



# **PROCUREMENT MANUAL**

**Guide for City Departments  
Including Policies and Procedures**

**CITY OF FITCHBURG  
PROCUREMENT MANUAL  
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## **OBJECTIVE**

The goal of this manual is to provide a reference tool for staff to understand how the Purchasing Division makes procurement decisions, and to ensure that all procurements made by the City comply with general law, local ordinances, and best purchasing practices. This manual outlines the procurement process and defines the roles of staff, Department Heads, and the Chief Procurement Officer (CPO), which will result in uniform specifications, fair and open solicitations, timely development of contracts, and proper contract management.

## **AUTHORITY TO PURCHASE**

Each fiscal year, Departments are budgeted funds by account code. This allocation gives Department Heads the authority to requisition for services, supplies, equipment, and construction related services, but does not give the authority to purchase directly from a vendor or contractor.

The Chief Procurement Officer (CPO) is designated by City Ordinance to maintain a centralized purchasing function; therefore Departments may not make any purchases without proper authorization *in advance of the purchase*. Proper authorization shall be acknowledged as: 1) compliant with the policies and procedures outlined in this manual for “incidental” or low-threshold purchasing; or 2) the CPO shall make certain delegations of authority in writing, in situations where the unique need exists and staff is appropriately qualified to perform procurements. Delegated staff must work within the written constraints of their delegated authority.

All Departments will follow the purchasing regulations outlined in this manual. This includes the requirement of a purchase order for all transactions exceeding \$1000 (individually or in circumstances that could be considered collectively). Unless a requisition is submitted and converted to a purchase order, the City is under no obligation to pay any related invoice. In this situation, liability for payment rests with the person who made the purchase.

## **AUTHORITY TO SIGN CONTRACTS**

The Mayor is the only person authorized to execute a contract on behalf of the City, per the City Charter. Service agreements, construction contracts, contracts for goods/services, real estate, lease or purchase of equipment, and any document containing terms and conditions, must be signed by the Mayor or will be considered non-binding. The Mayor will not apply his signature to any contract without all prior authorized signatures being affixed, using the City’s standard signature block.

## **PROCUREMENT PROCEDURE**

All City Departments, including the School Department and Departments which operate through an enterprise fund, are subject to the Commonwealth’s procurement laws, inclusive but not limited to Massachusetts General Laws Chapter 30B, Chapter 7, Chapter 30, §39M and Chapter 149.

In addition to providing legal procurements, it is our goal to also provide efficiency and best value to our customers – City staff and Departments, and ultimately to the taxpayers. The Chief Procurement Officer, along with the Procurement Team, is available to provide guidance, internal support and procurement assistance in the development and solicitation of public bids and proposals.

The Chief Procurement Officer is responsible for monitoring purchases to ensure procurement practices are compliant with applicable laws, to develop strategies for improvement, to implement policies and procedures, and to identify potential cost-savings and efficiencies in the procurement process.

## **PROCUREMENT LAWS AND APPLICABILITY**

### SUPPLIES AND SERVICES: MGL c. 30B

Massachusetts General Law, c. 30B applies to the procurement of all supplies, services, disposition of surplus supplies, and acquisition or disposition of real property. Under Chapter 30B procurement includes purchase, lease, lease-purchase, or rental.

Items exempt from c. 30B are contained in §1(b). If a Department feels their purchase is exempt from Chapter 30B, that Department must contact the Purchasing Department in advance for determination if the exemption applies.

### DESIGN SERVICES: MGL c. 7C, §44 to 57

Procurement of design services (architect/engineer, etc.) in connection with a public building project are subject to the Designer Selection Law. Design services connected to a public works construction project are exempt from bidding requirements as long as the City hires a designer fitting the definition contained in MGL c. 30B, §2.

### PUBLIC BUILDING CONSTRUCTION: MGL c. 149, §44A to 44M

Procurement of a contractor for construction, reconstruction, installation, demolition, maintenance or repair of a building by a public agency is subject to the provisions of MGL c. 149, including the provisions for filed sub-bids within certain monetary thresholds. This work is typically defined as “vertical construction.”

There has been much discussion about what defines a “building,” and case law has interpreted that to be any “structure with walls and a roof.” Any time you are physically making a change to any structural component of a building - that is considered a building contract.

### PUBLIC WORKS CONSTRUCTION: MGL c. 30, §39M

Procurement of a contractor for construction, reconstruction, alteration, remodeling or repair of any public work, or for the purchase of any material so related, is subject to the provisions of this chapter.

This work is typically defined as “horizontal construction.” It includes construction and repair of road and bridges, water mains and sewers, improvements to public parking lots, parks, cemeteries, athletic fields and swimming pools.

An exception to the “building” definition above, buildings which serve the sole function of housing pumps and related equipment for water or sewer service are considered a “public work” facility and are subject to Chapter 30, Section 39M rather than Chapter 149.

