



City Council

Agenda Item

Subject: Approval of the Resolution 25-13, a Resolution Adopting a Revised Procurement Policy for the City of Watertown, South Dakota.

Meeting: City Council - Apr 21 2025

From: Kristen Bobzien, Interim City Manager/Chief Financial Officer

BACKGROUND INFORMATION:

The Procurement Policy was originally approved by City Council through the approval of Resolution No. 23-11 during the March 6th, 2023 City Council Meeting. The Interim City Manager, along with Department Heads and Division Managers, have reviewed the previously approved Procurement Policy and have made the recommended updates.

FINANCIAL CONSIDERATIONS:

NA

STAFF RECOMMENDATION / SUGGESTED MOTION:

I move to approve Resolution 25-13, a Resolution Adopting a Revised Procurement Policy for the City of Watertown, South Dakota.

ATTACHMENT(S):

[Res No. 25-13 Adoption of Revised Procurement Policy](#)
[Procurement Policy for City Council](#)

RESOLUTION NO. 25-13

A RESOLUTION ADOPTING A REVISED PROCUREMENT POLICY FOR THE CITY OF WATERTOWN, SOUTH DAKOTA

WHEREAS, the City of Watertown, South Dakota previously adopted a procurement policy by Resolution 23-11 to implement a Procurement Policy to adopt a fair, consistent policy for public purchasing; to clarify signatory authority; and to standardize purchasing procedures.

WHEREAS, the Interim City Manager and staff have been working on revisions to the procurement policy to provide more efficiency in public purchasing and to continue a fair and consistent policy, including signatory authority and standardized purchasing procedures.

WHEREAS, pursuant to Section 3.04.12 of the Home Rule Charter, the City Manager signs all contracts on behalf of the city, however, the contract shall be approved by the City Council, except as may be otherwise provided by ordinance or resolution.

WHEREAS, pursuant to SDCL 9-1-5, the governing body of a municipality may, by ordinance or resolution, delegate to any employee of the municipality the authority to enter into a contract on behalf of the municipality and to execute the contract and any other instrument necessary or convenient for the performance of the contract subject to the limitations delegated by the governing body.

WHEREAS, the City Council has determined that it is in the best interests of the City to approve a revised procurement policy to authorize and delegate certain contractual duties to city staff under clear parameters in order to promote the efficiency of public purchasing and procurement of goods and services and provide a fair and consistent policy for the betterment of the City and expenditure of City funds in accordance with both the Home Rule Charter and the laws of the State of South Dakota.

NOW, THEREFORE, BE IT RESOLVED by the City Council, City of Watertown, Codington County, South Dakota, adopts the revised Procurement Policy for the City of Watertown, South Dakota and authorizes the City Manager to provide any future updates to the Procurement Policy as needed for approval by the City Council.

Dated at Watertown, South Dakota this 21st day of April, 2025.

The above and foregoing Resolution was moved for adoption by Alderperson _____, seconded by Alderperson _____, and upon roll call _____ voted aye whereupon the Mayor declared the resolution to be duly passed and adopted.

I hereby certify that Resolution No. 25-13 was published in the Watertown Public Opinion, the official newspaper of said City, on the _____ day of April, 2025.

ATTEST:

City of Watertown

Jennifer Collins
Records & Licensing Manager

Ried Holien
Mayor



City of Watertown

PROCUREMENT POLICY

Purchasing Guidelines

Effective Date: April 2025

City of Watertown Policy: 01	Title: Procurement Policy	Purchasing Policy Guide
Issue Date: 04/01/24	Updated: April 2025	Section:
Policy Source: City Council	Policy Audience: City Employees and Vendors	Total Pages: 28

TABLE OF CONTENTS

SECTION 1: GENERAL PROVISION	4
1.1 ORGANIZATIONAL GUIDING PRINCIPLES	4
1.2 PURPOSE	4
1.3 OBJECTIVES	4
1.4 SCOPE	4
1.5 PUBLIC ACCESS TO PURCHASING INFORMATION	5
SECTION 2: DEFINITIONS	6
SECTION 3: PURCHASING BASICS	10
3.1 TYPES OF PURCHASING TRANSACTIONS	10
3.2 DETERMINE ANNUAL COSTS	10
3.3 SINGLE PURCHASE UNDER BID LIMIT	11
3.4. ANNUAL CONTRACTS	11
3.5 MULTI-YEAR CONTRACTS	11
3.6 PROCUREMENT PROCEDURES FOR QUOTES, PROPOSALS, AND BIDS	13
3.7 PURCHASING GUIDELINES	14
3.8 RFP/RFQ AND BID COMMUNICATION	16
3.9 BID, PERFORMANCE, AND PAYMENT BONDS	17
3.10 CONTRACT MANAGEMENT	17
3.11 RECEIVING OF GOODS/EQUIPMENT	18
3.12 CITY PURCHASING RECORDS	18
3.13 REPORTING OF ANTICOMPETITIVE PRACTICES	19
SECTION 4: ETHICS IN PUBLIC CONTRACTING	20
4.1 CRIMINAL PENALTIES	20
4.2 EMPLOYEE CONFLICT OF INTEREST	20
4.3 GRATUITIES AND KICKBACKS	20
4.4 PROHIBITION AGAINST CONTINGENT FEES	21

4.5 CONTEMPORANEOUS EMPLOYMENT PROHIBITED	21
4.6 USE OF CONFIDENTIAL INFORMATION	21
4.7 PURCHASES FROM EMPLOYEES OR AGENTS OF THE CITY	21
4.8 SANCTIONS	21
4.9 RECOVERY OF VALUE TRANSFERRED OR RECEIVED IN BREACH OF ETHICAL STANDARDS	21
SECTION 5: CONTRACT ADMINISTRATION.....	23
5.1 CONTRACT ADMINISTRATION	23
5.2 SIGNATORY AUTHORITY	23
5.3 CHANGE ORDER REVIEW POLICY AND PROCEDURE	23
5.4 DEBARMENT OR SUSPENSION.....	23
EXHIBIT 1: EXEMPTIONS FROM BIDDING.....	26



SECTION 1: GENERAL PROVISIONS

1.1 ORGANIZATIONAL GUIDING PRINCIPLES

MISSION

The City of Watertown is focused on opportunities and responsible growth.

VISION

We will provide excellent services and opportunities for everyone to be safe, happy, and successful.

VALUES

Honesty, Transparency, Integrity, Excellence, Service, and Grace

1.2 PURPOSE

This document is intended to develop an open, fair written policy to provide direction to City Staff on the process to purchase goods and services in a competitive and timely manner. The purchasing function's integrity, efficiency, and effectiveness are critical elements of sound government.

