impact to the City for amending the procurement policies.

RECOMMENDATION

Staff recommends that Council approve Ordinance No. 335, amending Section 2.60 of the Shoreline Municipal Code.

Approved By: City Manager  City Attorney 

INTRODUCTION

During the last sixteen months staff has been following new legislation and evaluating the procurement policies that were last amended in April 2002. Staff has identified three primary areas where the policies could be amended to allow for more efficient purchasing processes. The attached ordinance provides for these amendments and staff is recommending that the Council approve Ordinance No. 335 to amend the existing procurement policies. The amended policies continue to comply with all legal requirements and maintain sound business practices.

BACKGROUND

In 1995, Council adopted a set of financial policies that included purchasing policies. In May 2001, Council adopted Ordinance No. 272 prescribing uniform procedures for the procurement of goods and services and adding a new chapter 2.60 Purchasing to the Shoreline Municipal Code. In April 2002, Council adopted Ordinance No. 302, amending Chapter 2.60 Purchasing of the Shoreline Municipal Code to incorporate changes in state law and allow for more efficient processes. Since then, changes in state law have occurred and it has become necessary to review the previously adopted policies and revise them to allow more effective and efficient purchasing practices throughout the City. These areas and the justification for modifying the existing policies include:

1. Limited ability to delegate certain authority to the City Manager and Department directors on interlocal agreements.

A general definition has been added to the Purchasing chapter to designate which agreements with other government agencies are true interlocal agreements requiring council approval and filing with the County Auditor. Goods and services purchased from other agencies that do not involve the exercise of governmental responsibilities may be authorized under procedures applicable to contracts with private vendors.

In addition, the general provision authorizing the City Manager or designee to amend contracts approved by the City Council is clarified to include true interlocal agreements. The key limitation on these amendments, in addition to the \$50,000 maximum dollar change, is that they remain within the scope of the original contract. For example, more efficient methods or means of providing law enforcement may lead to a reduction in the City's cost of the interlocal agreement with King County, and the City Manager should be authorized to approve these amendments.

2. As state laws change, specific dollar thresholds limit the ability to acquire public works projects.

The present ordinance restricts the procurement of public works projects without formal bidding by specifically setting dollar thresholds. As state law changes from time to time, the thresholds are adjusted. In some cases, staff has had to use a more stringent procurement process than required by the state in order to comply with the City's adopted policies. The proposed ordinance provides for the dollar threshold limitations to be replaced by the referenced Revised Code of Washington (RCW), as amended from time to time. This will allow staff to administratively update the thresholds to comply with the RCW as amended by the State without requiring Council approval. Any

administrative change would comply with all State legal requirements and maintain sound business practices.

3. Update the Small Works Roster process to authorize utilization of the Limited Public Works Process.

The 2001 Legislature passed new legislation to simplify the Small Works Roster process for projects under \$35,000. The amended statute RCW 39.04.155 provides a uniform "limited public works" procedure for projects under \$35,000. This process continues to require competitive quotes, solicited from pre-approved contractors on the Small Works Roster. The current small works roster process requires five quotes. The amended statute requires three quotes. Further, contractors must still be selected in a manner designed to allow equitable opportunity to quote, but does not mandate a rotational order. The City may now waive performance bond requirements and retainage requirements, but has a right of recovery against the contractor for any payments it makes on behalf of the contractor. This new process allows efficiencies for the City by simplifying the contract process and eliminating time-consuming retainage/bond procedures. This process is less costly and easier for contractors as well, which may result in lower bids. This new process is a negligible risk to the City.

RECOMMENDATION

Staff recommends that Council approve Ordinance No. 335, amending Section 2.60 of the Shoreline Municipal Code.

ATTACHMENTS

Attachment A – Ordinance No. 335, amending Chapter 2.60 of the Shoreline Municipal Code.

ORDINANCE NO. 335

AN ORDINANCE OF THE CITY OF SHORELINE, WASHINGTON, ADOPTING REVISED PURCHASING PROCEDURES FOR THE PROCUREMENT OF GOODS AND SERVICES AND AMENDING CHAPTER 2.60 OF THE SHORELINE MUNICIPAL CODE

WHEREAS, the City Council adopted an ordinance regulating the procurement of goods and services in conformance with state law and recommended business practices; and

WHEREAS, there is a desire to amend the adopted ordinance to facilitate more effective procurement procedures; and

WHEREAS, the revised procedures require revisions to the Shoreline Municipal Code;

NOW, THEREFORE THE CITY COUNCIL OF THE CITY OF SHORELINE, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. Amendment. SMC 2.60.030 *Definitions*, is hereby amended to include a new subsection "M", to read as follows:

2.60.030 DEFINITIONS

M. "Interlocal Agreements" are the exercise of governmental powers in a joint or cooperative undertaking with another public agency. Purchase of supplies, equipment or services from another public agency which is not an exercise of the City's governmental powers is not an interlocal agreement and shall be approved under SMC 2.60.050 or 2.60.070.

