



## **PURCHASING POLICY**

**COUNCIL POLICY**  
**Adopted: 8/8/2006**  
**Last Revised: 8/4/2020**

### **A. Purpose and Scope**

To establish policy and procedures for the purchase of goods and services in the most efficient, effective, economical, environmental, ethical, and responsible manner possible.

### **B. General**

Purchases of goods, materials, equipment, supplies, professional services, and maintenance and repair services are regulated by Title 3, Division 6, of the Laguna Niguel Municipal Code (LNMC). Purchases related to public projects are regulated by Title 3, Division 7 of the LNMC. Requirements for each purchase depend on its type. The types of purchases are listed below and procedures related to each follow.

Departments are responsible for including all ancillary costs (i.e. sales and use tax, freight, etc.) when reviewing a vendor's quote in order to determine the applicable quoting/bidding requirements.

The Finance Department has the authority to review and audit any purchase order (PO), contract, and professional services agreement to ensure compliance with the City's procurement procedures. The Finance Department may require Departments to solicit bids or request proposals for goods and services that are repetitively purchased throughout the fiscal year.

Employees shall not make multiple purchases and/or split multiple purchases of less than \$3,000.00 from the same vendor or from different vendors with the intent to avoid the PO or contract requirement. Except in an emergency, with the approval of the City Manager, no employee of the City shall request a supplier to deliver goods, material, equipment, supplies, professional or non-professional services to the City unless a PO and/or contract has been issued by the Finance Department according to the requirements of this Policy.

### **C. Procedures**

#### **1. Local Merchant Preference**

City of Laguna Niguel (City) staff shall make every attempt to purchase supplies and equipment from City businesses whenever practicable. LNMC 3-6-2(b)(1), establishes a local merchant purchasing preference in the form of a one-percent

(1%) price advantage in the evaluation of bids or proposals for the purchase of goods, supplies, and equipment subject to sales and use tax.

## 2. **Environmental Preference**

City staff shall make every effort to purchase goods that are environmentally responsible. Per LNM 3-6-2(b)(3), departments shall purchase and use goods made of recycled and/or recyclable materials whenever practicable. Departments shall be aware of the following environmental guidelines when purchasing goods, materials, equipment or supplies:

- a. Equipment that meets Energy Star specifications
- b. Products that contain non-hazardous materials
- c. Products that will not emit harmful air emissions
- d. Products that are readily bio-degradable and non-persistent in the environment after its use
- e. Keep informed of current developments in market conditions and new products.

## 3. **Purchases NOT REQUIRING a PO**

A PO is not required for purchases less than \$3,000.00; however, such purchases must be approved by the appropriate department director before the order is placed. Soliciting competitive bids is not required; however, staff is encouraged to seek competition when possible to support the effort of obtaining optimum pricing for the City.

- a. **Purchases of \$100.00 or less**, per LNM 3-6-4(1): Departments may utilize petty cash or a credit card for purchases up to \$100.00; however, employees shall make every attempt to use their City-issued procurement card. Justification for the use of petty cash must be documented on the cash receipt.
- b. **Purchases of \$100.01 to \$2,999.99**, per LNM 3-6-4(2): A department director may authorize purchases over \$100.00 and less than \$3,000.00 without issuing a PO or contract. Employees may use their City-issued procurement card to make the purchase, or may request that the City be invoiced through its existing accounts payable/cash disbursement process.

#### 4. Purchases REQUIRING a PO

A PO or contract is required for all purchases of goods, materials, supplies, and equipment purchases of \$3,000.00 or greater. POs are obtained from the Finance Department through the accounting system. A PO must be filled out in its entirety and include all appropriate supporting documentation prior to being submitted to the Finance Department for approval. POs must be signed by the City Manager or designee prior to authorizing the purchase.

Purchases of supplies and equipment that include a service component, such as installation or maintenance, require a contract when the service component cost equals or exceeds the purchase cost of the supplies and equipment.

