

# **CITY OF BEAVER DAM, WISCONSIN PROCUREMENT POLICY**

## **POLICY OBJECTIVE**

The City of Beaver Dam has adopted this procurement policy in order to provide City employees with uniform guidance in the procurement of professional services. The controls and procedures set forth are intended to provide reasonable assurance that the most cost effective service that serves the best interests of the City of Beaver Dam is obtained, while balancing the need for flexibility and efficiency in departmental operations.

## **COVERAGE**

This policy applies to the procurement of professional services by all departments and divisions of the City of Beaver Dam. More restrictive procurement procedures required by grants, aids, statutes or other external requirements or funding sources will take precedence. Nothing in this policy shall limit the statutory authority granted to the Police and Fire Commission or the Library Board.

## **GOALS**

1. To encourage open and free competition to the greatest extent possible.
2. To receive maximum value and benefits for each public dollar spent.
3. To ensure that all purchase contracts are made in compliance with federal, state and local laws.
4. To prevent potential waste, fraud, abuse and conflicts of interest in the procurement process.
5. To assure proper approvals are secured prior to the purchase, award of contract and disbursement of public funds.

## **ETHICAL STANDARDS**

All procurement shall comply with applicable federal, state and local laws, regulations, policies and procedures. The City's Personnel Policies and Procedures Handbook provides general ethical standards and conduct expectations.

In general, employees are not to engage in any procurement related activities that would actually or potentially create a conflict of interest, or which might reasonably be expected to contribute to the appearance of such a conflict.

1. No employee shall participate in the selection, award or administration of a contract if a conflict of interest would be involved. Such a conflict would arise when the employee, any member of his immediate family, business partner or any organization that employs, or is about to employ, any of the above, has a financial interest or other interest in the firm selected for award.
2. To promote free and open competition, technical specifications shall be prepared to meet the

minimum legitimate need of the City and to the extent possible, will not exclude or discriminate against any qualified contractors or vendors.

3. No employee shall solicit or accept favors, gratuities, or gifts of monetary value from actual or potential contractors, subcontractors or vendors.
4. Employees must maintain strict confidentiality in the procurement process and shall not impart privileged information to any contractors or vendors that would give them advantage over other potential contractors or vendors.
5. Personal purchases for employees by the City are prohibited. City employees are also prohibited from using the City's name or the employee's position to obtain special consideration in personal purchases.

### **GENERAL GUIDELINES**

These general guidelines shall be adhered to as closely as possible by all departments in the procurement of professional services.

1. Purchase of Services is classified into the categories of professional services, contractor services, construction services and combined goods and service contracts.
2. Buy Local - It is the desire of the City to purchase locally when possible. This can be accomplished by ensuring that local vendors are included in the competitive solicitation process that will precede major purchases. It is also the desire of the City to purchase from disadvantaged enterprise businesses whenever possible as defined by Wisconsin Statute 84.06(1).
3. Cooperative Procurement Programs – Departments are encouraged to use cooperative purchasing programs sponsored by the State of Wisconsin or other jurisdictions. Purchases secured through these programs are considered to have met the requirements of competitive procurement outlined in this policy. Additionally, if identical services can be obtained at a lower price than current cooperative purchasing contracts, no additional quotes are required.
4. Purchasing Oversight – Department heads have the responsibility for procurement issues in their individual departments. A department head is defined as the City employee having responsibility for the department on behalf of which moneys were appropriated in the City budget for purchases.
5. Emergencies –When an emergency situation does not permit the use of the competitive process outlined in the policy, the applicable department head, Director of Administration and Mayor may determine the procurement methodology most appropriate to the situation. Appropriate documentation of the basis for the emergency should be maintained and filed with the City Clerk. All emergency purchases exceeding \$25,000 shall require the Department Head to provide written notice to the Common Council. An emergency is defined as flooding, tornado, dam breach, earthquake, FEMA qualified disasters, criminal or terrorist attacks on the City's infrastructure or other threat to employee and/or public health and safety.