### PREVAILING WAGES: MGL c. 149, §27

The City is required to comply with the Massachusetts Prevailing Wage Law for all public works and public building projects regardless of cost of the contract.

The CPO will apply for a “blanket prevailing wage” sheet for work not associated with larger projects. The blanket prevailing wage will be available on the Public Drive under Procurement, and found in the folder labeled Prevailing Wages.

Prevailing Wages must be paid to all persons employed on the project, regardless of whether they are employed by the contractor or subcontractor. The rates issues for a particular project must be paid for that entire project. For multi-year contracts, the CPO will apply for new wage rates as required annually.

Department Heads will be responsible for collecting and reviewing Certified Payroll Report and Statement of Compliance. At the conclusion of any project, these reports shall be provided to the Procurement Office for records retention.

## **PROCUREMENT THRESHOLDS**

### CHAPTER 30B (Supplies and Services)

#### Procurements estimated to cost less than \$10,000

Procurement of supplies and services estimated to cost less than \$10,000 must be conducted using “sound business practices” which is defined as checking price lists, seeking quotes, or conducting market research to ensure competitive pricing is received. Sound reasoning may also consist of consideration of quality, experience, or qualifications of a vendor providing the goods or services. Soliciting quotes is encouraged even when the potential purchase is less than \$10,000.

#### Procurements estimated to cost between \$10,000 and \$50,000

Procurement of supplies and services estimated to cost between \$10,000 and \$50,000 requires the solicitation of at least three (3) written quotes from potential vendors. Quote requests must be in writing and provided to each potential vendor. Documentation of quotes solicited must be included in the requisition process.

#### Procurements estimated to cost between \$50,000 and \$100,000

An “Invitation for Bid” (“IFB”) or a “Request for Proposals” (“RFP”) is required to promote participation and competition for all procurements estimated to cost \$50,000 or more. An IFB should be used for goods and services where award to the bidder offering the lowest price is preferred. An RFP should be used in circumstances when factors other than price should be considered, and a method is needed to award a proposal based on merit, before considering price.

Procurements made under this section are required to have a notice posted in a newspaper, on COMMBUYS, and posted at City Hall, at least two weeks prior to due date.

#### Procurements estimated to cost \$100,000 or more

In addition to the requirements above, a solicitation where the estimated cost is over \$100,000 must also include a notice in the Commonwealth’s “Goods and Services Bulletin.”

#### Real Property

For any real property the City has acquired, the Property Committee of the City Council will circulate a needs survey to City Departments and officials to identify any City interest in retaining the property. Should no party be interested in retaining the property, it shall be declared surplus by a vote of the City Council and referred back to the City Property Committee for determination of value and referral to the bidding process.

Real property shall be disposed of in accordance with prescribed practices and in compliance with Chapter 30B and City Ordinances.

#### Surplus Supplies

To dispose of unwanted or unneeded items, the Department must first offer the item(s) to the Mayor and City Property Committee of the City Council. Once so declared and approved, the CPO will first offer the item(s) to all other City Departments via email.

For items with a value less than \$10,000, the CPO will apply best practices for disposition or disposal. For items with a resale or salvage value greater than \$10,000, either a sealed bid or public auction process will be used. The CPO may partner with auction professionals, use online resources, or any other such resource to secure the best return possible, so long as the process complies with Chapter 30B.

## Bartering

Barter agreements are allowed under the following conditions:

- CPO must be provided a requisition for purchase, including specific items to be purchased or services to be provided, prior to any contact with potential barter partners, and;
- Procurement must be conducted by the CPO, and;
- All Commonwealth and local procurement procedures are followed.

Procurement must clearly state that the City will accept supplies/services in exchange for provision of supplies/services.

Value of the bartered supplies/services received must be in direct and indisputable relation to the value of the supplies/services offered by the City.

A form 1099 will be issued to the vendor/contractor in the tax year the work is performed.

Bartered prices will not be converted to cash value at any point during the contract.

## Sole-Source Procurement

A sole-source procurement is one that is conducted without advertising or competition. Any Department who believes they have a sole-source purchase must conduct a reasonable investigation showing there is only one practicable source for the supply or service and submit documentation supporting that determination to the CPO, who will verify the information prior to approving a Purchase Order or contract.

Sole-source procurements do not apply to any purchase valued at more than \$25,000 except for software maintenance, library books, educational materials or utilities.

## Collective and Collaborative Purchasing Opportunities

Certain types of collective purchases are allowed under Chapter 30B. The contracts resulting from these contracts comply with Chapter 30B and may be used without following a local quote or bid process. A description of approved alternative contracts follows:

COMMBUYS - The Commonwealth's Operation Services Division (OSD) procures and awards a number of statewide contracts that are available to municipalities. Departments who wish to procure an item or services from an OSD contract may request to be identified as a user on COMMBUYS, OSD's purchasing portal. Once approved, the COMMBUYS user will have full access to all COMMBUYS contracts and will have the ability to purchase directly through the COMMBUYS portal.