Funding for a PO or contract is verified by the Finance Department; however, responsibility lies with the department director to ensure that adequate funding is available and that the total annual expenditure does not exceed the authorized budget appropriation.

- a. Purchases of \$3,000.00 to \$9,999.99, per LPMC 3-6-4(3): Purchases of goods, materials, supplies, and equipment of an estimated expenditure of \$3,000.00 and less than \$10,000.00 require an attempt to receive three (3) verbal bids from vendors and each of these bids and the efforts to obtain them must be documented.
- b. Purchases of \$10,000.00 to \$49,999.99, per LPMC 3-6-4(4): Purchases of goods, materials, supplies, and equipment of an estimated expenditure of \$10,000.00 and less than \$50,000.00 require soliciting at least three (3) written competitive bids prior to submitting the PO or contract to the Finance Department for approval. Documentation for written bids shall be attached to the PO. Documentation for written bids should include the following:
  - i. Vendor information such as business name, contact person, phone number, etc.
  - ii. Quote details such as the total amount proposed, shipping information, and the date the quote was received. (For reorders, the Purchasing Manager shall review and confirm the written bids.)

- c. Purchases of \$50,000.00 or more, per LNMC 3-6-4(5): Purchases of goods, materials, supplies, and equipment of an estimated expenditure of \$50,000.00 and greater require City Council approval of the PO and/or contract and explicit authorization from the City Council allowing the City Manager or Purchasing Officer to execute the PO or contract. The requesting department must solicit at least (3) written competitive bids and attach those bids to the City Council Agenda Report.

#### **5. Cumulative Purchase Threshold**

- a. If the average annual expenditures for any vendor is equal to or exceeds \$50,000.00, the requesting department is required to issue a multi-year agreement with such vendors. City Council approval will be required prior to contract execution.
- b. Departments should utilize budget requests to anticipate the need for a contract. If a budget amount requested exceeds \$50,000.00, departments should explore the option of obtaining competitive bids and award a contract prior to issuing multiple purchase orders to avoid exceeding the cumulative purchase threshold.
- c. For vendors that do not have average annual expenditures of \$50,000.00 or greater, a multi-year agreement is not required; however, if such vendors reach annual expenditures of \$50,000.00 or greater in a particular fiscal year due to an unforeseen demand in the goods or services provided, City Council approval of a PO and/or contract will be required.
- d. The PO or contract resulting in the annual expenditures of such vendors to equal or exceed \$50,000.00 will require City Council approval. All previous purchases must be identified in the City Council Agenda Report.
- e. The Finance Department will track vendors' annual expenditures utilizing a vendor detail report. This report will be printed bi-monthly to identify vendors who are approaching or have exceeded \$50,000.00. Departments shall be notified of vendors approaching or exceeding the cumulative purchase threshold amount and shall evaluate if a multi-year agreement is needed.

## **6. Cooperative Purchasing Agreements**

Purchases to vendors who have been awarded contracts by another public agency for the same supplies, equipment, or services may be authorized by the Purchasing Officer without soliciting competitive bids, per LNM 3-6-6, if the following conditions are met:

- a. The public agency who awarded the contract to the vendor utilized competitive bidding procedures similar to that of the City's.
- b. The amount of the purchase shall be based on the vendor's price bid to the other public agency.

## **7. Exemptions from Bidding**

The requirement to solicit competitive bids can be waived at the discretion of the City Manager if any of the exemptions listed in LNM 3-6-7 applies to the purchase.

Exemptions must be identified in the 'Justification' section of the PO or in an inter-office memorandum accompanying the contract. Any additional information or supporting documentation to support an exemption from bidding shall be attached to the PO and/or contract.

### **a. Sole Source**

- i. Bidding requirements shall be exempt if purchasing materials, supplies, equipment, or services are unique and only available from one source.
- ii. Sole source purchases may include proprietary items, which can only be purchased directly from the manufacturer or a single authorized distributor, or a specified product that is proven and justified to be the only product that is acceptable.

