



City of Portland City Manager Search Subcommittee Meeting

November 23, 2021 at 8:00 AM via Zoom

1. ZOOM INFORMATION:

- a. This meeting will take place remotely using Zoom.

Virtual meetings are allowed using emergency legislation approved by LD 2167; 1 M.R.S. §403A, that authorizes cities and towns to conduct meetings online. Allow your computer to install the free Zoom app to get the best meeting experience. If you are not able to attend live, a recording will be uploaded to portlandmaine.gov/livestream the next day.

For public comment, you will need to use the "raise your hand" feature. To raise your hand via the telephone, please hit *9. You will be unmuted by the host when it is time for public comment.

Please click the link below to join the webinar:

<https://us02web.zoom.us/j/87445602855?pwd=aWZLY3NLWWVDK3dlaEpBZG0xemUzd09>

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2. Call to order
3. Approve minutes from last meeting
 - a. Minutes from November 9, 2021 Meeting
4. Review of City Procurement Policy
 - a. [City Procurement Policy](#)
5. RFP Process Selection
 - a. Discuss choice of custom RFP vs tailoring an existing RFP

b. Vote on choice between custom RFP vs tailoring an existing RFP - Public Comment Will Be Taken

6. Timeline for RFP Process

7. Other Business

8. Adjournment

City Manager Search Subcommittee Minutes
November 9, 2021

The November 9, 2021 City Manager Search Subcommittee meeting was called to order by Acting Chair Kate Snyder at 8:00 AM on Zoom.

Mayor Kate Snyder (Chair) Councilor Pious Ali, Councilor April Fournier, Councilor Mark Dion and Tom Caiazzo (Interim Human Resources Director), Danielle West (Interim City Manager) and Jessica Grondin (Communications Director) were present.

Mayor Snyder opened the meeting, noting that this is the first meeting of the City Manager Search Subcommittee. Mayor Snyder further stated that we would be talking broadly about the issues concerning the search for a new City Manager.

There was a discussion about whether we wanted to develop and run our own RFP process or “piggyback” with a search firm that had done a recent similar search for another municipality.

Councilor Fournier felt that given the uniqueness of Portland, it may be beneficial to take more time and develop our own RFP.

There was some discussion about the timeline for both our own RFP and that of “piggybacking” with another municipality.

Councilor Dion wants to make sure that from the outset, the Public has the opportunity to weigh in on the process.

Mayor Snyder wants to make sure we map out a definitive timeline to make sure that we don’t get ahead of ourselves.

Mayor Snyder wants to make sure that using a “sole source” or piggybacking complies with our procurement rules.

Councilor Fournier wants the subcommittee to ensure that the process is in line with the diverse culture that we have in Portland.

Councilor Dion would like the subcommittee to have a motion in place and a decision made at the next meeting to ensure that we have an RFP process set by January 10, 2022.

The subcommittee will continue the RFP discussion at the next meeting with the hopes of making a decision on a custom RFP or trying to piggyback on a search firm from another municipality.

A motion was made to adjourn by Councilor Fournier and seconded by Councilor Ali.

Meeting was adjourned by Chair Snyder at 9:00 AM.

Date: July 19, 2018

**Administrative Regulation
No. 10
Purchasing Policy**

I. Purpose

The purpose of this Administrative Regulation is to establish a uniform purchasing procedure for the city. This policy is to be used in conjunction with the Purchasing Ordinance, Section 2-301 of the Portland City Code.

II. Policy

A purchasing system cannot function properly without the cooperation and assistance of all city departments. It is the policy of the city to promote a harmonious relationship between Purchasing and other departments. Purchasing has the duty and authority to request reconsideration of specifications or quantity of material. The final determination of quality and quantity will be made in cooperation with the requisitioning department, within budget constraints.

III. Procedures

A. General Procurement Procedure

The policy of the city is to maintain a responsible purchasing process with the Finance Department. This process will be administered by the Purchasing Manager, under direction of the Finance Director or their designee. The Purchasing Manager's responsibilities include administering purchasing policies, maintaining files containing all information regarding city purchasing performance, negotiating and approving purchases requested by departments, consolidating purchases of like or common items, and continually evaluating the purchasing process. Procurement commitments will be stated by contract or purchase order. All contracts must be signed by the City Manager; all purchase orders must be signed by the Purchasing Manager. As stated in the Purchasing Ordinance, selections may not be based on price alone. Purchases may also be awarded based also on availability, quality, experience, reputation and performance capability of the vendor.