COMMBUYS users will be expected to read the Contract User Guide for the purchase they are attempting to make, and shall comply with all terms of use for said contract. Remember that not all contractors listed on COMMBUYS are included on a State Contract. All purchases in COMMBUYS will be subject to confirmation by the CPO prior to approval in the City's MUNIS system.

Go to [www.commbuys.com](http://www.commbuys.com) to access contract information, training resources, and buyer information.

MHEC – The Massachusetts Higher Education Consortium (MHEC) is a group purchasing consortium with contracts available to municipalities. Departments who wish to procure items or services from the MHEC



contract may do so using the requisition process, indicating the MHEC contract number. The Procurement Office will verify eligibility under the MHEC contract, convert to a purchase order, and place the Department's order.

Go to [www.mhec.net](http://www.mhec.net) to access contract lists.

MAPC – The Metropolitan Area Planning Council (MAPC) has several contracts available to municipalities. Departments who wish to procure items or services from MAPC contracts may do so using the requisition process, indicating the title of the MAPC contract. The Procurement Office will verify eligibility under the MAPC contract, convert to a purchase order, and place the Department's order.

Go to [www.mapc.org/collective-procurement](http://www.mapc.org/collective-procurement) to access contract information and buyer information.

Plymouth County Commissioners – This cooperative contract offers public service and municipal vehicles with equipment options. The City maintains a membership with the Plymouth County Commissioners and any Department wishing to procure items from this contract may do so using the requisitions process, indicating the need for a procurements under the contract. The Procurement Office will verify eligibility under the contract, convert to a purchase order, and place the Department's order.

Go to [www.plymouthcounty-ma.gov](http://www.plymouthcounty-ma.gov) for more information.

GSA – Government Services Agency contracts are limited in variety, but cover items associated with Homeland Security, telecommunications, and disaster response. Departments who wish to procure from GSA contracts may do so using the requisition process, indicating the title of the GSA contract. The Procurement Office will verify eligibility under the GSA contract, convert to a purchase order, and place the Department's order.

Go to <http://www.gsa.gov/portal/content/105300> to access contract information and buyer information.

Houston Galveston Cooperative (H-GAC) – The H-GAC program has many items available, geared mainly towards public safety. Departments who wish to procure items or services from the H-GAC program should use the requisition process, indicating the item and the corresponding contract. The Procurement Office will verify eligibility under the GSA contract, convert to a purchase order, and place the Department's order.

Go to [www.hgacbuy.org](http://www.hgacbuy.org) for more information.

Other Cooperative and Collaborative Contracts – From time to time, there may be other opportunities which become available to the City. Should any department become aware of a cooperative or collaborative they are interested in doing business with, the information must be provided to the CPO for a determination of eligibility and approval.

The Procurement Team will be aware of additional opportunities as well, and will communicate any such opportunity to City departments as a matter of routine.

CHAPTER 7C, §44-57 (Design Services)

Estimated construction cost of less than \$100,000 or estimated design fee less than \$10,000

There is no formal procurement procedure for a design for which the estimated construction cost will be less than \$100,000 or the design fee will not cost more than \$10,000; however it is recommended that prices and qualifications be submitted from at least three design firms.

Estimated construction cost of less than \$100,000 or estimated design fee less than \$10,000

Design projects where the estimated construction cost will be more than \$100,000 AND the design fee will cost more than \$10,000 are subject to a qualifications based process. The City's "Designer Selection Procedures" shall be followed.

Under this type of procurement, the City must either set a design fee or set a not-to-exceed fee limit and negotiate with the top ranked designer within the fee limit. The CPO will work with the contracting department on establishment of the fee or fee limit.

Procurements made under this section are required to have a notice posted in the Central Register and in a newspaper with local circulation.

OSHA training and Prevailing Wages are also required.

## CHAPTER 149 (BUILDING CONSTRUCTION)

### Procurements estimated to cost less than \$10,000

Procurement of public building construction estimated to cost less than \$10,000 must be conducted using “sound business practices” which is defined as checking pricing, seeking quotes, or conducting market research to ensure competitive pricing is received. Sound reasoning may also consist of consideration of quality, experience, or qualifications of a contractor. Soliciting quotes is encouraged even when the potential purchase is less than \$10,000.

\*As a result of the Municipal Modernization Act, building construction procurements under \$50,000 may also be made using a State Contract procured by OSD, or a Blanket Contract procured by the City.

Contracts under this section are subject to the Prevailing Wage Law from dollar one.

### Procurements estimated to cost between \$10,000 and \$50,000

Procurement of building construction contracts estimated to cost between \$10,000 and \$50,000 requires the solicitation of at least three (3) written quotes from potential contractors. Quote requests must be in written form and well-communicated to each potential vendor. Documentation of quotes solicited must be included in the requisition process.

