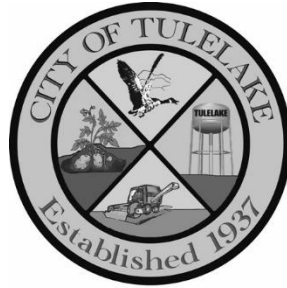


# CITY OF TULELAKE



## PURCHASING POLICY AND PROCEDURES MANUAL

Prepared in accordance with City of Tulelake Personnel Policy Manual Chapter 3.28

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## **PURPOSE OF MANUAL**

City of Tulelake Personnel Policy Manual (COTPPM) Section 3.28 “City Purchases, Credit Card Policy and Accounts Payable Process” provides for the administration of the general purchasing regulations, policies, and procedures, including bidding requirements and procedures, as well as surplus materials, supplies, and equipment. This City of Tulelake Purchasing Policy and Procedures Manual (“Manual”) is developed to be a working document for implementing the regulations, policies, and procedures outlined in the COTPPM, establishing guidelines, and defining standard practices, procedures, and clarifying issues relevant to the purchasing function. From time to time, this Manual may be updated and/or revised. All stated and referenced monetary limits are current as of the revision date printed in the footer section of this Manual.

The goals and objectives of this Manual are:

- To ensure compliance with all current laws and regulations.
- To promote transparency of the City’s procurement activities.
- To establish standardized cost-effective purchasing methods.
- To ensure continuity of City operations.
- To promote fair competitive processes.
- To maintain integrity and fairness.
- To support the City’s mission and serve the best interest of the public.

Please contact City Hall staff for unique situations not addressed in the Manual. The City utilizes a cooperative, collaborative approach to resolving unique purchasing related issues.

## **CONFLICT OF INTEREST**

All purchasing activities are to be performed in accordance with this Purchasing Policy and Procedures Manual. Any and all practices which might result in unlawful activity are specifically prohibited. When conducting City business, it is every employee’s responsibility to follow good business and ethical practices and to adhere to federal, state and local laws and regulations, as well as applicable City policy and procedures. In accordance with the Political Reform Act of 1974, it is required that no employee or public official shall make, participate in making or in any way attempt to use his or her official position to influence a governmental decision in which he or she has a financial interest. In accordance with [Section 87500 of the Government Code](#), certain designated employees and council members are required to disclose economic interests and are prohibited from participating in decisions that may influence their financial interests.

Furthermore, employees and officials should avoid the appearance of conflicts of interest to ensure that City decisions are made in an independent and impartial manner. Failure to do so will serve as a basis for potential discipline, up through and including termination, of those City Employees who do not abide by the terms of [COTPPM Chapter 3.3 \(Standards of Conduct\)](#). Any discipline shall be administered in accordance with applicable City policies, including [COTPPM Chapter 8, \(Performance Improvement, Misconduct, and Disciplinary Actions\)](#) and the Tulelake Police Department Policy 340 ([Standards of Conduct](#)), included in the Tulelake Police Department Policy Manual.

Federal purchasing and in accordance with the [Uniform Code Guidance CFR 200.318 \(c\) \(1\)](#) for procuring property and services under a Federal award shall have no employee, officer, or agent of the City participate in the selection, award, or administration of a contract supported by Federal funds if a conflict of interest, real or apparent, is or would be involved. Such a conflict could arise if the employee, officer, or agent; any member of his/her immediate family; his/her partner; or an organization which employs (or is about to employ) any of the above, has a financial or other interest or a tangible personal benefit from a firm considered for a contract. All Selection Committee members execute a disclosure certifying that they do not possess a conflict of interest involving any of the respondents and are required to submit a standard disclosure form to identify any potential conflicts of interest. The officers, employees, and agents of the City may neither solicit nor accept gratuities, favors, or anything of monetary value from contractors or parties to subcontracts. City employees must discharge their duties under the [COTPPM Chapter 3.3 \(Standards of Conduct\)](#), and the Manual in an impartial manner to foster the integrity of the City's purchasing function and to assure fair and open competition for City business and the selection of competent, responsible vendors. All vendors shall always be treated equally and fairly by City personnel, with equal information given to each vendor who participates in a competitive process.

The following actions constitute violation of the COTPPM:

- Accepting, directly or indirectly, any gift, rebate, money, or anything else of value from any person or entity if the gift, rebate, money, or item of value is intended as a reward or inducement for conduction business, placing orders with, or otherwise using the employee's position to favor the contributor.
- Aiding or assisting a bidder in securing a contract to furnish labor, materials, supplies, equipment, or services, or favoring one bidder over another.
- Giving or withholding information from any bidder.
- Willfully misleading any bidder regarding the specifications of materials, supplies, equipment or services.

It is considered breach of ethical purchasing standards:

- For any employee to participate directly or indirectly in City procurement when:
  - 1) The employee, or a member of the employee's immediate family, has a financial interest pertaining to the procurement.
  - 2) A business or organization in which the employee or any member of the employee's immediate family has a financial interest pertaining to the procurement.
  - 3) Any other person, business or organization with who the employee, or any member of the employee's immediate family, is negotiating, or has an arrangement concerning prospective employment, is involved in the procurement.