### **b. Emergency Purchases**

An EMERGENCY purchase means unforeseen circumstances beyond the City's control. Only the City Manager has the authority to approve an emergency purchase. Examples of emergency circumstances, which would require the City Manager to authorize an emergency PO and/or contract are as follows:

- i. Circumstances presenting a real, immediate threat to the proper performance of essential functions.
- ii. Circumstances that will likely result in material loss or damage to property, bodily injury, or loss of life if immediate action is not taken.

The City Manager or person(s) designated by the City Manager to act in the event of an emergency may declare an emergency situation exists, waive competitive bidding requirements, and award contracts and POs to address the emergency situation.

If the City Manager deems a situation to be an emergency and authorizes an emergency purchase, a PO and/or contract is required to be submitted to the Finance Department within two (2) days of authorizing the purchase. At the earliest opportunity, the requesting department shall submit an agenda report to City Council for approval of the emergency purchase.

#### **8. Professional Services**

POs shall not be utilized for the purchase of professional services. The requesting department shall issue a contract with consultants and/or contractors providing any professional services as defined in LPMC 3-6-8(a).

Professional services contracts shall not be awarded on the basis of cost alone; rather, they shall be awarded based upon the competence, qualifications, and a fair and reasonable cost per LPMC 3-6-8(b).

When obtaining professional services, the department director should always consider soliciting competitive proposals from qualified consultants taking into account the uniqueness of the professional service and the timing of the need to have the service provided.

- a. Professional services of \$9,999.99 or less, per LPMC 3-6-8(c): The department director may execute contracts for professional services less than \$10,000.00.
- b. Professional services of \$10,000.00 to \$49,999.99, per LPMC 3-6-8(c): The Purchasing Officer may execute contracts for professional services less than \$50,000.00.

- c. **Professional services \$50,000.00 or more**, per LNMC 3-6-8(c): City Council approval is required, prior to contract execution, for professional services contracts equal to \$50,000.00 or greater.
- d. Professional services contracts are subject to the cumulative purchase threshold policy described above in Section 5 (c), with the exception of professional services that will be paid for by a developer.

**9. Maintenance and Repairs**

POs shall not be utilized for the purchase of maintenance or repair services. The requesting department shall issue a contract with contractors providing any maintenance and/or repair of City facilities. The Purchasing Officer may execute such contracts less than \$50,000.00.

- a. **Maintenance and repairs of \$9,999.99 or less**, per LNMC 3-6-9(2): For maintenance and repair service contracts less than \$10,000.00, competitive bids are not required, but are strongly recommended. Such contracts shall be awarded based on the contractor's qualifications, experience, and cost. The department director may execute contracts for maintenance and repairs less than \$10,000.00.
- b. **Maintenance and repairs of \$10,000.00 to \$49,999.99**, per LNMC 3-6-9(3): For maintenance and repair contracts of an estimated expenditure of \$10,000.00 and less than \$50,000.00, the requesting department must prepare a request for proposal (RFP) and submit to potential bidders. Contracts shall be awarded based on the contractor's responsiveness to the RFP, qualifications, experience, and cost. The City Manager or Purchasing Officer may award and execute maintenance and repair contracts of \$10,000.00 and less than \$50,000.00.
- c. **Maintenance and repairs of \$50,000.00 or more**, per LNMC 3-6-9(4): For maintenance and repair contracts of an estimated expenditure of \$50,000.00 and greater, the requesting department must prepare a request for proposal (RFP) and submit to potential bidders. Contracts shall be awarded based on the contractor's responsiveness to the RFP, qualifications, experience, and cost. City Council approval is required, prior to contract execution, for maintenance and repair contracts equal to \$50,000.00 or greater.

