

City of New Berlin General Financial Policy	TITLE: Procurement Policy
AUTHORIZATION DATE: 10/12/06	LAST UPDATE: 6/14/07,10/13/15,1/8/19
POLICY SOURCE: Finance Committee	SCOPE: City – wide
Reviewed by City Attorney n/a	Board/Commission Approval: Finance Committee 07/15/15, 12/13/18 Common Council 10/13/15, 1/8/19

I. GENERAL

The purpose of this policy is to allow the City to acquire, on a competitive basis, all goods and services at the best value possible and operate in a manner that maximizes the effectiveness and efficiency of services provided by the City.

II. POLICY

The City of New Berlin, as a local governmental entity, needs to ensure that the expenditure of public funds occurs in a manner that balances the desire for lowest cost to the City with an expectation of a quality product. The purpose of this policy is to provide guidance and procedures to be followed for procurement of goods and services for all City departments within the scope of the City Code and the Wisconsin Statutes. The controls and procedures set forth are intended to provide reasonable assurance that the lowest cost, highest quality good or service is obtained, while balancing the need for flexibility in department operations. This policy covers items that have been included in the city budget as approved by the Common Council.

The purpose of the purchasing program is to enable departments to acquire needed equipment, materials, supplies and services of suitable quality for the purpose intended from the lowest priced responsible and responsive bidder while enhancing competition and providing fair opportunity and equitable treatment for all vendors.

This will be accomplished by utilizing a combined effort between City departments and the Mayor. The Mayor will concentrate efforts on standardizing and centralizing purchases of common use items among all departments while enlisting individual department's expertise in purchasing specialized items unique to their departments. When purchasing these specialized items, the individual department becomes responsible for ensuring that the provisions of this policy are followed.

The policy pertains to all agencies, departments or offices of the City and, when applicable unless otherwise provided by statute, those committees, boards or commissions which manage or operate other City properties, installations or activities.

III. PROCEDURES

A. DEPARTMENT SPECIFIC PURCHASES

In order to take advantage of the technical expertise within various City Departments, department personnel will have the authority to purchase specialized items unique to their operations. The Mayor will be available to serve in an advisory capacity. However, if the department wishes, the responsibility for the purchase of these specialized items may be turned over to the Mayor. Certain departments employ individuals whose duties include routine purchasing of non-specialized goods and services. These individuals retain such authority at the discretion of the Department Head and the Mayor, and shall execute their purchasing responsibilities in accordance with all provisions of this policy and under the general oversight of the Finance Department. The individual coordinating the purchase will be responsible for ensuring that all provisions of the procurement policy are followed. Upon request of the Finance Director, departments will furnish copies of quotes and other documentation to show compliance with the procurement policy.

If a question arises over the categorization of a purchase as specialized or non-specialized, the Mayor will make the final determination.

B. PURCHASING AND CONTRACTING LEVELS

Purchases of and contracts for supplies, materials, equipment and contractual services shall be made in the best interest of the City according to the spending guidelines in this policy. While the policy encourages bid pricing, sole source purchases may be made without competition when only one sole source is available or there is a valid reason to purchase from one source. Sole source purchases must be agreed upon in advance between the department and the Mayor. The reason for the sole source purchase must be documented and retained on file by the department. For all purchases the Mayor reserves the right to coordinate the purchase of like items where such purchase is beneficial and practical.

- (1) *Purchases of \$500 to \$15,000* require the solicitation of two or more quotes, except as section III (C) applies, which may be written or verbal, but documented in either case. When verbal quotes are received, all pertinent details of the quote should be documented in writing by the department and retained on file.
- (2) *Purchases of \$15,000 or more (other than Public Works Construction Projects)* require a minimum of two written quotations be solicited. Any new contracts or agreements for services or equipment with an anticipated contract cost of \$15,000 or more require the approval of the Mayor prior to execution.

- (3) *Public Works Construction Projects.* In accordance with Wisconsin Statute 62.15 & 66.0901, all such projects or materials for such projects, the cost for which is expected to be greater than \$25,000 must be competitively bid. The City Attorney or his /her designee will determine the applicability of this statute to individual projects.

The bidding and awarding processes are detailed in Wisconsin Statute 66.0901. All public works bids and staff recommendations will be submitted through the commission, board or committee with jurisdiction over the issue, for Common Council approval.

C. STANDARD CONTRACTS

When the Department has standardized the purchasing of a good or service and has issued standard purchase orders or contracts for these goods or services, such goods or services shall be purchased from the agreed upon vendor for the length of the agreement. The standard contracts will usually be let on an annual basis. Exceptions will be made only when the requisition clearly states the reason for which the standard item is unacceptable.

