

CITY COUNCIL AGENDA ITEM
CITY OF SHORELINE, WASHINGTON

AGENDA TITLE:	Adoption of Ordinance No. 302, Amending Shoreline Municipal Code Section 2.60 - Purchasing
DEPARTMENT:	Finance
PRESENTED BY:	Debbie Tarry, Finance Director

PROBLEM/ISSUE STATEMENT:

In June 2001 the Council amended the City's procurement policies for the acquisition of goods and services, via Ordinance No. 252, which created section 2.60 of the Shoreline Municipal Code. 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 identified include:

- The limitation of delegation of purchasing authority to the City Manager and Department Directors.
- The amendment and change order policy is difficult to understand and has caused some confusion among staff in its implementation.
- The policies are silent in respect to on-call contracts and their related task orders.
- The acquisition of Architectural and Engineering (A&E) services policy is rigid in its requirement to utilize a Request for Qualification (RFQ) process when a contract is expected to exceed \$50,000.

The proposed changes in the attached ordinance address each of these areas.

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. 302, amending Section 2.60 of the Shoreline Municipal Code.

Approved By: City Manager BS City Attorney [Signature]

INTRODUCTION

During the last eight months staff has been following the procurement policies that were adopted in June 2001. Based on this experience, staff has identified four 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. 302 to amend the existing procurement policies. The amended policies continue to comply with all legal requirements and maintain sound business practices.

BACKGROUND

In year 2000, City staff identified a major impediment to completing projects and implementing programs to be the lack of written purchasing procedures and the lack of clear purchasing policies. During the fall and winter of 2000 – 2001 the Finance Director and Purchasing Officer facilitated the review of existing purchasing policies and procedures with representatives from all City departments. The resulting work products included the adoption of revised procurement policies, the creation of the City's purchasing handbook, and city-wide purchasing training.

As staff has implemented the adopted purchasing policies, there have been opportunities to identify areas where the policies could be amended to allow for more efficient processes. Those areas and the justification for modifying the existing policies include:

1. Limited ability to delegate purchasing authority throughout the City organization.

The adopted policies restrict the approval for the acquisition of goods and services to either the City Manager or Department Directors. In some cases this has delayed the approval of contracts or contract amendments/change orders that had adequate budget, were not controversial, or were time sensitive. The attached ordinance provides a new general provision (SMC 2.60.040, Section F) that would allow the City Manager to delegate purchasing authority to City staff. This will provide the needed flexibility to delegate sufficient authority throughout the organization to efficiently respond to contract needs and changes. The City Manager is not required to delegate authority, but may as he considers appropriate. This change does not change the current purchasing authority limits that exist for the City Manager position (Goods –\$100,000 or less; Public Works Projects - \$200,000 or less; Services - \$50,000 or less).

2. Unclear direction on the approval of contract amendments and change orders.

The approval authority of contract amendments and change orders in the adopted policies is difficult for staff to understand. The attached ordinance (SMC 2.60.040, Section D) clarifies the language and provides for a standard dollar amount for contract amendments/change orders that can be administratively approved.

The current policies limit administrative approval, in excess of the purchase authority limits, to 20% of the contract or \$50,000, whichever is less. This creates some confusion since there are different purchasing authority limits for goods and services. The revised policies attempt to clarify this by stating that the City Manager (or designee) can administratively approve up to \$50,000 in contract

amendments/change orders beyond the purchasing limits provided in the policies. The policies continue to provide the ability to override this limit by allowing the City Council, as recommended by the City Manager, to extend this limit upon award of a particular contract.

A minor revision is to allow the administrative approval of contract amendments that **only** extend the expiration date of the contract.

3. Lack of guidance for task orders related to on-call contracts.

The adopted policies were silent on task orders related to on-call contracts. The purpose of on-call contracts is to award a contract to a service provider with an overall dollar limit and then utilize that contract to complete a number of sub-tasks. The procurement process to acquire an on-call contract is the same process that is identified for obtaining professional, architectural, or engineering services.

The recommendation in the revised policies (SMC 2.60.070, Section C) is to limit the individual task orders within the on-call contracts to \$50,000 or less. The reason for this is that the purchasing policies would allow for the administrative award of contracts less than \$50,000, and therefore, there is no reason why a task order of \$50,000 or less shouldn't be awarded administratively. This will support the purpose for on-call contracts, to expedite the award of small projects.

4. Provide more flexibility in the method used to acquire contracts, in excess of \$50,000, for Architectural and Engineering (A&E) services.