Section 2. Amendment. SMC 2.60.040, *General Provisions*, subsection D.1, is hereby amended to read as follows:

D. Amendments and Change Orders.

1. Amendments or change orders to contracts, including interlocal agreements, which result in the final contract amount in excess of purchase limits identified in this chapter may be administratively approved if the changes are:

Section 3. Amendment. SMC 2.60.050, *Purchase of materials, supplies or equipment*, subsection D.4, is hereby amended to read as follows:

D. Formal Competitive Bid.

4. Bid Opening. Bids shall be opened publicly and recorded at the time and place designated in the invitation for bids. ~~The record and each bid shall be open to public inspection.~~

Section 4. Amendment. SMC 2.60.060, *Public Works Projects*, section B, is hereby amended to read as follows:

B. Purchasing Limitations. The city manager may authorize the purchase and execution of public works projects equal to or less than the dollar threshold for small works projects as provided under RCW 39.04.155 as amended. ~~in the amount of \$200,000 or less.~~

Section 5. Amendment. SMC 2.60.060, *Public Works Projects*, subsection C.1, C.2, C.3 and C.4, is hereby amended to read as follows:

C. Competitive Bids.

1. Projects for single craft or multiple crafts with a reasonably anticipated price equal to or less than the dollar thresholds as provided under RCW 35.22.620 as amended ~~Project with a reasonably anticipate price equal to or less than \$20,000 for a single craft or \$35,000 for multiple crafts,~~ do not require the use of competitive quotes or bids. Departments are allowed to make these purchases administratively in accordance with the procedures adopted and approved by the finance director and the city manager. All purchases require a purchase order and executed contract.
2. Projects for a single craft or multiple crafts with a reasonably anticipated price higher than the dollar thresholds as provided under RCW 35.22.620 as amended, ~~Projects with a reasonably anticipated price of \$20,000 for a single craft or \$35,000 for multiple crafts,~~ up to \$100,000 shall either use the small works roster or formal competitive bid procurement process detailed in SMC 2.60.050(D).
3. Projects with a cost in excess of \$100,000 up to the maximum dollar threshold as provided in RCW 39.04.155, as amended, ~~\$200,000~~ shall either use the small works roster or formal competitive bid process. All purchases require a purchase order and executed contract.
4. Projects with a cost in excess of the maximum dollar threshold as provided in RCW 39.04.155, as amended ~~\$200,000~~ require a formal competitive bid process. The city council shall authorize these purchases and provide authority for the city manager to execute the related contract. All purchases require a purchase order and executed contract.

Section 6. Amendment. SMC 2.60.060, *Public Works Projects*, section D, is hereby amended to read as follows:

D. Small Works Roster. There is established for the city of Shoreline a small works roster contract award process for accomplishment of public works projects with an estimated value threshold as provided under RCW 39.04.155, as amended. ~~an estimated value of \$200,000 or less.~~ The City may create a single small works roster, or may create small works rosters for different categories of anticipated work.

Section 7. Amendment. SMC 2.60.060, *Public Works Projects*, subsection D.4.b, is hereby amended to read as follows:

b. Quotations may be invited from all appropriate contractors on the appropriate small works roster. As an alternative, quotations may be invited from at least five contractors on the appropriate small works roster who have indicated the capability of performing the kind of work being contracted, in a manner that will equitably distribute the opportunity among the contractors on the appropriate roster.

If the estimated cost of the work is \$100,000 but less than or equal to the dollar threshold for small works projects as provided under RCW 39.04.155, as amended ~~from \$100,000 to \$200,000~~, the city may choose to solicit bids from less than all the appropriate contractors on the appropriate small works roster but must also notify the remaining contractors on the appropriate small works roster that quotations on the work are being sought. The city has the sole option of determining whether this notice to the remaining contractors is made by:

Section 8. Amendment. SMC 2.60.060, *Public Works Projects*, subsection D.6, is hereby amended to read as follows:

~~6. Award. The purchasing officer shall recommend the award of contract, to the appropriate city representative with authorization to execute the contract as specified in SMC 2.60.060(B), to such contractor as the purchasing officer determines to have submitted the lowest responsible quotation. When the award for a contract is not given to the contractor submitting the lowest quotation, a statement of the reasons for rejecting all bids or rejecting the low bid shall be prepared and filed with the other contract documents relating to the contract, and shall be open to public inspection during regular office hours. A rejected low bidder may appeal under procedures of SMC 2.60.060(B)(3).~~

[Remaining section is renumbered 7 6]

Section 9. Amendment. SMC 2.60.060, *Public Works Projects*, is hereby amended to add a new section "E" to read as follows:

2.60.060 Public works projects

E. Limited Public Works Process. The city may use the Limited Public Works Process to award public works projects as provided under RCW 39.04.155, as amended.

[Remaining sections are renumbered E F and F G]

Section 10. Amendment. SMC 2.60.080, *Interlocal joint purchasing agreements*, subsection A, is hereby amended to read as follows:

A. Cooperative Purchasing. The city may enter into interlocal governmental cooperative purchasing arrangements with other public agencies similarly authorized under RCW 39.39.030 39.34.030 when the best interests of the city of Shoreline would be served thereby. Any cooperative purchasing agreement shall set forth fully the purposes, powers, rights, objectives and responsibilities of the contracting parties and shall be governed by the requirements of state law in regard to competitive bidding, when applicable. The competitive bid process of the original jurisdiction shall substitute for Shoreline's. All interlocal joint purchasing agreements shall be presented to the city council for prior approval. [Ord. 272 § 1, 2001]

Section 11. Severability. Should any section, paragraph, sentence, clause or phrase of this ordinance, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this ordinance be preempted by state or federal law or regulation, such decision or preemption shall not affect the validity of the remaining portions of this ordinance or its application to other persons or circumstances.

Section 12. Effective Date. A summary of this ordinance consisting of its title shall be published in the official newspaper of the City. This ordinance shall take effect and be in full force five (5) days after publication.

PASSED BY THE CITY COUNCIL ON August 25, 2003.

Mayor Scott Jepsen

ATTEST:

APPROVED AS TO FORM:

Sharon Mattioli
City Clerk

Ian Sievers
City Attorney

Date of Publication: August 28, 2003
Effective Date: September 2, 2003