D. COOPERATIVE PURCHASING

The Mayor shall have authority to join with other units of government, with quasi-government agencies funded in whole or in part by the City, and with other purchasing associations in cooperative purchasing plans when the best interest of the City would be served. Competitively bid cooperative purchasing contracts onto which the City “piggybacks” are considered to have met competitive requirements, and no additional quotes are necessary. Additionally, if identical projects can be obtained at a lower price than current cooperative purchasing contracts, no additional quotes are required.

E. PURCHASING FROM GOVERNMENT UNITS

Materials, supplies, machinery and equipment offered for sale by the federal or state government or by any municipality may be purchased without bids at prices to be agreed upon between the Mayor and the respective department for which the item is to be acquired. Expert assistance for appraisal of such items may be employed at the discretion of the Mayor.

F. EMERGENCY PURCHASES

Any City department or agency may purchase in the open market, without filing a requisition or estimate, or receiving competitive bids, any supplies, materials or equipment for immediate delivery to meet emergencies arising from unforeseen causes. The following situations constitute an emergency under this provision of the policy:

- (1) Any situation in which there exists immediate and substantial danger to the health, life or property of any person or any situation in which there exists

potential for increased damage to City property if the situation is not immediately remedied;

- (2) Any situation where the normal operation of any City department or Agency is seriously impaired or is in jeopardy or being seriously impaired; or
- (3) When the Mayor or in his absence the Council President declares an emergency.

G. PURCHASE OF RECYCLED MATERIALS

The Mayor will ensure that the average recycled content of all paper purchased by the City measured as a proportion, by weight, of the fiber content of all paper products purchased in the year is not less than those percentages specified in Wisconsin Statute 66.0131 (3) (a) (2).

H. PURCHASE ORDERS

Purchase orders will be required for all purchases of goods and services unless such payment is covered by an existing contract or other agreement.

I. SERIAL CONTRACTING

No contract or purchase shall be subdivided to avoid the requirements of this policy. Serial contracting is the practice of issuing a series of purchase orders to the same vendor for the same commodity or service in any 90-day period in order to avoid the requirements of the procurement policy.

J. APPROPRIATIONS

All purchases shall be made in accordance with the appropriations (budget) that have been approved by the Council for the operation of the respective City departments. The responsibility for not exceeding existing appropriations rests with the department head making the requisitions or purchases.

K. LOWEST RESPONSIBLE BIDDER AND BEST VALUE CONCEPT

All open market orders or contracts shall be awarded to the lowest priced, responsive and responsible bidder taking into consideration the following factors: the qualities of the articles to be supplied; conformity with specifications; product compatibility; maintenance costs; vendor support after the purchase, the ability and qualifications of the vendor to perform the contract, and delivery terms.

- (1) If two or more qualified bids are for the same total amount or unit price, quality and service being equal, the contract shall be awarded to the local bidder. Where it is not practical, the contract will be awarded to one of the bidders by drawing lots in public.
- (2) The Mayor along with the City Attorney, or his/her designee shall have the authority to require a performance bond or other similar instrument of surety in such amount as

is reasonably necessary to protect the best interest of the City before entering into a contract. Notwithstanding the foregoing, performance and payment bonds in the full amount of the contract shall be required for all public construction contracts in accord with Wisconsin Statute Section 779.14.

- (3) Contracts must be approved as to form and sufficiency by the City Attorney or his/her designee.

L. PROCUREMENT OF SERVICES

Whenever practical, the purchase of all services should be based on competitive bids/quotations/proposals subject to the spending guidelines noted in Procedure III (B) of this policy. This includes, but is not limited to, the following categories of services:

Professional Services. Consulting and expert services provided by an organization or individual.

Contractor Services. The furnishing of labor, time or effort by a contractor, usually not involving the delivery of specific goods or products other than those that are the end result of and incidental to the required performance.

Client Services. Those services provided directly to individuals on behalf of the City.

Construction Services. Services provided in the construction of roads, buildings or other facilities.

Technology Services. Services provided in the design, development, installation, and/or operation or maintenance of automated computer systems, including hardware and software.

If it is estimated that the service being solicited has a total cost of over \$15,000 and the value of the service is substantially measured by the professional competence of the providers rather than cost alone, it is recommended that a Request for Proposal (RFP) or Professional Services Qualifications (PSQ) be used to solicit vendor responses.

