

ADMINISTRATIVE ORDER NO. 132

Administrative Order No. 97, adopted February 14, 2006, is hereby repealed.

Pursuant to the authority granted to the City Administrator in BMCC Section 2-300, I hereby establish the following procedures regarding:

“Purchasing for the City of Billings”

The policy statement was adopted by the City Council via Res. 16-10523 on February 22, 2016.

Dated this 27th day of September, 2017.



-ss- Christina F. Volek
City Administrator



CITY OF BILLINGS PURCHASING PROCEDURES

July 2017

**All forms, template documents, etc. are located on the Server
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A. ROLES OF PURCHASING

- A.1 DEPARTMENTAL STAFF is responsible for drafting specifications with assistance from the Purchasing Agent, for all items where the City is required to provide an opportunity for competition, including construction and professional services.
- A.2 THE PURCHASING AGENT is responsible for the review and proper processing of all procurement acquisitions made by the City. Additionally, the Purchasing Agent will:
 - A.2.1 As needed, purchase or assist in the purchases of all materials, supplies and services needed by any user department;
 - A.2.2 Discourage uniform bidding (prearranged bid rigging) and endeavor to obtain as full and open competition as possible on all purchases and sales;
 - A.2.3 Continually appraise developments in the field of purchasing: prices, market conditions and new products to utilize the benefits of research done in the field of purchasing by other governmental jurisdictions, national technical societies and trade associations having national recognition and by private businesses and organizations;
 - A.2.4 Standardize and achieve volume procurement using collective buying, City warehousing, lead purchaser or other concepts, which produce the lowest price possible to the City for the quality of goods or services required;
 - A.2.5 Prescribe and maintain such forms as he/she shall find reasonable and necessary;
 - A.2.6 Explore possibilities of buying in bulk so as to take full advantage of discounts;
 - A.2.7 Join with other governmental units and agencies in cooperative purchasing plans when the best interests of the City would be served;



The State of Montana maintains a list of term contracts in which a source or sources of supply are established for a specific period of time at a predetermined price. City staff may utilize any of the term contracts listed by the State of Montana agencies as a cooperative purchaser. The list is maintained at

<http://svc.mt.gov/gsd/apps/termcontractdefault.aspx>. City staff may utilize term contracts listed by the State without further competition.

- A.2.8 Advise and assist the Finance Director and Administrative Services in the formulations and recommendations of policies and procedures in connection with the purchasing activities of the City;
- A.2.9 Manage and maintain the Purchasing Card program;
- A.2.10 Assist departments and divisions in the coordination, solicitation and award of all quotes, bids, RFPs and otherwise;
- A.2.11 Maintain a list of all vendors who have expressed an interest in selling to the City of Billings. It will be the responsibility of the departmental author to assure all interested parties will be contacted;
- A.2.12 Review purchase orders and invoices for compliance with the City of Billings Purchasing Policy and Procedures;
- A.2.13 Perform such other duties as may be required by the Finance Director.



B. PURCHASING PROCEDURES

B.1 PROCEDURES: the following procedures outline the Purchasing Process and define the involvement of Purchasing.

B.1.1 Purchases of \$99.99 and under, the preferred method is petty cash or purchasing card, but invoices may be processed, if necessary.

B.1.2 Purchases of \$100 to \$4,999.99 do not require price quotes or bids and the Purchasing Agent need not be involved. These purchases may be made through:

- Purchasing Card (up to \$2,500)
- Purchase Order or Invoice

B.1.3 Purchases from \$5,000 to \$49,999.99 requires three (3) written quotes. The lowest responsible bidder will be selected. Depending on the complexity of the project or quote requested, the Purchasing Agent may be involved. The responsible department shall complete and sign a Quote Form, which subsequently will be attached to the contract, invoice or Purchase Order. Catalog prices are acceptable when local vendors cannot be found.

NOTE: The lowest quote does not have to be accepted if it is documented that a specific supplier in the past has been a poor performer or has provided sub-standard goods. Documentation must be presented to and reviewed by the Purchasing Agent and Legal Department to determine whether or not a supplier will be excluded from competition. The City Administrator must approve this stated special circumstance upon signing of the contract.

