

CITY COUNCIL AGENDA ITEM
CITY OF SHORELINE, WASHINGTON

AGENDA TITLE:	Adoption of Ordinance No. 620 Amending Shoreline Municipal Code Section 2.60 – Purchasing
DEPARTMENT:	Administrative Services
PRESENTED BY:	Debbie Tarry, Assistant City Manager Judy Isaac, Purchasing Officer
ACTION:	☒ Ordinance ☐ Resolution ☐ Motion ☐ Discussion

PROBLEM/ISSUE STATEMENT:

Chapter 2.60 of the Shoreline Municipal Code (SMC) is the City's adopted purchasing policies. The City Council last amended the City's purchasing policies in 2009 to reflect legislation that impacted public works contracting. Staff is recommending amendments to the Chapter 2.60 SMC to update terminology, correct specific language and Revised Code of Washington (RCW) references, provide additional authorization for bond requirements in the contracting process, and add a new section within real property acquisition for relocation claims.

Throughout the document the references to "finance" department have been changed to "administrative services" department to reflect the recent change in department name. The following highlights the remaining recommended changes:

Chapter 2.60.010 – Purpose

Expand the Purpose statement to more accurately reflect contracting for public works and real property acquisition in addition to goods and services.

Chapter 2.60.050 (E) – Purchase of materials, supplies or equipment

This section provides factors that may be considered when awarding a bid for materials, supplies or equipment other than price. The City Attorney's office has determined that some of the factors were too vague or not applicable to these types of purchases and therefore staff is recommending their removal.

Chapter 2.60.060 – Public works projects

The Revised Code of Washington reference for purchasing procedures is being corrected from RCW 35.22.620 to 35.23.352.

Chapter 2.60.060 (G) – Public works projects – Bid Deposits

Include reference to the authority in RCW 39.08.030 to reduce a performance bond, at the City's option, to not less than 25% of the total contract amount for on-call and scheduled maintenance contracts. This is intended to facilitate contractor participation

on small public works projects as usually these contracts are relatively low in dollar amount and the contract may be issued for an amount that would cover the anticipated annual cost of work, even though the actual work done at any single time is much lower.

Chapter 2.60.090 Real property acquisition (A) 2 and 3

2.60.090 (A) 2: Language has been added to require an appraisal when the value of the property is in excess of \$25,000. Properties with a lower value will not require a formal appraisal. This change is being made so that staff can evaluate the cost of the appraisal against the expected value of the property.

2.60.090(A) 3: This is a new section to address relocation claims. Currently the City Manager has authorization to approve relocation claims that total up to \$50,000. Council has granted the City Manager authority to approve relocation claims that total up to \$325,000, as a result of Council giving specific authorization for larger approval authority. The new language in this section will allow the City Manager to approve relocation claims, regardless of the dollar amount, provided that the Council has approved a project relocation plan for the project and that plan included estimated relocation costs for any given parcel in excess of \$50,000. Council could also grant authority to the City Manager at a specific dollar limitation in excess of \$50,000 for a given project.

These amendments were presented for discussion at the October 3, 2011 Council meeting. No changes were requested by the Council.

RESOURCE/FINANCIAL IMPACT: There is no additional financial or resource impact to the City as a result of the recommended purchasing policy amendments.

RECOMMENDATION

Staff recommends that Council approve Ordinance No. 620 amending Section 2.60 of the Shoreline Municipal Code.

Approved By:

City Manager 

City Attorney 

ATTACHMENTS

Attachment A – Ordinance No. 620 amending Section 2.60 of the Shoreline Municipal Code.

ORDINANCE NO. 620

AN ORDINANCE OF THE CITY OF SHORELINE, WASHINGTON, AMENDING THE PURCHASING ORDINANCE TO CORRECT POSITION TITLES, PROVIDE CONSISTENCY WITH NEW BIDDER RESPONSIBILITY AND PUBLIC WORKS PROCUREMENT STATUTES AND AUTHORIZE THE CITY MANAGER TO APPROVE RELOCATION CLAIMS

WHEREAS, the purchasing ordinance should be amended to reflect a reorganization of the Finance Department as the Administrative Service Department; and

WHEREAS, the number of responsibility criteria should be reduced for purchase of supplies and equipment to assure award based on the lowest bid; and

WHEREAS, performance bond requirements for small public works should be modified to encourage participation by smaller contractors with resulting cost savings from increased competition; and

WHEREAS, authorization for the city manager to approve real property relocation claims should be established to improve efficiency and expedite processing; now therefore

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

Section 1. Amendment. Sections 2.60.010 Purpose; 2.60.020 *Policy statement*; 2.60.050 *Purchase of materials, supplies or equipment*; 2.60.060 *Public Works Projects*; 2.60.070 *Services*; 2.60.090 *Real property acquisition*.

