

**CITY OF GOLD BAR, WASHINGTON
RESOLUTION NO. 17-11**

**A RESOLUTION OF THE CITY OF GOLD BAR, WASHINGTON, CREATING PURCHASING
AND PROCUREMENT POLICIES**

WHEREAS, the State Auditor's Office recommends that cities and towns create purchase and procurement policies for all entities that receive Federal funds; and

WHEREAS, the City sees the need for purchase and procurement policies to provide purchasing guidelines for staff; and

WHEREAS, the City currently does not have a policy in place specific to purchases and procurement beyond broad guidelines in the Municipal Code;

NOW THEREFORE, BE IT RESOLVED by the governing body of the City of Gold Bar as follows.

- I. Purchasing and Procurement Policy**
- II. Amendments**
- III. Severability**
- IV. Effective Date**

I. Purchasing and Procurement Policy

The purchasing and procurement policy as attached shall be adopted in its entirety.

II. Amendments

Amendments to this policy shall be done through the Resolution process.

III. Severability

This Resolution is severable and if any portion of it shall be declared invalid or unconstitutional, the remaining portion shall remain valid and enforceable.

IV. Effective Date

This Resolution shall take effect from, and after, its passage and approval.

Attest:



Lisa Stowe, Clerk/Treasurer

Attest:



Lee Hodo, Mayor

City of Gold Bar
EST. 1910



107 - 5th Street, Gold Bar, WA 98251

City of Gold Bar Purchasing and Procurement Policy

Adopted by Resolution #17-11

Purpose

It is the City of Gold Bar's policy to follow state requirements with regard to expenditures of public funds, to provide a fair forum for bidding on public contracts, and to ensure public contracts are performed efficiently. The strict adherence to state requirements and to the City's municipal code and policies lessens risk of fraud and favoritism.

For the purpose of this policy, 'purchasing' is defined as acquiring something by paying for it. 'Procurement' is defined as the act of obtaining or buying goods and services, including the preparation and processing as well as the end receipting and approval of payment.

Purchasing and Procurement Code of Ethics

A purchasing and procurement code of ethics guides personnel and provides guidance for professional conduct for those who manage, or participate, in procurement activities. A code of ethics also instills public confidence in the award of contracts and the expenditure of public funds. Because of this, the City adheres to the following:

1. Actions of City employees shall be impartial and fair.
2. Government decisions, municipal codes, resolutions, and policies relating to purchasing and procurement shall be made in compliance with required procedures and within the proper governmental structure.
3. Public employees and elected officials shall not use their positions for personal gain. They shall not solicit, accept, or agree to accept, any gratuity for themselves, their families, or others, that would, or could, result in personal gain.
4. Purchasing and procurement decisions will be made impartially, based on the City's Municipal Code and state requirements.
5. No employee, elected official, or agent, may participate in the selection, award, or administration of a contract if he or she has a real or apparent conflict of interest. This conflict of interest extends to the employee, elected official, or agent's immediate family members, partners, and/or other employers.
6. The City strictly adheres to the Appearance of Fairness Doctrine in all matters, including purchasing and procurements. The Appearance of Fairness Doctrine is a rule of law requiring government decision-makers to conduct non-court hearings and proceedings in a way that is fair and unbiased in both appearance and fact. In regards to purchasing and procurement this doctrine dictates the behavior of elected officials relating to the awarding of contracts, bids, capital purchases, and any purchases or procurements that come before the elected body for action.

Controlling Laws

Expenditures of public funds for the purchase of, and contracting for, goods, services, supplies, and materials, shall comply with the City's Municipal Code and all applicable state laws as set forth in the Revised Code of Washington (RCW) and the Washington Administrative Code (WAC), in addition to any applicable federal laws and regulations.

Monitoring and Compliance

The Clerk/Treasurer shall oversee all purchasing and procurements related to normal operations. Supervisors shall approve purchases and procurement processes prior to completion. The City's Finance Committee shall review all purchases and documentation. The Council shall have final review prior to payment.

In the event of any conflict in procurement requirements or questions about proper procedure or other requirements, the matter shall be referred to the Clerk/Treasurer and/or Mayor for further action. Willful or intentional violation of public procurement requirements may result in personal penalties, financial liabilities, and/or discipline. *See RCW 39.30.020.*

Proper Authorization

Only authorized employees acting within the scope of their authority may obligate the City in the acquisition of goods or services. Any employee purchasing good on behalf of the City without proper authorization may be personally liable to the vendor and to the City, as well as subject to disciplinary action.