- For any person to offer, give, or agree to give any employee, or for any employee to solicit, demand, accept or agree to accept from another person, a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation or preparation of any part of a purchase request.
- For a person to be retained, or to retain a person, to solicit or secure a City purchase order contract upon an agreement, or understanding for a commission, percentage, brokerage or contingent fee, except for bona fide selling agencies established for securing business.
- For any Employee, who is participating directly or indirectly in the procurement process to become or be, an employee of any person contracting with the City.
- For any Employee to engage in selling supplies, equipment or services to the City.
- For any Employee to act as a principal, or as an agent for anyone other than the City, in connection with any judicial or other proceeding, contract, claim, charge or controversy, other than when acting within the Employee's official responsibility.
- For any Employee or former Employee to knowingly use information for actual or anticipated personal or business gain, or for the actual or anticipated gain of any other person or business.
- For any Employee and other City personnel to accept gifts, rebates, money, entertainment, personal services, or in any way incur material personal gain from any vendor doing business with the City or from any potential City vendor, or if circumstances create the impression that one's vote, judgment or action could be affected, or that staff are being rewarded for the performance or nonperformance of an official duty or if the item is of a value that exceeds statutory limits. Promotional items of nominal value such as calendars, water bottles, stationeries, etc., shall not constitute a gift if received as a non-personal item, and the item is routinely distributed by the vendor or contractor to its customers/clients or potential customers/clients.

To report a potential business conduct violation, contact the Employee Code of Ethics/Fraud Prevention Hotline 1-877-217-4728 or disclose to the appropriate supervisor or manager.

## **ECONOMICAL APPROACH TO PURCHASES**

It is in the best interest of the City to avoid the acquisition of unnecessary and duplicate goods and services. With proper analysis, a procurement may be consolidated or divided to obtain a more economical approach. Where appropriate, leases versus purchase alternatives should be analyzed to determine the most economical approach

State and local intergovernmental agreements or inter-entity agreement where appropriate are acceptable for procurements or use of common or shared goods and services. The City also encourages use of Federal excess and surplus property in lieu of new purchases whenever feasible and resulting in a reduction of project expenses.

Value engineering clauses are to be used in Federal funded Construction contracts of sufficient size to offer reasonable opportunities for cost reductions.

### **Contract Award Responsibilities**

The City must award Federal funded awards to responsible contractors possessing the ability to perform successfully under the terms and conditions of a proposed procurement.

Consideration is given to Contractor integrity, compliance with public policies, records of past performance, financial and technical resources.

The City must also adhere to the non-procurement debarment and suspension regulations implementing [Executive Orders 12549](#) and [12689](#), [2 CFR part 180](#). These regulations restrict awards, sub-awards, and contracts with certain parties that are debarred, suspended, or otherwise excluded from or ineligible for participation in Federal assistance programs or activities. Awards cannot be given to any entity listed as debarred or suspended on the U.S. Government's System for Award Management ([SAM](#)) website. The City is responsible for documenting it has verified an awarding entity has not been listed on the SAM database. The City must also maintain accurate historical procurement records. Records will include, but not limited to, rationale for the method of the procurement, selection of contract type, contractor selection or rejection, and the basis for the contract price. The City may use a Time and Materials Contract type when there is a determination that no other contract type is appropriate and includes a contractor's ceiling price that exceeds at its own risk. Time and Materials Contract includes actual cost of materials and direct labor hours charge at a fixed hourly rate to reflect wages, general and administrative expenses. A contract of this type does not provide profit incentive to the contract for cost control or labor efficiency. The City must assert a high degree of oversight to obtain reasonable assurance that the contractor is using efficient methods and effective cost controls to remain within the contract ceiling price. The City is solely responsible for the settlement of all contractual and administrative issues arising out of all purchases. The issues included, but are not limited to, source evaluation, protests, disputes, and claims. Issues arising out of procurements does not relieve the City of any contractual responsibilities under its contracts. The Federal awarding body will not substitute its judgement for that of the City unless the matter is primarily a Federal Concern. Violations of the law will be referred to City authority. The City must be responsible in accordance with good administrative practice and sound business judgment.

## **CONTACT INFORMATION**

Department Directors should contact City Hall staff as the first point of contact when planning to purchase products or services for the City that exceed the \$500.00 limit. City Hall Staff can be contacted at 530-667-5522 or by email at [cityoftulelake@cot.net](mailto:cityoftulelake@cot.net).

## **DELEGATION OF AUTHORITY**

The Department Directors are designated as the purchasing agents. Each Director initially delegates the authority and responsibilities of the purchasing agent to the Finance Director.

The Department Directors purchasing signature authority allows for approval of a purchase without a purchase order up to \$500.00 and requires a purchase order for cumulative amounts up to \$1,000.00.

The City Hall Administrator, Director of Public Works and Chief of Police purchasing signature authority allows for approval of each Purchase Order cumulative amounts up to \$1,000.00.

The Finance Director purchasing signature authority allows for approval of each Purchase Order cumulative amounts up to \$1,000.

Purchase transactions greater than \$500.00 will require City Council approval. See (COTPPM) Chapter 3.28 for reference.

## **PROCESS FOR REQUESTING BIDDING OR PROPOSALS**

To assist a department with the quote/bid process, please make sure approximately four (4) to six (6) weeks is allowed to properly secure formal bids and two (2) to three (3) weeks for informal bids or proposals to be solicited and awarded. It is recommended that if you have a specific concern or need to expedite a purchase that you notify the City Hall in advance. When requesting a solicitation of bids or proposals, first get City Council approval and then submit to City Hall staff the bid requests to process, post, publish, electronically mail or US Postal mail accordingly. Care must be exercised to avoid the use of specific products or brand names when the bidding process is to be used. Quotes will be secured as the brand name “or approved equal” when bids are requested. City Hall staff will not change brands requested without approval by the department. Preparing specifications or statements of work is usually a department function. Generally, departments have the greatest understanding of functional and performance requirements; however, each Department Head will take an advisory role in avoiding exclusionary specifications and encouraging free and open competition. Provided all the necessary documentation has been included with the [bid proposal](#), City Hall staff shall complete the transaction by obtaining prices and/or bids as necessary and issuing a purchase order if not a grant related purchase.