1.3 OBJECTIVES

The objectives of the City's purchasing program are as follows:

- To provide a uniform system to obtain supplies, materials, equipment, and services in an efficient and timely manner;
- To facilitate responsibility and accountability with the use of City resources;
- To ensure equal opportunity and competition among suppliers and Contractors;
- To promote effective relationships and clear communication between the City and its suppliers and Contractors;
- To comply with the comprehensive State procurement statutes which govern expenditures of public funds;
- To obtain the maximum benefit from every tax dollar spent.

1.4 SCOPE

These guidelines apply to the purchases of

- Supplies, materials, vehicles, and equipment
- Professional services (Construction and Non-Construction)
- Non-professional services (Travel, Professional Development Training)
- Public Infrastructure projects

Nothing in this policy shall prevent any public department from complying with the terms and conditions of any grant, gift, or bequest that is otherwise consistent with law.

1.5 PUBLIC ACCESS TO PURCHASING INFORMATION

Purchasing information shall be a public record to the extent provided by State Statute and shall be available to the public as provided in such statutes (1-27-1, 1-27-1.1, 1-27-1.3, and 1-27-1.23). A public records request can be made through the Finance Department and will be charged according to the fee resolution. There may be a charge if the request is estimated to exceed more than one hour of staff time, additionally, all City accounts payable transactions are published monthly in the local newspaper as per State statute.



SECTION 2: DEFINITIONS

Advertisement – A legally required public notice circulated through media such as newspaper and website posting to solicit vendors and inform on specifications on item or bid.

Amendment/Addendum – document used to change provisions of a contract or bid. An amendment will typically require both parties of a contract's approval to change provision. An addendum will add an omitted requirement or condition to the solicitation before a posting date and does not require the mutual consent of two or more contracted parties to change. An addendum can also omit a provision or modify contract or bid prior to execution.

Approval Authority Level – Related to an individual's job title; describes the respective authority to submit a request to purchase/pay for a good or service or to enter into a contract on behalf of the City.

Bid Booklet – A document prepared routinely by the State of South Dakota Department of Legislative Audit for the purpose to guide South Dakota local governments on acquisitions, disposals, and exchange transactions.

City Employee – An individual drawing a salary or wages from the City, whether elected or not; any non-compensated individual performing personal services for the City or any department, activity, commission, council, board, or any other entity established by the executive or legislative branch of the City; and any non-compensated individual serving as an elected or appointed official of the City.

Contract – Any contract enforceable by law between the City and one or more outside parties, whether written or oral, regardless of form or title for the purchase of supplies, materials, services, professional services, and construction. Any contract for purchases or services, the duration of which shall exceed one year, shall be subject to annual appropriation, and the alternative approved by the City Council. All contracts between the City and another party, regardless of amount and duration, should be submitted to the Finance Department to comply with the City's record retention policies.

Contract Modification (bilateral change) – Any change or alteration in specifications, delivery point, rate of delivery, period of performance, price, quantity, or other provisions of any contract accomplished by mutual action of the parties to the contract, whether written, oral, or by acquiescence.

Construction - The process of building, altering, improving, or demolishing any structure, building, or other improvement to real estate property. Excludes the maintenance or routine operation of an existing improvement to real estate property.

Department – A grouping of staff with specialized focus or responsibility to the City and its constituents dealing with a specific subject area or activity and may have individualized subgroups within that subject area.

Division – A subgroup of a Department that specializes on a specific matter or activity under the Department's focus. Will be responsible for a specific set of activities that support the overall function or structure of the Department.

Director/Department Head – Authorized authority to act on behalf of Department and Department's Division when applicable. Oversee the operations of Department and responsible for collaborating across other Departments as needed to provide City services.

Emergency – An occurrence where a threat to public health, welfare, or safety such as may arise by reason of floods, epidemics, riots, equipment failure, etc. creating a conditions for the immediate need of supplies, equipment, materials, services, or other goods not met through normal procurement methods and lack of which could threaten City government or programs.

Excise Tax – Contractor's excise tax is imposed on the gross receipts of all prime contractors engaged in construction services or realty improvement projects in South Dakota (SDCL 10-46A). The excise tax imposed on the gross receipts for construction projects is at a rate of 2%. The application of the tax depends on the type of construction project.

Goods – Tangible goods, supplies, equipment, materials, vehicles, printing, insurance or other similar assets.

Local Vendor – A person or legal entity which has a place of business (other than a post office box) within Codington County and has a valid, current business license issued by the City (if applicable).

Modification – Any written alteration to a provision of any contract accomplished by mutual contract of the parties to the contract.

Payment Bond – A surety bond executed in connection with a contract that secures solely for the protection and benefit of those entities with direct contractual relationship with Contractor to supply public work labor or material and with which such Contractor the City has contracted for a particular contract the payment obligation of that Contractor to the Payment Bond beneficiaries.

Performance Bond – A surety bond that assures City the Contractor will perform work in accordance to plans and specifications under contracted contract.

Political Subdivisions – Are local governments created by the states to help fulfill their obligations. Political subdivisions include counties, cities, towns, villages, and special districts such as school districts, water districts, park districts, and airport districts. The City of Watertown is considered a Political Subdivision.

Professional Services – Services arising out of a vocation, calling, occupation, or employment involving specialized knowledge, labor, or skill, and the labor or skill involved is predominantly mental or intellectual, rather than physical or manual (SDCL 5-18A-1(19)).

Public Improvement – The process of building, altering, repairing, improving, or demolishing any public infrastructure facility, including any structure, building, infrastructure, or other improvements of any kind to real property, the cost of which is payable from taxes or other funds

under the control of the purchasing agency, and includes any local improvement for which a special assessment is to be levied.

Purchasing Agency – Any governmental body or officer authorized by law, administrative rule, or delegated authority, to enter into contracts.

Purchasing Department—City Department that is either making the purchase, or managing a project

Purchasing Cards – Credit cards issued to eligible employees for purchasing goods or services for City operations.

Qualified Agency – Any public or private nonprofit corporation geographically located in the State of South Dakota that provides services for persons with disabilities and is certified by the Department of Human Services.

Reasonable Price – Is the price point for goods or services that is fair to both parties involved in the transaction. This amount is based upon the agreed-upon conditions, promised quality and timeliness of contract performance.

Request for Proposals (RFP) – Document which announces and provides details about a product, service or project, as well as a document which solicits bids from contractors who will help complete the project.

Request for Qualification – A step sometimes used in the formal process of procuring a product, service or project. A screening step to establish a pool of vendors (businesses or individuals to provide a product or service) that are then qualified, and thus eligible to submit responses to a request for proposals (RFP).

Required Approval Level – Related to an individual's job title; respective authority to sign and authorize a request to purchase/pay for goods or services, or to enter into a contract on behalf of the City.

Sales and Use Tax – The sales tax applies to the gross receipts of all retail sales, including the sale, lease, or rental of tangible personal property or any product transferred electronically, and the sale of services.