Local Business Open Accounts

The City may establish open accounts at local businesses. The account will stipulate which employees are approved for purchases and what the amount threshold is. Purchases on these accounts may be made only by authorized City employees. Receipts must be signed by supervisors, and given to the Clerk/Treasurer.

Project Process

In addition to full competitive bid requirements, the City may use any of the following procedures as needed.

1. Projects that run between one thousand dollars (\$1,000) and five thousand dollars (\$5,000), the City will follow the small works roster process instead of competitive bidding requirements. The City may utilize Municipal Research Services Center's small works roster, or the City's roster, if one exists at the time of the project. If the amount of the project does not impact the budget, the Mayor may execute all documents relating to the contract. See Gold Bar Municipal Code (GBMC) 3.08.010 for those projects anticipated to impact the approved budget.
2. Projects between five thousand dollars (\$5,000) and ten thousand dollars (\$10,000) will solicit a minimum of three electronic or written quotes.
3. Projects over ten thousand dollars (\$10,000) or projects with grant or loan requirements, will follow the competitive bid process.
4. No bidding or quote process is required for those projects directly related to interlocal agreements where the interlocal is already in place.

5. The City may also exercise its authority to contract with another public agency through an interlocal agreement to perform any function that either agency is authorized by law to perform. Another public entity could act as the City's agent or contractor.
6. The City may acquire surplus property from governmental entities without regard to bid regulations.

Materials, Goods, and Equipment

For those materials, goods, and equipment not associated with public works projects, over five thousand dollars (\$5,000), the City may follow a competitive negotiation process as an alternative to the bid process. Pursuant to RCW 30.04.270, any such alternative competitive negotiation process will include at least the following steps:

- a request for proposals must be published in a newspaper of general circulation at least thirteen days before the last date on which the proposals will be received;
- the request for proposal must identify significant evaluation factors, including price, and their relative importance;
- the City must provide reasonable procedures for technical evaluation of the proposals, identification of qualified sources, and selection for awarding the contract;
- the award must be made to the qualified bidder whose proposal is 'most advantageous' to the City. The City may reject all proposals for good cause and request new proposals.

Architectural and Engineering Services

State law does not impose any particular competitive bid requirements for services, except for notice in the official newspaper, and that the requirements of RCW 30.80 shall apply. The City will publish in its newspaper of record, its need for architectural or engineering services in advance, stating the general scope and nature of the project or work for which services are required and providing contact information.

A qualifications-based selection process, in which the City assesses the expertise of competing firms and selects the most highly qualified firm, will be utilized by the City. If the most highly qualified firm cannot reach an agreement with the City for services, then the City will negotiate with the next most highly qualified firm.

Professional and Personal Services Other Than Engineering Or Architecture

Professional or personal services are those services involving specialized skill, education, and special knowledge, including accounting, legal, real estate appraisal, surveying, hearing examiner services, water system specialties, etc. A competitive process is not required for professional or personal services. Public notices in the newspaper of record for the City will be optional for professional and personal services.

Procurement, administration, and termination of such professional or personal services contracts shall be the responsibility of the Mayor, Clerk/Treasurer, and/or the Public Works Director. The Mayor, Clerk/Treasurer, and/or the Public Works Director are authorized to negotiate all

professional and personal services contracts for which funds have been budgeted or otherwise approved by the City Council.

Bidding Process in Emergencies

Competitive bidding is not required when an emergency exists. The Mayor and/or City staff are authorized to make emergency purchases upon a finding, declaration of disaster, or other such duly entered record of the existence of such an emergency, including, but not limited to the following:

1. Any breakage or loss of equipment or circumstances where services are interrupted or are about to be interrupted; or
2. Situations where the City may suffer substantial losses by reason of the time required for following the regular purchasing procedures. This type of emergency purchase or procurement shall be reported to the City Council at the next meeting.
3. In the event of a disaster, natural or otherwise, in which there may be loss of life or property, or imminent risk to life or property.

If an emergency exists, the Mayor or appropriate staff is authorized to act and will follow up with all necessary action from the City Council within two weeks of the emergency that will deal with the following:

1. Declare or confirm that an emergency situation exists or existed;
2. Waive competitive bidding requirements for purposes of responding to the emergency situation; and
3. Authorize on behalf of the City, the execution of any contract necessary to address the emergency situation, including, but not limited to, architectural and engineering services.

