

CITY OF SPOKANE PARKS AND RECREATION DEPARTMENT ADMINISTRATIVE POLICY AND PROCEDURE	ADMIN 1400-12-03 LGL 2012-0050
TITLE: <b>PROCUREMENT CODE</b> EFFECTIVE DATE: February 14, 2002 REVISION EFFECTIVE DATE: April 12, 2012	

1.0 GENERAL

1.1 This document sets forth the Spokane Parks and Recreation Department's policy and procedure for the procurement of goods, services and public works.

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2.0 DEPARTMENTS/DIVISIONS AFFECTED:

This policy shall apply to the City of Spokane Parks and Recreation Department.

3.0 REFERENCES

City Charter Section 48. Park Board -- Powers.  
Rules of the Park Board Section 14, General Operating Policies and Procedures, Rulings, and Appeals

4.0 DEFINITIONS

See Appendices

5.0 POLICY

5.1 It is the policy of the Spokane Parks and Recreation Department to provide for the fair and equitable treatment of persons who deal with the Parks and Recreation procurement system, maximize economy in procurement activities, and foster effective broad-based competition in the purchase of goods, the acquisition of services and the performance of public works.

6.0 PROCEDURE

See Appendices


7.0 RESPONSIBILITIES

The Director of Parks and Recreation is responsible for administering this policy.

8.0 APPENDICES

Spokane Parks and Recreation Department Procurement Code

APPROVED BY:

  
\_\_\_\_\_  
City Attorney (Asst)

4-17-12  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Director of Parks and Recreation

4-24-12  
\_\_\_\_\_  
Date

**CITY OF SPOKANE  
PARKS AND  
RECREATION  
DEPARTMENT**

**PROCUREMENT  
CODE**

Effective – April 12, 2012--

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CITY OF SPOKANE PARKS AND RECREATION DEPARTMENT  
PROCUREMENT CODE

Article I. General Provisions

Section 1. Purpose

The purpose of this code is to provide for the fair and equitable treatment of persons who deal with the Parks and Recreation procurement system, maximize economy in procurement activities, and foster effective broad-based competition in the purchase of goods, the acquisition of services and the performance of public works.

Section 2. Designees

References to the Director and City Clerk include their respective designees.

Section 3. Guidelines

The Director is authorized to establish department policies to serve as guidelines in implementing this code.

Section 4. Definitions

- A. "Contract" means an agreement creating a legal relationship between the department and another person or entity, or any amendment or renewal thereto and includes, without limitation, agreements and instruments relating to real property interests, including, by way of example, purchase and sale agreements, leases, deeds and easements, and such incidental closing instruments and documents as are reasonably necessary to consummate real estate transactions.
- B. "Department" means the City of Spokane Parks and Recreation Department, including activities under the Park Fund, Golf Fund, Urban Forestry Funds and any other funds under the authority of the Director.
- C. "Director" means the Director of Parks and Recreation.
- D. "Goods" means all things which are movable at the time of identification to the purchase contract.
- E. "Minor" means:
  - 1. a contract that involves a net revenue or expense (excluding sales tax and state filing fees) of forty five thousand nine hundred dollars (\$45,900.00) or less within a twelve-month period, and is of a routine nature, provided that

the total expense (excluding sales tax and state filing fees) does not exceed a total of one hundred thousand twenty dollars (\$120,000.00) over the term of the contract (not including renewals); or

2. a housekeeping change or clarification to a contract that does not affect a material term or condition.

Effective the first of January of 2013 and the first of January of each year thereafter, the above dollar limits shall be adjusted by the director by an amount equal to one hundred percent of the average of the previous July - July U.S. All City Average (CPI-U and CPI-W). The newly determined amount shall be rounded to the nearest multiple of one hundred dollars.

F. "Personal Service"

1. "Personal services" means the furnishing of labor, time or effort by a person as an independent contractor, not involving the delivery of a specific end product.
2. "Personal service" includes professional or technical services by a consultant to accomplish a specific study, project task or other work statement; and services provided to accomplish routine, continuing and necessary functions.
3. "Personal service" does not include services in connection with anticipated or pending litigation or other legal proceedings.

G. "Public work" means all work, construction, alteration, repair or improvement, other than ordinary maintenance, executed at the cost of the City or which is by law a lien or charge on any real property thereof.