Procurements made under this section are required to have a notice posted on the City’s website, in COMMBUYS, in the Central Register and posted at City Hall.

OSHA training and Prevailing Wages are also required.

\*As a result of the Municipal Modernization Act, building construction procurements under \$50,000 may also be made using a State Contract procured by OSD, or a Blanket Contract procured by the City.

### Procurements estimated to cost between \$50,000 and \$150,000

Procurement of public building contracts estimated to cost between \$50,000 and \$150,000 requires a sealed bid process.

Procurements made under this section are required to have a notice posted in a newspaper, in COMMBUYS, in the Central Register and posted at City Hall.

In addition a payment bond of fifty percent (50%) of the total contract price is required.

### Procurements estimated to cost \$150,000 or more

In addition to the requirements above, a solicitation where the estimated cost is over \$150,000 must also include a requirement of DCAMM certification for the general contractor and any sub-contractors. A payment bond of one hundred percent (100%), a performance bond of one hundred percent (100%) and a DCAMM evaluation for all contractors is also required.

Filed sub-bids are required for any trade within the construction contract where the estimated cost will be twenty thousand dollars (\$25,000) or more.

For building contracts costing over \$150,000 there is also a mandatory DCAMM evaluation process.

Procurements estimated to cost \$10 million or more

In addition to the requirements above, a solicitation where the estimated cost is over \$10 million must also include a prequalification procedure for both general contractors and sub-bidders. This process is required before the actual bidding process can take place; the bidding process is then restricted to only those who have been approved in the prequalification process.

\*COMMBUYS – As a result of the Municipal Modernization Act, the Commonwealth’s Operation Services Division (OSD) procures and awards a number of statewide contracts that are available to municipalities for construction projects under \$50,000. Departments who wish to procure an item or services from an OSD contract may request to be identified as a user on COMMBUYS, OSD’s purchasing portal. Once approved, the COMMBUYS user will have full access to all COMMBUYS contracts and will have the ability to purchase directly through the COMMBUYS portal.

COMMBUYS users will be expected to read the Contract User Guide for the purchase they are attempting to make, and shall comply with all terms of use for said contract. Remember that not all contractors listed on COMMBUYS are included on a State Contract. All purchases in COMMBUYS will be subject to confirmation by the CPO prior to approval in the City’s MUNIS system.

Go to [www.commbuys.com](http://www.commbuys.com) to access contract information, training resources, and buyer information.

## CHAPTER 30, §39M (PUBLIC WORKS CONSTRUCTION)

### Procurements estimated to cost less than \$10,000

Procurement of public works construction estimated to cost less than \$10,000 must be conducted using “sound business practices” which is defined as checking price lists, seeking quotes, or conducting market research to ensure competitive pricing is received. Sound reasoning may also consist of consideration of quality, experience, or qualifications of a contractor. Soliciting quotes is encouraged even when the potential purchase is less than \$10,000.

Contracts under this section are subject to the Prevailing Wage Law from dollar one.

### Procurements estimated to cost between \$10,000 and \$50,000

Procurement of public works construction contracts estimated to cost between \$10,000 and \$50,000 requires the solicitation of at least three (3) written quotes from potential contractors. Quote requests must be in written form and well-communicated to each potential vendor. Documentation of quotes solicited must be included in the requisition process.

Procurements made under this section are required to have a notice posted on the City’s website, in COMMBUYS, in the Central Register and posted at City Hall.

OSHA training and Prevailing Wages are also required.

\*As a result of the Municipal Modernization Act, building construction procurements under \$50,000 may also be made using a State Contract procured by OSD, or a Blanket Contract procured by the City.

### Procurements estimated to cost more than \$50,000

Procurement of public building contracts estimated to cost more than \$50,000 requires a sealed bid process.

Procurements made under this section are required to have a notice posted in a newspaper, in COMMBUYS, in the Central Register and posted at City Hall.

In addition a payment bond of fifty percent (50%) of the total contract price is required.

### MASSDOT Prequalification

Although there is no prequalification process under c.30 §39m, prequalification of bidders by MASSDOT is required for contracts of \$50,000 or more if the City is to receive c.90 funding.

## RESPONSIBILITY FOR SOLICITATIONS AND CONTRACTS

For all competitive procurements (quotations, bids, proposals), the Chief Procurement Officer and the initiating Department will work cooperatively to prepare the formal solicitation. The following section describes the procedures used by the Procurement Team, and the responsibilities of the initiating Department with respect to preparing, issuing, receiving, awarding and administering the solicitation and subsequent contract.

It should be noted that all contract management functions are the responsibility of the initiating department(s), including issuing a notice to proceed, receipt and review of certified payroll reports, coordination of change orders, closeout and payment procedures, and subsequent contract evaluations.

### DEPARTMENT RESPONSIBILITIES

#### Product Description (for Goods)

For supplies, the Department should provide sufficient detail for vendors to provide what is requested. Details could include things like size, capacity, dimensions, weight, performance rating, type of guarantee/warranty. Keep in mind that if your description is vague or incomplete, the item you receive may not be the quality or value you expect.