South Dakota Resident Business – Any person, partnership, association, limited liability company, foreign limited liability company, corporation, or foreign corporation licensed to do business within the State of South Dakota that has maintained a substantial and bona fide place of business and has conducted business from within this state for at least one year prior to the date on which a contract was awarded. The members of the partnership or association shall have been bona fide residents of the state for one year or more immediately prior to bidding upon the contract. A foreign corporation licensed pursuant to §§ 47-1A-1501 to 47-1A-1532, inclusive, is not a resident as defined by this policy if the state or country in which it is organized enforces or has a preference for resident bidders.

Sealed Bid or Proposal – A response to an invitation for bids or request for proposals submitted in a manner where the contents of the bid or proposal cannot be opened or viewed before the date and time of the formal opening without leaving evidence that the bid or proposal has been opened or viewed. Guidelines in the Purchasing Authority and Approval Table establish which RFP processes need to be conducted under a sealed bid process.

Services – Furnishing of labor, time, or effort by a contractor not involving the delivery of a specific end product other than reports which are merely incidental to the required performance (SDCL 5-18A-1(28)).

Sole Source – A sole source purchase means that only one supplier (source), to the best of the requester's knowledge and belief, based upon thorough research, is capable of delivering the required product or service.

Supplies – Any property, including equipment, materials, and printing. For purposes of the bid limits, equipment purchases have a bid limit separate from the bid limit for other types of supplies.

Threshold Amount – Total amount by item or service individually and/or cumulative within the City's fiscal year (calendar year).

Vendor – A person or legal entity operating with current business license.



SECTION 3: PURCHASING BASICS

3.1 TYPES OF PURCHASING TRANSACTIONS

This policy covers purchases below:

- **Goods:** Goods include tangible goods, supplies, equipment, vehicles, materials, printing, and insurance. If goods and services are combined in one contract, the requirements for a general services contract apply.
- **Services:**
 - General services
 - Professional services contracts
- **Public Works Contracts:** Infrastructure projects, financed and constructed by the government, for recreational, employment, and health and safety uses in the community.

3.2 DETERMINE ANNUAL COSTS

The following rules apply when establishing the cost of the goods or services used in determining bid requirement.

NO BID SPLITTING

Requirements shall not be divided to come up with a lower total cost to avoid contract approval levels or competition requirements. If one item being purchased requires another item to “make a whole”, the total accumulated costs of the two items (when they can reasonably be projected) should be considered together to determine which approval level and cost threshold apply, unless the two items are not available from a single supplier.

NO PURCHASE SPLITTING

Requirements for an aggregate purchase shall not be broken down into several purchases that are less than the applicable threshold merely to permit the use of simplified acquisition procedures or to avoid any requirement that applies to purchases exceeding a threshold.

COSTS TO INCLUDE

Include costs such as freight, and installation charges when determining which cost threshold applies. Do not include the value of a trade-in. *(However, trade-in value should be considered to determine the lowest bid when competitive bidding is used.)*

INCLUDE TOTAL QUANTITY NEEDED

Requirements for the total quantity of an item (when they can reasonably be projected) should be considered when determining which cost threshold and related purchasing requirements apply.

MULTIPHASE PROGRAMS

If a project is to be completed in phases, then the total accumulated cost for all phases should be considered when determining which cost threshold applies

3.3 SINGLE PURCHASE UNDER BID LIMIT

Approval from the Department Head and/or Division Manager is required for goods and services that are included in the current fiscal budget and are below the bid limit. Each Department Head or Division Manager is responsible for signing all bills under their budget responsibility. Signature authority can be assigned for extended absences by contacting Finance. If a capital purchase exceeds the budget authority but is under the bid limit, City Council approval is required.

3.4. ANNUAL CONTRACTS

Department Heads may sign one-year contracts for purchases if included in the current fiscal year budget regardless of value. Leases for the purchase of equipment require City Council approval.

All contracts between the City and another party, regardless of amount and duration, require a fully executed contract to be submitted to the Finance Department to comply with the City's record retention policies.

3.5 MULTI-YEAR CONTRACTS

The City may enter into a contract term of no more than five (5) years, for any contract for professional services. A contract may be renewed up to two (2) times. The City may enter into a contract for any period of time which serves the best interests of the City, for professional services that include equipment capitalization costs, for bond-related purchases or property leases. All leases must be approved as stipulated in the City charter and/or bylaws.

City staff may execute such contracts under the following conditions:

- New multi-year contracts require City Council approval.
- Renewals for multi-year contracts may be signed by Department Heads if they are included in the current fiscal year budget, unless they include a 15% or greater cost increase or the annual cost is above \$50,000. Renewals with significant cost increases or above \$50,000 annually require City Council approval.
- The terms of the contract and the renewal provision shall include the requirement that renewals are subject to City Council approval through the annual appropriation of funds and that the contract may be cancelled if funds are not included in future budgets.

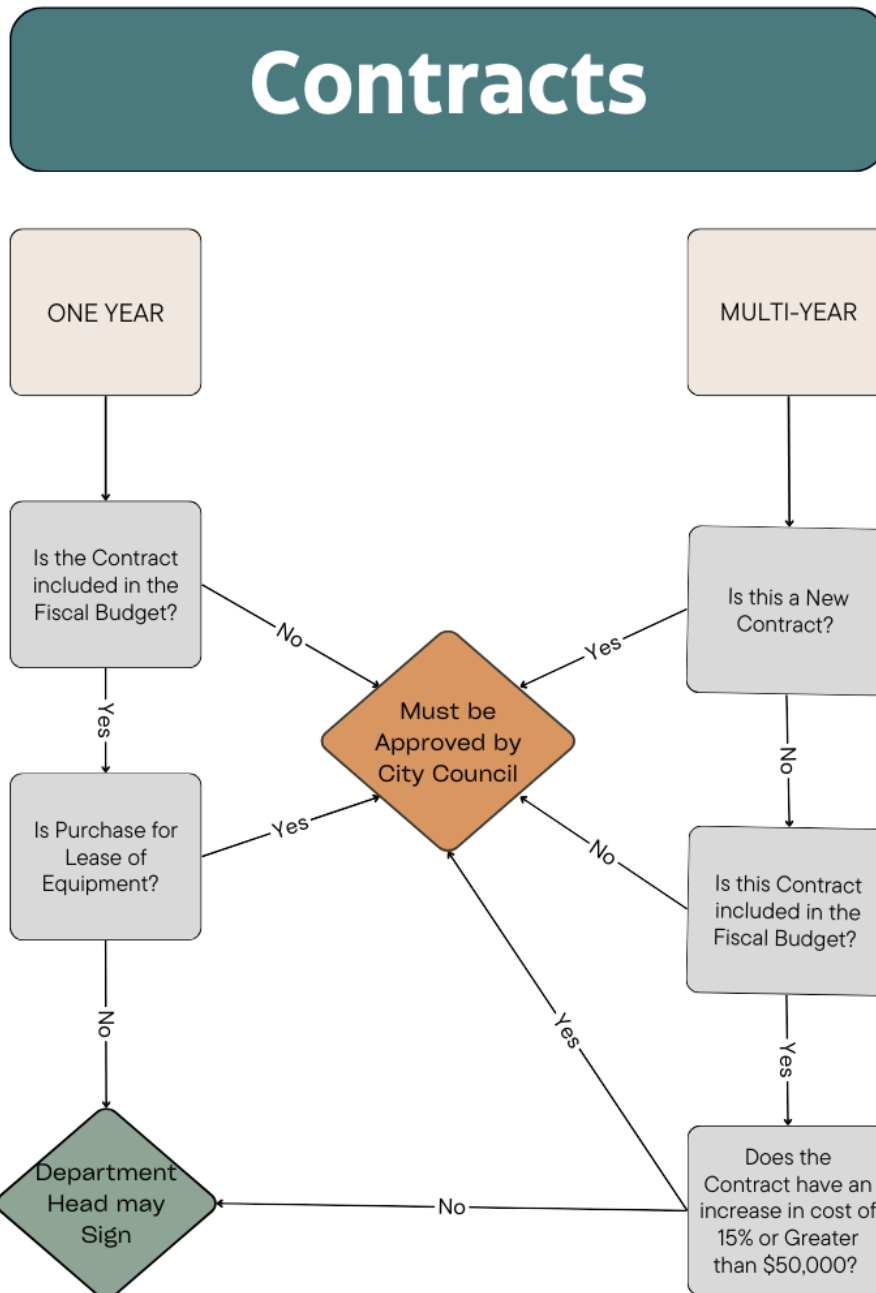
The City may increase the quantity of supplies or services, or both in a contract when:

- The unit price remains the same or is less,
- An increase is necessary to fulfill the actual needs of the government body and is more economical and practical than awarding another contract, the Department shall document their findings,
- The parties agree to the increase in writing, and
- The increase in the total contract price does not exceed 25 percent but a contract for the purchase of gasoline, special fuel, fuel oil, road salt or other ice and snow control supplies shall

not be subject to this limit; and

- The City, with the contract of the contractor, may reduce the unit price for supplies or services or both specified in a contract to be paid by the City at any time during the term of the contract or when an option to renew, extend or purchase is exercised.

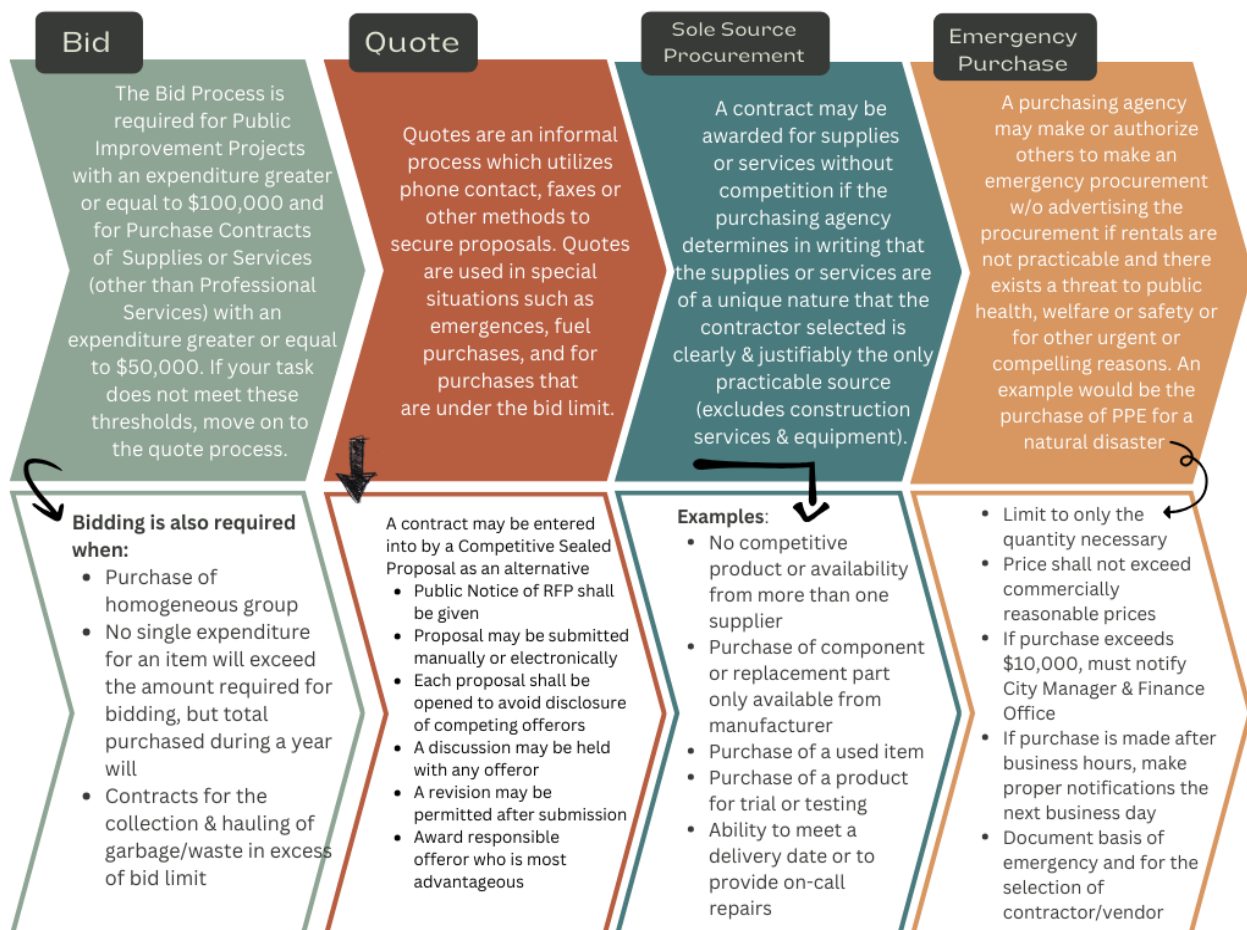
All contracts between the City and another party, regardless of amount or duration, must be submitted to the Finance Department to comply with the City's record retention policies.



3.6 PROCUREMENT PROCEDURES FOR QUOTES, PROPOSALS, AND BIDS

The City of Watertown follows the South Dakota Local Government Guide for Acquisitions, Disposals, and Exchanges, otherwise known as the Bid Booklet, prepared by the Department of Legislative Audit and adheres to all South Dakota Codified Laws. To review the bid booklet, visit [RESOURCES | Legislative Audit](#).

As noted in the Bid Booklet, cost thresholds exist to determine whether or not bidding is required. The chart below summarizes the general guidelines for procurement procedures; however, the bid booklet and Exhibit 1 should be reviewed fully to determine additional requirements and exclusions.



