

# PROCUREMENT POLICY

## PROCUREMENT

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### Section 1      Purpose.

The purpose of this Policy is to establish procedures that will ensure that a fair and competitive process for the procurement of goods and services needed by the Town to be followed by all departments of the Town under the purview of the Town Manager. It is the Town's goal to obtain competitive bids for goods and services whenever such is possible or practicable while emphasizing practices that will permit the Town to receive the best possible value for quality goods and services.

### Section 2      Definitions.

The words defined in this section shall have the meanings set forth below whenever they appear in this Policy, unless the context in which they are used clearly requires a different meaning or a different definition is prescribed for a particular provision.

- a. "Best interests of the Town" means advantageous to the Town.
- b. "Code" means the Paradise Valley Town Code.
- c. "Confidential Information" means that if a vendor believes that a bid, proposal, offer, specification or protest contains proprietary information that should be withheld, a statement advising the Purchasing Authority of this fact shall accompany the submission and the information identified wherever it appears. The information identified by the bidder or proposer as confidential shall not be disclosed until the Purchasing Authority makes a determination as to appropriateness of confidentiality. Such determination may be reviewed by the Town Attorney's office. If the Purchasing Authority determines to disclose the information, the vendor shall be informed in writing of such determination.

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- d. “Contract” means all types of Town agreements, regardless of what they may be called, for the procurement of materials, services, or construction or the disposal of property.
- e. “Emergency Procurement” means the procurement of goods, materials, supplies or services which are required to remedy a situation where the health, safety, welfare of the public, or public property is endangered or severely reduced if immediate corrective or preventive action is not taken.
- f. “Formal Procurement” means procurements of ten thousand dollars (\$10,000) or more made by formal procedures in accordance with the provisions of this Policy.
- g. “Gratuities” means unethical or illegally given gifts, services or money offered or given to any officer or employee of the Town with a view toward securing an unfair advantage of obtaining an order or favorable treatment with respect to an award or contract.
- h. “Informal Purchases” means the Procurement of supplies and services of less than ten thousand dollars (\$10,000) made using the Informal Purchase Procedures in this Policy.
- i. “Invitation for Bids” means all documents, whether attached or incorporated by reference, which are used for soliciting bids in accordance with the procedures prescribed in this Policy.
- j. “Multi-step Sealed Bidding” means a two phase process consisting of a technical first phase composed of one or more steps in which bidders submit technical offers to be evaluated by the Town and a second phase in which those bidders whose technical offers are determined to be acceptable during the first phase submit their price bids for consideration.
- k. “Procurement” means buying, purchasing, renting, leasing, or otherwise acquiring any materials, services, construction or property. Procurement also includes all functions that pertain to the obtaining of any material, service, construction, or property, including description of requirements, selection and solicitation of sources, preparation, and award of contract, and all phases of contract administration. Procurement shall not include any material or service secured through a gift, grant or donation to the Town.
- l. “Professional Services” means those services requiring special knowledge, education, or skill, where the qualifications of persons rendering the services are of primary importance. Professional services shall include, but not be limited to, appraisers, attorneys, architects, engineers, surveyors, accountants, psychologists, physicians, and other health professionals.
- m. “Purchasing Authority” means the Town Manager or his designee authorized to manage, supervise, and monitor execution of the terms and conditions of a contract.
- n. “Purchase Description” means the words used in a solicitation to describe the materials, services, or construction for purchase, attached to or made a part of the solicitation.

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- o. “Request for Proposals” means all documents, whether attached or incorporated by reference, which are used for soliciting proposals in accordance with procedures prescribed in this Policy.
- p. “Request for Qualifications” means a request by the Town for detailed information concerning the qualifications of firms to provide professional services.
- q. “Responsible Bidder or Offeror” means a person who has the capability to perform the contract requirements and the integrity and reliability that will assure good faith performance.
- r. “Responsive Bidder or Offeror” means a person who submits a bid, which conforms in all material respects to the Invitation for Bids or Request for Proposals.
- s. “Sole Source” means a vendor or proposer for supplies and services who, through compliance with the procedures set forth in this Policy, has been determined to be the only known source for the supply or service.
- t. “Specification” means any description, usually at a technical level, of the required physical or functional characteristics, or of the nature of a material, service, or construction item. Specification may include a description of any requirement for inspecting, testing, or preparing a material, service, or construction item for delivery.
- u. “Vendor or Proposer” means a person or firm in the business of selling or otherwise providing products, materials, or services.

## Section 3      Exceptions.

The Provisions of this Policy are not applicable to contracts for:

- a. Professional Witnesses if the purpose of such contracts is to provide for professional services or testimony relating to an existing or probable judicial proceeding in which the Town is or may become a party to or to contracts for special investigative services for law enforcement purposes;
- b. Agreements negotiated by the Town Attorney in settlement of a claim or litigation or threatened litigation;
- c. Worker’s compensation payments for medical and related expenses;
- d. Intergovernmental agreements;
- e. Election services;
- f. Council initiated contracts;
- g. Investments; and

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- h. The purchase of real property.