During the bid or RFP process, departments should be particularly careful not to discuss any elements of the outstanding bid/RFP with any potential vendors.

1. \$25,000 or More

Any expenditure of \$25,000 or more must be procured by a formal competitive process, as outlined in the Procurement Ordinance, unless the

expenditure is a product of an open-end bid for commodities or is included as one of the *Exceptions to the required competitive process* as outlined in Section 2-302(e) of the City Code¹. The only exceptions are a declared emergency, sole source item, and brand specific items, all of which must be approved by the City Manager.

An emergency situation must be supported by written explanation. An emergency is usually easily identifiable, but can include situations involving safety of the public or city employees, and repair or replacement of essential equipment. No services or goods shall be purchased prior to the City Manager's declaration of emergency.

A sole source determination must be supported by a written finding that the supplier, contractor or consultant is the only one that can supply the city with these goods or services. Such determinations are subject to verification by the Purchasing Manager and will be reviewed periodically.

Unless otherwise prohibited by applicable state or federal law nothing in this policy shall prevent or prohibit the City from soliciting bids for supplies and materials on the basis of brand names so long as approval is provided by the Finance Director, solicitation is in furtherance of a policy of standardization of materials, and the City Manager determines that there is a sufficient number of brand name supplies or materials in the area of solicitation to provide a reasonable expectation of competition for the bid. To initiate a formal competitive process, an electronic requisition should be submitted and specifications should be sent to Purchasing, where a review of the requirements with the department will take place and bid or RFP materials will be developed (see *B. Requests for Proposals*). An advertisement may be placed in the local newspaper, and other publications if appropriate, including the Internet. The proposal due date will be a minimum of two weeks after the advertisement.

Requisitions will be electronically routed, after department approval, to the Finance Director, or their designee, for approval. If the purchase involves HCD funding, the requisition will first be routed to the HCD Administrator for approval. Purchases of computer hardware or software require consultation with the IT Department. Once approved, the requisition will be routed to buyer processing. Encumbrance of funds will happen with the electronic requisition process.

Purchasing is responsible for receiving each proposal and enforcing the submittal deadline. If a proposal is sent to a department it should not be opened and Purchasing should be contacted immediately. Purchasing will accept proposals up to the precisely specified date and time. Any proposals received after the deadline will be returned to the applicant unopened.

Vendors requesting clarification of bid specifications must submit questions

¹ Attachment A to this policy includes excerpts from Chapter 2 of the City Code pertaining to Procurement and Contracting Procedures

in writing to Purchasing within the timeline indicated in the solicitation. Questions can be mailed, faxed, or e-mailed, and responses which alter the specifications will be issued through an addendum by Purchasing; departments should not respond directly to vendor questions. The city must insure that any substantive information given to a single potential applicant be given to all potential applicants.

All recommended awards of \$25,000 or more must be approved by the City Manager.

Once a decision has been made, Purchasing will work with Legal to draft a contract, where applicable, and send a purchase order to the vendor. The department will receive notification of the purchase order and a copy of the executed contract. In cases of construction projects, contracts that are included in the bid books will be used. Encumbrance of funds will happen with the electronic requisition process.

2. Purchases of used vehicles and equipment

- a. By exception to the Ordinance, used vehicles and equipment do not require a formal bid/RFP. The following rules govern procurement for these types of items.
- b. Departments wishing to purchase used equipment will first contact the Purchasing office to determine compliance with the exception. A requisition must be entered and must be approved by the Finance Director, or their designee. Purchasing will use industry resources and contact internal staff with particular expertise to discuss possible sources, and work with that staff and the Department to evaluate equipment, the condition, and relative value of specific equipment. Purchasing will lead any negotiation on price. This relates to non- fleet items.
- c. Departments wishing to purchase used fleet items, such as heavy equipment or vehicles, will first need to contact the Fleet Manager to determine if an existing City owned vehicle is available. In the event no suitable vehicle from the fleet is available the Fleet Manager will notify the Purchasing of the request to purchase a used vehicle and will provide cost estimates to both Finance and the requesting department. A requisition must be entered and must be approved by the Finance Director, or their designee. Once the requisition is approved the Fleet Manager will work with the requesting department and Purchasing to identify sources, evaluate condition of items, and negotiate price.