M. PROHIBITED BUSINESS TRANSACTIONS

- (1) Employees are not allowed to participate directly or indirectly in a purchase when the employee, or a member of the employee's family, has a financial interest in the purchase or the employee, or a member of the employee's family, is negotiating or has an arrangement concerning prospective employment with the supplier, or the action is otherwise contrary to the terms of the City's Code of Ethics in the City Municipal Code or applicable Wisconsin Statutes.

- (2) Purchases for services or goods should not be made from employees of the City unless the employee can be considered an independent contractor as defined by the Internal Revenue Service.
- (3) Employees of the City are not allowed to use City negotiated discounts or the City's tax exempt status to purchase goods or service for their own personal use or gain.
- (4) The City of New Berlin Code of Ethics Policy shall be referenced regarding receipt of gifts. Employees who receive offers of gifts or other improper attempts to influence purchasing decisions should report this to their supervisor and/or the Mayor, who will in turn consult with the City Attorney or shall submit the matter to the City's Ethics Board for an advisory opinion to determine the appropriate course of action.

N. SURPLUS OR OBSOLETE SUPPLIES OR EQUIPMENT

Disposal of City-owned supplies or equipment that is no longer required or serving a useful purpose shall be handled in a manner that is:

- economically feasible;
- in compliance with all applicable laws, regulations and policies;
- environmentally responsible; and
- deemed to be in the best interest of the City.

Departments should contact the Mayor for assistance in determining the most appropriate and beneficial method of disposal. There are several **approved methods** for disposal of surplus, including:

- 1) A live auction conducted by the City or other agency;
- 2) Internet-based auctions or selling tools (i.e. eBay);
- 3) Sale to the general public via advertised, sealed bidding;
- 4) Trade-in on new supplies or equipment;
- 5) Transfer to another City department;
- 6) Donation to approved non-profit organizations;
- 7) Sale, trade, transfer or donation to an outside publicly funded agency;
- 8) Recycling and/or sale as scrap;
- 9) Discarding as trash; and
- 10) Other methods which may be approved on a case by case basis by the Mayor.

Which method of disposal is most appropriate will depend upon several factors, including:

- The condition, location and physical characteristics of the item(s);

- The amount of time, effort, administration and expense required for the method relative to the potential value received;
- The public benefits and/or liabilities associated with the method.

The City will assign one or more Auction Administrators to facilitate sale by auction when appropriate. He or she shall assist departments in selecting an auction type and venue, establish procedures and responsibilities and conduct online auctions.

Disposing of items or groups of items with an estimated value of \$2,500 or more using methods other than 1 through 5 in the **approved methods** list above shall require approval of the Mayor.

For items or groups of items with an estimated value of less than \$50, departments may, at their discretion, utilize any of the approved methods listed, provided the disposal meets the general criteria listed at the beginning of this section. For estimated values over \$50, departments should contact the Mayor or his/her designee for assistance in determining the most appropriate and beneficial method of disposal.

All proceeds received from the sale of City surplus property shall be reported and delivered to the Finance Department for deposit and application to the proper account(s).

City owned supplies or equipment will not be taken by, given to, or sold to City employees except by public auction or competitive bidding, regardless of their apparent value or condition, unless a specific exception is granted by the Common Council.

O. INSURANCE REQUIREMENTS

Follow City's "CONTRACTUAL RISK TRANSFER POLICY" under General Administrative Policies.

P. OPEN RECORDS/PUBLIC INFORMATION

With few exceptions, records related to governmental purchasing are subject to public access under Wisconsin's Open Records Law. This includes, but is not limited to, quotes, bids, proposals, purchase orders and related correspondence. While employees may ask that open records requests be made in writing, the requestor is not required to do so.

- (1) When conducting public bid openings, the names of the bidders and certain bid details, including price shall be read aloud. In the case of proposal (RFP) openings, only the names of the proposers shall be read aloud. In either case, copies of the bids or proposals are not made available, nor are inspection of the documents permitted, until contract award has been submitted for approval to the Committee of Jurisdiction.

- (2) Vendors requesting confidentiality of their quotes, bids, proposals or portions thereof must identify the confidential materials as such and state the specific, legitimate reason(s), i.e. trade secret, propriety customer list.
- (3) Questions regarding compliance with an open records request should be referred to the City Attorney or his/her designee.