H. "Purchasing" means the purchasing, lease-purchasing, leasing or other acquisition or disposition of any goods.

## Article II. Public Bidding and Other Provisions

### Section 5. Public Bidding – Application

Except as otherwise provided by law, procurements of all public works, goods, and services are by public bidding through the City – Purchasing Division.

A. Public works are by public bidding when the estimated cost of the public work exceeds:

1. ninety thousand dollars if more than a single craft or trade is involved in the project; or

2. forty-five thousand dollars if only a single craft or trade is involved in the project or the project is street signalization or street lighting.

In accordance with RCW 39.04.155, the City may use the small works roster process (including limited public works) as an alternate means of contracting for public works projects.

- B. Purchasing of goods is by public bidding when the estimated cost thereof exceeds the then current "minor" contract level, in a twelve-month period.
- C. Procurement of personal services is by public bidding when the estimated cost thereof exceeds the then current "minor" contract level, in a twelve-month period.
- D. Except where prohibited by law, when the procurement of public works, services, or goods involves the use of certain moneys subject to special restrictions, those special restrictions will govern the procurement.

#### Section 6. Public Bidding - Invitation

An invitation for bids includes specifications and the contractual terms and conditions applicable to the procurement. Notice of the invitation for bids is published in the *Official Gazette*. Other advertising media may also be used. The notice states the place, time and date of bid opening, and the location for obtaining a copy of the invitation.

#### Section 7. Public Bidding - Bid Opening

Bids are opened publicly by the committee to receive bids (SMC 7.06.035) at the time and place designated in the invitation.

#### Section 8. Public Bidding – Evaluation

- A. Bids are evaluated based upon the requirements set forth in the invitation for bids. The criteria for award shall be objectively measurable. No criteria may be used that are not set forth in the invitation. Bid evaluation shall be based on the following criteria where applicable and only those which can be reasonably determined:
  1. Price and the effect of term discounts. Price may be determined by the life-cycle costing if so indicated in the invitation.
  2. The conformity of the goods, public work and/or services bid with the invitation for bid or request for quotation specifications depicting the quality and the purposes for which they are required.
  3. The ability, capacity and skill of the bidder to perform the contract or provide the service required.



4. The character, integrity, reputation, judgment, experience and efficiency of the bidder.
  5. Whether the bidder can perform the contract within the time specified.
  6. The quality of performance on previous contracts.
  7. The previous and existing compliance by the bidder with laws relating to the contract.
  8. Servicing resources, capability and capacity.
  9. Lack of uniformity or interchangeability, if such factors are important.
  10. The energy efficiency of the product as projected throughout the anticipated useful life of the product; and
  11. Such other information as may be secured having a bearing on the decision to award the contract.
- B. As a condition of performing work on a public works contract for the Department, in addition to the mandatory bidder responsibility criteria in RCW 39.04.350 and SMC 7.06.500, a contractor shall qualify with in accordance with the supplemental bidder responsibility criteria in SMC 7.06.520. In addition to information specified in SMC 7.06.520, the Department may request, on a project by project basis, any other information deemed necessary to ensure that prospective contractors meet the responsibility standards and otherwise possess sufficient qualifications and capabilities in all respects to successfully qualify for and perform public works contracts.

Section 9. Public Bidding - Intergovernmental Purchase Contracts

- A. The Director is encouraged to enter into joint or pooled purchase contracts with the State of Washington, other governmental units, purchasing cooperative and similar services. The Director may also utilize joint or pooled purchase contracts established by the City of Spokane.
- B. The Park Board may authorize the purchase of goods without public bidding from a contract available through:
  1. the Washington State Purchasing Cooperative; or
  2. purchasing cooperatives or similar services, or another governmental unit whenever the Director has shown that the procurement meets the Department's requirements and represents the most favorable procurement for the Department considering price and other evaluation factors.