- d. Once a decision has been made, Purchasing will work with Legal to draft a contract, where applicable, and send a purchase order or purchasing agreement to the vendor. The department will receive notification of the purchase order/agreement and executed contract. Encumbrance of funds will happen with the electronic requisition process. Fleet Services will be the procuring department for all vehicles purchased and will be responsible for keeping vehicle purchases and upfit costs within estimates. Any potential cost overruns will be communicated to the requesting department and Finance.

3. \$5,000 to \$24,999

Expenditures of \$5,000 or more and less than \$25,000 can, but do not need, to be formally bid. They do need to be priced, departments are required to obtain a minimum of three (3) written quotes, unless the expenditure is a product of an open-end bid. The purchase should be handled in one of two ways:

- a. Requisitions will be electronically routed, after department approval, to the Finance Director, or their designee, for approval. If the purchase involves HCD funding, the requisition will first be routed to the HCD Administrator for approval. Purchases of computer hardware or software will be reviewed with the IT Department for approval. The department can obtain quotations from at least three vendors, which must be in writing from. The quotes should be forwarded to Purchasing with the requisition number. Once approved, the requisition will be routed to buyer processing.

If the Purchasing Manager believes there are other vendors who should be solicited, or that the information is incomplete, follow-up will be done. The final decision will be made in collaboration with the ordering department. Also, Purchasing can provide departments with names of possible vendors to contact, if desired.

Once a decision has been made, Purchasing will work with Legal to draft a contract, where applicable, and send a purchase order or purchasing agreement to the vendor. The department will receive notification of the purchase order/agreement and executed contract. Encumbrance of funds will happen with the electronic requisition process.

- b. The same procedure can be followed as with formal bidding, but without advertising. The department can send only a requisition to Purchasing. The requisition should detail the items or services required, and specifications should be attached if available. The department can also indicate possible vendors. Purchasing will contact vendors and obtain pricing, and then contact the department to determine the best purchase.

Once a decision has been made, Purchasing will work with Legal to draft a contract, where applicable, and send a purchase order or purchasing agreement to the vendor. The department will receive the appropriate copies of these documents.

c. Between \$1,000 and \$5,000

Expenditures of between \$1,000 and \$5,000 can be made on field Purchase Orders (FPOs) or with the use of a purchasing card with an approved increase in transaction limit². Although not required, Departments are strongly encouraged to obtain a minimum of three (3) written quotes to ensure the best price is secured for the City (unless the expenditure is a product of an open-end bid). The quotes should be sent to the Department Financial Officer at the time of procurement. Finance along with the Department Financial Officer will perform periodic review of transactions between \$1,000 and 5,000 to ensure best prices are being obtained.

NOTE: All purchases of **computer hardware or software** may not be made using a field purchase order or purchasing card. Such purchases require consultation with IT to get appropriate specifications and quotes. Requisitions must be entered by the requesting department after quotes are received from IT.

Attached as an exhibit to this policy is a copy of the Purchasing Card User Agreement that all cardholders must sign before accepting the card.

FPO's or purchasing card transactions:

- Cannot be split to exceed limitations;
- Cannot be used for personal purchases.

d. Less than \$1,000

Expenditures of less than \$1,000 can be made on field Purchase Orders (FPOs) or with the use of a purchasing card. Attached as an exhibit to this policy is a copy of the Purchasing Card User Agreement that all cardholders must sign before accepting the card. FPO's or purchasing card transactions:

- Cannot be split to exceed the \$1,000 limit;
- Cannot be used for personal purchases.

² Purchasing card limits have been set at \$1,000. Requests for increases in the per transaction limit must be made in writing to the Department Head with a copy to the Department Financial Office. Details on why the increase is required must be included in the request. Department Head approval, followed by Finance Director approval must be obtained before any increase in card limit will be granted.

B. Requests for Proposals

All contracts for professional or consulting services, unless exempted by City Ordinance, must be negotiated through a request for proposals, as long as the City Council has already appropriated sufficient funds for the services. The only exception to the RFP process would be for the contract to be authorized by the City Council.

