

City of Santa Fe Purchasing Policies and Procedures



Updated March 2018

I. Procurement Methods

1. Competitive Process

Per the procurement code, the City's preferred method of procurement is through a competitive process. Two types of competitive processes are available to accomplish the competitive preference; an Invitation to Bid (ITB) or a Request for Proposals (RFP).

Invitation to Bid (ITB)

The Invitation to Bid process is designed to source commodity type products or services in a prompt and efficient manner. Generally, the item should be available from a number of suppliers and the product or service is homogeneous. Assuming the respondents are responsible, and the product or service meets the specifications, then the offeror with the lowest price will receive the award. Price negotiation is not available, unless bids exceed appropriations. Invitation to Bid is the City's default method of competitive bidding.

Request for Proposals (RFP)

The Request for Proposal process is more complex, time consuming and less frequently sought. The RFP process is specifically used when there are a variety of goods or services that **could** meet the City's needs. In order determine if the solution is the "best value," a detailed and thorough evaluation of each offeror is required.

An RFP includes developing a detailed scope work defining the City's need. The RFP must also provide and explain the criteria to be employed by the evaluation committee in scoring the proposals. Frequently the criteria will include; technical compliance to the requirements, stability of the offeror, experience and education of key personnel, life cycle costs and price. Unlike an ITB, the proposal with the lowest price will not necessarily receive the lowest bid. Except for Professional Services exceeding \$60,000, the use of the RFP method requires approval of the City's purchasing division. ***The RFP should never include the names or positions of the evaluation committee members.***

Local Preference

Local preference is a mechanism that promotes purchases of goods and services from vendors within the City limits.

When the City uses a formal Invitation to Bid (ITB) process a resident vendor's price will be deemed 3% lower than the actual price submitted, or 97% of the bidding price. If the resident bidder uses all resident sub-contractors, the price will be deemed 6% less than the actual price, or 94% of the bidding price.

When the City uses a formal Request for Proposal (RFP) process a resident vendor's score will be deemed 3% higher than the actual score calculated, or 103% of the score. If the resident bidder uses all resident sub-contractors, the score will be deemed 6% higher than the actual score, or 106% of the calculated score.

2. Sole Source

The use of a sole source procedure is not encouraged by the City's Purchasing Division. By definition, a sole source puts the City at a disadvantage of receiving reasonable pricing because no market exists. When no viable alternatives exist the City will enter into an agreement of limited term. Maintenance of proprietary systems or software are common examples of sole source procurements.

3. Cooperative Agreements

Cooperative agreements can be an efficient and effective form of procuring good and services for the City of Santa Fe. Cooperative agreements essentially represent that a competitive process has already resulted in a negotiated best price. Cooperative Agreements can only be used if the agreement has been approved in whole or part by the Governing Body. When using a Cooperative the following criteria must be met;

- The specifications of the City's needs must be identical to the pre-negotiated contract and the quantity and price of goods or services must be less than or equal to Cooperative Agreement terms.
- The Cooperative Agreement must be explicitly included the Purchase Order used to encumber the budget.

Approved Cooperatives

Cooperative Educational Services (CES): <http://www.ces.org/>

NM Price Agreement:

http://www.generalservices.state.nm.us/statepurchasing/Statewide_Price_Agreements.aspx

4. Types and Levels of Procurement

The City makes three **types** of purchases; tangible goods, services, and professional services. In addition to distinguishing between what is bought; the total price differentiates the **level** and procurement required. The three levels of procurement are; Small Purchase (Best obtainable price), Informal Procurement (3 valid quotes) and Formal Procurement.

Level Definitions

Best Obtainable Price: A price at which services or goods can be purchased which is most advantageous to the purchasing entity; best obtainable price can be found by obtaining quotes or other appropriate methods; where there is only one vendor available for such a purchase utilizing a direct purchase order in accordance with statute (such as an entity requiring dues, for example), the price would be the best obtainable price since it is the only possible price for that particular procurement.

Three Valid Quotes: Insofar as it is practical for small purchases of non-professional services, construction or items of tangible personal property having a value exceeding twenty thousand dollars (\$20,000) but not exceeding sixty thousand dollars (\$60,000), and in accordance with any procedures or processes set forth by the City’s Chief Procurement Officer, no fewer than three businesses shall be solicited via written requests containing the specifications for the procurement to submit written quotations that are recorded and placed in the procurement file. If three written quotes cannot be obtained, the agency shall document the reasons and include the document in the procurement file. Such notations as “does not carry” or “did not return my phone call” do not qualify as a valid quotation. If the lowest quotation is not acceptable, the central purchasing office must issue a written determination as to the reasons for such a decision. These reasons must not be arbitrary or capricious. The written determination becomes a part of the procurement file.

Goods

Generally, goods are forms of personal property. Software, including software as a service (SAAS), and intellectual property are treated as goods.