SMC 2.60.010 Purpose

This chapter is intended to direct the ~~purchase of contracting for public works, goods, and services and real property~~ at a reasonable cost, using an open, fair, documented and competitive process whenever reasonable and possible. The integrity, efficiency, and effectiveness of Shoreline's procurement functions are critical elements of sound government.

SMC 2.60.020 Policy statement

[Subsection A unchanged]

B. The ~~finance~~ administrative services department is charged with developing administrative procedures to implement this chapter. Procedures should ensure the fiscal responsibility of the city in expending resources for goods and services for city operations. The procurement procedures of the city shall be based on guidelines provided

in the Revised Code of Washington, by the State Auditor's Office, and by Municipal Research Services Center.

[Subsection C unchanged]

SMC 2.60.050 Purchase of materials, supplies or equipment

A. Purchasing Limitations. Purchase limitations apply to the cost of individual items or the sum of the same items purchased at the same time to fulfill a specific business need, which are not part of a public works project as defined by RCW 39.04.010 and these policies. Cost is inclusive of sales tax, delivery charges and any related miscellaneous charges. The city manager may authorize the acquisition of materials, supplies or equipment with a cost of \$100,000 or less.

1. Purchases Equal To or Less Than \$5,000. Purchases of materials, supplies, or equipment, where the cost is \$5,000 or less, do not require any informal or formal competitive quotes or purchase orders. Departments are allowed to make these purchases administratively in accordance with procedures adopted and approved by the finance director and the city manager.
2. Purchases Greater Than \$5,000 but Less Than \$25,000. Purchases of materials, supplies, or equipment, where the cost is greater than \$5,000, but less than \$25,000 require that the city make every effort to obtain a minimum of three informal competitive quotes.
3. Purchases Greater Than \$25,000 but Less Than \$50,000. Purchases of materials, supplies, or equipment, where the cost is greater than \$25,000, but less than \$50,000 require that the city obtain a minimum of three written informal competitive quotes (excludes telephone quotes) in accordance with procedures adopted and approved by the finance director and city manager.

[Subsections 4 and 5 unchanged]

B. Exceptions to Purchasing Limitations. The city manager is authorized to allow open market purchases without obtaining the regularly required competitive quotes or bids under the following conditions:

[Subsections 1, 2, 3 and 4 unchanged]

5. Sole Source Procurement. A contract for the purchase of materials, supplies, or equipment may be awarded without complying with the bidding requirements of this chapter when the ~~finance director determines in writing, subject to the approval of the city manager~~ determines, after conducting a good faith review of available resources, that there is only one source of the required materials, supplies, or equipment. The ~~finance~~ administrative services director or his/her designee shall conduct negotiations, as appropriate, as to price, terms, and delivery time. A record of sole source procurement shall be maintained that lists each contractor's name, the amount and type of each contract, and a listing of the item(s) procured under each contract.

6. No Bids or Quotations Received. When no bids or quotations are received in response to an invitation to bid or request for quotations, the ~~finance~~ administrative services director ~~or his/her designee~~ is authorized to procure the required item through direct negotiations with a vendor or to rebid as the ~~city~~ manager ~~or his/her designee~~ deems appropriate.

[Subsections C and D unchanged]

E. Lowest Responsible Vendor. The following factors, in addition to price, may be taken into account by the city in determining the lowest responsible vendor:

1. Any preferences provided by law to local products and vendors;
- ~~2. The ability, capacity, and skill of the vendor to perform the contract;~~
- ~~3. The character, integrity, reputation, judgment, experience, and efficiency of the vendor~~
- ~~4. Whether the vendor can perform the contract within the time specified~~
- ~~5. The quality of performance of previous contracts or services;~~
- ~~6. The previous and existing compliance by the vendor with laws relating to the contract;~~
2. Such other information as may be secured having a bearing on the decision to award indicating a reasonable probability that the contractor will not be able to perform the contract according to its terms and specifications.