A request for proposals (RFP) is primarily solicited for professional services, such as engineering, legal or consultant work. An RFP can also be solicited for equipment, such as a fire engine or mowers, or design/installation type jobs, such as an alarm system. All RFP's for an anticipated cost of \$25,000 or greater must be formally competitively bid, unless a case can be made for an emergency or sole source, as in Section I above. To initiate an RFP, the department should initiate an electronic requisition and send written project information and/or specifications to Purchasing. Purchasing will work with the department to develop a proposal package and advertise. Purchasing may also have other experience with a similar RFP type and may be able to assist the department in writing specifications.

1. Elements of an RFP

RFP specifications should include the following information:

- a. Purpose of the RFP.
- b. Performance specifications, such as deadlines.
- c. Minimum qualifications, if any.
- d. Notice of pre-proposal conference, if any.

Weighted selection criteria to be used in evaluating proposals, developed with the Purchasing staff.

Example:

Price	30%
Project Approach	40%
Qualifications of personnel	20%
Experience on similar projects	10%

2. Addenda to an RFP

Vendors requesting clarification of specifications must submit questions in writing to Purchasing within the timeline indicated in the solicitation. Responses which alter the specifications will be issued through an addendum by Purchasing; departments should not respond directly to vendor questions. The city must insure that any substantive information given to a single potential applicant be given to all potential applicants. An RFP may be advertised by Purchasing in the local newspaper or other media that the Purchasing Manager determines to be the best method of soliciting the request.

An RFP selection committee should be used by the department to choose a vendor. A representative from Purchasing must participate with that committee. The committee should involve Legal to resolve questions during the selection and finally to draft the contract. The City Manager must approve all RFP recommendations. The role of the Purchasing representative is to ensure the integrity of the process. This person will not score the proposals.

Contracts for professional services awarded through the RFP process can have a term of no longer than three years, unless waived by the Finance Director.

C. Changes to Contracts and Purchase Orders

After a purchase is awarded, there may be desired changes to the original cost and/or terms. A change to a purchase order must be communicated to Purchasing, who will contact the vendor and issue an amendment to the original order. These occurrences should be rare, as products should be bid as desired.

A change to a contract can be in one of two forms:

1. A change to a contract can be made with an amendment, drafted by Legal. Purchasing should be informed of any amendments to be made. The Budget Office and the City Manager must endorse all contract amendments. Also, those that involve HCD funding need approval of the HCD Administrator.
2. A change to a construction contract can be made with a change order. All change orders also must be endorsed by the Budget Office and the City Manager. Also, those that involve HCD funding need approval of the HCD Administrator.

Approvals should be obtained BEFORE work is actually done. In instances of public or employee safety, written approvals can be obtained after the fact. For any other instances where prior approvals may not be possible, communications must be made with the Budget Office, and appropriate approvals must be obtained immediately after the fact.

In both cases of change, Purchasing will encumber the funds by either changing the current purchase order or creating a new one.

D. Non-Performance by Vendor or Contractor

Departments experiencing problems with any vendor or contractor should notify Purchasing in writing of those problems. Purchasing will keep track of such issues to aid in researching qualifications on future bids/RFPs. Purchasing will also help to resolve problems between vendors/contractors and departments. The time to notify Purchasing about the unsatisfactory performance of a vendor/contractor is

during the contract period; waiting until the same party is a successful bidder on a subsequent project does not guarantee the city's ability to reject that company. The rejection of a bid or RFP under these circumstances requires a documented history of poor service or performance.

E. *Lease or Rental of Equipment and Software, and Maintenance Agreements*

Any agreement for the lease or rental of equipment, including software, must be reviewed by Finance and Legal, and signed by the City Manager. Such agreements should be forwarded to the Finance Department for review in conjunction with the Legal Department. They should not be signed by employees unless authorized by the Legal Department.

Maintenance agreements must be reviewed by the Finance Department and, in some instances, by the Legal Department.

F. *Procurement of Computer Software and Applications*

City Code, Chapter 2, Article VII, Sec 2-303(e) *Exceptions to required competitive bidding process* notes that “*The requirement of a competitive process set forth in subsection (b) above may be waived by the City Manager, in his or her discretion, if (1) or more of the following conditions are met, and the Finance Director has certified that funds are available for procurement*

...