Section 10. Public bidding - Award

- A. Following evaluation, the Director submits his/her recommendation for award to the Park Board.
- B. Notice of the award hearing is published in the agenda of the Park Board. The name and bid amount of the successful bidder(s) are available in the office of the Director at least one day prior to the award hearing. Bidders and taxpayers wishing to formally protest the award of a bid must make their protests before the Park Board at the award hearing.
- C. After hearing all protests, the Park Board makes its decision. To the extent required by state law, award for public works is to the low responsible bidder. Award for other procurements is to the bidder whose bid is most favorable to the Department with price and other factors considered. Nothing herein is to be construed to compel the Park Board to make an award.
- D. The decision of the Park Board is final and not subject to appeal.

Section 11. Alternatives to Public Bidding

When it is considered impractical to initially prepare a procurement description to support an award based upon price, the Director may utilize a request for information or a request for proposals. The information received in response to the requests may serve as the basis for a future invitation to bid or as the basis for competitive negotiation.

Section 12. Sole Source Procurement

The Park Board, by resolution, may waive public bid requirements for:

- A. purchases, public works and services that are clearly and legitimately limited to a single source of supply;
- B. public works and services involving special facilities or market conditions;
- C. purchases of insurance or bonds.

The Director conducts negotiations, as appropriate, as to price, delivery and terms.

Section 13. Purchase of Used Goods

- A. The Park Board may authorize the purchase of used goods without public bidding if the Director has fully justified the acquisition of the used goods without bidding.
- B. Justification requires using independent appraisals to establish that the proposed

purchase price is not above the fair market value of the goods. At least two appraisals will be done whenever possible, but in no event may there be fewer than one. The appraisals are to be made by competent persons, not associated with either the prospective seller or the Department, who are knowledgeable of the goods' market.

Section 14. Data Processing and Telecommunications Systems

- A. Electronic data processing or telecommunication equipment, software or services may be acquired through competitive negotiation when the estimated cost thereof exceeds the then current "minor" contract level, in a twelve-month period. Competitive negotiation shall include, as a minimum, the following:
1. A request for proposal shall be prepared and submitted to an adequate number of qualified sources.
  2. Notice of the request for proposal shall be published in the *Official Gazette* at least thirteen days before the last day to receive proposals.
  3. The request for proposal shall identify significant evaluation factors, including price and their relative importance.
- B. The Director shall make the recommendation for award. Award of contract, when made, shall be made to the qualified firm whose proposal is the most favorable to the Department with price and other factors considered.

Section 15. Emergency Procurement

- A. The Park Board, by resolution, may waive public bid requirements for purchases, public works and services in the event of an emergency. "Emergency" means unforeseen circumstances beyond the control of the Department that either:
1. present a real, immediate threat to the proper performance of essential functions; or
  2. will likely result in material loss or damage to property, bodily injury, or loss of life if immediate action is not taken.
- B. If the emergency requires procurements before Park Board action, the Director may declare an emergency situation exists, waive public bidding requirements, and award all necessary contracts on behalf of the Department to address the emergency situation. If a contract is awarded without public bidding due to an emergency, a written finding of the existence of an emergency must be made by either: (1) the Park Board at its next meeting if no later than two weeks following award of the contract; or (2) by the Park Board's designee (Director) no later than two weeks following the award of the contract and reported to the Park Board at its

next regular meeting.

- C. Force account work by Department crews shall be in accordance with state law.
- D. Emergency procurements are made with such competition as is practicable under the circumstances.

Section 16. Repair or Maintenance of Equipment

The Park Board may award a contract without public bidding for the repair or maintenance of City equipment where the Department is not equipped or able to do the work, and when it is impossible to estimate the repairs necessary until the equipment is dismantled.

Section 17. Minor Procurement

- A. Procurements not subject to public bid shall be made with such competition as is practicable under the circumstances. Procurement requirements may not be artificially divided so as to constitute a minor procurement under this section.
- B. The Department shall utilize the minor procurement procedures in Department Policy ADMIN 1400-12-01 (Purchases of Goods and Services Under the Public Bid Dollar Thresholds) and the Department Policy DEPT 1400-12-02 (Minor Contract Authorization).
- C. The City of Spokane will make the public advertisements, in accordance with state law, that require at least twice a year publishing of a notice of the existence of vendor lists and solicitation of the names of vendors for the lists.
- D. The Director may authorize securing in the open market, without quotation, any supplies, materials, equipment or services when the delay and expense in handling quotations would not be advantageous to the Department. If, at any time, there is the need for the Director to make this decision, he/she will report the transaction and the circumstances surrounding the transaction to the Park Board at its next monthly meeting.