#### Scope of Services (for Services)

The Department should provide a scope which includes a detailed description of the service or task to be performed. Details should include what the work entails, what talents or qualifications are required of the person(s) doing the work, and what is needed to accomplish the work. (An example would be: person to mow the lawn using a riding mower at a consistent cutting height of 2.5 inches.)

#### Scope of Services (for Construction)

Typically, construction projects are complex and require intricate details that can only be provided from an architect or engineer. Often, drawings are necessary to accompany the specifications in order for the contractor to be clear on the work to be performed.

The Department must provide, for both vertical and horizontal construction, a highly detailed description of the construction project. Not only should the scope include the specific materials and standards required, it should include the qualifications required of the contractor. Qualification requirements should indicate how many years' experience the contracting firm should have, what types of projects the contractor should have worked on to make them qualified to perform the work, and any certifications or licenses that should be retained either by the firm or individuals performing the work.

#### Request for Proposal Justification (available for 30B contracts only)

If the Department feels that a Request for Proposal (RFP) best suits their needs, rather than an Invitation for Bid (IFB), the Department will provide the CPO with written documentation describing the specific reasons why an RFP process is more beneficial than an IFB process.

#### Contract schedule

Requestor should provide a basic timeline of need and/or implementation. Where applicable, the desired length of contract should be provided as well. If there are any other terms and conditions not included in the City's basic terms, the requestor should also provide those terms and conditions.

For any contract which may go beyond an initial three (3) year period, the requesting department shall petition the City Council for a longer-term contract.

#### Estimated Value

Since procurement laws are based upon dollar value thresholds, the Department will provide an estimate in order for the CPO to determine the appropriate procedure.

#### Communication with Vendors or Contractors

The requesting Department is encouraged to provide contact information for vendors/contractors who may be interested in the solicitation. The Procurement Office will reach out to these parties.

The CPO will communicate with the Department Head regarding questions or comments on the technical specifications. If necessary, an addendum will be prepared and issued to anyone who has registered to receive the solicitation. Please note: all questions, concerns and comments on the solicitation must be submitted to the CPO in writing. Departments must instruct all parties to communicate only with the Procurement Office.

#### Receipt of Quotations, Bids, Proposals

Unless permission is otherwise granted prior to solicitation, all quotations, bids and proposals are to be sent to/collected at the address of the Chief Procurement Officer and will be opened in the Procurement Office.

#### Review and Recommendation for Award

If the solicitation was an IFB, the Department Head will be responsible for reviewing the submitted bids and determining if the bidder is responsible. The Department Head should conduct reference checks and whatever reasonable research may be conducted to determine the bidder's reputation and ability to meet the requirements of the contract.

If the solicitation was an RFP, the Department Head will designate at least one member to be a part of the evaluation team, and will provide assistance to the CPO in choosing other members of the evaluation team.

#### Contract Management

The Department Head is responsible for monitoring the progress and performance of any contract for which they are the signatory, including reviewing certified payrolls when connected to a Prevailing Wage project.

All amendments, change orders, or extensions should be initiated by the Department Head and will be approved by the CPO.

Department Heads are responsible for tracking the expiration dates of their contracts. The Department Head will notify the CPO at least 90 days in advance of a contract expiration in order to facilitate a new contract, if necessary.

Department Heads are responsible for providing a copy of any performance review to the Procurement Office, wherever such a review is required by DCAMM.

Department Heads are also responsible for receiving and reviewing certified payroll reports for all projects that are subject to Prevailing Wage Laws. Department Heads should maintain a file for each project which contains the certified payrolls, which is retained for seven (7) years following the completion date of the project. Note: invoices should not be paid until certified payroll is received from the contractor.

## PROCUREMENT TEAM RESPONSIBILITIES

### Issuing the Solicitation

The Chief Procurement Officer will utilize all the information provided by the Department and prepare a complete solicitation document which is in compliance with the applicable Massachusetts General Law. If any additional information is needed from the Department, the CPO will request said information and incorporate into the solicitation.

The Procurement Team will be in constant communication with the requesting Department. Once a due date is established for the solicitation, the Department will receive a confirmation email including the due date and time, and location of the bid opening.

For construction contracts, the CPO will work with the Department to establish a date and time for any prebid meeting or walk-through, and will provide guidelines for the prebid activity.

For all solicitations that include labor, the Procurement Office will request and provide a Prevailing Wage rate sheet from the Massachusetts Department of Labor Standards (DLS) for the solicitation. This is a statutory requirement for contractors performing work on any public construction project, student transportation, some office and furniture moving, and public works transportation.

Should the Department, at any time, be in need of assistance with developing a scope or any other challenges when developing the solicitation, the Procurement Office will provide professional assistance to the best of their ability. If possible, the Procurement Office will assist the Department by researching specifications used in other municipalities or similar agencies, and will provide the sample documents to the Department.