[Subsections F and G unchanged]

SMC 2.60.060 Public works projects

- A. Purchasing Procedures. Public works contracts shall follow bid requirements applicable to code cities with a population in excess of 20,000, as set forth in RCW ~~35.22.620~~ 35.23.352. Cost for a public works project includes all amounts paid for materials, supplies, equipment, and labor on the construction of that project which is inclusive of sales tax, unless exempted by law.
- 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.
- C. Competitive Bids. "Craft" or "trade" means a recognized construction trade or occupation for which minimum wage categories are established by the Department of Labor and Industries of the State of Washington in the locality of the city's projects or purchases.
 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~~ 35.23.352, as amended, do not require the use of competitive quotes or bids. Departments are allowed to make these purchases administratively in accordance

with procedures adopted and approved by the ~~finance~~ administrative services director and the city manager. All purchases require a purchase order ~~and~~ or 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~~ 35.23.352, as amended, up to the maximum dollar threshold as provided in RCW 39.04.155, as amended, shall either use the small works roster or a formal competitive bid procurement process. All purchases require a purchase order ~~and~~ or executed contract.

3. Projects with a cost in excess of the maximum dollar threshold as provided in RCW 39.04.155, as amended, 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~~ or executed contract.

[Subsections 1, 2, 3, and 4, unchanged]

5. Determining Lowest Responsible Bidder. Where bidders have not been prequalified, the city shall award the contract for the public works project to the lowest responsible bidder; provided, that whenever there is a reason to believe that the lowest acceptable bid is not the best price obtainable, all bids may be rejected and the city may call for new bids.
6. Cancellation of Invitations for Quotations. An invitation for quotations may be canceled at the discretion of the ~~finance~~ administrative services director. The reasons shall be made part of the contract file. Each invitation for quotations issued by the city shall state that the invitation may be canceled. Notice of cancellation shall be sent to all parties that have been provided with a copy of the invitation. The notice shall identify the invitation for quotations and state briefly the reasons for cancellation.

[Subsections E and F unchanged]

G. Bid Deposit and Performance Bond ~~and Noncollusion Affidavit~~ for Public Works Improvement Projects. Whenever competitive quotes or bids are required, a bidder shall make a deposit in the form of a certified check or bid bond in an amount equal to not less than five percent of the total bid, which percentage shall be specified in the call for bids. As part of any bid submitted, the bidder shall be required to warrant that the bid is a genuine bid, and that he/she has not entered into collusion with any other bidder or any other person.

All public works contractors shall furnish a performance bond in an amount equal to the total amount of the contract ~~and a noncollusion declaration~~ on a form approved by the city attorney. In lieu of a performance bond on contracts less than the dollar threshold provided under RCW 39.08.010, as amended, a contractor may choose to have fifty percent of the contract retained for a period of thirty days after the date of final acceptance or until receipt of all necessary releases from the department of revenue and the department of labor and industries and settlement of any liens filed under chapter 60.28 RCW, whichever is later. Following the provisions of RCW 39.08.030 the City

may, at its option, reduce the amount of a performance bond to not less than twenty five percent (25%) of the total contract amount for on-call and scheduled maintenance contracts.

SMC 2.60.070 Services

A. Purchasing Limitations. Purchase limitations apply to the cost related to the acquisition of services to fill a specific business need. Cost is inclusive of any required sales tax and related expenses.

1. Contracts or task orders under an on-call agreement to purchase services equal to or less than \$50,000 may be executed by the city manager.

2. Contracts to purchase services greater than \$50,000 shall be authorized by the city council.

3. The initial contract procurement process should apply a realistic and complete scope of services and length of time that would be necessary to complete a project unless intermediate stages have documented independent utility, or there is a need for immediate action on a project using a limited scope and council authorization on the full project is processed without delay.

B. Contract Required. The purchase of services require that the city enter into a contract for that service, with the exception of temporary employment agency services, and standard services with a total cost of \$3,000 or less in a calendar year, such as auto repair, title reports, printing and messenger/process service. Departments are allowed to make these purchases administratively in accordance with procedures adopted and approved by the ~~finance director and~~ city manager.

[Subsection C unchanged]

D. Process.

1. Architectural, Landscape Architectural, and Engineering Services Contracts. Procedures set forth in Chapter 39.80 RCW shall be followed for contracts for architectural and engineering services, as defined in RCW 39.80.020.

a. Roster. Annually the city will publish in advance the anticipated city's requirements for architectural, landscape architectural, and engineering services and its acceptance of statements of qualifications for contractors interested in providing these services.

b. Contracts Less Than \$50,000. Contracts that have an estimated cost of less than \$50,000 can be procured using an informal request for qualification process. This process requires the city representative to develop a written scope of the project and ~~any criteria used to select the service provider and then~~ select a qualified contractor from the city's architectural, landscape architectural, and engineering service roster. If the city representative does not choose to use the appropriate roster, then a formal request for qualification process must be followed.