Section 18. Cancellation of Invitations for Bids

An invitation for bids may be canceled, or any and all bids may be rejected in whole or in part, when the Director determines that it is in the best interests of the Department. The Park Board also may reject any or all bids prior to formal award of the contract.

Article III. Contracts and Their Execution

Section 19. Types of Contracts – General Authority

Subject to applicable law, the Department may use any type of contract which will promote

its best interests and is appropriate to the procurement.

Section 20. Multi-term Contracts

A. Specified Period.

Unless otherwise provided by law, a contract may be entered into for any period of time deemed to be in the best interests of the Department, so long as funds are available for the current budget year at the time of contracting. Payment and performance obligations for succeeding budget years are subject to the availability and appropriation of funds.

B. Determination Prior to Use.

Prior to the utilization of a multi-term contract it is to be determined that estimated requirements cover the period of the contract and are reasonably firm and continuing; and that the contract will serve the best interests of the Department by encouraging effective competition or otherwise promoting Department procurement.

Section 21. Contracts – Execution

A. Except as otherwise provided, all contracts to which the Department is a party shall be in writing and executed in the name of the Department by the Director under the direction of the Park Board, attested by the City Clerk and, when necessary, acknowledged. In the absence of the Director, the Chair of the Park Board may sign the document. Contracts that do not qualify as minor contracts require Park Board approval. Contracts needing approval by the Park Board will be recommended for approval or disapproval by the appropriate Park Board Committee.

B. Instances may exist where a contract requires Park Board approval, however the timely execution of the contract will be adversely affected by waiting until the next Park Board meeting. In this instance, the contract may be executed by unanimous agreement of the Director, Park Board President, Park Board Vice-President and one member of the Finance Committee. This agreement may be made in person, by telephone or by any of various forms of written communication. In this instance, a report will be made to the full Park Board at the next scheduled meeting. In the event that unanimous agreement is not possible, a special meeting of the Park Board may be called.

Section 22. Minor Contracts – Execution

A. See Department policy DEPT 1400-12-02.

B. The City Clerk is authorized to attest the Director's signatures. The Director may, upon his/her own volition, place any specific contract on the agenda for individual Park Board authorization as he/she may see fit.

C. Contracts which were publicly bid require prior Park Board approval.

Section 23. Change Orders – Contract Amendments

The Director may authorize, by change order or contract amendment, aggregate increases of up to ten percent of the total contract dollars per contract, not to exceed one hundred thousand dollars, upon verification that funds are available.

Section 24. Final Approval of Public Works Contracts

A. The Director is authorized to accept public works contracts without individual action by the Park Board.

B. Final acceptance of unit-price public works contracts does not require a final adjustment change order if the contract cost is up to ten percent of the original bid cost, including all change orders.

Section 25. Riverfront Park Film Showings

The Director is authorized to sign agreements regardless of dollar cost, including amendments, extensions, encumbrance increases and other documents for Riverfront Park film showings subject to policy direction by the Park Board. (See Department policy DEPT 1400-11-05)

Section 26. Purchase Orders

The Director is designated to execute purchase orders. Purchase orders which have been publicly bid; or exceed the then current "minor" contract level, in a twelve-month period require prior Park Board approval.

Section 27. Approval of Payment

Payments under all contracts are included in the claims submitted by the Director to the Park Board for approval as provided in SMC 1.02.150 and Charter section 24.18.

Article IV. Architect – Engineer – Land Surveyor Services

Section 28. Public Announcement

Requirements for professional architect, engineer and land surveyor services are published in advance. The announcement states the general scope and nature of projects or works for which the services are required and the address of the Department representative who can provide further details. Compliance with this section can be accomplished by publishing an announcement on each occasion when professional services are required, or by announcing generally to the public projected requirements for any category or type of professional services.

Section 29. Selection Process

- A. In the procurement of professional architect, engineer and land surveyor services, the Department will utilize the statement of qualifications and performance data roster on file with the City of Spokane.
- B. Current statements of qualifications and performance data on file, together with those that may be submitted by other firms regarding the proposed project, are evaluated by the Department.
- C. Discussions with one or more firms regarding anticipated concepts and the relative utility of alternative methods of approach for furnishing the required services are conducted and the selection is made from those discussions, based upon criteria established by the Department, of the firm deemed to be the most highly qualified to provide the services required for the proposed project.

