



# Staff Report

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**Agenda Item:**            **REVISION OF THE FINANCIAL OPERATION GUIDE – PROCUREMENT SECTION-** Discussion and consideration regarding revisions to the Financial Operations Guide - Procurement Section which establishes standard procedures for the procurement of supplies, materials, equipment and services.

**Staff Contact:**        Kathy Bainbridge, Finance Director

**Meeting Date:**        October 27, 2009

**Background:**        The Financial Operations Guide (FOG) is a reference document used to educate employees and facilitate the proper processes and documentation of all financial activity. The Procurement Section of the Financial Operations Guide (FOG) will establish standard procedures for the procurement of supplies, materials, equipment and services and ensures that all related expenditures, which are authorized in the Town's budget, are properly encumbered and accounted for, and that a complete history of each expenditure transaction is established.

Highlights of some of the revisions are:

1.    A "Definition" section has been included for clarification.
2.    The "Procedure" section which includes purchasing procedures and standards has been clarified.
3.    The "Procedure" section which includes purchasing threshold policies for purchases or contracts for services, has been revised to mirror Ordinance 322 which amended Section 3-4-2 Purchasing - In General; of the Town Code, adopted August 25, 2009.
4.    A "Purchaser Order" section has been included which increases the purchase order threshold policy from \$500 to \$2,500 since costs, have increased rapidly over the past ten years and the buying power of 2009 is considerably lower.
5.    The "Purchase Order" section includes a blanket purchase order policy which provides convenience for departments having a requirement to purchase small expendable items in order to continue daily operations of the department with vendors whom they make recurring purchases for parts or materials.
6.    An "Exceptions" section has been revised for clarification.

**Recommendation:**    To approve the Financial Operations Guide – Procurement Section, establishing standard procedures for the procurement of supplies, materials, equipment and services.

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POLICY: To establish standard procedures for the procurement of supplies, materials, equipment and services and to ensure that all expenditures relating thereto, which are authorized in the Town's budget, are properly encumbered and accounted for, and that a complete history of each expenditure transaction is established. The Town Manager, or his/her designee Finance Director shall be the Purchasing Agent for the Town. No purchase or contract for services of any kind or description, payment for which is to be made from funds of the Town, shall be made by the Purchasing Agent, or any officer, employee or agent of the Town, except in the manner set forth below, and unless said purchase is in accordance with the adopted Town budget. The Town Code supersedes if there is conflicting information.

1. DEFINITIONS

A. Bid or Proposal Documents - The documents, including their attachments and addenda, which set forth instructions to bidders or proponents, and are disseminated for the purpose of soliciting bids or proposals.

B. Town Employee - An individual who performs services for the Town in the capacity of an elected or appointed official, or as a compensated employee of the Town or of a temporary services agency retained by the Town.

C. Town Manager - The person appointed by the Town Council to be the chief administrative officer for the Town, or his/her designee.

D. Contracts and Agreements, regardless of what they may be labeled, between the Town and one or more other parties for the procurement or disposition of goods.

E. Contractor - The person who has entered into an agreement with the Town to provide services.

F. Financial Interest - Includes any of the following:  
1. Ownership of any interest or involvement in any relationship from which, or as a result of which, a person has received compensation within the past year, or is entitled to, or is currently receiving compensation;  
2. Ownership, whether wholly or in part, of any property or business; or  
3. Status as an officer, director, trustee, partner, employee, or manager of a business.

G. Goods - Articles moveable at the time of sale, including but not limited to equipment, supplies and materials.

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H. Gratuity - A gift, payment, loan, advance, deposit of money, or service, presented or promised in return for or in anticipation of favorable consideration in the procurement process. "Gratuity" does not include the compensation paid by or due from the Town or from a temporary service agency under contract with the Town to an employee in connection with the employee's services for the Town.

I. Person - Any individual, partnership, limited partnership, association, corporation, labor union, committee, club, or governmental entity.

J. Procurement - The acquisition of supplies, goods and services by the Town, including but not limited to purchasing or leasing, and all functions and procedures pertaining to such acquisitions.