(6) The procurement is of computer equipment, investment, services, appraisal services, repair parts, travel, transportation, island transportation, maintenance contracts, and similar purchases to the extent specified by rule of the Finance Director

The Finance Director has determined that the purchase of new computer software and applications is included as an exception to the required competitive bidding process as a “similar purchase” within Sec 2-303(e)6. These purchases should only be made after consultation with the IT Department. Multiple quotes should be obtained whenever possible.

G. *Non-Discrimination Policy and Required Contract Language*

The City of Portland requires the following language included in all contracts:

Contractor agrees to adhere to a policy of non-discrimination in all employment actions, practices, policies, procedures, phases, and conditions of employment. This shall include compliance with the Workforce Investment Act of 1998, as amended (WIA, 29 CFR part 37); the Nontraditional Employment for Women Act of 1991; title VI of the Civil Rights Act of 1964, as amended; section 504 of the Rehabilitation Act of 1973, as amended; the Age Discrimination Act of 1975, as amended; title IX of the

Education Amendments of 1972, as amended; and with all applicable requirements imposed by or pursuant to regulations implementing those laws, including but not limited to 29 CFR part 37 and all other applicable laws, including the Maine Human Rights Act, ordinances and regulations regarding equal opportunity and equal treatment. Contractor specifically agrees that all employment-related decisions (including but not limited to hiring, discharge, transfers, promotions, discipline, training, job opportunities, and wage and salary levels) will be made without discrimination based on an individual's race or color, religion, age, sex (including pregnancy), sexual orientation, gender identity or expression, ancestry or national origin, physical or mental disability, veteran status, genetic information, previous assertion of a claim or right under Maine's Workers' Compensation Act, previous actions taken protected under Maine's Whistleblowers' Protection Act, or any other protected group status as defined by applicable law. Provisions in applicable laws providing for bona fide occupational qualifications, business necessity, or age limitations will be adhered to by the Contractor and its subcontractors where appropriate.

H. Violations of Purchasing Policy

Any violations of this purchasing policy will be communicated to the Department Head, Department Financial Officer, and the violating employee. Repeat offenses by any employee will be subject to temporary suspension of purchasing privileges. Purchasing privileges will only be restored upon completion of a Purchasing Policy training session performed by the Finance Department.

Continued repeat violations of the Purchasing Policy will be formally communicated by the Finance Department in writing to the Department Head, Department Financial Office, the violating employee, and Human Resources. Such violations will be subject to permanent revocation of all purchasing procedures.

December, 2000; Revised December 2010, December 2015, July 2018

Purchasing Card User Agreement

I agree to the following terms regarding use of the City of Portland Purchasing Card:

1. I understand that I am making financial commitments on behalf of the City of Portland, and will strive to obtain the best value for the city;
2. I fully understand that I may not, for any reason, allow anyone else to use my purchasing card;
3. I fully understand the \$1,000 per transaction limit and that splitting transactions is unacceptable. I understand that I will be warned the first and second time and lose the purchasing card permanently should it happen again.
4. Under no circumstances will I use the Purchasing Card to make personal purchases, either for myself or for others. There will be two warnings; the third time I will lose Purchase Card for 60 days. Should it happen again, I will lose the purchasing card permanently.
5. I understand that this Purchasing Card has restricted purchases on travel expenses such as hotels, food, auto rentals or airline tickets.
6. I understand that there are other restricted/blocked purchases such as gasoline, fuel, vehicle repairs, restaurants & bars, cash advances, alcoholic beverages, telecommunications equipment, personal items and services, utilities, etc.
7. I have been provided a copy of the Purchasing Card Cardholder Guide, and understand the Purchasing Card Program. I agree to surrender my card upon termination or change of employment or transfer to another department; and
8. I agree to follow the established procedures for use of the Purchasing Card and understand that failure to do so will result in either loss of privileges or other disciplinary actions, which may include employment termination. I agree that should I willfully violate the terms of this agreement, I will be subject to disciplinary action including potential employment termination and/or criminal charges.

I certify that I have received a JPMorgan Chase Purchasing card and that I understand the terms and conditions explained to me. In addition, I have been given an opportunity to ask questions to clarify my understanding of the program;

Cardholder Name (printed)

Dept./Division – Default Code

Cardholder Signature

Date

Note: This form shall be maintained by the Purchasing Card Administrator