Section 30. Minor Architect – Engineer Contracts

Individual project advertisements are not required when the estimated cost is fifty thousand dollars or less. The Department need only evaluate the current statements of qualification and performance data on file.

Section 31. Negotiations

- A. A contract is negotiated with the most qualified firm at a price fair and reasonable to the Department. In making this determination the estimated value of the services to be rendered, as well as the scope, complexity and professional nature thereof, are taken into account.
- B. If the Department is unable to negotiate a satisfactory contract with the selected firm at a price fair and reasonable to the Department, negotiations with that firm are formally terminated and the Department selects other firms in accordance with this article and continues in accordance with this section until an agreement is reached or the process is terminated.

Article V. Bid Security and Performance Bonds

Section 32. Bid Security – Public Works

- A. When Required.  
Bid security is required for all public bidding of public work contracts. Bid security is a bond provided by a surety company authorized to do business in the state of Washington, or the equivalent in cash, or otherwise supplied in a form satisfactory to the Department. Nothing herein prevents the requirement of security on public work contracts under the public bid limits when the circumstances warrant.

- B. Amount of Bid Security.  
Bid security is at least five percent of the amount of the bid.
- C. Rejection of Bids for Noncompliance with Bid Security Requirements.  
When the invitation for bids requires security, noncompliance requires that the bid be rejected unless it is determined that the bid fails to comply in a nonsubstantial manner with the security requirements.
- D. Withdrawal of Bids.  
After the bids are opened they are irrevocable for the period specified in the invitation for bids. If a bidder is permitted to withdraw its bid before award, no action is had against the bid or the bid security.

Section 33. Performance and Payment Bonds – Public Works

- A. When Required – Amounts.  
Except as provided by state law, when a public work contract is awarded, a performance and payment bond(s) satisfactory to the Department and executed by a surety company authorized to do business in the State of Washington, or otherwise secured in a manner satisfactory to the Department, in an amount equal to one hundred percent or more of the price specified in the contract, must be delivered to the Department to become binding on the parties upon the execution of the contract.
- B. Authority to Require Additional Bonds.  
Nothing in this section limits the authority of the Department to require a performance bond or other security in addition to the bonds, or in circumstances other than specified in subsection (A) of this section.

Section 34. Bid and Performance Bonds on Purchase and Other Contracts

Bid and performance bonds or other security may be requested for purchase contracts and other contracts as the Director deems advisable to protect the Department's interest. Bid or performance bonds are not to be used as a substitute for a determination of a bidder or offeror's responsibility.

Article VI. Remedies

Section 35. Remedies for Solicitations or Awards in Violation of Law

- A. Prior to Bid Opening.  
If, prior to bid opening, it is determined administratively or upon judicial review that a solicitation is in violation of applicable law, the solicitation is canceled or revised to comply with such law.



B. Prior to Award.

If, after bid opening, it is determined administratively or upon judicial review that a solicitation or proposed award of a contract is in violation of applicable law, the solicitation or proposed award is canceled.

C. After Award.

If, after an award, it is determined administratively or upon judicial review that a solicitation or award of a contract was in violation of applicable law, then if the person awarded the contract has:

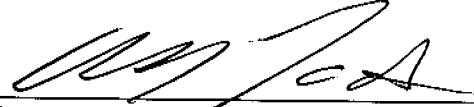
1. not acted fraudulently or in bad faith, the contract may be:
  - a. ratified and affirmed by the Park Board, if it is determined that doing so is in the Department's best interests; o
  - b. terminated upon order of the Park Board;
2. acted fraudulently or in bad faith, the Park Board may declare the contract null or voidable, if such action is in the Department's best interests, without prejudice to the Department's rights to any appropriate damages.

Article VII. Suspension and Debarment

Section 36. Suspension and Debarment

If the City of Spokane has debarred or suspended a person or firm, the Department will not contract with the person or firm during that debarment or suspension period.

ADOPTED BY THE SPOKANE PARK BOARD ON April 12, 2012

  
Secretary