- d. Maintenance and repair contracts are subject to the cumulative purchase threshold policy described above in Section 5 (c).

#### 10. **Miscellaneous Services**

Miscellaneous services are defined as services that are not professional services or maintenance and repair services, per LNMC 3-6-10(a).

- a. **Miscellaneous services of \$2,999.99 or less**, per LNMC 3-6-10(a):  
For miscellaneous services contracts of an estimated expenditure of less than \$3,000.00, competitive bids are not required. Such contracts may be entered into and executed by the department director.
- b. **Miscellaneous services of \$3,000.00 to \$9,999.99**, per LNMC 3-6-10(b):  
For miscellaneous services contracts of an estimated expenditure of \$3,000.00 and less than \$10,000.00, the requesting department shall attempt to receive three verbal bids from vendors and each of these bids and the efforts to obtain them must be documented. Contracts shall be awarded based on qualifications, experience, and cost. The department director may execute miscellaneous services contracts less than \$10,000.00.
- c. **Miscellaneous services of \$10,000.00 to \$49,999.99**, per LNMC 3-6-10(c):  
For miscellaneous services contracts of an estimated expenditure of \$10,000.00 and less than \$50,000.00, the requesting department must prepare a RFP and submit to potential bidders. Contracts shall be awarded based on the contractor's responsiveness to the RFP, qualifications, experience, and cost. The City Manager or Purchasing Officer may award and execute miscellaneous services contracts of \$10,000.00 and less than \$50,000.00.
- d. **Miscellaneous services of \$50,000.00 or more**, per LNMC 3-6-10(d):  
For miscellaneous service contracts of an estimated expenditure of \$50,000.00 and greater, the requesting department must prepare a RFP and submit to potential bidders. Contracts shall be awarded based on the contractor's responsiveness to the RFP, qualifications, experience, and cost. City Council approval is required, prior to contract execution. The City Council may authorize the City Manager or Purchasing Officer to execute such contracts.



## **11. Public Projects**

Per LNMC 3-7-1, the informal and formal bidding limits for “public projects”, as defined in the Uniform Public Construction Cost Accounting Act, Public Contract Code § 22000, et seq., shall be as set forth in § 22032, as those limits may be amended from time to time. In accordance with the foregoing bidding limits and the current City Council Purchasing Policy, public projects may be: (i) performed by City employees by force account, by negotiated contract, or by purchase order; (ii) let to contract by informal bid procedures set forth in the LNMC 3-7; or (iii) let to contract by formal bidding procedures set forth in the LNMC 3-7.

Per LNMC 3-7-5, the City Manager is authorized to award informally bid contracts pursuant to this Section. The City Council is authorized to award formally bid contracts pursuant to this section.

Per LNMC 3-7-2, a list of contractors shall be developed and maintained in accordance with the provisions of Public Contract Code § 22034 and criteria promulgated from time to time by the State Uniform Public Construction Cost Accounting Commission.

## **12. Disposal of Surplus or Obsolete Property**

Per LNMC 3-6-11(a), department directors that identify any supplies or equipment as surplus may declare such property surplus or obsolete by sending a memo to the Purchasing Officer listing such property.

- a. If another department identifies a need for any listed property, the department director may request reassignment of such property. Reassignment of any property shall be approved by the Purchasing Officer.
- b. If no department has use of any listed property, the Purchasing Officer shall dispose of the surplus property by auction or sale per LNMC 3-6-11(c)(1) and LNMC 3-6-11(c)(2).
- c. Per LNMC 3-6-11(d), surplus property may be donated or sold to City employees if the Purchasing Officer has determined the auction or sale of surplus property will result in minimal return to the City.

## **13. Violations**

Employees that violate any purchasing procedures established in this Policy and LNMC Division 6, Title 3 a Division 7, Title 3, shall be subject to disciplinary action.

**D. Exceptions**

There will be no exceptions to this Policy.

**E. Authority**

By authority of the City Manager.