6. Identical Quotes or Bids – If two or more qualified bids/quotes are for the same total amount, and quality or service is considered equal the contract shall be awarded to the local bidder. Where this is not practical the contract will be awarded by drawing lots in public.
7. Serial Contracting – No contract or purchase shall be subdivided to avoid the requirements of this policy. Serial contracting is the practice of issuing multiple purchase order to the same vendor for the same good or service in any 90 day period in order to avoid the requirements of the procurement policy.
8. Policy Review – This policy may be periodically reviewed by the Administrative Committee.
9. Protest Procedures – Any interested party who wishes to protest at any point in the procurement process, evaluation, award, or post-award, may do so. An “interested party” must, however, be an actual or prospective bidder or offeror whose direct economic interest would be affected by the award of the contract or by failure to award the contract. Protests must be submitted timely, in writing to the City Clerk, 205 S. Lincoln Ave, Beaver Dam WI 53916 but no later than five (5) working days following final Common Council action on the procurement decision. The protest must contain a detailed statement of the grounds for the protest and any supporting documentation. Upon the receipt of the written protest, the City Clerk will notify the City Attorney, Mayor and Director of Administration who will work to resolve the matter within five (5) working days. If the protester is not satisfied and indicates the intention to appeal to the next step the award will be temporarily suspended unless it is determined that: 1)the service to be procured is urgently required; 2) delivery or performance will be unduly delayed by failure to make the award promptly; 3) Failure to make the prompt award will otherwise cause harm to the City; or 4) The protest has no merit. If the protester wishes to appeal the decision of the City Attorney, Mayor and Director of Administration the matter will be forwarded to the committee, commission or board of jurisdiction and the Common Council for the ultimate local disposition.

### **COMPETITIVE PROCUREMENT POLICY**

1. Purchase of professional services under \$5,000 – The cost of the purchase which has been included within the approved department budget may be made based on the best judgment of the department head. However, it is recommended that competitive quotes be obtained. Specific procurement documentation is not required.
2. Purchase of professional services between \$5,000 to \$25,000 –The cost of the purchase must have been included within the approved department budget. The department **MUST** obtain (3) three written quotations, if possible.
3. Purchase of professional services in excess of \$25,000 – a formal bid process is required.
  - a. Requests for such bids shall be formally noticed. All notices and solicitations of bids shall state the time and place of the bid opening.
  - b. All bids shall be submitted in accordance with instructions supplied by the City.
  - c. All sealed bids shall be opened and recorded by the committee, commission or board of jurisdiction. The department head shall be responsible for the preparation of all plans, bid specifications, notices and advertising. Prequalification of bidders may be

done at the discretion of the department head. A tabulation of bids received shall be available for public inspection. The committee, commission or board of jurisdiction shall recommend award of contract to the Common Council.

- d. In general, the contract shall be awarded to the lowest priced responsible bid. Written documentation or explanation shall be required if the contract is awarded to other than the lowest responsible bidder. This documentation will include a justification as to why it was in the City's best interest to award the contract to other than the lowest responsible bidder.
4. The department head shall administer the purchase.

### **PURCHASE OF SERVICES**

Whenever practical the purchase of services should be conducted based upon a competitive process unless approved otherwise by the committee, commission or board of jurisdiction or the Common Council:

- Contractor services is defined as the furnishing of labor, time or effort by a contractor, usually not involving the delivery of specific goods or products other than those that are the end result of and incidental to the required performance. Examples of contractor service will include but are not limited to: refuse and recycling collection, snow removal, EMS billing services, janitorial, elevator maintenance, mailing, or delivery services. Contractor services shall follow the competitive procurement policy outlined above. The cost shall be determined by considering the maximum total expenditure over the term of the contract.
- Construction services are defined as substantial repair, remodeling, enhancement construction or other changes to any City owned land, building or infrastructure. Procedures found with in State of Wisconsin Statute 62.15 shall take precedence. In absence of guidance in these areas, construction services shall follow the competitive procurement policy outlined above.
- Combined Goods and Services in situations where the purchase combines goods and services (exclusive of construction and contractor services), such as many technology projects, the purchase shall be treated as a purchase of professional services.
- Professional services is defined as consulting and expert services provided by a company, organization or individual. Examples of professional services include: attorneys, certified public accountants, appraiser, financial and economic advisors, engineers, architect, planning and design. Professional services are generally measured by the professional competence and expertise of the provider rather than cost alone.
  1. If it is estimated that the service being solicited has a total cost of over \$25,000 a formal Request for Proposal (RFP) shall be used to solicit vendor responses. The department head shall be responsible for the preparation of all Requests for Proposal specifications, notices and advertising. Prequalification of proposers may be done at the discretion of the department head.
    - a) The Purpose of an RFP is to solicit proposals with specific information on the proposer and the service offered which will allow the City to select the best proposal. The best proposal is not necessarily the proposal with the lowest cost.

- b) Based upon the services or project and the magnitude of the outcome a selection committee may be advisable.
  - c) Requests for proposals shall be formally noticed. All notices and solicitations of proposals shall state the time and place of the proposal opening.
  - d) Information to be requested of the proposer should include : Number of years the proposing company has been in business, company's experience in the area of desired services, financial strength of the company, examples of similar services/projects completed, resumes of staff that will be associated with the project/service, list of references, insurance information. In addition the proposal should provide information about the City, scope of services requested and any outcomes. The proposal should also identify evaluation factors and relative importance.
  - e) Establish selection criteria and include this information with the RFP. It is generally advisable to establish a numeric ranking matrix. This reduces the subjective nature of the rating process.
  - f) Proposals should be solicited from an adequate number of qualified sources. Requests for proposal should be formally noticed. All notices and solicitations should provide the issue date, response due date, date and time of opening responses and a contact person.
  - g) Proposals shall be opened and recorded by the committee of jurisdiction. A tabulation of proposals received shall be available for public inspection. The Department Head and selection committee (if applicable) will then review the proposals and make a selection.
- Service contracts or agreements should be reviewed by the City Attorney.

### **SOLE SOURCE**

Purchase of services under \$25,000 may be made without competition when it is agreed in advance between the Department Head, Director of Administration and the Mayor. Sole source purchasing should be avoided unless it is clearly necessary and justifiable. The justification must withstand public and legislative scrutiny. The Department Head is responsible for providing written documentation justifying the valid reason to purchase from one source or that only one source is available. Sole source purchasing criteria include: urgency due to public safety, serious injury, financial or other unusual and compelling reasons, service is available from only one source and no other service will satisfy the City's requirements, legal services provided by an attorney, lack of acceptable bids or quotes, an alternate product or manufacturer would not be compatible with current products resulting in additional operating or maintenance costs, standardization of a specific product or manufacturer will result in a more efficient or economical operation, aesthetic purposes or compatibility is an overriding consideration, the purchase is from another governmental body, continuity achieved in a phased project, the supplier or service demonstrates a unique capability not found elsewhere, economical to the city on the basis of time and money of proposal development.

1. Sole source purchase under \$5,000 shall be evaluated and determined by the Department Head.
2. Prior to a sole source purchase of \$5,000 to \$25,000 a formal written justification shall be forwarded to the Director of Administration who must concur and sign off with his or her

approval the sole source or assist in locating additional competitive sources.

3. Sole source purchase exceeding \$25,000 must be approved by the Common Council based upon a recommendation from the committee of jurisdiction.

### **BUDGET**

All purchases shall be made in accordance with the budget approved by the Common Council. The department head has the responsibility for managing departmental spending to ensure the departmental budget is not overspent and for initiating Transfer of Funds Requests when appropriate.

Contracts shall be signed by the Mayor and counter-signed by the City Clerk, City Director of Administration and City Attorney. The City Director of Administration shall certify that funds have been provided by the Council to pay the liability that may be incurred under the contract. The City Attorney shall approve the contract as to form and the City Clerk shall attest to the Mayor's signature.