The recommended change is to give the City Manager the authority to allow staff to select a consultant from the A&E roster, when certain criteria are met, when the contract is estimated to exceed \$50,000. The current policies require that a Request for Qualification (RFQ) process be completed when the contract is estimated to exceed \$50,000.

The Revised Code of Washington (RCW) Section 39.80.030 provides that:

"Each agency shall publish in advance that agency's requirements for professional services. The announcement shall state concisely the general scope and nature of the project or work for which the services are required and the address of a representative of the agency who may provide further details. An agency may comply with this section by:

- Publishing an announcement on each occasion when professional services provided by a consultant are required by the agency; or
- Announcing generally to the public its projected requirement for any category or type of profession services."

The City currently advertises, on an annual basis, its anticipated need for A&E services in "general terms". This means that we do not advertise for specific projects, but rather the anticipated general needs of the City based on the projects within the Capital Improvement Program. This advertisement asks for firms to submit their qualifications if they would like to be placed on the City's A&E roster.

For contracts less than \$50,000, staff members can select from the A&E roster the most qualified firms. When a contract is expected to exceed \$50,000, current policy requires that a RFQ process be followed. Staff then makes a selection of the most qualified consultant from the firms responding to the RFQ. This provides the opportunity for staff to get the best consultant to perform the needed services for a specific project. At the same time, because of the time needed to develop the RFQ and advertise, it may take an additional 3 - 4 weeks beyond simply evaluating the consultants on the A&E roster.

Since state law allows the use of a roster and/or the use of specific RFQs without limitation to cost, I am recommending that we amend the City policies to provide additional flexibility, and yet maintain sound business practices. The recommended change is to give the City Manager the authority to allow staff to evaluate qualified consultants from the A&E roster, when certain criteria are met, when the contract is estimated to exceed \$50,000.

The revised policies (SMC 2.60.070, Section D) cite the following criteria that the City Manager may consider when authorizing staff to award a contract exceeding \$50,000 from the City's A&E roster:

- If it is in the best interest of the City to expedite the acquisition of services; or
- It can be demonstrated that there are a sufficient number of consultants on the A&E roster that have the qualifications to perform the "Scope of Work"; or
- 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".

As the City's business practices continue to mature we will continually look for ways to develop more efficient processes that may result in future policy modifications.

ALTERNATIVES ANALYSIS

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, resulting in delays in project schedules.

Alternative 2: Revise the Procurement Policies. (Recommended)

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

RECOMMENDATION

Staff recommends that Council approve Ordinance No. 302, amending Section 2.60 of the Shoreline Municipal Code.

ATTACHMENTS

Attachment A – Ordinance No. 302, amending Section 2.60 of the Shoreline Municipal
Code

ORDINANCE NO. 302

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 section "L" to read as follows:

2.60.030 DEFINITIONS

L. On Call Contract: An on-call contract is a contract that is awarded with general provisions for the services to be rendered. As services are to be rendered, specific task orders are initiated that are to be completed by the contracting firm.

Section 2. Amendment. SMC 2.60.040, *General Provisions*, Amendments and Change Orders, section D. is hereby amended to include a new section "D.1.c", and new section "D.2", to read as follows:

2.60.040 GENERAL PROVISIONS

D. Amendments and Change Orders.

1. Amendments or change orders to contracts which result in a final contract amount in excess of purchase limits identified in this chapter may be administratively approved if the changes are:
 - a. Within the scope of the project or purchase;
 - b. Executed in writing;
 - c. The amount in excess of the City Manager's purchase limits will not exceed \$50,000. ~~The amount in excess of purchase limits is no greater than 20% of the~~

~~contract price or \$50,000, whichever is less. The City Manager may authorize Department Directors to approve increases in excess of Director's purchase limits up to 20% over the contract price or \$25,000, whichever is less.~~

2. Contact amendments that are strictly a change in contract expiration date may be administratively approved.
3. ~~2.~~The value of all change orders will be aggregated, and when any single amendment or combination of change orders on the same project or purchase exceeds the limit under subsection 1 (c) the change must be approved by the City Council, except:
 - a. For service contracts to accomplish an ongoing City program rather than a discrete project, the aggregation of administrative change orders shall be recalculated after each contract year; and
 - b. Where the size of the contract makes it probable that administrative change order authority will be quickly exhausted, the City Council may, upon recommendation of the City Manager, extend the aggregate limits of subsection 1(c) upon award of the particular contract.

Section 3. Amendment. SMC 2.60.040, *General Provisions*, is hereby amended to include a new subsection "F", to read as follows:

- F. Signature Authority.** The City Manager may delegate the signature authority provided in this chapter to other City employees as deemed appropriate.