*Note: A purchase order is not required for the following: payroll related expenses such as insurance or retirement payments as approved by City Council through the budget, other insurance premiums, petty cash, travel advances or reimbursements, utility payments, membership dues, subscriptions, debt service, various “pass-through” payments, and other mandated expenditures. These items can be paid directly from invoice or from employee expense claim forms.*

All telecommunications equipment, computer equipment, and computer software bid proposals requested must be submitted to City Council for approval.

## **FILING OF BID PROTESTS**

In the absence of specific protest procedures in a City of Tulelake bid document the following procedures will apply. Bidders may file a “protest” of a bid with the City Council. In order for a bidder’s protest to be considered valid, the protest must:

- A. Be filed in writing within five (5) calendar days after the bid opening date.
- B. Clearly identify the specific irregularity or accusation.
- C. Clearly identify the specific City staff determination or recommendation being protested.
- D. Specify, in detail, the grounds of the protest and the facts supporting the protest.
- E. Include all relevant, supporting documentation with the protest at time of filing.

If the protest does not comply with each of these requirements, it will be rejected as

invalid.

If the protest is valid, the Finance Director, or other designated City staff, shall review the basis of the protest and all relevant information. The Finance Director will provide a written decision to the protestor within fourteen (14) calendar days. The protestor may then appeal the decision of the Finance Director to the City Council within five (5) calendar days of the date of the written decision from the Finance Director. The City Council will provide a written decision to the protestor's appeal. The decision from the City Council is final and no further appeals will be considered.

## **ALTERNATIVE PROCEDURE**

The following alternative bidding procedure is applicable to all purchases, including but not limited to public projects, professional services, maintenance and general services and materials, supplies and equipment in amounts of more than \$500.00.

**Insurance and a City approved Bidding Agreement are required if services are performed on City property.** The purchases may be awarded by the director of the department responsible for the purchases.

\$501- \$5,000: \*Competitive bidding to be used at the discretion of the department.

\$5,000 - \$10,000: \*Competitive bidding to be used at the discretion of the Finance Director.

\$5,000 and above: \*A minimum of three vendors shall be solicited for quotes or proposals; Contact the Purchasing Division to complete the bidding process.

***Federally Funded Procurements*** must follow the Code of Federal Regulations Office of Management and Budget Guidance for Grants and Agreements - *Procurement Standards Title 2, Subtitle A, Chapter II Part 200.317-200.326 and Appendix II to Part 200.*

Departments shall strive to obtain verbal price quotes from three or more potential contractors or suppliers and accept the quote that is determined to be in the best interests of the City. Verbal price quotes shall be documented (listing the date, time, contact name) and provided as backup for a purchase requisition. It is important for departments to provide the Bidding Agreement to any bid solicitation or proposal. Doing so informs all consultants and other contractors of the required contract provisions.

## **GRANT FUNDED PROCUREMENTS**

Departments shall provide all Federal and/or State grant funding source documents to City Hall staff and attach the documentation to the procurement request.

All grant funding source documents must be reviewed by the requesting department and City Hall staff to ensure all applicable grant solicitation and contracting requirements are adhered to (e.g. bidding requirements and instructions, special contract provisions).

## **FEDERAL GRANT PURCHASING POLICY**

### **Competition under Federal Awards**

All purchasing transactions must be conducted in a manner providing full and open competition consistent with the standards of this section. In order to ensure objective



contractor performance and eliminate unfair competitive advantage, contractors that develop or draft specifications, requirements, statements of work, and invitations for bids or requests for proposals must be excluded from competing for such procurements.

Some of the situations considered to be restrictive of competition include but are not limited to:

- Placing unreasonable requirements on firms in order for them to qualify to do business.
- Requiring unnecessary experience and excessive bonding.
- Noncompetitive pricing practices between firms or between affiliated companies.
- Noncompetitive contracts to consultants that are on retainer contracts.
- Organizational conflicts of interest.
- Specifying only a “brand name” product instead of allowing “an equal” product to be offered and describing the performance or other relevant requirements of the procurement.
- Any arbitrary action in the procurement process.

The City must conduct purchases in a manner that prohibits the use of statutorily or administratively imposed state or local geographical preferences in the evaluation of bids or proposals, except in those cases where applicable Federal statutes expressly mandate or encourage geographic preference. Nothing in this section preempts state licensing laws. When contracting for architectural and engineering (A/E) services, geographic location may be a selection criterion provided its application leaves an appropriate number of qualified firms, given the nature and size of the project, to compete for the contract.

All City solicitations must present a clear and accurate description of the technical requirements for the material, product, or service to be procured. Such description must not, in competitive procurements, contain features which unduly restrict competition.

The description may include a statement of the qualitative nature of the material, product or service to be procured and, when necessary, must set forth those minimum essential characteristics and standards to which it must conform if it is to satisfy its intended use. Detailed product specifications should be avoided if possible. When it is impractical or uneconomical to make a clear and accurate description of the technical requirements, a “brand name or equivalent” description may be used to define the performance or other salient requirements of procurement. The specific features of the named brand which must be met by offers must be clearly stated; and

Identify all requirements which the offerors must fulfill and all other factors to be used in evaluating bids or proposals.

The City must ensure that all prequalified lists of persons, firms, or products which are used in acquiring goods and services are current and include enough qualified sources to ensure maximum open and free competition. Also, the City must not preclude potential bidders from qualifying during the solicitation period.

### **Federal Grant Purchasing Methods to Be Followed**

Procurement by micro-purchase is the acquisition of supplies or services, the aggregate dollar amount of which does not exceed the micro-purchase threshold ([§200.67 Micropurchase](#)).

To the extent practicable, the City must distribute micro-purchases equitably among qualified suppliers. Micro-purchases may be awarded without soliciting competitive quotations if the non-Federal entity considers the price to be reasonable.