B.1.4 Purchases for architectural, engineering and land survey services, as well as miscellaneous professional and consultant services, for \$19,999.99 and above require a Request for Proposal (RFP), the involvement of the Purchasing Agent is optional and legal advertising is mandatory. A selection committee is also required.



B.1.5 Purchases for any automobile, truck, other vehicle, road machinery, other machinery, apparatus, appliances, equipment, materials or supplies, or for construction, repair or maintenance in excess of \$49,999.99, requires a competitive, sealed bid process (State Law MCA Title 7, Chapter 5). Purchasing Agent involvement is optional and a legal advertisement is mandatory. There are two additional guidelines that may apply to sealed bids:

B.2 PERFORMANCE, PAYMENT AND/OR LABOR AND MATERIALS BONDS - The bidder may be required to furnish an approved Performance Bond, Labor and Materials Bond, or Payment Bond in the amount of one hundred percent (100%) of the contract amount., conditioned to the effect that the contractor shall faithfully perform the terms and conditions of the contract and shall indemnify the City from the negligent acts of the contractor, his or her agents or servants in their performances of the terms and conditions of the contract, and shall pay all proper claims of subcontractors and suppliers. Construction contracts generally require additional bonds, but all other contracts shall be discussed with the Purchasing Agent to determine if necessary.

B.3 INSURANCE - If the contract requires work to be completed for the City by contractor, the City of Billings must require that the successful contractor maintain in full force and effect a Workers' Compensation Insurance Policy on its employees and Comprehensive General Liability Insurance Policy naming the City of Billings as an additional insured in specified predetermined amounts, to provide protection to the parties to the agreement. Automobile liability insurance may also be required. The Purchasing Agent will advise the issuing department regarding insurance needs.

NOTES:

- All insurance requirements and any additional bonds must be stated in all advertisements so contractors may adjust their quote or bid accordingly.
- The City Administrator may, in writing, allow for lesser amounts of insurance coverage or grant an exception.



B.4 INVITATION FOR BID (IFB) PROCESS

- B.4.1 According to State law, MCA Title 18, Chapter 4, an Invitation for Bid must be issued and shall include a purchase description and conditions applicable to the procurement.

As per State law, MCA Title 7, Chapter 5, sealed bids are used for purchases for any automobile, truck, other vehicle, road machinery, other machinery, apparatus, appliances, equipment, materials or supplies, or for construction, repair or maintenance in excess of \$49,999.99.

The City will give adequate public notice of the Invitation for Bids in a reasonable time before the date of the opening of the bid. A legal advertisement (i.e. publication in newspaper) must appear two (2) consecutive weeks prior to the bid opening.

NOTE: When Federal money is involved in the bid, then the legal advertisement must appear for three (3) consecutive weeks prior to the bid opening.

- B.4.2 Sealed Bids are received in the office of the City Clerk and are opened publicly at 2:00 PM on Tuesdays in the City Hall Conference Room. A departmental representative and the Purchasing Agent shall be present to record bids on a Bid Tabulation Sheet. Each bidder and any member of the public has the right to attend, and to examine and inspect all bids after they are opened. The user department, with the assistance of the Purchasing Agent and/or the Legal Department, if necessary, shall evaluate and jointly agree on a recommendation of award.



- B.4.3 Each bid must include BID SECURITY equal to 10% of the bid amount, which may be made via Certified Check, Cashier's Check, or Bid Bond payable to the City. The bid security will be retained by the City Clerk until the successful bidder enters into a contract with the City. Unsuccessful bidders shall be entitled to the return of the submitted security (other than a bid bond) after a formal award has been made. A successful bidder, upon failure on his part to enter into a contract within the time specified after notification of the bid award, shall forfeit any surety deposited with the City of Billings.
- B.4.4 The name of each bidder and amount of each bid and other relevant information is recorded.
- B.4.5 Bids are unconditionally accepted, except bids without bid security. All other irregularities shall be examined after the bid opening with assistance from the Legal Department.
- B.4.6 If a bid award is made, it is with promptness by written notice to the lowest bidder who has met all the requirements and specifications set in the Invitation for Bid. Also, the bid award recommendation is submitted for transmittal to the City Council for their approval. The recommendation must include a list of all bidders, bid amounts and an explanation.
- B.4.7 Rejection of Bid - All bids received in response to an advertisement may be rejected. The Purchasing Agent, if involved in the bid, and user department, together, may recommend rejection of all bids for an item, group of items or the entire scope if such action is determined to be necessary and in the best interests of the City. An example of when such action would be appropriate is incomplete or incorrect specifications.
- B.4.8 A contract is executed upon an award of bid including the terms and conditions and specifications set forth in the Invitation for Bid.
- B.4.9 All bid materials will become the property of the Purchasing Agent, for filing, future reference and maintenance for historical purposes and updating as needed for new procurements.