The procurement levels for tangible goods are as follows:

Less than \$20,000 - Small Purchase aka Best Obtainable Price

\$20,000 to \$60,000 - Informal Procurement aka three valid quotes

Greater than \$60,000 - Formal Procurement process aka (ITB or RFP)

Services

Services are performed by vendors that do not have extensive education, specialty training or licensing. Examples include carpet cleaning, clerical support or windshield replacement. (See Addendum 1 for a comprehensive listing of examples)

The procurement levels for services are as follows:

Less than \$20,000 - Small Purchase aka Best Obtainable Price

\$20,000 to \$60,000 - Informal Procurement aka three valid quotes

Greater than \$60,000 - Formal Procurement process aka (ITB or RFP)

Professional Services

Professional Services are performed by vendors that do require extensive education, specialty skills or licensing. Examples include attorneys, architects, and engineers. (See Addendum 1 for a comprehensive listing of examples)

Less than \$60,000 - Small Purchase aka three valid quotes

Greater than \$60,000 - Formal Procurement process aka (ITB or RFP)

5. Exemptions

The provisions of the Procurement Code shall not apply to:

- A. procurement of items of tangible personal property or services by a state agency or a local public body from a state agency, a local public body or external procurement unit except as otherwise provided in Sections [13-1-135](#) through [13-1-137](#) NMSA 1978;
- B. printing and duplicating contracts involving materials that are required to be filed in connection with proceedings before administrative agencies or state or federal courts;
- C. purchases of publicly provided utilities including, but not limited to gas, electricity, water, telecommunications, and cable television;
- D. purchases of books and periodicals from the publishers or copyright holders thereof;
- E. travel or shipping by common carrier or by private conveyance or to meals and lodging;
- F. purchase of livestock at auction rings or to the procurement of animals to be used for research and experimentation or exhibit;
- G. contracts with businesses for public school transportation services;
- H. minor purchases not exceeding five thousand dollars (\$5,000) consisting of magazine subscriptions, conference registration fees and other similar purchases where prepayments are required;
- I. municipalities having adopted home rule charters and having enacted their own purchasing ordinances;
- J. the issuance, sale and delivery of public securities pursuant to the applicable authorizing statute; bond attorneys, if approved by the city council as part of the underwriting team involved in the issuance, sale, and delivery of public securities for city bonds or city-issued bonds;
- K. legal services for advice, consultation, and representation of the city;
- L. contracts entered into by a local public body with a private independent contractor for the operation, or provision and operation, of a jail pursuant to Sections [33-3-26](#) and [33-3-27](#) NMSA 1978;

- M. contracts and expenditures for services or items of tangible personal property to be paid or compensated by money or other property transferred to New Mexico law enforcement agencies by the United States department of justice drug enforcement administration;
- N. contracts for retirement and other benefits pursuant to Sections [22-11-47](#) through [22-11-52](#) NMSA 1978;
- O. contracts with professional entertainers;
- P. contracts and expenditures for litigation expenses in connection with proceedings before administrative agencies or state or federal courts, including experts, mediators, court reporters, process servers and witness fees;
- Q. contracts for service relating to the design, engineering, financing, construction and acquisition of public improvements undertaken in improvement districts pursuant to Subsection L of Section [3-33-14.1](#) NMSA 1978;
- R. works of art for museums or for display in public buildings or places;
- S. contracts entered into by a local public body with a person, firm, organization, corporation or association or a state educational institution named in Article 12, Section 11 of the constitution of New Mexico for the operation and maintenance of a hospital pursuant to Chapter 3, Article 44 NMSA 1978, lease or operation of a county hospital pursuant to the Hospital Funding Act or operation and maintenance of a hospital pursuant to the Special Hospital District Act;
- T. purchases of advertising in all media, including radio, television, print and electronic;
- U. purchases of promotional goods intended for resale by the tourism department;
- V. procurement by or through the public education department from the federal department of education relating to parent training and information centers designed to increase parent participation, projects and initiatives designed to improve outcomes for students with disabilities and other projects and initiatives relating to the administration of improvement strategy programs pursuant to the federal Individuals with Disabilities Education Act; provided that the exemption applies only to procurement of services not to exceed two hundred thousand dollars (\$200,000);
- W. procurement of services from community rehabilitation programs or qualified individuals pursuant to the State Use Act; and

- X. purchases of products or services for eligible persons with disabilities pursuant to the federal Rehabilitation Act of 1973.

6. Purchase Cards (aka P-Cards)

Purchase cards are electronic methods of payment that work similarly to a personal debit card. P-cards are for purchases of tangible goods or services less than \$5,000. Purchases on a P-card must follow either the best obtainable price procedure, be exempted from procurement, or be a sole source. All users must sign a P-card user agreement, and adhere to the P-Card policy.

7. Contract types

The City has three different contracting mechanisms

- Purchase Order
- Service Agreement
- Professional Service Agreement

Purchase Orders – Contractual Method for Services up to \$20,000

A purchase order is a valid and binding contract between the City and the vendor. Purchase orders have terms stated on the back of the PO that the vendor agrees to upon acceptance. Purchase orders for operating expenditures and capital outlay are only valid for only one year and must be closed each June. PO's for capital project expenditures may be opened for multiple year projects on an approved basis.

Purchase Orders – Contractual Method for Tangible goods greater than \$5,000

On an annual basis, all purchases of tangible goods in the aggregate amount greater than \$5,000.