Small purchase (§200.88 Micro-purchase) procedures are those relatively simple and informal procurement methods for securing services, supplies, or other property that do not cost more than the Simplified Acquisition Threshold. If small purchase procedures are used, price or rate quotations must be obtained from an adequate number of qualified sources.

Purchases by sealed bids are bids publicly solicited and a firm fixed price contract (lump sum or unit price) is awarded to the responsible bidder whose bid, conforming with all the material terms and conditions of the invitation for bids, is the lowest in price. The sealed bid method is the preferred method for procuring construction, if the following conditions of this section apply.

- For sealed bidding to be feasible, the following conditions should be present:
  - 1) A complete, adequate, and realistic specification or purchase description is available.
  - 2) Two or more responsible bidders are willing and able to compete effectively for the business.
  - 3) The procurement lends itself to a firm fixed price contract and the selection of the successful bidder can be made principally based on price.
- If sealed bids are used, the following requirements apply:
  - 1) Bids must be solicited from an adequate number of known suppliers, providing them sufficient response time prior to the date set for opening the bids, for state, local, and tribal governments, the invitation for bids must be publicly advertised.
  - 2) The invitation for bids, which will include any specifications and pertinent attachments, must define the items or services in order for the bidder to properly respond.
  - 3) All bids will be opened at the time and place prescribed in the invitation for bids, and for local and tribal governments, the bids must be opened publicly.

A firm fixed price contract award will be made in writing to the lowest responsive and responsible bidder. Where specified in bidding documents, factors such as discounts, transportation cost, and life cycle costs must be considered in determining which bid is lowest. Payment discounts will only be used to determine the low bid when prior experience indicates that such discounts are usually taken advantage of; and Any or all bids may be rejected if there is a sound documented reason.

Purchases by competitive proposals is normally conducted with more than one source submitting an offer, and either a fixed price or cost-reimbursement type contract is awarded. It is generally used when conditions are not appropriate for the use of sealed bids. If this method is used, the following requirements apply:

- Requests for proposals must be publicized and identify all evaluation factors and their relative importance. Any response to publicized requests for proposals must be considered to the maximum extent practical.
- Proposals must be solicited from an adequate number of qualified sources.
- The City must have a written method for conducting technical evaluations of the proposals received and for selecting recipients.
- Contracts must be awarded to the responsible firm whose proposal is most advantageous to the program, with price and other factors considered; and

- The City may use competitive proposal procedures for qualifications-based procurement of architectural/engineering (A/E) professional services whereby competitors' qualifications are evaluated, and the most qualified competitor is selected, subject to negotiation of fair and reasonable compensation. The method, where price is not used as a selection factor, can only be used in procurement of A/E professional services. It cannot be used to purchase other types of services though A/E firms are a potential source to perform the proposed effort.

### **Single Source Bidding Method**

Procurement by noncompetitive proposals is procurement through solicitation of a proposal from only one source and may be used only when one or more of the following circumstances apply:

- The item is available only from a single source.
- There is declaration of a federal, state or local government emergency affecting adequate competitive solicitation.
- The public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation.
- The Federal awarding agency or pass-through entity expressly authorizes noncompetitive proposals in response to a written request from the non-Federal entity.
- After solicitation of sources and due to the City of Tulelake's geographic location, competition is determined inadequate.

### **Federal Award Contracting with Small and Minority Business, Women Business Enterprises, and Labor Surplus Area Firms**

The City must take all necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible.

Affirmative steps must include:

- Placing qualified small and minority businesses and women's business enterprises on solicitation lists.
- Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources.
- Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises.
- Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises.
- Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce.
- Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed immediately above.

### **Procurement of Recovered Materials under Federal Award**

The City must comply with [Section 6002 of the Solid Waste Disposal Act](#), as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection

Agency (EPA) at [40 Code of Federal Regulations \(CFR\) part 247](#) that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired by the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

### **Contract Cost and Price under Federal Award**

The City must perform a cost or price analysis in connection with every procurement action in excess of the Simplified Acquisition Threshold including contract modifications. The method and degree of analysis is dependent on the facts surrounding the procurement situation, but as a starting point, the City must make independent estimates before receiving bids or proposals. The City must negotiate profit as a separate element of the price for each contract in which there is no price competition and, in all cases, where cost analysis is performed. To establish a fair and reasonable profit, consideration must be given to the complexity of the work to be performed, the risk borne by the contractor, the contractor's investment, the amount of subcontracting, the quality of its record of past performance, and industry profit rates in the surrounding geographical area for similar work. Costs or prices based on estimated costs for contracts under the Federal award are allowable only to the extent that costs incurred, or cost estimates included in negotiated prices would be allowable for the City under [2 Code of Federal Regulations Subpart E -Cost Principles](#). The City may reference its own cost principles that comply with the Federal cost principles. The cost plus a percentage of cost and percentage of construction cost methods of contracting must not be used.

### **Federal Agency or Pass-Through Entity Review**

The City must make available, upon request of the Federal awarding agency or pass through entity, technical specifications on proposed procurements where the Federal awarding agency or pass-through entity believes such review is needed to ensure that the item or service specified is the one being proposed for acquisition. This review generally will take place prior to the time the specification is incorporated into a solicitation document. However, if the City desires to have the review accomplished after a solicitation has been developed, the Federal awarding agency or pass-through entity may still review the specifications, with such review usually limited to the technical aspects of the proposed purchase. The City must make available upon request, for the Federal awarding agency or pass through entity pre-procurement review, procurement documents, such as requests for proposals or invitations for bids, or independent cost estimates, when:

- The City's procurement procedures or operation fails to comply with the procurement standards in this part.
- The procurement is expected to exceed the Simplified Acquisition Threshold and is to be awarded without competition or only one bid or offer is received in response to a solicitation.
- The procurement, which is expected to exceed the Simplified Acquisition Threshold, specifies a "brand name" product.