B.4.10 In the event two (2) or more bidders offer identical bids, all factors considered, new bids may be invited or award made by the drawing of lots, witnessed by the Purchasing Agent and the applicable bidders.

B.4.11 Any bidder protests of award recommendations and/or bid specifications must be filed within seven (7) days of bid opening.

Upon receiving a written protest, the Purchasing Agent determines if the protest has sufficient merit and if so, schedules an informal hearing with the protesting bidder and the user department.

At this hearing, all parties discuss the basis of the protest and attempt to resolve the dispute based on fact. If the protesting party is not in agreement with the results of the informal hearing, they may appeal to the City Administrator. Ultimately, final decisions rest with the City Council.

B.4.12 An Invitation for Bid (IFB) shall include the following:

- Bid submission requirements
- Purchase description/scope of services
- Evaluation criteria
- Contract terms and conditions
- Non-collusion statement
- DBE Statement for Airport and MET Transit Departments



B.5 REQUEST FOR PROPOSAL (RFP) PROCESS

- B.5.1 According to State law, MCA Title 18, Chapter 8, Requests for Proposals are utilized for most services (architects, engineering, land surveying), especially professional consulting, and all complex projects (i.e.; office supplies supplier consolidation, software packages) over \$19,999.99 and must be accompanied by a legal advertisement.
- B.5.2 The Purchasing Agent should be involved (or at least advise) in the RFP creation and solicitation for professional services (except engineering), facilities, and any other complex projects.
- B.5.3 Staff will send out all RFP's, create a selection committee, receive all RFP responses and distribute accordingly to the committee. An RFP may be sent and received electronically, as long as a Noncollusion Form is signed and sent back to staff prior to receiving the proposal.
- B.5.4 A Request for Proposals shall include the following
- Purchase description
 - Scope of Work/Services
 - Evaluation Criteria
 - Contract Terms and Conditions
 - Proposal submission requirements
 - Non-collusion statement
 - DBE statement for Airport and MET Transit Departments



B.6 LEGAL ADVERTISEMENT REQUIREMENTS

- B.6.1 A legal advertisement is required for all Invitations for Bids and Requests for Proposals.
- B.6.2 The City Clerk coordinates ALL legal advertising for the City's equipment purchases, service procurement and meeting notices.
- B.6.3 Legal advertising is done on a weekly basis, with publication taking place on Thursdays of each week.
- B.6.4 Ad copy and specifications are due to the City Clerk by Noon on Tuesday during the first week of publication.
- B.6.5 Legal ads and specifications must also be submitted electronically (email) to the City Clerk to facilitate website posting.
- B.6.6 Legal ads generally must be published once per week for two consecutive weeks, with at least SIX (6) days separating the publications. This rule applies unless there is a specific advertising/notice requirement unique to the circumstances. For example, if the project or purchase will be utilizing Federal funds, there may be specific advertising requirements over and above the basic requirements named above.
- B.6.7 Legal ads must contain the following information at a minimum:
- The name of the project
 - Submittal information including:
 - Bids: Deadline day, date, time and place for bid submittal and day, date, time and place for bid opening.
 - Requests for Proposals: deadline day, date and time for proposal submittal.
 - The name, physical address and phone number of a person to contact for additional information.



- Information on the day, date, time and place of a pre-bid meeting (if one is being held) and whether attendance is mandatory. (it is recommended that, if a pre-bid meeting is held, attendance should be mandatory).
- The dates of publication.
- Standard bidding or RFP language as contained in the template documents on the City's server.