Section 4. Amendment. SMC 2.60.050, *Purchase of Materials, Supplies or Equipment*, subsection A, is hereby amended to read as follows:

- 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 39.040.010 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. ~~The City Manager may delegate authority to Department Directors to execute these purchases.~~
 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. ~~The City Manager may delegate authority to Department Directors to execute these purchases.~~

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. ~~The City Manager shall authorize these purchases.~~
4. Purchases greater than \$50,000 but less than or equal to \$100,000
Purchases of materials, supplies, or equipment, where the cost is greater than \$50,000, but less than or equal to \$100,000 require that the City follow formal competitive bidding processes. ~~The City Manager shall authorize these purchases.~~
5. Purchases greater than \$100,000
Purchases of materials, supplies, or equipment, where the cost is greater than \$100,000 require that the City follow formal competitive bidding processes. The City Council shall authorize these purchases based on the results of the formal competitive bidding process and City staff recommendations.

Section 5. Amendment. SMC 2.60.050, *Purchase of Materials, Supplies or Equipment*, section C, is hereby amended to read as follows:

C. Informal Competitive Quotes

1. A City representative shall make an effort to contact at least three vendors. The number of vendors contacted may be reduced if the item being sought is only available from a smaller number of vendors. When fewer than three quotes are requested or if there are fewer than three replies, an explanation shall be placed in the procurement file.
2. Whenever possible, quotes will be solicited on a lump sum or fixed unit price basis.
3. At the time quotes are solicited, the City representative shall not inform a vendor of any other vendor's quote.
4. A written record shall be made by the City representative of each vendor's quote on the materials, supplies, or equipment, and of any conditions imposed on the quote by such vendor.
5. All of the quotes shall be collected and presented at the same time to the City Manager or designee ~~Department Director~~ as appropriate for consideration, determination of the lowest responsible vendor and award of purchase.

6. Whenever there is a reason to believe that the lowest acceptable quote is not the best price obtainable, all quotes may be rejected and the City may obtain new quotes or enter into direct negotiations to achieve the best possible price. In this case, the Purchasing Officer or his/her designee shall document, in writing, the basis upon which the determination was made for the award.

Section 6. Amendment. SMC 2.60.060 *Public Works Projects*, is hereby amended to add a new section "B" and amend the subsequent section "C" to read as follows:

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. 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 project contracts in the amount of \$200,000 or less.
- ~~B.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 with a reasonably anticipated 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 procedures adopted and approved by the Finance Director and the City Manager. ~~The City Manager may delegate authority to Department Directors to authorize these purchases and execute the related contract.~~ All purchases require a purchase order and executed contract.
 2. 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 a Formal Competitive Bid procurement process detailed in 2.60.050 Section D. ~~The City Manager may delegate authority to Department Directors to execute these purchases and execute the related contract.~~ All purchases require a purchase order and executed contract.
 3. Projects with a cost in excess of \$100,000 up to \$200,000 shall either use the small works roster or a Formal Competitive Bid procurement process. ~~The City Manager may authorize these purchases and execute the related contract.~~ All purchases require a purchase order and executed contract.

4. Projects with a cost in excess of \$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.

[Remaining sub-sections are renumbered C D, E, and D F]

Section 7. Amendment. SMC 2.60.070 *Services*, section A, is hereby amended to read as follows:

- 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 to purchase services equal to \$25,000 or less may be executed by Department Directors at the discretion of the City Manager.~~
 1. Contracts or task orders under an on-call agreement to purchase services greater than \$25,000, but equal to or less than \$50,000 may be executed by the City Manager or his/her designee.
 2. Contracts to purchase services greater than \$50,000 shall be authorized by the City Council.

Section 8. Amendment. SMC 2.60.070 *Services*, a new section "C" is hereby added to read as follows:

- C. On-Call Service Contracts. On-call service contracts will be procured with the processes identified in Section D. Individual task orders of on-call service contracts shall not exceed \$50,000.

[Remaining sub-section C is renumbered as D]

Section 9. Amendment. SMC 2.60.070 *Services*, section D.1.c is hereby added to read as follows:

- 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 a RFQ along with the property public notification shall be made in accordance with procedures adopted by the Finance 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 Service Roster:
 - i. It is deemed in the best interest of the City to expedite the acquisition of services; or

- ii. It can be demonstrated that there are sufficient 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.

Section 10. 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 11. 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 April 8, 2002.

Mayor Scott Jepsen

ATTEST:

APPROVED AS TO FORM:

Sharon Mattioli
City Clerk

Ian Sievers
City Attorney

Date of Publication: April 11, 2002
Effective Date: April 16, 2002