- The proposed contract is more than the Simplified Acquisition Threshold and is to be awarded to other than the apparent low bidder under a sealed bid procurement.
- A proposed contract modification changes the scope of a contract or increases the contract amount by more than the Simplified Acquisition Threshold.

The City is exempt from the pre-procurement review in above section if the Federal awarding agency or pass-through entity determines that its procurement systems comply with the standards of this part.

- The City may request that its procurement system be reviewed by the Federal awarding agency or pass-through entity to determine whether its system meets these standards in order for its system to be certified. Generally, these reviews must occur where there is continuous high-dollar funding, and third-party contracts are awarded on a regular basis.
- The City may self-certify its procurement system. Such self-certification must not limit the Federal awarding agency's right to survey the system. Under a self-certification procedure, the Federal awarding agency may rely on written assurances from the City that it is complying with these standards. The City must cite specific policies, procedures, regulations, or standards for compliance with these requirements and have its system available for review.

### **Bonding Requirements Under Federal Award**

For construction or facility improvement contracts or subcontracts exceeding the Simplified Acquisition Threshold, the Federal awarding agency or pass-through entity may accept the bonding policy and requirements of the City provided that the Federal awarding agency or pass-through entity has made a determination that the Federal interest is adequately protected. If such a determination has not been made, the minimum requirements must be as follows:

- A bid guarantee from each bidder equivalent to five percent of the bid price. The "bid guarantee" must consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of the bid, execute such contractual documents as may be required within the time specified.
- A performance bond on the part of the contractor for 100 percent of the contract price. A "performance bond" is one executed in connection with a contract to secure fulfillment of all the contractor's obligations under such contract.
- A payment bond on the part of the contractor for 100 percent of the contract price. A "payment bond" is one executed in connection with a contract to assure payment as required by law of all persons supplying labor and material in the execution of the work provided for in the contract.

### **Contract Provisions under Federal Award**

The City must contain the applicable provisions described in [2 CFR Appendix II to Part 200 - Contract Provisions for Non-Federal Entity Contracts Under Federal Awards](#).

## **PURCHASE ORDERS**

A purchase order is a contractual agreement issued by the City to purchase goods and/or services from a vendor and a promise to pay for those goods and services. It serves as the vendor's authorization to deliver goods and services and invoice as specified and

agreed. The purchase order should include, but is not limited to, quantity, description, price, terms and conditions, and delivery location. Upon issuance of the purchase order, prompt distribution of all the copies will occur to ensure proper delivery, receipt of goods and payment of goods and services. Services involving the performance of work on City property shall not be procured unless there is a fully executed agreement for the work and the vendor has current insurance certificates and endorsements. If the department requesting the services is preparing the agreement, it is recommended that Finance Director review the agreement before the document is sent to the vendor for signature. City Hall staff will assist in securing executed agreements, business license (if required), and certificates of insurance and endorsements if requested. Failure to secure executed agreements and proper insurance and endorsements for services performed on City property renders the City unprotected against any subsequent claims by vendors. See the insurance section of the agreement to be used for general insurance requirements. Any deviation from these requirements must be coordinated with the City Hall Administrator and final approval authority rests with the Finance Director. Purchases made from the same vendor under two or more purchase orders for the same or like items in a short period of time may be considered bid splitting and a circumvention of COTPPM Section 3.28. Such instances will be brought to the attention of the appropriate department head or Finance Director. If the City Council has approved a purchase, the purchase order will not require additional signatures beyond the department director. If City Council has not approved the purchase and the purchase is greater than \$500 then the Department Commissioner signature will be required also.

### **Cancellation**

If the user department determines a purchase order needs to be cancelled, a copy of the cancelled order with "Cancelled Order and date" written on the original copy is to be turned into the City Hall for filing.

## **CHANGE ORDERS**

Change orders or amendments to contracts for all public and non-public projects are subject to the "next level of approval" process, where a change order is approved based on the cumulative value and the existing approval authority, unless specified otherwise in the Council approved agenda report. Proper budget appropriations must be in place for the expenditure. All change orders require the approval of various City personnel based on the threshold established pursuant to the following, including City Council awarded contracts. All Change Orders for contractors being paid with federal or state funds are to be approved by the City Council.

### **Change Order Signature Authority Exceptions**

If a department requires the ability to increase the contract award greater than the lesser of 10% of the PO value or by \$55,000 or more, City Council authorization is required. The requesting department must include a recommended action item in the agenda report authorizing change orders up to a specific dollar amount or percentage over the Council approved amount.

Procedure:

Language to be included within the agenda report, under the Recommended Action section, should be written as follows:

*City Council authorize the Finance Director or his designees to approve necessary change orders up to a cumulative value of (specify \$ amount or percentage here) of the contract amount.*

Language supporting the rationale for the increased change order authority amount must be included in the Analysis section of the agenda report.

### **Unforeseen Change Orders exceeding \$55,000 for Maintenance and Construction related projects:**

In the event an unforeseen circumstance occurs during the course of the work that requires a change order causing the cumulative change order value to exceed the authorized thresholds, the change order may be evaluated for immediate approval to avoid the City incurring additional costs associated with delaying the work while awaiting Council approval. Examples of these situations include, but are not limited to the following:

- Unforeseen field conditions/circumstances, e.g., bedrock encountered during excavation, undocumented fill, conflicts with underground utilities not shown on project drawings, etc., requiring additional work beyond the original project scope.

Procedure:

The requesting department will consult with the Finance Director and assess if the situation is deemed an unforeseen event. If the situation is determined by the requesting department and the Finance Director as an unforeseen event, the requesting department and Finance Director will proceed with processing a Change Order to the purchase order. The requesting department is required to then disclose the events to Council at the following Council meeting in the form of a department written agenda report and include supporting documentation that deemed the situation an unforeseen event.