B.6.8 The advertising and opening dates should be coordinated in advance with the City Clerk's office.

B.7 SOLE SOURCE PROCUREMENT

B.7.1 State law, MCA Title 18, Chapter 4, states that a contract may be awarded for a supply or service item without competition when there is only one source for the supply or service item. This bidding exception may only apply when the department head or designee determines in writing that there is only one source for the required supply or service item.

B.7.2 The Purchasing Agent must receive an explanation in writing attached to the Purchase Order that only one practical source exists.

B.7.3 Examples of sole source items:

- Patented items
- Copyrighted materials
- Secret processes
- Utilities - items for compatibility/standardization
- Specialized proprietary equipment



C. PURCHASING METHODS

C.1 PETTY CASH

Some departments maintain a petty cash fund that is used for small dollar amount purchases. An Administrative Order adopts the City of Billings Petty Cash Policy.

C.2 PURCHASING CARDS

The Purchasing Agent manages the City's Purchasing Card Program. Purchasing cards will be issued to departments that request them. The cards are used much the same as a credit card and are assigned to a specific person with a specific limit. The types of purchases are limited as well. The Purchasing Card Policy is provided to each cardholder.

C.3 PURCHASE ORDERS

Purchase orders are commonly used to initiate the purchasing process and in some circumstances to confirm an order already placed with a vendor. It identifies the vendor, the purchasing department, price, quantity, and account number to be charged.

C. 4 ENCUMBRANCES

Also created by Purchase Orders. Encumbrance Payment Request Forms must be used for order and encumbrance payment requests.

C.5 BLANKET PURCHASE ORDERS

For repetitive purchases of clerical supplies, repair parts, hardware, photo service, printing and other similar items, blanket purchase orders are created for a specified time (usually one month) to selected vendors.



Blanket Orders can be created by the Finance Department for the whole City or Departments can create their own departmental Blanket purchase order. Upon receiving the invoice, the designee should check the order for accuracy and completeness before signing. Each department will enter their own invoice or delivery slip against the blanket P.O.

For City Blanket Orders, all invoices for the month are received against the blanket order by the 5th business day of the following month. The vendor statement is balanced to the computer software and invoices. Accounts Payable then makes authorization for payment. Before the current month's blanket order expires, Accounts Payable sends the vendor a new Blanket Purchase Order as well as the department designees.

C.6 VOUCHER PAYMENTS/RECURRING PURCHASES

Recurring purchases are those for periodically billed services and various other types of payment as determined by the Finance Director.

Vouchers are also used for Jury for Municipal Court/jury witnesses fee reimbursement, Municipal Court Witness Fee reimbursement, Petty Cash reimbursement, refunds for one time vendors, accounts receivable refunds and Public Works Utilities refunds, and Finance Petty Cash reimbursements.

The Finance Director or his designee verifies, reviews and approves the documentation for the payment of vouchers.

D. SPECIAL PURCHASING DETAILS AND INFORMATION

D.1 PREVAILING WAGE RATES

As per State law, MCA Title 18, Chapter 2, for construction projects where the cost will exceed \$25,000, there must be a statement in the bid documents calling for the contractor to pay the prevailing wage rate as established by the State of Montana, as well as a statement and copy of wage rates included in the contract documents.



D.2 STATE GROSS RECEIPTS TAX

One percent (1%) contractors' tax must be deducted from all payments on construction contracts totaling over \$5,000 and paid to the State.

D.3 APPRAISALS

The City Council has adopted a policy resolution that establishes criteria for appraisals when the City purchases land.

D.4 USED EQUIPMENT PROCUREMENT

All used equipment which would have a value, if new, of \$5,000 or more must be included in the Equipment Replacement Plan or Technology Replacement Plan, or be specifically approved by the City Administrator.

D.5 USED VEHICLE PURCHASES

All purchase orders for used vehicles are substantiated by at least two (2) quotes of other comparable vehicles to include mileage, condition, and auxiliary equipment of each vehicle quoted.

The vehicle selected is inspected by a City mechanic at the Fleet Services Division and approved by the Fleet Services Division. Airport and Public Works Utilities are not required to obtain approval by the Fleet Services Division as they have their own mechanics; they are required, however, to have either Fleet Services Division mechanics or their own mechanics inspect and approve any used vehicle before they purchase it.