All Bid Awards must be approved by City Council. If the bid project or purchase is within budget, then it may go on the consent agenda. If the bid project or purchase requires more money or transfer of funds then it should go on the regular agenda.

When bidding is required, the Finance Department will help facilitate the Bid Process following the work structure outlined below:



Bid Advertisement

The Facilitating Department must produce a bid advertisement along with clear & concise bid specifications, which shall include design, performance, combination and brand specifications (where permissible in accordance with SDCL 5-18A-19). Once approved by the respective Department Head or City Manager, documents shall be forwarded to the Finance Office (Records Manager) for advertising in the newspaper and on the City website. The Notice for Bids must be published twice, with the first notice at least 10 days prior to the bid opening date. As a Saturday publication is preferred, please submit by the Wednesday before the first date of publication.

Collection of Bids

As Sealed Bids are submitted, they will be stored in the Finance Office until the designated bid opening date and time. Late bids will **NOT** be opened.

Opening of Bids

The Records Manager or designee shall open the bids publicly at the designated date and time with no less than two witnesses. Unless otherwise specified, the bid opening will take place in the City Hall Council Chambers. A statement listing the bidders, amounts of bids & attendees shall be filed with the contract. After opening, bid files shall remain in the Finance Office for retention purposes.

Council Approval

The Facilitating Department shall produce the Bid Tabulation Form & the Agenda Item for approval by the City Council. The City Manager & City Council shall have the authority to reject any & all bids. If the contract is awarded to a bidder who did not submit the lowest bid, the reasons must be explained in writing.

Agreement & Other Documents

If approved by the City Council, an agreement must be executed. If this is a bid for the purchase of equipment, the Finance Office will produce the document. Once a signed agreement is received, the Finance Office will return any cashier's checks submitted by any and all bidders. The Facilitating Department shall submit all project documents to the Finance Office as the project progresses, such as change orders, in order to comply with State of SD Records Retention.

3.7 PURCHASING GUIDELINES

VENDOR RELATIONS

City employees will conduct all purchasing functions in a professional manner and shall promote equal opportunity and fairness in all vendor relations.

Ethics and standards of behavior: All purchasing functions shall be conducted impartially to assure fair competitive access by responsible vendors. In addition, public employees should conduct themselves in a manner that will foster public confidence in the procurement process.

CREDIT CARD USE

BACKGROUND

Certain full-time City employees are entrusted with a City of Watertown credit card to use for business expenses/purchases. An example of such expenses might include professional association dues, professional development, travel costs (hotel and airfare), software packages/updates (i.e. by the IT Manager), lease payments for the printer, etc. Prior to receiving a credit card, each employee has to review the City's Procurement Policy and sign a contract verifying they read and understood the rules.

Under the direction of the City Manager, the Finance Department team members are the Program Administrators, and they oversee the entire program and manage all functions of the program including user online access, setting of credit card credit limits, fraud management, suspensions or cancellations, and payment process.

CHANGES TO AN ACCOUNT

Changes should be requested and must be approved by the City Manager or the Chief Financial Officer. Upon approval, changes will be made by the Finance Department.

CREDIT CARD USE

The use of these cards shall be strictly for the purchase of approved goods and services. Employees using the credit cards are responsible for any credit, returns or disputes regarding purchases made by the employee. The employee using the credit card is responsible for avoiding sales tax charges when applicable. If a return or credit is made, the Finance Department must be notified to process the credit similar to purchases.

A vendor account should be created for purchasing equipment. The vendor account enables better expense tracking and transparency. If a vendor account cannot be established, then the department must include documentation with the credit card receipt explaining why. (For example, email to Finance the reason credit card was used.) The credit card should only be used if the vendor is the only vendor available and will not issue an invoice.

Misuse of the credit card will result in revocation of privileges of the credit card for future purchasing and, if necessary, appropriate disciplinary action will be taken. Liability for misuse of these cards shall accrue directly to the credit card user, and not the City.

Employees authorized to use a City credit card are responsible for addressing fraudulent activity, lost or stolen cards. For any of these reasons, the employee is responsible for immediately reporting the incident to the credit card company, their supervisor and to the Finance Department.

USE OF CREDIT CARD DURING WORK TRAVEL

Use of credit cards to pay for work-related travel expenses is allowed and should be used according to the City's current Personnel Policy.

MONTHLY PAYMENT PROCESS

The employee's monthly review process includes checking that they have accounted for each charge with proof of expenditure (i.e. receipt, invoice, etc.) and assigning the relevant account number. Receipts or other proof of expenditure must be clearly labeled with the words "Credit Card" in either top corner to differentiate how to process payment. Credit card statements with proof of expenditure have a different payment date than the regularly invoiced expenditures that follow the Accounts Payable cutoff schedule. Once they have reviewed their own expenses, the information should be turned in to the respective supervisor by the 10th of each month or given directly to Accounts Payable if staff is the cardholder. The immediate supervisor shall review their staff's expenses and then bring to Accounts Payable by the 10th of the month or given business date deadline sent via email along with card statement.

The supervisor review process includes checking that each charge has a corresponding receipt, that it is a valid expense, and that the account to charge is correct.

If a receipt is lost, an affidavit will be signed by the employee and the direct supervisor. Affidavits for purchases over \$100 will be reviewed by the Department Head and Chief Financial Officer. If the affidavit process is used too often, then the credit card use can be suspended by the Chief Financial Officer.

The Department Head, or their designee, must approve and submit to Finance by the Accounts Payable credit card cutoff date.

FINANCE DEPARTMENT CREDIT CARD PAYMENT PROCESS

Once approved by the Department Head, the Finance Department will verify each expense, ensuring that they are valid and pre-approved/approved by the appropriate party. The report is reviewed and approved by the Chief Finance Officer.

EMPLOYEE REIMBURSEMENT

If the need arises to purchase an item for the City with personal funds, the employee must submit the receipt and appropriate online fillable voucher to the Finance Department. It is the responsibility of the employee making the purchase to ensure that any available discounts are applied, and that sales tax is not included when applicable. Refer to Tax Exemption Section below for more information.

LOCAL PREFERENCE

Purchasing goods and services from local vendors is desired because it stimulates the local economy and recognizes that our local vendors are valued members of the community. If factors such as quality, previous performance, and availability are equal among vendors, a vendor whose business is located in the City of Watertown should be actively considered for the award of a contract.

TAX EXEMPTION

The City has obtained an exemption from paying South Dakota state or local sales or use taxes on its purchases (Exemption No. 1018-1456-RG). Employees of the City are recognized agents, empowered to use the sales tax exemption. The City's exemption is not to be used for personal purchases. All purchases will require a detailed, itemized receipt for reimbursement and justification purposes. All applicable purchases require use of the sales tax exemption. If not utilized, the purchasing employee may be responsible for the sales tax associated with the purchase.