The requesting department may also seek Council authorization to reset the change order approval cumulative thresholds **after** the unforeseen event change order has been incorporated into the new PO total contract amount. Language to be included within the agenda report, under the Recommended Action Section, should be written as follows:

*City Council authorize the Finance Director or his designees to approve necessary change orders up to a cumulative value of \$55,000 based on the revised contract amount.*

### **PROPRIETARY PROJECTS OR SOLE SOURCE PRODUCTS**

Proprietary projects or sole source products bidding procedures are purchases that fall within the Sole Source Bidding Method. Sole source bidding is an exception to normal procurement procedures due to the reasons stated in the Sole Source Bidding Method for non-sufficient bidding or declared federal, state or local emergencies and require detailed justification. Departments are advised not to commence any work until final approval is obtained from the Finance Director and City Council.

Authorizations for purchases resulting from the Sole Source / Proprietary Project Certification form are as follows:

\$10,001 - \$55,000 Department Director and Finance Director\*

\$55,001 and greater require Finance Director and City Council Approval

\* The Department Directors and Finance Director may sign up to \$55,000 for Proprietary Projects / Sole Source Products

All purchases greater than \$10,000 require the appropriate approval prior to submittal to the Finance Director and a memorandum justifying the purchase. Department Director approval may be delegated to subordinate staff who have been authorized with full department authority limits. All purchases that are greater than \$55,000 will require approval by City Council.

## **EXCEPTIONS TO COMPETITIVE BIDDING NON-PUBLIC PROJECTS**

For non-grant funded public and non-public projects that are \$1000 or less, the department director will prepare a memo (“Department Memorandum”) to the Finance Director describing in detail the reason for the exception to competitive bidding. For non-grant funded public and non-public projects that exceed \$1,000, City Council approval is required. The department will describe in detail the reason for the exception to competitive bidding. Exceptions to bidding for public projects should be discussed immediately with the Finance Director prior to Departments taking any action. Departments should not commence any work until the Department Memorandum receives final approval from the Finance Director and, if necessary, the City Council. Once approval has been received, the following procedure shall be observed.

### **A. Emergencies**

In a declared federal, state or local emergency, purchases shall be submitted to the City Hall Administrator, signed by the department director, accompanied by the approved Department Memorandum that certifies that the emergency situation makes competitive bidding, either formal or informal, impractical or not in the best interests of the City of Tulelake.

### **B. No Competitive Market**

Purchases shall be submitted to the City Hall Administrator, signed by the department director and accompanied by the approved Department Memorandum that certifies that a competitive market does not exist and that no competitive advantage will be gained by bidding.

### **C. Competitive Bidding Already Completed**

Purchases shall be submitted to the City Hall Administrator signed by the department director, accompanied by the approved Department Memorandum that certifies that a competitive bid procedure has been conducted by another public agency such as CMAS, GSA, or WSCA and that the price to the City is equal to or better than the price to that public agency.

### **D. State Purchase**

Purchases shall be submitted to the City Hall Administrator, signed by the department director, accompanied by the approved Department Memorandum that certifies that the purchase is made on behalf of the City by the State Department of General Services.



#### **E. Purpose of Bidding is Otherwise Accomplished**

Purchases shall be submitted to the City Hall Administrator, signed by the department director, accompanied by the approved Department Memorandum that certifies that for non-public projects, it is in the best interest of the City and its administrative operations to dispense with public bidding.

#### **F. No Bids Received**

Purchases shall be submitted to the City Hall Administrator, signed by the department director, accompanied by the approved Department Memorandum that certifies that a competitive bid was conducted following the bidding procedures as outlined in City of Tulelake Personnel Policy Manual Chapter 3.28, that no bids were received and that the purchase is in the best interests of the City.

#### **G. Natural Gas, Water, Electricity, Solar and Communication Purchases**

The Finance Director or his or her designee is authorized to negotiate and execute, on behalf of the City, agreements with privately owned, federally owned, state owned and locally owned entities for the wholesale purchase and sale of natural gas, water, economy energy, replacement energy, solar energy, replacement capacity and transmission service to deliver such natural gas, water, energy, solar and communication services to Tulelake or such other locations as may be appropriate without competitive bidding within the budget approved by the City Council. Such purchases shall be submitted to the City Hall Administrator, signed by the Finance Director, accompanied by a memorandum signed by the Finance Director that certifies that the price is competitive and that the purchase is in the best interests of the City.

#### **H. Library Purchases**

The Library Branch Manager is authorized to negotiate and execute, on behalf of the City, contracts for the purchase of library materials without competitive bidding within the budget approved by the City Council. Such purchases shall be submitted to the City Hall Administrator signed by the Library Branch Manager, accompanied by either language a memorandum signed by the Library Branch Manager that certifies the price is competitive and that the purchase is in the best interests of the City.

#### **I. Mandated Expenditures**

Such purchases shall be submitted to the City Hall Administrator and signed by the department director, accompanied by a memorandum signed by the department director that certifies that the price is mandated by law or regulation or is non-negotiable.

#### **J. Otherwise Authorized**

Such purchases shall be submitted to the City Hall Administrator, signed by the department director, accompanied by a memorandum signed by the department director that certifies that the purchase is authorized by an applicable law.

### **STATE, FEDERAL AND GRANT FUNDING**

Any purchases made with state, federal or grant funds shall comply with all laws, rules and regulations made applicable by the funding source. The requesting department shall be responsible for meeting all such compliance requirements. Procurements funded in whole or in part with Federal funds must comply with [Code of Federal Regulations \(CFR\), Title 2 Grants and Agreements, Subtitle A—Office of Management and Budget Guidance for Grants and Agreements, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, Procurement Standards](#); or as otherwise specified in the specific grant document. Failure to comply with these requirements may result in penalties or loss of funding for the City. For Housing and Urban Development/Community Development Block Grant (HUD /CDBG) funded projects.