Q. INFORMATION TECHNOLOGY RELATED EQUIPMENT AND SUPPLIES

In order to ensure compatibility and maintain standards for the City's information systems, all purchases of information technology equipment, supplies and services must be initiated by and acquired through the Information Technology Department. This includes, but may not be limited to, computers, software, printers, copiers, inks, toners, repair parts, support and maintenance services, telephone equipment, scanners or any peripheral device which interfaces with any part of the City's information systems.

Information Technology staff should be the primary vendor point of contact for all information technology needs. In turn, the Information Technology Department is responsible for adhering to the provisions of this policy when conducting such procurement activities.

R. LOCAL PROCUREMENT

Since there are often cost and service related advantages associated with buying from local sources, the Common Council has adopted the following resolution:

“Resolved, that where not prohibited by law, the City of New Berlin include in the evaluations of all bids, proposals and quotations for goods and/or services (except public construction) where the value of such goods or services is expected to exceed \$5,000, evaluation criteria which favorably and accurately assess the relevant cost and service advantages of procurement from local sources. Where point based systems are used for proposal evaluation and award, the points available for this purpose shall be determined prior to proposal opening and shall not exceed 5% of the total points available.”

The Finance Director is available to assist Departments in applying this policy resolution to specific procurement situations.

This policy was reviewed and approved by the Finance Committee and Common Council and signed by Mayor David Ament on the 15th day of Jan, 2019 as evidenced by his signature hereon. Three signed originals of this policy have been generated. One original is maintained in the City Clerk's office, the second original is maintained in the Finance Department, and the third original is maintained in the Mayor's Office. This policy may only be modified by the Finance Committee with Common Council approval.

A handwritten signature in cursive script, appearing to read "David A. Ament", written over a horizontal line.

David A. Ament, Mayor

Glossary of Terms

Auction Administrator. An individual assigned by the Mayor to assist departments in selecting an auction type and venue, establish procedures and responsibilities, and conduct online auctions for the sale of surplus supplies or equipment.

Bid. A formal price solicited from a vendor for a good or service. Bids are required to conform to specific terms and well defined specifications contained in the solicitation documents. A sealed written bid is required with public notice setting a specific time and place to open all bids received for any project defined as public construction.

City. The City of New Berlin, WI.

Contract. An agreement between 2 or more parties to do something or provide specific goods or services.

Contract Cost. Total cost of a contract, whether for one or more years.

Contractual Services. Includes, but may not be limited to: telephone, gas, water, electric light, power and heating services; towel and cleaning services; leases for grounds, buildings, equipment, office or other space required by the using department; and the rental, repair or maintenance of equipment, machinery or other property owned by the City.

Council. The Common Council of the City of New Berlin.

Department. All agencies, departments or offices of the City and, when applicable unless otherwise provided by statute, those committees, boards or commissions which manage or operate other City properties, installations or activities.

Invitation For Bid (IFB). The documents used to solicit bids from vendors.

Mayor. The Mayor or his/her designee. (Department Head)

Professional Services. Services, the value of which are substantially measured by the professional competence of the persons performing them and which are not susceptible to realistic competition by cost alone. Such services include, but shall not be limited to those customarily rendered by architects, engineers, surveyors, real estate appraisers, certified public accountants, attorneys, financial advisors, medical and social service providers, computer software applications, systems development/implementation, management and other consultants, promotional programs such as marketing and advertising, and such other specific services as determined by the Mayor.

Professional Services Qualifications (PSQ). All documents, whether attached or incorporated by reference, used for soliciting statements of qualification for professional services.

Proposal. A plan received from a vendor and the related cost of implementing the plan. Proposals are usually requested when the specifications or scope of the services needed cannot be adequately prepared to provide all prospective vendors a complete and accurate description of the work to be performed. Vendors are asked to propose their best solution to the needs defined in the solicitation. Proposals are often requested when soliciting costs for professional services, high-tech equipment, other specialized equipment and research and development expenditures.

Public Construction. Substantial repairs, remodeling, construction or improvement of a public work or building (Wisconsin Statute Section 66.0901 & Section 62.15).

Quotation. An informal type of bid received from a vendor offering to sell a product or service. The quotation will contain specified pricing, terms and conditions of sale. The quotation may be either in writing (including a price list or catalog) or verbal, depending upon the dollar value as outlined in IV (C) (2) (3).

Request for Proposal (RFP). All documents, whether attached or incorporated by reference, used for soliciting proposals for professional services.

Request for Quotations (RFQ). A written request for informal bids or quotes.

Service. The furnishing of labor, time or effort by a contractor, usually not involving the delivery of specific goods or products other than usual reports, materials or drawings which are the end result of and incidental to the required performance.