It is important to note that the tax exemption does not apply to excise tax. The City is obligated to pay excise tax.

3.8 RFP/RFQ AND BID COMMUNICATION

All departments conducting BID or RFP/RFQ procurement processes should engage the Finance Department to coordinate publication of notices and Bid/RFP submittal.

The Requesting Department shall evaluate bids and proposals based solely on the requirements and criteria set forth in the request for proposals (RFP). Such criteria may include: company experience, personnel expertise, project understanding, comparable project experience, technical approach,

availability, estimated timeline, proposed cost and other established requirements. The City shall award the contract to the responsible and responsive bidder offering the best value based on the evaluation of technical and cost proposals.

A formal bid opening is not required for a request for proposal (RFP), but all responses shall be documented and reviewed to determine if they meet the requirements for consideration. Proposals not meeting the requirements shall be returned to the responder. RFP/RFQ's are not shared publicly or with other bidders.

3.9 BID, PERFORMANCE, AND PAYMENT BONDS

Bid bonds, performance bonds, payment bonds, or other equivalent security shall be required to protect the City's interests for contracts over \$50,000 or when deemed necessary by the City Manager, or as required by State Statute. Any such bonding requirements shall be set forth in the solicitation. Performance and payment bonds have historically been a necessary form of security for municipal improvement projects. Determination of a bidder or offeror's responsibility shall not be based solely on the Bidder's ability to obtain Bid or performance bonds. Bonds shall be provided by a surety company authorized to do business in South Dakota, or the equivalent in cash, or otherwise supplied in a form satisfactory to the City. Unsuccessful bidders or offerors shall be entitled to the return of any cash bid security deposit. Unless a specific extension is granted in writing, a successful bidder or offeror shall forfeit any bid bond or equivalent security required by the City Manager or this section upon its failure to enter into a contract within fifteen (15) days after the award.

3.10 CONTRACT MANAGEMENT

GENERAL AUTHORITY

Subject to the limitations of this section, any type of contract which is appropriate to the procurement, and which will promote the best interests of the City may be used, provided that the use of a cost-plus-a-percentage-of-cost contract is prohibited. A cost reimbursement contract may be used only when a determination is made in writing that such contract is likely to be less costly to the City than any other type, or that it is impracticable to obtain the supply, service, or construction item required except under such a contract.

MULTIPLE SOURCE CONTRACTING

A multiple source award may be made when an award to two (2) or more bidders or offerors for similar supplies or services is necessary for adequate delivery, service or product compatibility.

SERVICE CALLS AND DIAGNOSTIC REPAIRS

From time to time, it may be necessary to obtain services for essential City services where the full extent of the service, repair, or problem is not yet defined. In this situation, the Department Head should make the Chief Financial Officer and City Manager aware of the situation prior to initiating the service call. A quote is not necessary at the time of the service call, but the Department Head should provide an estimated cost. When the full extent of the situation is known, a formal quote or estimate must be developed prior to the service being completed.

SUPPLIES, VEHICLE, AND EQUIPMENT PURCHASES FROM STATE/FEDERAL CONTRACTS

Occasionally, it may be beneficial to group the City's purchases/procurements with like

purchases/procurements of other cities, counties, or agencies. This may result in lower costs for all parties while maintaining the integrity of each entity's bidding requirements. The City may utilize a service cooperative authorized to establish competitively awarded cooperative purchasing contracts on behalf of itself and the participating agency. Procurements must comply with all applicable South Dakota Codified Laws and federal laws.

The State/Federal contract will be considered to meet the competitive bidding requirements. If there is a local vendor that offers the vehicle or equipment being purchased, they will be given the opportunity to match the State/Federal contract price. If the local vendor matches the State/Federal contract price, the item will be purchased from the local vendor.

The State of South Dakota and Federal Government bid many common supplies and equipment and make the award results available for use by any governmental agency. State/Federal bid awards enable government agencies to purchase goods and services at a reduced price due to quantity discounts and do not require the bidding process by political subdivisions.

3.11 RECEIVING OF GOODS/EQUIPMENT

INSPECTIONS AND TESTING

The ordering Department shall inspect and/or test all goods upon receipt (or services upon completion), to assure conformance with the specifications set forth in the order. If a product is determined to be unusable, or not what was ordered, the Department shall reject it and return it to the vendor as the vendor directs, and at the vendor's expense, for credit or replacement.

ACCEPTANCE

When goods have been received or a project has been completed to the satisfaction of the ordering Department and the specifications, the packing slip, and/or completion documentation shall be signed off by the employee receiving or inspecting. Information to be noted on the documents must include, at a minimum, the employee's signature and a legible rendering of their name and date of receipt/completion. The employee signing must note on the receiving documents any deviation from the exact ordering specifications. When items are sent in multiple shipments, the department should clearly indicate which items have been received and accepted when approving the invoice for payment.

3.12 CITY PURCHASING RECORDS

CONTRACT FILE

All determinations and other written records pertaining to the solicitation, award or performance of a contract should be maintained for the City in a contract file. All contracts shall be maintained by the Finance Department.

RETENTION OF PURCHASING RECORDS

All purchasing records shall be retained and disposed of by the City in accordance with records retention guidelines and schedules as required by South Dakota statutes and City policies. The City follows the Records Retention Manual provided by the State of South Dakota Bureau of Administration at [South Dakota Bureau of Administration: Records Management](#).

3.13 REPORTING OF ANTICOMPETITIVE PRACTICES

When, for any reason, collusion or other anticompetitive practices are suspected among any bidders or offerors, a notice of the relevant facts must be transmitted to the City Manager and City Attorney, who shall determine whether formal legal proceedings or Notice to the States Attorney and/or Attorney General is necessary.



SECTION 4: ETHICS IN PUBLIC CONTRACTING

4.1 CRIMINAL PENALTIES

To the extent that violations of the requirements set forth in this article constitute violations of South Dakota State Statutes, the violations shall be punishable as provided therein. Such penalties shall be in addition to the civil sanctions set forth in this article or as otherwise provided in State law. Criminal, civil and administrative sanctions against employees or non-employees, which are in existence on the effective date of this policy, shall not be affected.

4.2 EMPLOYEE CONFLICT OF INTEREST

Public employment is a public trust. It is the policy of the City to promote and balance the objective of protecting governmental integrity and the objective of facilitating the recruitment and retention of personnel needed by the City. Employee conflicts of interest policies are implemented to prescribe essential standards of ethical conduct without creating unnecessary obstacles to entering public service.

Public employees must discharge their duties impartially so as to assure fair competitive access to governmental purchasing by responsible vendors and contractors. Moreover, they should conduct themselves in such a manner as to foster public confidence in the integrity of the City purchasing organization.

Any attempt to realize personal gain through public employment by conduct inconsistent with the proper discharge of the employee's duties is a breach of public trust.