Service Contracts - Contractual Method for Services greater than \$20,001

For amounts from The City requires vendors to sign a service contract for any “non-professional” service as defined by the State of New Mexico. Per 13-1-87 NMSA, the definition of Service means;

“Services” means the furnishing of labor, time, or effort by a contractor not involving the delivery of a specific end product other than reports and other materials which are merely incidental to the required performance. “Services” includes the furnishing of insurance but does not include construction or the services of employees of a state agency or a local public body.

Characteristics of Services include the following;

- a. Services are more repetitive, routine or mechanical in nature, following established or standardized procedures as contrasted with customary and regular exercise of discretion or independent judgment.
- b. Services contribute to the day-to-day business operations of the agency, rather than the management or policy side of the agency, and may meet more general needs of the agency.

- c. Services generally involving completion of an assigned task, rather than an entire project.
- d. Decision-making and analysis, if required, is more routine or perfunctory in nature.

Professional Service Contracts – Contractual Method for all Professional Services

The City uses a different contract template to engage for professional services. At a minimum the Professional Services contract template requires additional Professional Liability Insurance coverage. Per 13-1-76 NMSA, the definition of Professional Service means;

“Professional services” means the services of architects, archeologists, engineers, surveyors, landscape architects, medical arts practitioners, scientists, management and systems analysts, certified public accountants, registered public accountants, lawyers, psychologists, planners, researchers, construction managers and other persons or businesses providing similar professional services, which may be designated as such by a determination issued by the state purchasing agent or a central purchasing office.

Characteristics of Professional Services include the following;

- Services are professional or technical in nature and meet more specialized needs. Work is predominantly intellectual and varied.
- Work is independent from the day-to-day control of the agency; consultant maintains control of work methods.
- Work requires regular exercise of judgment, discretion, and decision-making; involves providing advice, opinions or recommendations; may have policy-implications for agency; often addresses management-level issues.
- May require advanced or specialized knowledge, or expertise gained over an extensive period of time in a specialized field of experience.
- Work may be original and creative in character in a recognized field of endeavor, the result of which may depend primarily on the individual's invention, imagination or talent.

The attached Professional Service Determination issued by the State of New Mexico provides specific examples of Professional Services vs. Services.

8. Purchase Order Guidance

Purchase orders are required for all purchases greater than \$5,000. P-cards are the preferable method of payment for purchases less than \$5,000. Purchase Voucher is also acceptable, but should be the exception rather than the rule.

Splitting Purchases

Each monetary threshold is applicable to a distinct scope of a purchase. Under no circumstance is it permissible to arbitrarily divide, or split, purchases in order to circumvent procurement requirements. The definition of a distinct scope for service or professional service means the vendor will provide specific deliverables on a defined timeline. The tangible good scope limitation is based upon quantity of

the good purchased for a specific use. In both cases, the maximum dollar threshold is separated by project or department, or both.

Compliant Examples:

Towing services: Tow Company ABC provides quotes to SFPD to tow vehicles due to seizure or forfeiture and enters into a contract for \$60,000 for four years. Tow Company ABC provides quotes to Transit to tow buses that break down, and enters into a contract for \$60,000 for four years. The scenario is not an example of “splitting” and is perfectly valid application of informal procurement and no formal procurement is required.

Engineering or Design Services: PE Company DEF provides quotes to Public Works design services for Project A located at the Santa Fe Airport, and enters into a contract for \$60,000. PE Company DEF provides quotes to Public Works for design services for Project B at GCCC and enters into a contract of \$30,000. The scenario is not an example of “splitting” and is perfectly valid application of informal procurement and no formal procurement is required.

Tangible Goods: On an annual basis, a local retailer is utilized for purchases of commodity like items by various departments for specific purposes. For example, Seniors Division and Recreation division by foods and disposable products for distinct programs. Each department may use the retailer up to \$60,000 per year on an informal quote basis before a formal procurement process is required.

Non-Compliant Examples:

Towing Services: Tow Company ABC provides quotes to SFPD to tow vehicles due to seizure or forfeiture and enters into a contract for \$60,000 for four years. SFPD utilizes the entire contract amount, and requests a quote for the same services and attempts to enter into a new contract for \$60,000. This is an example of “splitting” and is not permitted. The appropriate procurement method is an Invitation to Bid (ITB).

Engineering or Design Services: PE Company DEF provides quotes to Public Works design services for Project A located at the Santa Fe Airport, and enters into a contract for \$60,000. PE Company DEF provides quotes to Public Works for design services for the same Project A the Airport that we left out of the original scope and attempts to enter into a contract for an additional \$30,000. This is an example of “splitting” and is not permitted. The appropriate procurement method is an Invitation to Bid (ITB) or Request for Proposal (RFP)

Tangible Goods (Software Purchase): Software Company XYX quotes for Adobe Pro user licenses to ITT to be deployed Citywide and enters into a contract for \$60,000 for four years. In year two additional licenses are needed and ITT requests quotes from Software Company XYZ and attempts to let out a separate contract for \$30,000 for four years. This is an example of “splitting” and is not permitted. The appropriate procurement method is an Invitation to Bid (ITB).