### **INFORMAL FEDERAL PROCUREMENT METHODS FOR HUD/CDBG**

For all federal procurements, a minimum of (3) written price quotations must be obtained and documented by completing the Informal Federal Procurement Bid Sheet for HUD/CDBG Funded Projects. Awarding an informally bid project without (3) three price or rate quotations documented in the file is a risky proposition that can result in the disallowance of costs (i.e. loss of federal dollars to the City). A “No Bid” or no response is not sufficient.

### **FEDERAL TRANSIT ADMINISTRATION ASSISTED PROCUREMENTS**

The Federal Government, through the Federal Transit Administration (FTA), provides financial assistance to develop new public transportation systems and improve, maintain, and operate existing systems. Each FTA grantee is responsible for managing its program and projects in compliance with applicable Federal requirements, and the FTA is responsible for ensuring that grantees, including the City, comply with those requirements. Grantees use their own procurement procedures that reflect applicable state and local laws and regulations, provided that the process ensures competitive procurement and the procedures conform to applicable federal law, including Title 49—Transportation, Code of Federal Regulations (CFR), [Part 18-Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments \(specifically Section 18.36-Procurements\)](#) and FTA Circular 4220.1F, “Third Party Contracting Guidance.” To assist in meeting the standards of FTA Circular 4220.1F, City staff may consult FTA’s [Best Practices Procurement Manual](#). The Manual consists of suggested procedures, methods, and examples which FTA encourages. These suggestions are based on the Federal acquisition process, Comptroller General Decisions, and "Best Practices" of grantees and others in the industry. The Manual is envisioned as an ongoing and expanding document. It will be updated periodically with new subjects as well as additions or changes to existing subjects. The additions/changes will be based on: (1) changes in statutes, (2) the result of recent court decisions, (3) the need for further clarification, and (4) new or innovative practices of grantees.

The Manual consists of 11 chapters as follows:

1. Purpose and Scope
2. Procurement Planning & Organization
3. Specifications
4. Methods of Solicitation and Selection

5. Award of Contracts
6. Procurement Object Types: Special Considerations
7. Disadvantaged Business Enterprise
8. Contract Clauses
9. Contract Administration
10. Close-Out
11. Disputes

Of particular usefulness are the “Best Practices” for bus purchases (pre-award and post-delivery audits) and the procurement of Architectural and Engineering services using qualifications based on competitive proposal procedure ([Brooks Act](#)). The FTA Manual can be found at <https://www.transit.dot.gov/funding/procurement/third-partyprocurement/best-practices-procurement-manual>. All FTA assisted procurements will be conducted in a manner providing full and open competition consistent with Federal standards as contained in [49 CFR 18.36](#). Some situations considered to be restrictive of competition include but are not limited to:

- i. Placing unreasonable requirements on firms in order for them to qualify to do business,
- ii. Requiring unnecessary experience and excessive bonding,
- iii. Noncompetitive pricing practices between firms or between affiliated companies,
- iv. Noncompetitive awards to consultants that are on retainer contracts,
- v. Organizational conflicts of interest,
- vi. Specifying only a “brand name” product instead of allowing “an equal” product to be offered and describing the performance of other relevant requirements of the procurement,
- vii. And any arbitrary action in the procurement process.

All FTA assisted procurements will be conducted in a manner that prohibits the use of statutory or administratively imposed in-State or local geographical preferences in the evaluation of bids or proposals, except in those cases where applicable Federal statutes expressly mandate or encourage geographic preferences. When contracting for architectural and engineering services, geographical location may be a selection criterion provided its application leaves an appropriate number of qualified firms, given the nature and size of the project, to compete for the contract. The City will use qualifications-based competitive proposal procedures for architectural and engineering services as defined in [40 U.S.C. Section 1102](#) and [U.S.C. Section 5325\(d\)](#). Services subject to this requirement are program management, construction management, feasibility studies, preliminary engineering, design, architectural, engineering, surveying, mapping, and related services. Qualifications-based competitive proposal procedures ([Brooks Act](#)) require that:

- (1) A firm's qualifications are evaluated.
- (2) Price is excluded as an evaluation factor.
- (3) Negotiations be conducted with only the most qualified firm.
- (4) Failing agreement on price, negotiations with the next most qualified firm be conducted until a contract award can be made to the most qualified firm whose price is fair and reasonable to the City.

## **LOCAL BIDDER PREFERENCE PROGRAM**

In an effort to foster economic sustainability and strengthen local economic activity, the City Council prefers to use local area businesses if possible. To be eligible to qualify, a local business must demonstrate that it (i) has fixed facilities with employees located at a business address within the Tulelake and Klamath Basin area; (ii) has an appropriate City business license/permit; and (iii) has provided the City with the necessary insurance and bond requirements for the City project. *This Program does not apply to City bids for public projects.*

## **RECYCLED PRODUCT PREFERENCE POLICY**

This policy applies to the City's informal and formal bidding procedures for the procurement of the types of materials, supplies, and equipment described in section B below.

A. The following definitions apply to this policy:

1. Except as provided in subparagraph (2), "Recycled product" means all materials, goods, and supplies, no less than 50 percent of the total weight of which consists of secondary and post-consumer material with not less than 10 percent of its total weight consisting of post-consumer material.

2. A "recycled product" also means other flat rolled steel products no less than 25 percent of the total weight of which consists of secondary and post-consumer material, with not less than 10 percent of total weight consisting of post-consumer material. Products made with flat rolled steel meeting these content percentages include, but are not limited to, automobiles, cans, appliances, and office furniture and supplies.