4.3 GRATUITIES AND KICKBACKS

- **Gratuities** - It is unethical for any person to offer, give, or agree to give any City employee, or for any City 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 program requirement or a purchase request, influencing the content of any specification or purchasing standard, rendering of advice, investigation, auditing, or in any other advisory capacity in any proceeding or application, request for ruling, determination, claim or controversy, or other particular matter, pertaining to any program requirement or a contract or subcontract, or to any solicitation or proposal therefore.
- **Kickbacks** - It is unethical for any payment, gratuity, or offer of employment to be made by or on behalf of a subcontractor under a contract to the prime contractor or higher tier subcontractor or any person associated therewith, as an inducement for the award of a subcontract or order.
- **Contract Clause** - The prohibition against gratuities and kickbacks prescribed in this section should be conspicuously set forth in every contract and solicitation where it is deemed appropriate.

4.4 PROHIBITION AGAINST CONTINGENT FEES

It is unethical for a person to be retained, or to retain a person, to solicit or secure a City contract for a commission, percentage, brokerage, or contingent fee, except for contracts with employment agencies and real estate agents and brokers for commercial brokerages.

4.5 CONTEMPORANEOUS EMPLOYMENT PROHIBITED

It is unethical for any City employee who is participating directly or indirectly in the purchasing process to become or to be, while such a City employee, the employee of any person contracting with the governmental body by whom the employee is employed.

4.6 USE OF CONFIDENTIAL INFORMATION

It is unethical for any employee or former employee to knowingly use confidential information for actual or anticipated personal gain, or for the actual or anticipated personal gain of any other person.

4.7 PURCHASES FROM EMPLOYEES OR AGENTS OF THE CITY

The City Manager shall authorize all purchases of supplies and services from current employees or agents of the City. This authorization must be in writing, signed by the City Manager and placed in the City Employee's personnel file.

4.8 SANCTIONS

- Employees - Employees found to have violated one or more of the ethical standards in this article shall be subject to the disciplinary actions prescribed in the City of Watertown's Personnel Policy or union contracts.
- Nonemployees/Contracted Employees. The City Manager, in consultation with the City Attorney and applicable Department Head/Division Manager, may impose any one or more of the following sanctions on a nonemployee for violations of the ethical standards:
 - written warnings or reprimands;
 - termination of contracts, not entered into by the City Council; or
 - debarment or suspension
- City Council Contracts. The City Council, in consultation with the City Manager, City Attorney and applicable Department Head/Division Manager, may impose any one or more of the following sanctions on a nonemployee for violations of ethical standards:
 - written warnings or reprimands;
 - termination of contracts, or
 - debarment or suspension

4.9 RECOVERY OF VALUE TRANSFERRED OR RECEIVED IN BREACH OF ETHICAL STANDARDS

- General Provisions - The value of anything transferred or received in breach of the ethical standards by a City employee or a nonemployee may be recovered from both a City employee

and non-employee by the City Manager or their designee and recovery may include use of legal procedures.

- Recovery of Kickbacks by the City - Upon showing that a subcontractor made a kickback to a prime contractor or a higher tier subcontractor in connection with the award of a subcontract or order thereunder, it shall be conclusively presumed that the amount thereof was included in the price of the subcontract or order and ultimately borne by the City and will be recoverable from the recipient. In addition, that amount may also be recovered from the subcontractor making such kickbacks. Recovery from one offending party shall not preclude recovery from other offending parties.



SECTION 5: CONTRACT ADMINISTRATION

5.1 CONTRACT ADMINISTRATION

A contract administration system should be maintained by the respective Department Head to ensure a contractor is performing in accordance with the solicitation, terms, and conditions under which the contract was awarded.

5.2 SIGNATORY AUTHORITY

CITY ENGINEER AND CITY MANAGER

The City Engineer and City Manager has the authority to sign on behalf of the City of Watertown:

- The Notice of Award, Notice to Proceed, Substantial and Final Completion forms, permits, approved change orders, and other documents related to Capital Improvement Projects (CIP) approved and appropriated by City Council.
- Individual change orders up to \$50,000 and collectively not exceeding fifteen percent (15%) of the approved contract price and within budget.
- Pay Applications within the approved contract price.
- Professional service contracts for geotechnical, surveying, engineering, etc. under \$50,000 and budgeted.
- Best Management Practice Contracts and Certificate of Completion forms for Development Projects.
- Correspondence letters and other items authorized by City Ordinance, City Council Resolution, or delegated from the authority of the City Manager.

The City Engineer has the authority to pay fees for the Notice of Intent and other permits associated with City projects approved by City Council.

5.3 CHANGE ORDER REVIEW POLICY AND PROCEDURE

The contractor should submit price changes to the project manager to give to the City Engineer for review. If the change can be justified, then a field order would be issued by the City Engineer as an informal approval. The contractor must be made aware that the changes are not official until the change order is approved by the City Council. Items not approved by the City Council cannot be paid in the pay request. If the changes are overruns with bid items already in the contract, then payment for those items could be issued up to the contract amount (so if the contract was \$2 million, the project manager could only approve payments up to \$2 million).

5.4 DEBARMENT OR SUSPENSION

AUTHORITY TO DEBAR OR SUSPEND

Debarment or to “debar” means a person/bidder is prohibited from participating in a bid or proposed solicitation or from consideration for award of contracts. After a ten (10) day notice

to the person involved, and a ten (10) day opportunity for that person to be heard, the City Manager, after consulting with the City Attorney and the applicable Department Head/Division Manager, is authorized to debar or suspend a person for cause from consideration for award of contracts. The debarment shall be for a period of not more than two years. After consultation with the City Attorney and applicable Department Head/Division Manager, the City Manager is authorized to suspend a person from consideration for award of contracts if there is probable cause to believe that the person has engaged in any activity which might lead to debarment. The causes for debarment include, but are not limited to, the following:

- conviction of a criminal offense as an incident to obtaining or attempting to obtain a public or private contract or subcontract, or in the performance of such contract or subcontract;
- conviction under state or federal statutes of embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, or any other offense indicating a lack of business integrity or business honesty which currently, seriously, and directly affects responsibility as a City contractor;
- conviction under state or federal antitrust statutes arising out of the submission of bids or proposals;
- violation of contract provisions, as set forth below, of a character which is regarded by the City Manager to be so serious as to justify debarment action:
 - deliberate failure without good cause to perform in accordance with the specifications or within the time limit provided in the contract; or
 - a recent record of failure to perform or of unsatisfactory performance in accordance with the terms of one or more contracts; provided that failure to perform or unsatisfactory performance caused by acts beyond the control of the contractor shall not be considered to be a basis for debarment;
 - deliberate failure to settle overdue invoices with the City and its entities for current or previously executed contracts;

Any other cause the City Manager, in consultation with the City Attorney and applicable Department Head/Division Manager, determines to be so serious and compelling as to affect responsibility as a City contractor, including debarment by another governmental entity for any cause listed in this policy.