The head of the department that is purchasing the used vehicle shall approve the purchase order as to procedure and shall submit it, along with (a) the comparable price quotes described above and (b) the Fleet Services Division or other city mechanic approval, to the Finance Director and the City Administrator for approval before commitment is made to the vendor to purchase the vehicle.

The Fleet Services Division will arrange for picking up the vehicle and processing the title as the County Treasurer's Office will only accept the City Clerk's signature on title applications.



The Purchasing Agent will send the application for title and registration receipt made out in the name of "City of Billings," to the City Clerk. Information will be provided as to the equipment number and new plates if needed, or if an old plate is being transferred to the newly purchased vehicle. If there is a trade-in, the City Clerk will sign off on the title and send it to the Fleet Services Division to transmit it to the proper agency.

D.6 OTHER USED EQUIPMENT PURCHASES

In order to purchase a used item exceeding \$1,500, it must be in excellent condition and a good buy. In certain cases, there are no comparable used equipment items which can be purchased (mowers, specialty equipment, fire trucks, etc.). In these cases, the cost of a new piece of comparable equipment will be obtained and qualified by the Fleet Services Division or departmental maintenance people and will inspect the equipment and state in writing to the Purchasing Agent why the City should purchase the equipment. When a comparable item can be found, the price of these units should be shown and an explanation given for the recommended purchase.

For clarity and definition, a qualified expert's opinion would be discounted by the Purchasing Agent if, for example, the purchase order originator solicited an opinion from the company who is selling the item.

D.7. EMERGENCY PURCHASES

Emergency authority is to be used "in cases of extreme and immediate necessity where materials, services or equipment are needed for a situation where the health, safety or welfare of the public is endangered or the City is exposed to serious cost consequences if immediate corrective or preventive action is not taken".

If an emergency does occur, the Purchasing Agent will provide support for expediting and determining the best purchasing method.

All emergency purchase orders will be signed by the department head or designee and will have a brief explanation of the emergency attached.



Emergency purchases over \$19,999.99 require the City Council by resolution to declare the emergency and record it in the minutes of the council meeting. The requirements for sealed bids can be waived, and the purchase made in the fastest possible manner. (MCA Title 7, Chapter 5)

D.8 TRIAL BASIS PURCHASING

Often opportunities arise in the form of an offer to use and try materials and/or products from 10 to 90 days before requiring the City to purchase.

These orders will be placed in the usual manner. Submit a purchase order to the Finance Department and clearly indicate that it is on a term basis only. Place the order accordingly and advise the user when the time has come to either purchase or return the merchandise.

This will prevent the City from incurring obligation for payment if the order is not returned in time, or if it is lost or damaged in the mail.

D.9 SURPLUS PROPERTY PROCUREMENT

In reference to MCA Title 18, Chapter 5, a Montana state agency is designated for federal surplus property.

D.10 SURPLUS PROPERTY DISPOSAL

The Purchasing Agent is designated as Surplus Sales Officer. He/she is responsible for disposing of all surplus personal property, and obsolete and scrap material of any type that belongs to the City of Billings in a manner and on terms that are in the best interest of the City, provided that the procedure and the terms are in accordance with State statute and in compliance with existing City policies.



Surplus, worn-out or obsolete material and equipment may be disposed of in any of the following ways:

- By selling or donating to other City departments through surplus property.
- By cannibalizing.
- By trading in on new equipment.
- By advertising for sale and selling at auction, or by advertising and obtaining sealed bids and selling to the highest responsible bidder.
- By selling as scrap or recycling.
- Junking or recycling.
- By special Council approval.

The Purchasing Agent, with the assistance of department representatives, shall approve the disposal process of all surplus property. Approved disposal forms, with appropriate documentation attached, shall be retained by the Purchasing Agent for the City's official files.

All proceeds from the sale of these items will be deposited with the department that last had possession of the items and copies of documentation filed with the disposal form with the Purchasing Agent.