Competitive Bidding Exemptions

The Revised Code of Washington, 39.04.280 provides uniform exemptions to competitive bidding requirements relating to awarding contracts for public works and contracts for purchasing.

Competitive bidding requirements may be waived by the City Council for:

1. Purchases that are clearly and legitimately limited to a single source of supply;
2. Purchases involving special facilities or market conditions;
3. Purchases in the event of an emergency;
4. Purchases of insurance bonds; and
5. Public works in the event of an emergency.

For full text of competitive bidding exemptions, reference RCW 39.04.280.

Advertising for Bids

For all contracts that require competitive bids, the City shall publish notice of the call for bids in the official newspaper of record. The City's advertisement for bids will contain specifications and procedures for bidders to use in estimating their bids, in addition to the following information:

1. Time and place where bids will be opened;
2. The time after which bids will not be received;
3. The character of the work to be performed;
4. The materials and equipment to be furnished;
5. Where the specifications for the project may be seen;
6. A statement that a bid bond must accompany the bid; and
7. Statements that the City retains the right to reject any and all bids and to waive minor irregularities in the bidding process.
8. A statement that the successful bidder will be required to pay prevailing wages for the work to be performed.

Bid Bonds

Bid bonds are required for all public works that go out for the public bid process to ensure that the bid has been made in good faith and that the bidder will enter into a contract if the bid is accepted. An acceptable bid bond includes a cashier's check, postal money order, letter of credit, surety bond, or similar financial guarantee in a form acceptable to the City and/or City Attorney, in an amount set by the City. The City will not consider any bid, for which a bid bond is required, without the bid bond attached to the bid documents.

Bid bonds are not required when small works roster procedures are used.

Acceptance of Bids

After bids are opened, the City shall award the contract to the lowest responsible bidder. (see also *Bid Opening and Award*) The City retains the right to reject all bids. (see also *Bid Rejection*) The City shall return bid proposal deposits and/or bid bonds to all unsuccessful bidders. The City will retain the successful bidder's bid bond until the bidder executes a contract for work and furnishes a performance bond in the full amount of the contract price (see *Performance Bonds*). If the successful bidder fails to execute a contract with the City or does not provide a performance bond within ten (10) days of being notified of the bid's acceptance, the City reserves the right to retain the bid bond, reject the bidder, and either award the contract to the second lowest responsible bidder or re-advertise the project.

Performance Bonds

The City shall require a performance bond when entering into all public works contracts, to ensure that the job will be completed and that all workers, sub-contractors, and suppliers will be paid. The successful bidder shall provide the performance bond in a form and amount acceptable to the City and/or the City Attorney within ten (10) days of the City's selection of the bidder.

Performance bonds are not required if the small works roster is used. In lieu of a performance bond for small works roster projects, the City may choose to retain a percentage of the contract payment for a set amount of time after the completion of the project. The retainage parameters must be agreed upon prior to the commencement of work.

Bid Opening and Award

The City shall open bids at the place, date, and time, stated in the bid package. If the bid is complicated and City Council action is required to award the contract, City staff may summarize the bids before presenting them to the Council. Where Council action is required, staff will assist the Council in determining the lowest responsible bidder. The City must award the bid to the lowest responsible bidder or reject all bids. The City may not negotiate with any of the bidders.

Bid Rejection

The City reserves the right to reject any bid not in substantial compliance with the bid documents, specifications, or any prescribed public bidding procedure or requirement and may reject for good cause any or all bids upon finding that it is in the public's interest to do so.

Bid Appeals or Protests

Bidders may appeal or protest a proposal solicitation or award of contract issued by the City, provided that the bidder strictly follows the procedures described below. Prior to the deadline for submitting bids or proposals, bidders may appeal or protest specifications, terms, or requirements. After the deadline for submission of bids or proposals, bidders may appeal or protest the award or pending award to the apparent low bidder, or the selection of the apparently most advantageous proposal.

The appeal or protest shall:

1. Be in writing; and
2. Explicitly identify itself as an appeal or protest; and
3. Explicitly identify the bid/project/request being appealed or protested; and
4. Explicitly state all reasons and bases in law and fact supporting the appeal or protest, including but not limited to, identification of any and all specifications, terms, requirements, or conditions to which the bidder objects; and
5. Include any and all supporting documents; and
6. Be filed with the City Clerk/Treasurer.