K. Professional or Specialized Services - Services which involve the exercise of professional discretion and independent judgment based on an advanced or specialized knowledge, expertise or training gained by formal studies or experience. Such services include but are not limited to, engineers, architects, geologists, hydrologists, land surveyors, landscape architects and assayers, real estate, computer, accounting, personnel and insurance consultants, psychologists, medical doctors and attorneys-at-law.

L. Responsible Bidder - A bidder as determined by the Department Head, Purchasing Agent, Town Manager, Council, or professional services :

1. To have the ability, capacity, experience and skill to provide the goods and/or services in accordance with bid specifications;

2. To have the ability to provide the goods and/or services promptly, or within the time specified, without delay;

3. To have equipment, facilities and resources of such capacity and location to enable the bidder to provide the goods and/or services;

4. To be able to provide future maintenance, repair, parts and service for the use of the goods purchased, when applicable;

5. To have a record of satisfactory or better performance under prior contracts with the city or other purchasers where such bidder has previously been awarded such contracts;

6. To have complied with laws, regulations, guidelines and orders governing prior or existing contracts performed by the bidder.

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M. Responsive Bidder - A bidder determined by the Department Head, Purchasing Agent, Town Manager, Council or professional services to have submitted a bid or proposal that conforms in all material respects to the requirements of the bid or proposal documents.

N. Services - Work performed or labor, time and effort expended by an independent contractor.

O. Sole Source - Contracts for which the Department Head, Purchasing Agent, Town Manager, Council or professional services as determined, after conducting a good faith review of available products and sources, that the Town's requirements can be met solely by a single patented, copyrighted or proprietary article or process available from a single source. Examples of acceptable sole source purchases are equipment for which there is no comparable competitive product, a component or replacement part for which there is no commercially available substitute and which can be obtained only from the manufacturer or an item where compatibility with items in use by the Town is the overriding consideration.

P. Specifications - A description of the physical or functional characteristics of the supplies or goods, or of the nature of the services.

Q. Transaction - The process of ordering goods or services through traditional purchasing methods, e.g. issuance of a purchase order.

R. Vendor - A supplier of goods or services.

## 2. PROCEDURE

A. Purchasing - The Town of Clarkdale shall procure all supplies, materials, equipment and services, deemed necessary for the delivery of quality services to its citizens, using competitive bids, vendor quotations or direct purchase. Every effort will be made to obtain all supplies, materials, equipment and services at the most economical prices available, utilizing local vendors whenever possible.

B. Purchasing Standards - All Town employees authorized to incur a debt for the Town of Clarkdale through the purchase of goods, such as supplies, materials, equipment or services, shall comply with the following purchasing standards:

1. The authority to incur a debt on behalf of the Town of Clarkdale is a public trust and each purchase shall be treated in a manner that will not in any way be adverse to the interest of the Town.

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2. That each purchase shall be made impartially, fairly and without benefit, hint of benefit, or financial interest to the Town representative who is making the purchase.
3. No employee of the Town shall demand or accept a gratuity of any kind in return for making a purchase for the Town.
4. All vendors shall be dealt with in a fair, courteous and honest manner.
5. Under no circumstance will the acquisition of supplies, materials, equipment, or services be knowingly divided to circumvent the purchasing procedures.

C. Purchasing Procedure (dollar amounts include all applicable taxes)

1. Purchases of less than \$100 may be made with petty cash upon approval from the Purchasing Agent or a Department Head.

2. Purchases of less than ~~\$1,000~~500 may be made from vendors ~~that the Town maintains an annual account,~~ upon approval from the Purchasing Agent or a Department Head.

Purchases or contracts for services ~~of~~ under ~~\$5,000~~ \$10,000 may be ordered by the Department Head, Purchasing Agent or his designee without further formality.

3. Purchases or contracts for services ~~between of \$5,000 to \$9,999~~ \$10,000 to \$24,999 shall require the solicitation of three written bids. The Department Head may award the purchase or contract for service to the lowest responsible bidder.