E. DELEGATIONS OF AUTHORITY - APPROVALS

E.1 APPROVALS OF INVOICES AND PURCHASE ORDERS

Purchase Orders and Invoices must be approved, as follows, in the following order:

\$0 - \$1000

→ Department Designee → Purchasing Agent

\$1,000 to \$10,000

→ Department Designee → Purchasing Agent → Finance Director

\$10,000 and above

→ Department Designee → Purchasing Agent → Finance Director → City Administrator

F. SUPPLIER AGREEMENT/CONTRACT PROCESS

F.1 Generally, whether it is for goods or services, suppliers will be engaged through a written document. This can either be a purchase order or contract. **Contracts are required for all goods over \$10,000 and services over \$5,000.**

F.2 Purchase Orders or Invoices – Purchase Orders and Invoices are created by each respective City department and approved through the Delegation of Signing Authority levels.



F.3 CONTRACTS

Contracts include all documents including, for example, bid specifications which create obligations on the part of the City of Billings and the contracting party, insurance certificates, drawings, etc.

F.3.1 COUNCIL APPROVED CONTRACTS

Department representative must send a draft contract to the Legal Department to review before having the contractor sign. The contractor then signs the legally reviewed and approved two (2) copies of the contract, and sends the contracts back to the department representative. The department representative then sends the contracts to the Legal Department for final review and sign off. The Legal Department will send the contract to the City Clerk for the Mayor to sign which is the final signature. The City Clerk attests the Mayor's signature. The original copy of the contract is retained by the City Clerk and the remaining signed original contract is forwarded to the department representative to send to the contractor. Use the Contract Routing Form for every contract.

Signature Flow: Contractor (Supplier) → Legal → City Clerk/Mayor

F.3.2 NON-COUNCIL APPROVED CONTRACTS

Department representative must send a draft contract to the legal department to review before having the contractor sign. The contractor then signs the legally reviewed and approved two (2) copies of the contract, signs and sends the contracts back to the department representative. The department representative then sends the contracts to the legal department for final review and approval. The legal department will send the contract to the city clerk for the city administrator to sign which is the final signature. The original copy of the contract is then retained by the city clerk and the remaining original signed contract is forwarded to the department representative to send to the contractor. Use the contract routing form for every contract.

Signature Flow: Contractor (Supplier) → Legal → City Clerk/City Administrator



G. SIGNING AUTHORITY – CHANGE ORDERS & AMENDMENTS

Within ten (10) working days after the acceptance of a bid, the bidder and the city shall make, execute and deliver to each other in duplicate a contract in accordance with the bid; provided, that the parties to the contract may extend the period for execution.

The city administrator is authorized to execute amendments or change orders to all contracts executed by the mayor if the changes do not exceed his/her signing authority, as designated by resolution.

Furthermore, the city administrator is authorized to execute amendments or change orders to all contracts executed by the mayor if the changes are:

- 1) Within the scope of the project or purchase, provided that increases in the scope of street improvement projects to add improvements requested and paid for by adjacent property owners are permissible;
- 2) Executed in writing; and,
- 3) The increase in contract amount does not exceed:
 - a. Ten (10) percent of the contract price; or,
 - b. Five hundred thousand dollars (\$500,000.00); or,
 - c. The original budgeted contingency, whichever is less.

The total amount of all change orders or amendments on any given project will be cumulatively combined. When any single amendment or change order exceeds the limit under subsection (b), the proposed change must be presented to the city council for approval. However, 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 administrator, extend the aggregate limits of subsection (b) in an amount set by council resolution for a specific project.



H. QUICK REFERENCE CHART

Amount	Petty Cash	Purchasing Card	Purchase Order/Invoice	Written Quotes	Sealed Bids	RFP
\$0 - \$99.99	X	*X	X			
\$100 - \$2499.99		X	X			
\$2,500 - \$4,999.99			X			
\$5,000 - \$49,999.99				X		
> \$19,999.99 (architect, engineer & land survey, consultant, professional services)						X
> \$49,999.99 (automobile, trucks, construction, equipment, materials)					X	

BLANKET ORDERS – May be created for Fleet/Inventory purchases as well as any other monthly repetitive purchases.

* Purchases for Fleet and Inventory may NOT be made on Purchasing Cards



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