All appeals or protests concerning specifications, terms, or requirements, must be received by the City Clerk/Treasurer no later than seven (7) business days prior to the deadline for submission of bids or proposals.

All appeals or protests of an award, pending award, or selection, shall be received by the City Clerk/Treasurer no later than five (5) business days after the City awards the contract or selects the most advantageous proposal.

No appeals or protests will be heard or considered if the above timelines are not met.

The City reserves the right to proceed with the execution of a contract and any actions allowed pursuant thereto without notice to the appellant/protestor, notwithstanding the pendency of any appeal/protest.

A bidder's initial appeal/protest will be reviewed by the Mayor, the City Attorney, the Clerk/Treasurer, and the Public Works Director. The initial appeal/protest will be decided based upon the written appeal or protest, supporting documentation, and any other information requested and obtained by those reviewing the appeal/protest. A meeting or conference with the appellant/protestor will occur only if the Mayor determines that such a meeting would materially assist the City in resolving the appeal/protest. Only those issues raised by the appellant/protestor in the initial written appeal/protest filed with the Clerk/Treasurer will be considered.

The City will issue a written decision no later than ten (10) business days after the deadline for specifications, terms, or requirements concerning the initial appeal/protest filed with the Clerk/Treasurer.

The City will issue a written decision no later than ten (10) business days after the deadline for award, pending award, or selection, concerning the initial appeal/protest filed with the City Clerk/Treasurer.

The City may elect to extend the time for decision by notifying the appellant/protester of the time extension in writing.

The appellant/protester may appeal the City's decision on an appeal/protest to the City's Hearing Examiner within seven (7) days of the City's written decision. Hearing Examiner costs will be borne by the appellant/protester. The appellant/protester shall provide all documentation as required by the Hearing Examiner. The Hearing Examiner's findings shall be binding for both the City and the appellant/protester, and no further appeals will be considered.

Expenditures of Funds

Any purchase of supplies, materials, equipment, or services, except for wages for employees, which are not part of the approved budget, or which would cause a fund to go over the approved budget amount, shall not be made unless first approved by the Council, except in the case of emergencies. For full text of this requirement, reference Gold Bar Municipal Code 3.08.010.

Emergency Expenditures of Funds

In the event of an emergency the Mayor and/or Clerk/Treasurer, may authorize expenditures after first ensuring funds are available. For definitions of what constitutes an emergency and full text of this requirement, reference Gold Bar Municipal Code 3.08.030.

Credit/Debit Cards

The use of city credit/debit cards by city personnel is regulated within the adopted personnel manual for the City. (GBMC 3.08.040)

For full text of the Credit/Debit card policy, reference Title 39 of the City's Personnel Manual.

Purchase Orders

The City does not purchase or procure through the purchase order process. Expenditures for purchasing and procurement are done through invoicing, payment at the time of purchase, debit/credit card usage, and billing through accounts with businesses and agencies.

Federal Awards

The City will maintain effective internal control over any Federal award, providing reasonable assurance that the City manages Federal awards in compliance with Federal statutes and regulations, and terms and conditions of any such award. The City will also ensure all audit requirements associated with Federal awards are met.

The City will take prompt action when instances of noncompliance are identified.

The City will take reasonable measures to safeguard any information deemed as sensitive as part of the Federal award.

The City, as a recipient of Federal funds, shall adhere to Federal regulations as well as all applicable Federal and State statutes and regulations relating to the requirements for single audits on all entities receiving Federal awards.

No elected official, employee or agent of the City shall participate in the selection, award or administration of a contract supported by federal grant funds if a conflict of interest, real or apparent, would be involved. Such a conflict would arise when any of the following has a financial or other interest in the firm selected for award:

1. The City employee, elected official, or agent; or
2. Any member of their immediate family; or
3. Their partner; or
4. An organization which employs, or is about to employ any of the above.

The City's elected officials, employees or agents shall neither solicit nor accept gratuities, favors, or anything of monetary value from contractors, potential contractors or sub-contractors.

To the extent permitted by federal, state or local laws or regulations, violation of these standards may cause penalties, sanctions or other disciplinary actions to be taken against the City's elected officials, employees or agents, or the contractors, potential contractors, sub-contractors, or their agents. Any potential conflict of interest will be disclosed in writing to the Federal awarding agency or pass-through entity in accordance with applicable Federal awarding agency policy.