The City Council by majority vote of the full City Council may also debar a person/bidder for contracts that require approval by the City Council. The City Council, in consultation with the City Manager, City Attorney, and applicable Department Head/Division Manager may debar a person/bidder using the same procedures contained in this Section 5.4 with a 10-day notice to the person/bidder prior to the City Council meeting at which the matter will be heard. The City Manager will be responsible for providing the 10-day notice on behalf of the City Council to the person/bidder.

DECISION TO DEBAR OR SUSPEND

The City Manager should issue a written decision to debar or suspend. The decision should state the reasons for the action taken and inform the debarred or suspended person involved of their rights concerning judicial or administrative review.

Any decision to debar or suspend a person/bidder by the City Council will be by motion and majority vote of the entire City Council. The City Council will allow the person/bidder an opportunity to be heard at the meeting under which the action is to be taken. The minutes of the City Council meeting will reflect the reasons for the action taken and the City Manager will inform the debarred or suspended person involved of the decision and their rights concerning any applicable judicial review.

NOTICE OF DECISION

A copy of the decision to debar or suspend should be mailed or otherwise furnished immediately to the debarred or suspended person.



EXHIBIT 1: EXEMPTIONS FROM BIDDING

Exemptions From Bidding	Description	Reference	Other
Utilities	Purchase of utility services such as electricity, lights, water or gas.	SDCL 5-18A-22 (5)	
Government	Any contract for the purchase of supplies from the U.S. or its agencies or any contract issued by the GSA.	SDCL 5-18A-22 (2)	
Equipment Repair Contracts		SDCL 5-18A-22 (4)	
South Dakota Surplus	Purchases of surplus property from another South Dakota purchasing agency.	SDCL 5-18A-22 (10)	
State Price List	Purchases from the lowest bidder of an item on the state price list.	www.state.sd.us/boa/	
State Price List Cont'd	May also purchase items from any vendor, if less than or equal to the state price list but must be the exact same item. Specs to establish the price of the item (s) should be obtained from the State Bureau of Admin to ensure the item conforms with the item wanted.		
Active Government Entity Contracts	Any purchase of supplies or services, other than professional services, by purchasing agencies from any active contract that has been awarded by any gov't entity by competitive sealed bids or competitive sealed proposals or from any contract that was competitively solicited & awarded within the previous 12 months.	SDCL 5-18A-22 (3)	A purchase utilizing another entity's bid has to mirror a purchase from a contract that was "awarded" by the original bidding entity. It is not enough that such a contract was "bid" by the original entity, it must also have been "awarded". See bid book for additional details.
School Districts	Any purchase by a school district of perishable food, raw materials used in construction or manufacture of products for resale, or for transportation of students.	SDCL 5-18A-22 (12)	See bid book for additional details.
Asbestos Removal	Any contract for asbestos removal in emergency response actions.	SDCL 5-18A-22 (16)	
Consultants	Any contract for services provided by individuals or firms for consulting services, audits, legal services, ambulance services, architectural services, engineering, insurance, real estate or auction services.	SDCL 5-18A-22 (16)	
Chemical & Biological Products	Laboratory apparatus and appliances; published books, maps, periodicals & technical pamphlets; works of art for museum & public display; medical supplies.	SDCL 5-18A-22 (5)	
Ambulance Services	Contracts for ambulance services.	AGR 84-42	

Exemptions From Bidding	Description	Reference	Other
Changes To Construction Contracts	Any amendment or change order to an existing contract for construction, reconstruction, or remodeling of a public improvement does not need to be bid.	SDCL 5-18B-19	See bid book for additional details.
Real Property	Purchases of real property having a particular use or benefit. An entity may not have to legally bid a particular real estate transaction, it generally is prudent & advisable to obtain an appraisal & other supporting docs to provide the necessary analysis of the purchase at hand.	AGR 1959-60 p. 142 AGR 1963-64 p. 146	
Public Sale or Auction Items	Purchases of materials, supplies or equipment made at public sale or auction if the following conditions are met. 1. Purchases are made at substantial savings. 2. Competitive quotes are obtained from at least 3 suppliers of identical or similar material, supplies. 3. Purchases are made at less than 80% of the average of the quotes received.	SDCL 5-18C-3	A record of the names of suppliers, quotes received & procurement procedures used in purchasing shall be documented, indicated in the minutes & retained on file.
Less Than \$50,000	Any purchases of less than \$50,000	SDCL 5-18A-14	
No Bidders	If, after advertising for bids, no firm bids are received, the agency may negotiate a contract for the purchase of the supplies, services, or public improvement projects at the most advantageous price, if the specs of the original bid are met.	SDCL 5-18A-5 (9)	
Animals	Any animals purchased	SDCL 5-18A-22 (11)	
Energy Saving Contracts	Guaranteed energy saving contracts	SDCL 1-33B-9	
Urban Renewal	Urban renewal projects as authorized by SDCL - see reference	SDCL 11-8-36	
Technology	Communications technologies, computer hardware & software, peripheral equipment, and related connectivity.	SDCL 5-18A-22 (5)	
Tableware & Perishable Food	Tableware & perishable foods are exempt from bidding. The purchase of prepared meals on the other hand would be a biddable contract.	SDCL 5-18A-22 (5) AGR 73-43	
Developer Installed Utilities	A municipality requiring a developer to install water, sanitary sewer & storm water trunk lines or mains; sewer collection systems; or streets at the expense of the developer & the municipality requires the size of the line or main, collection system or street to be larger than the developer's requirements, the price difference is exempt from bidding.	SDCL 5-18C-4	If a developer installs a regional storm sewer detention pond ahead of a municipality's schedule at their expense, the price of the pond construction paid by the municipality & based on certified quantities provided by a licensed engineer is exempt from bidding.

Exemptions From Bidding	Description	Reference	Other
Water User Districts	If all or a portion of the cost of the proposed works is to be met by grant of labor or a grant-in-aid from a federal or state agency, does not require the use of any state or federal funds in the proposed works, or under other contract with a federal or state agency & the rules of such agency provide that work may not be done by contract, the board of directors may proceed with the necessary construction or other work without first complying with any of the provisions of -	SDCL 46A-9-52 to 46A-9-54	
Purchasing Agencies	Any purchasing agency may enter into contracts with purchasing agents in SD or any other state or the U.S. Gov't under which any of the parties may agree to participate in, administer, sponsor, or conduct purchasing transactions under a joint contract or contract for the purchase of supplies or contractual services.	SDCL 5-18A-37	A purchasing agency may cooperate with purchasing agencies and other interested parties in any other state or the U.S. Gov't to develop uniform purchasing specs on a regional or national level to facilitate cooperative interstate purchasing transactions.