c. Contracts Greater Than \$50,000. Contracts that have an estimated cost in excess of \$50,000 must use a formal request for qualification (RFQ) process. The development of an RFQ along with the proper public notification shall be made in accordance with procedures adopted by the ~~finance~~ administrative services department in

the best interest of the city; provided, however, that the city manager may in the following circumstances waive the RFQ process for contracts greater than \$50,000, and allow the acquisition of services from the city's architectural, landscape architectural and engineering services roster:

i. ~~It is deemed in the best interest of the city to expedite the acquisition of services~~ Quantifiable costs of delay in using an RFQ process are likely to outweigh higher quality performance expected from the RFQ process; or

ii. It can be demonstrated that there are insufficient consultants on the roster that possess the required qualifications to perform the scope of work; or

iii. A consultant on the city's roster has previously provided satisfactory service to the city, has previously provided services related to the specific project, and has the qualifications to perform the scope of work.

2. Professional and Nonprofessional Services (Excluding Architectural, Landscape Architectural, and Engineering Services).

a. Contracts Less Than \$50,000. Contracts that have an estimated cost of less than \$50,000 can be procured using an informal request for proposal process. This process requires the city representative develop a written scope of the project and ~~any criteria used to select the service provider. The city representative will use this information when selecting the contractor to provide the services.~~ Multiple proposals are optional and at the discretion of the department director. If multiple proposals are used to make a selection, a standard process must be used for obtaining all proposals.

b. Contracts in Excess of \$50,000. Service contracts that have an estimated cost in excess of \$50,000 shall be procured using a formal request for proposal (RFP) process. The development of an RFP along with the proper public notification shall be made in accordance with procedures adopted by the ~~finance~~ administrative services department in the best interest of the city; provided, however, that the city manager may in the following circumstances waive the RFP process for contracts greater than \$50,000:

i. ~~It is deemed in the best interest of the city to expedite the acquisition of services~~ Quantifiable costs of delay in using an RFP process are likely to outweigh savings and higher quality performance expected from the RFP process; or

ii. It can be demonstrated that specialized expertise, experience or skill is needed for a successful outcome and outweighs potentially lower price proposals; or

iii. A consultant has previously provided satisfactory service to the city related to the specific project, and has the qualifications to perform the scope of work.

~~This process shall be used before any contract which is renewed or extended for an aggregate amount in excess of \$50,000 from the commencement of the contract, whether or not options for additional terms were included in the original contract.~~

2.60.090 Real property acquisition.

A. Real Property – Manager's Acquisition Authority. The city manager or his designee is authorized, in the following instances, to accept by gift or acquire dedications, easements,

rights-of-way, fee estates or other interests in real property for use by or on behalf of the city or any department of the city by threat of eminent domain:

1. Minor Acquisitions. Any such acquisition where the purchase price is \$10,000 or less.

2. Approved Projects. Any such acquisition which is part of an approved and funded project included in the city's capital improvement plan or a local improvement district ordered by the council and the cost of the property is \$50,000 or other amount specifically authorized for a particular project; provided, however, acquisitions in excess of \$25,000 shall be appraised and city manager approval may not or less and does not exceed 10 percent of the fair market value of the property as determined by the city's appraiser or review appraiser. For projects in the city's capital improvement plan, the city manager is authorized to convey city council's intent that these projects will be accomplished with the use of eminent domain if necessary.

3. Relocation Claims. Where real property acquisition requires relocation, reimbursement of the occupant's costs for relocation are separate mandatory obligations of the City established under state and federal law and not included in the authorization limits of subsection A(2). The City Manager is authorized to approve properly documented claims up to the limits prescribed by law regardless of amount, provided the Council has approved a project relocation plan for the project which includes any good faith parcel relocation cost estimate that exceeds \$50,000 or such higher parcel relocation limit approved by Council for a particular project.

All other real property acquisitions will be submitted to the council for approval.

[B. Real Property – Manager's Leasing Authority Unchanged]

Section 2. Effective Date. A summary of this ordinance consisting of its title shall be published in the official newspaper of the City. The ordinance shall take effect and be in full force five days after passage and publication.

ADOPTED BY THE CITY COUNCIL ON October 24, 2011.

Keith A. McGlashan, Mayor

ATTEST:

APPROVED AS TO FORM:

Scott Passey
City Clerk
Date of Publication: , 2011
Effective Date: , 2011

Ian Sievers
City Attorney

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