The Chief Procurement Officer is responsible for ensuring that public notice is legally and properly made.

### Use of City Website for Procurement

All procurements requiring a quotation process, IFB or RFP will be posted on the City website. Unless the solicitation documents are too complex or too large to make available through the website, potential vendors and/or contractors will be directed and required to download documents from the website.

### Distribution of Solicitation

The Procurement Office is responsible for distribution of all solicitations over \$10,000. Should bid documents be provided from an architect/engineer/OPM, the documents will be provided to the Procurement Office who will distribute the correct number to appropriate Department Heads and project managers, as required.

The Procurement Office will maintain a record of all vendors/contractors who have registered to receive the solicitation, will maintain a record of bid plan fees received, and will be responsible for return of documents, bid deposits and plan fees.

All monies received and associated with any procurement shall be turned over to the Treasurer and deposited into the City's account, where they will be held until thirty (30) days following the award of a contract. No checks will be held under any circumstances.

The CPO will communicate with the Department Head regarding questions or comments on the technical specifications. If necessary, an addendum will be prepared and issued to anyone who has registered to receive



the solicitation. Please note: all questions, concerns and comments on the solicitation must be submitted to the CPO in writing. Departments must instruct all parties to communicate only with the Procurement Office.

#### Receiving and Evaluating Responses

Unless permission is otherwise granted prior to solicitation, all quotations, bids and proposals are to be sent to/collected at the address of the Chief Procurement Officer and will be opened in the Procurement Office.

For an IFB, the CPO will receive all bids, and at the time of the bid opening will open, read aloud, and prepare a bid tabulation sheet with the results. The CPO will consider each bidder's responsiveness to the basic requirement. Immediately following CPO review, the Department Head will receive the bids for evaluation.

For an RFP, the CPO is authorized to create an evaluation committee that has the expertise and ability to evaluate, rank, and recommend an award. The CPO will receive all proposals, and at the time of opening will open and prepare a register of proposals. Price proposals will remain unopened at this time. The CPO will then provide the proposals to members of the evaluation committee, including the Department Head. Once the evaluation committee reaches a decision, the CPO will open the price proposals.

#### Handling Late Responses

A late bid or proposal is one that is delivered after the due date and time. If a bid or proposal is late, it must be rejected as non-responsive, and as such will be returned unopened to the person submitting the bid or proposal. Should a bid or proposal be received via USPS/UPS/FedEx or any other courier service, it shall be refused upon attempted delivery. If mailed, it shall be returned unopened.

Corrections or modifications to responses are also not accepted beyond the due date and time.

#### Deciding Tie Bids

On the rare occasion of a tie bid, the City must use a tie-breaking method which is fair to all responders. It will be the policy of the CPO to direct the tie bidders to conduct a "second heat" whereas they will be asked to send an additional response with a new bid form on a date and time specific.

#### Awarding and Executing Contracts

Once the vendor/contractor has been identified as eligible for a contract, the CPO will draft the contract. In the rare case that the vendor/contractor supplies a contract, the CPO will adapt that contract to the City's format prior to distribution for signatures. There will be five (5) original contracts. The first signature on any contract shall be the vendor/contractor's signature. The CPO will be responsible for corresponding with the vendor/contractor to obtain the appropriate signature. "Notice of Intent to Award" will accompany the contract.

A contract packet will be considered complete when returned from the vendor/contractor with all required documents, which may include insurance certificates, bonds, guarantee or warranty documents. If any component is missing, the CPO will notify the vendor/contractor.

Routing of the contract shall be the responsibility of the Procurement Office. After each signatory, all five (5) copies of the contract shall be returned to the Procurement Office and not sent to the next signatory.

The contract will travel the following track: 1) Chief Procurement Officer; 2) Department Head; 3) City Solicitor; 4) City Auditor; 5) Mayor.

Upon receiving the Mayor's signature, the contract is considered fully executed and ready for distribution. One fully executed copy is returned to the vendor/contractor, accompanied by a "Notice to Proceed." One contract will be retained by the Procurement Office; one is provided to the Department Head; one with the City Solicitor; and one with the City Clerk. An electronic copy will be provided to the City Auditor and City Solicitor. The contract will be posted on the City's public drive under "Procurement" in the folder labeled "Executed Contracts."

Once the contract is executed, the CPO will convert the existing Purchase Requisition in MUNIS to a Purchase Order. If there are any changes to the contract amount, the CPO will correct that amount. The Purchase Order will be assigned the same number as was given to the contract, for simplified management purposes.

#### Notice to Proceed

The contracting Department is responsible for issuing the "Notice to Proceed" once the contract is executed. A template is available on the City's public drive under "Procurement" in the folder "Contract Management."

#### Contract Database

The Procurement Office will maintain a record of current contracts and shall make that record available on the City's public drive under "Procurement" in the folder "Contract Management."