4. Purchases or contracts for services contemplated to be ~~\$10,000 - \$25,000~~ or more shall follow a formal bid the procedure below: ~~The Town Code supersedes any conflicting information.~~

Formal Bid Process:

- a. The Department Head or his representative shall cause to be published in two issues of a newspaper with general circulation in the Town, a notice inviting bids for the purchase or contract at least 10 days prior to the date set for the receipt of the bids.
- b. The Department Head or his representative shall make the post-a notice inviting bids for the purchase or contract available for inspection at Town Hall.
- c. Both of the above notices shall include a general description of the item or services to be performed and the time and place for opening bids.

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- d. A notice inviting bids may also be mailed to all responsible perspective suppliers.
- e. All notices and solicitations for bids shall state the time and place for opening the bids.
- f. Bids shall be submitted in a sealed envelope and identified as bids on the envelope.
- g. All bids shall be opened in public at the time and place stated in the public notice.
- h. The Department Head or his representative shall present the bids to the Council for approval and advise the Council of the advantages or disadvantages of the purchase or contract bids.
- i. A tabulation of all bids received shall be retained on file for public inspection during regular business hours following the bid opening.
- j. Contracts shall be awarded by the Town Council to the lowest responsible and responsive bidder, except as otherwise provided herein.
- k. If two or more bids received are for the same total amount or unit price, quality and service being equal and if the public interest will not permit the delay of re-advertising for bids, the Council shall determine the successful bidder by lot.

5. The Department Head, or Purchasing Agent, or Town Manager shall have the authority to reject any and all bids or part of bids and re-solicit bids for purchases or contracts of under \$10,000 \$25,000, or the Council, for purchases or contracts for services of \$10,000 \$25,000 or more, shall have the authority to reject any and all bids or and parts of bids and re-solicit bids.

~~H. Unless the Department Head, Purchasing Agent, or the Council reject the bids the following will be considered in determining the lowest responsible bidder.~~

~~1. The ability, capacity and skill of the bidder to perform the contract or provide the service required.~~

~~2. Whether the bidder can perform the contract or provide the services promptly or within the specified period of time without delay or interference.~~

~~3. The quality of performance of previous contracts.~~

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- ~~4. The previous and existing compliance by the bidder with the laws and ordinances of the Town.~~
- ~~5. The financial resources and ability of the bidder to perform the contract.~~
- ~~6. The quality, availability and adaptability of the supplies or service.~~

D. EXCEPTIONS

1. State Contract - The Town is a member of the State's purchasing system. When purchases are made from State Contract, include the contract number on the purchase order. Purchases, which exceed \$25,000, must have Council approval.

2. Cooperative Purchasing Agreements - the Town may:

a. Enter into cooperative purchasing agreements with any public procurement unit or units as outlined under A.R.S. §41-2632, for the procurement of any materials, services, or construction as may be deemed advantageous to the Town by the Council.

b. Accept a bid for materials, or services let by another public entity provided the public entity procured the equipment, materials, or services in substantially the same manner as outlined above and under the following conditions:

1. The procedures outlined above are followed.

2. The Town shall obtain written permission from the public entity letting the bid to use such bid.

3. The Town shall obtain a copy of the bid documentation from which the procurement is being based.

3. Non-Professional Services - For the purchase or procurement of nonprofessional services, upon concurrence of the Town Manager, when it is clearly to the advantage of the Town to negotiate on a sole-source basis with a specific person or firm. Circumstances which would support such negotiations include, but are not limited to:

a. A proposed contract for additional work on the same project or relating professionally to work completed by the person or firm under another contract.

b. Other special unique qualifications of the person or firm.