3. "Post-consumer material" means a finished material that would have been disposed of as a solid waste, having completed its life cycle as a consumer item, and does not include manufacturing wastes.

4. "Secondary material" means fragments of finished products or finished products of a manufacturing process that has converted a resource into a commodity of real economic value, and includes post-consumer material, but does not include excess virgin resources of the manufacturing process.

B. This section applies to the procurement and purchase of the following materials, supplies, and equipment containing the following recycled resources and meeting the specified recycled content requirements in paragraph (B) of this section:

- Recycled paper products, which include, but are not limited to, fine grades of paper, corrugated boxes, newsprint, tissue, and toweling
- Compost and co-compost products
- Glass
- Oil
- Plastic
- Solvents and paint, including water-based paint
- Tires
- Steel

C. All bidders will be required to specify the minimum, if not exact, percentage of recycled product in the materials, supplies, and equipment offered, both the post-consumer and secondary waste content, whether or not the product meets the percentage of recycled product required pursuant to Section A above. The bidder may certify that the product contains zero recycled content.

D. The City shall give a 10% price preference to bids consisting of at least 50% recycled products, if the product's fitness, quality, and availability are comparable to non-recycled products being offered.

E. The combined dollar amount of preference granted pursuant to this section shall not exceed fifty thousand dollars (\$50,000) for a single bid or procurement.

F. Fitness and quality being equal, the City shall endeavor to purchase recycled products instead of virgin products whenever available at no more than the total cost of the virgin materials.

## **PROCEDURES FOR EMERGENCY PURCHASE ORDERS**

Emergency Purchase Orders are to be used only when computer generated purchase orders are not able to be completed, typically when the Emergency Operations Center has been activated. The Purchasing Agent (Finance Director) is the only authorized signature for Emergency Purchase Orders. The Purchasing Agent can be an individual who has been granted Purchasing Agent status from the Emergency Operations Center. Emergency Purchase Orders must be signed prior to disbursement to a vendor. Finance Director will review all completed Emergency Purchase Orders prior to issuing to a Vendor.

## **CREDIT CARD PURCHASES**

All City credit cards are to be kept with each Department Director within their office or stored in the safe at City Hall. Each Director will follow the credit card policy as it is intended and will show a fiduciary responsibility in limiting its use only for emergency purchases for the department or when traveling for official city business, employee trainings or meetings. Currently, Mastercard credit cards are only issued to police department personnel though the City reserves the right to designate additional employees as appropriate. Credit cards are to be used only as approved by the Director or in an emergency. If an emergency arises then the employee will make diligent efforts to contact the Director prior to using the card. Credit cards should only be used where absolutely necessary and must comply with the purchasing policy in the COTPPM Section 3.28. All efforts should be made to use the previously described purchasing policy prior to using the city issued credit card. All credit card receipts will be turned into city hall on a weekly basis. Appropriate gas related credit cards are available for all employees and may be used as needed in the performance of their duties without prior approval of the Director. If a receipt is generated during the purchase it will be turned into city hall on a weekly basis. The City will accept credit or debit card payments from customers for utility services and other city services such as building permits, business licenses, copies and faxes, encroachment permits and for other fees or fines. Any payment over \$500 will be assessed a 2.5% additional charge to cover administrative banking fees generated from credit and debit card payments. Any purchase for utilities over \$500 will be exempt from the 2.5% additional charge. Utility online payments will be charged the CUSI credit card processing fee of \$2.50 or 3% of the transaction, whichever is greater. City Hall staff will have the fiduciary responsibility of processing credit and debit card payments in compliance with the current credit and debit card federal and state laws.

### **A. Allowable Transaction Types**

- Membership dues and subscriptions
- Registration for conferences and training
- Reservation for approved travel/lodging
- Supplies, materials, and small equipment (subject to per transaction limit)

### **B. Single Transaction Limit**

Single transaction limit is \$1,500.00 per the [City](#)

Transaction exceeding \$1,500 may be approved by the Finance Director on a case-by-case basis. Pre-approval is mandatory.

Department purchases may have a higher single transaction limit if requested by Department Directors and approved by the Finance Director. The established single transaction limit of \$1,500 should never be circumvented by splitting charges into multiple transactions, or multiple cards.

### **C. Prohibited Purchases**

The following types of purchase are prohibited to be purchased with the Credit Card:

- Services are not to be acquired on credit card due to the lack of insurance and indemnification language associated with these purchases.
- Any purchases or transactions requiring a separate agreement to be signed.
- Cash advances.
- Personal expenses, including but not limited automobile, food, gifts, and entertainment expenses.

### **D. Travel, Meal and Other Expenses**

For expenditures relating to travel, meal and others, the Department Director is to turn in receipts with detailed specification within a week after the travel to City Hall staff.

## **DONATION OF SURPLUS**

The Department Directors will consider the donation of surplus materials, supplies or equipment that have no commercial value or would require an expenditure of funds for continued care, handling, maintenance or storage which would exceed the estimated value. Before considering a donation of surplus materials, the proposed donation(s) need to be approved by City Council.

## **INSURANCE REQUIREMENTS**

The following insurance requirements should apply to most City approved contracts and agreements for work performed on City property. Generally, the City of Tulelake will require contractors to provide evidence of current General Liability insurance with an endorsement to name the City of Tulelake as an additional insured; Auto insurance of a specified dollar amount per occurrence; Workers' Compensation coverage with statutory limits; Employer's Liability of a specified dollar amount per occurrence; and a Workers' Compensation Waiver of Subrogation endorsement. **Contracts with unusual hazards or risks should be reviewed by the City's Finance Director prior to sending a contract to a vendor or including it in a bid solicitation.** Each City approved agreement will provide the complete details of the insurance requirements.