#### Contract Management

The City should not be forced to continually award bids to a problem vendor or contractor. The Procurement Office will keep a central record of any problems, quality issues, complaints, performance issues or other items that may be used to disqualify a vendor or contractor in the future.

The Procurement Office will maintain a central file of certified payroll reports in conjunction with all labor inclusive projects performed in the City, in case of audit.

The Procurement Office will also keep a central record of performance reports where they are required by law.

## **PROCUREMENT PROCESS**

### GUIDING PRINCIPLE

Every expenditure in excess of \$1000 shall require a requisition in the MUNIS system and the Department is responsible to initiate and release a requisition. The document "Purchasing Requisition Process" is available on the City's public drive under "Procurement" in the folder "Department Training Materials." All requisitions must meet the requirements listed in the "Purchasing Requisition Process" document which is a separate document.

The Department Head is accountable for the complete appropriation of funds at the time of requisition entry and the availability of funds accordingly.

No purchase, service, or work shall be furnished to any Department prior to issuance of a valid, signed Purchase Order. An invoice submitted to the City Auditor without a valid purchase order may be deemed unlawful and payment of the invoice refused.

All requisitions entered will follow the MUNIS Workflow module, and will follow a series of approval levels prior to conversion to a purchase order. The initial series of approvals will be dictated by the Department Head, who will have the authority to grant access to requisition initiators (clerical staff) and decide the preliminary approvers. Approvals beyond the Department Head will be dictated by the CPO and Executive Office, in observance of accepted practices.

The routine procurement process for requisition to purchase order is described in the section below, as well as practices for other procurement situations.

### PURCHASES LESS THAN \$1000

For individual, one-time purchases under \$1000, no requisition is necessary and the invoice may be paid directly through the Office of the City Auditor without approval of the CPO.

Note: Incidental purchases are not meant to circumvent the procurement process. The CPO and City Auditor's Office will routinely monitor incidental purchases for compliance with the intent of this section.

### PURCHASES BETWEEN \$1000 and \$10,000

For items that do not require quotes, bids, or proposals, the requisition will follow the approval workflow via MUNIS. After the final workflow approver, the requisition will be delivered to the CPO who will convert the requisition to a Purchase Order (assuming all components are in order).

### PROCUREMENTS \$10,000 AND OVER

For items that require a quote, bid, or proposal, the requisition will follow the approval workflow via MUNIS. After the final workflow approver, the requisition will be placed in a "HOLD" status in MUNIS by the CPO, until such time that the associated procurement is complete and a contract is executed.

## **CHANGE ORDERS, AMENDMENTS AND EXTENTIONS**

### SUPPLY AND SERVICE CONTRACTS

Chapter 30B allows for an increase in the quantity of a supply or service, as long as the increase does not exceed twenty-five percent (25%) of the total contract price. Unit prices cannot be higher than the original unit prices. A contract amendment must be signed by the original signatories.

Contracts for the purchase of heating oil, gasoline, fuel oil, road sand and salt are not subject to the percentage limit but must meet all other requirements stated above.

#### CONSTRUCTION CONTRACTS

There is no statutory limit on change orders for construction projects; however, recent case law suggests that change orders should not exceed thirty percent (30%) of the original contract.

The contractor suggesting the change order shall supply the Department Head with a written explanation of the need for a change, including a detailed cost breakdown of the proposed change.

It is the responsibility of the Department Head to ensure that the change order is, in fact, necessary for completion of the project and that the additional work proposed was not included in the existing specifications and contract. The Department Head should also determine if the requested change is accurate and has value to the overall project.

#### ON-CALL CONTRACTS

In order to make most efficient use of the existing on-call contracts in place for the City, any task which will cost less than \$1000 may be made by the Department without a change order.

For tasks between \$1000 and \$10,000, the Department may accomplish the work by submitting a requisition in MUNIS, prior to commencement of work, which will be approved by the CPO.

For tasks which will cost in excess of \$10,000, the Department Head shall request a change order to the contract from the CPO indicating the work to be performed and the estimated cost of the work. Concurrently, the Department shall initiate a requisition in MUNIS, which may be converted to a Purchase Order when the change order is executed. The CPO will initiate and execute signatures for the change order.

#### AMENDMENTS

Should a contract amendment be necessary for any reason, the Department Head is responsible for notifying the CPO in writing of the need and reasons for the amendment. The CPO will prepare and execute the amendment, which will follow the same requirements as an original contract.

Should the contract amendment require additional funding, the Department Head is responsible for securing that funding prior to requesting the amendment.

Upon final execution of the amendment, the CPO will adjust the associated Purchase Order accordingly.

#### EXTENSIONS

A Department Head needing an extension on a contract should submit a written request to the CPO at least 30 days in advance of needing the extension. The CPO will verify the eligibility of the contract for being extended, pursuant to the terms of the existing contract and subject to the applicable General Law. If the extension is warranted, a "Notice of Extension" will be prepared and executed by the CPO.