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- c. Contract costs to be shared with another agency that had pre-selected the person or firm under their procedures.
- d. When rapid response is required due to circumstances beyond the control of the Town.
- e. Familiarity with Town operations which results in lower cost. The purchasing office shall keep a record of such supporting circumstances. All sole-source contracts for non-professional services of estimated value over \$25,000 shall be submitted to the Council for review prior to final award and the supporting circumstances made part of the public record; and they shall be awarded by the Council and executed by the Town Manager.
4. Normal purchasing procedures will be dispensed only upon the declaration of an emergency by the Mayor or, in his/her absence, the Vice-Mayor, or in a quorum of the Council in regular or special session. In some extreme cases affecting the life or property within the community or a segment of the community, the Town Manager may authorize dispensing with normal purchasing procedures. All such actions including documentation to the effect that the expenditures and emergency procedures were justified to save life or property will be reported to the Council and made a matter of public record at the next public council meeting unless otherwise exempted from public disclosure by state statute. Such exempted actions will be brought instead to the Council in executive session prior to the next public council meeting.
5. Unless required by the Council, the above procedures shall not apply to professional services rendered on an open account on an as needed basis includes but not limited to the following: physicians, attorneys, architects, and Engineers, ~~in~~ and similar professions.
6. Used equipment. ~~Upon recommendation of the Town Manager, The~~ Council may elect to waive the bid procedures with respect to the purchase of used equipment.
7. Public Works. All Public works contracts shall be bid in accordance with those Arizona statutory provisions currently codified in A.R.S.SS 34-201 et seq. As may be amended from time to time.
8. Lease Purchase Agreements. This article shall not apply to acquisitions made through lease purchase agreements that have been approved by the Council.

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E. CHANGE ORDERS

1. This policy is applicable to contracts requiring Council approval (over \$25,000).

a. Change orders to the original contract cumulative totaling up to 5% of the original price and not to exceed \$25,000 may be approved by the Town Manager.

b. Additional authority may be granted by the Council as they feel warranted depending on the project.

F. PURCHASE ORDERS

1. A "Purchase Order" (exhibit O) shall be written for all purchases of \$500 or more. Purchases of less than \$500 may be made with approval from the Department Head. Department Heads shall prepare the "Purchase Order" and forward it to the Purchasing Agent for approval. All orders shall be placed according to the guidelines below. After the order is placed, a copy of the completed "Purchase Order", including the estimated delivery date, shall be forwarded to the Accounting Clerk. The original Purchase Order will be sent to the vendor.

2. Departments may request blanket purchase order accounts with vendors whom they make recurring purchases for parts or materials. Blanket purchase orders are intended to provide convenience for departments having a requirement to purchase small expendable items in order to continue daily operations of the department. The purchase of capital items on blanket purchase orders shall be limited in scope. All capital items must be "budgeted equipment" and have prior approval of the Department Head.

a. The Purchasing Agent or designee may, at his discretion, withdraw a blanket purchase order if, in his opinion, the use of said blanket purchase order is being abused or used improperly by a department.

b. Blanket purchase orders shall be for not more than a one fiscal year period. A new blanket purchase order will in initiated at the beginning of each fiscal year by the Purchasing Agent or designee. Blanket purchase orders for book purchases for the library will also be for a fiscal year period.

c. All blanket purchase orders shall have a set dollar amount for control purposes.

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d. All purchases from a blanket purchase order shall be followed up in the same manner as indicated for regular purchases.

~~I. ORDERING PROCEDURE~~

~~I. The Department Head or Purchasing Agent shall have the authority to require a performance bond, in cash or otherwise, for such amount as he may deem sufficient to secure the execution of the contract.~~

~~J. Exceptions~~

- ~~1. In the event that there is only one firm or company within twenty five (25) miles of the Town capable of providing a particular service or commodity such purchase or contract for services can be secured without bidding.~~
- ~~2. In the case of an emergency which requires immediate purchase of supplies or services and when time is of the essence, the Mayor shall be empowered to authorize the Purchasing Agent to purchase or secure services without following the above procedures. A full report in writing of the circumstances of any emergency purchase shall be filed by the Purchasing Agent with the Town Council at its next meeting.~~
- ~~4. The above procedures shall not apply to purchases or contracts made by, through or with the State of Arizona or its political subdivisions. The Town may make purchases or award contracts for services without a formal bidding process whenever other government units have done so for the same item or service if in the opinion of the purchasing agent, a separate bidding process is not likely to result in a lower price for such items or services.~~
- ~~8. The Town currently can make purchases through the State of Arizona Procurement office or Mohave Education Services Cooperative, with out going out to bid due to the bid guidelines these entities have set up without going out to bid.~~