## **EMERGENCY PROCUREMENTS**

### **SUPPLIES AND SERVICES**

The Chief Procurement Officer may approve an emergency procurement when the situation would “endanger the health or safety of the people or property.” In an emergency situation, a procurement must comply with the law to the greatest extent possible while attending to the emergency.

Any Department Head having an emergency procurement must document the situation and submit in writing to the CPO within one business day of the event. The document must contain:

The basis for the emergency procurement  
The name(s) of the vendor/contractors used  
The dollar amount committed to the emergency  
List of supplies and/or services procured

### **BUILDING CONSTRUCTION**

Prior approval of DCAMM is required on any emergency purchase under the provisions of MGL Chapter 149. The provision states that an emergency is to “preserve the health or safety of persons or property, or to alleviate an imminent security threat.”

Any Department Head having an emergency procurement must document the situation and submit in writing to the CPO immediately in order for a DCAMM waiver to be submitted in a timely manner.

DCAMM approval may waive public notice or bidding requirements for the work necessary. If the nature of the emergency precludes prior approval, the City may contract for only the work that is absolutely necessary, and seek subsequent approval from DCAMM. Although formal bidding may be waived, the City should solicit more than one source if at all possible in the time constraint.

Emergency procurements are also subject to the Prevailing Wage Law; therefore the CPO will apply for prevailing wages as soon as notification of the emergency work is received.

Note: If DCAMM denies the City’s request, work must stop immediately.

You may not artificially create an emergency simply by putting off normal maintenance and repair work. If you knew or should have known that a repair was warranted and you had time to correct it using normal bidding procedures, DCAMM will not allow you to justify the use of emergency procedures.

### **PUBLIC WORKS CONSTRUCTION**

Under the provisions of MGL Chapter 30, 39M an emergency is defined as “extreme emergency caused by enemy attack, sabotage or other such hostile actions or resulting from an imminent security threat explosion, fire, flood, earthquake, hurricane, tornado or other such catastrophe.”

Any Department Head having an emergency procurement must document the situation and submit in writing to the CPO within one business day of the event in order to create a permanent record of the actions taken.

Note: Only work absolutely necessary to temporarily repair and restore service, or to preserve the health and safety of persons or property is allowed to be performed without a procurement; however, no permanent reconstruction, alteration, remodeling or repair of any public work is allowed.

## **HOW TO USE THE CITY'S TAX EXEMPT STATUS**

The City is exempt from state taxes when procuring goods and services. Tax Exempt forms are found on the City's public drive under "Procurement" in the folder labeled "Tax Exempt Forms."

Please remember that the City's Tax Exempt status may not be used for personal purchases or reimbursable expenses that you pay for out of your own pocket.

## **CREDIT CARD AND PROCUREMENT CARD (P-CARD) POLICY**

Use of credit cards to purchase items or services on behalf of the City, without prior encumbrance, is contrary to the purchase of procurement statutes and DOR regulations. Departments are not allowed to apply for, retain, or process credit card transactions. All credit cards shall be turned into the Procurement Office, who will determine the correct procedure for use or cancellation.

However, in light of the increase in online purchasing and the advantageous pricing available, the City is investigating a procurement card program to provide for the rapid acquisition of low dollar value items, and items available exclusively online. Procurement card transactions shall be made in accordance with established procurement rules and policies contained in a separate document.

## **BID SPLITTING**

Splitting purchases over several days, weeks, or months is considered "bid-splitting" when the appearance is that this is being done to avoid meeting thresholds which require a more complex procurement. Certain unexpected small expenses sometimes make good business sense and are not problematic. However, to purposely purchase items over time and under the procurement thresholds is illegal.

## **COORDINATION OF POLICIES AND PROCEDURES**

Should any policy or procedure contained herein not conform to prevailing laws, such policy or procedure shall be void.

All prevailing ordinances, policies, and procedures of the City of Fitchburg are incorporated herein without specific reference.

\*END OF MANUAL\*

## Acknowledgement Form

**\*Please sign and date this page, and return to Chief Procurement Officer\***

By signing this form, you acknowledge receipt of the City of Fitchburg Procurement Manual from the Purchasing Department (dated 11-7-2016).

You are asked to review the manual carefully. The Procurement Manual is subject to change. If the Manual is changed, you may obtain or review the revised copy on the City's Public Drive, under Procurement, or you may request a copy from the Purchasing Office.

\* \* \* \* \*

I hereby acknowledge receipt of the City of Fitchburg Procurement Manual, provided by the Purchasing Department.

Employee Name: \_\_\_\_\_

Employee Department: \_\_\_\_\_

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Return by interoffice mail to:  
Mary Delaney, CPO  
City Hall, 166 Boulder Drive

Or email to:  
mdelaney@fitchburgma.gov