## Section 4 Council Approval; When Required.

No purchases shall be made by or on behalf of the Town without first obtaining Council approval in the following instances:

- a. Where prior approval is required by the Code or council policy;
- b. When budgeted funds are not available for the purchase;
- c. For the expenditure of funds in an amount in excess of ten thousand dollars.

## Section 5 Purchasing Authority; Duties.

- a. The Town Manager shall serve as the Purchasing Authority and shall direct all purchases of goods and services made by or on behalf of the Town. The Town Manager may delegate authority for administration of this Policy to members of Town staff.
- b. The Town Manager, or his designee, shall approve or deny all purchase requests and shall report to the Council on any purchase requiring Council approval.

## Section 6 Emergency Purchases; Procedure.

- a. Notwithstanding any other provisions of this Policy, upon declaration of an emergency, the Purchasing Authority may make or authorize emergency procurement based upon a threat to the public health, welfare, property, or safety, or if a situation exists which makes compliance with the provisions of this Policy impracticable, or contrary to the public interest. Emergency procurements shall be made with such competition as is practicable under the circumstances.
- b. Written determination of the basis for the emergency and for the selection of the particular contractor shall be included in the contract file.
- c. An emergency procurement shall be limited to those materials, services, or construction necessary to satisfy the emergency need.
- d. Emergency purchases authorized by the Purchasing Authority, which exceed the Formal Procurement limit, shall be reported to the Town Council.

## Section 7 Informal Purchases; Procedure.

- a. Procurement of supplies and services of less than of ten thousand dollars (\$10,000) cost shall be made using Informal Purchase Procedures.

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- b. Insofar as it is practical, Informal Purchases should be based on at least three written or verbal quotations. Quotations shall be documented and retained with documentation of the purchase.
- c. The Purchasing Authority or designee shall solicit quotations by telephone, interview, or by written request.
- d. Award shall be made to the Responsible Bidder submitting the quotation that is most advantageous to the Town and conforms in all material respects to the solicitation. The names of the businesses submitting quotations, and the date and amount of each quotation, shall be recorded and maintained as a public record.
- e. Procurements which do not exceed a single aggregate dollar amount of five thousand dollars (\$5,000) cost are exempt from the requirements of this Article, but shall be made using comparative pricing providing for adequate and reasonable competition. Vendors may be selected taking into consideration the price, purchaser's past experience, the vendor's reputation, availability of goods or services, and the service level of the vendor and compatibility of equipment. Other specific criteria may be utilized as necessary and appropriate, given the nature of the specific purchase. Award shall be made to the responsible vendor who submits the quotation that is most advantageous to the Town and conforms to the purchase requirements.

## Section 8      Formal Procurement Limits and Process.

- a. Formal Procurement Limits. Except as otherwise provided in this Policy or the Town Code, (see Paradise Valley Town Code, Article 3-5 Public Bids), procurements of ten thousand dollars (\$10,000.) or more shall be made by formal procedures in accordance with the provisions of this section and applicable state laws.
- b. Invitation for Bids. An Invitation for Bids ("Invitation") shall be issued and shall include a purchase description, specifications and all contractual terms and conditions applicable to the procurement.
  - 1. Adequate notice of the Invitation shall be made in a reasonable time before the date set forth in the Invitation for the opening of bids. Notice shall identify the place, date and time of bid opening. Said notice may include publication one or more times in a newspaper of general circulation.
  - 2. Sealed bids shall be opened at the time and place designated in the Invitation. The amount of each bid, and such other relevant information as may be specified by rule, or in the Invitation itself, together with the name of each bidder shall be recorded. This record shall be open to public inspection after the bid opening in a manner prescribed by rule. The bids shall not be open for public inspection until after a contract is awarded. Except to the extent the bidder designates, and the Purchasing Authority concurs, trade secrets or other proprietary data contained in the bid documents shall remain confidential. If the bidder designates a portion of its bid as confidential, it shall isolate and identify in writing the confidential

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portions in accordance with this chapter. Bids shall be unconditionally accepted without alteration or correction, except as authorized in item b.4 of this section. Bids shall be evaluated based on the requirements set forth in the Invitation. Correction or withdrawal of erroneous bids before bid opening, based on bid mistakes, may be permitted in accordance with established rules. After bid opening, no corrections in bid prices or other provisions of bids prejudicial to the best interest of the Town or fair competition shall be permitted. All decisions to permit the correction or withdrawal of bids, or to cancel awards of contracts based on bid mistakes, shall be supported by a written determination by the Purchasing Authority.

3. The contract shall be awarded to the lowest responsible and Responsive Bidder whose bid conforms in all material respects to the requirements and criteria set forth in the Invitation.
  4. Multi-step Sealed Bidding may be used if the Purchasing Authority determines in writing that it is not practicable to initially prepare a definitive purchase description that is suitable to permit an award based on competitive sealed bidding. An Invitation for Bids may be issued requesting the submission of technical offers to be followed by an Invitation for Bids soliciting priced offers limited to those bidders whose offers are determined to be technically acceptable under the criteria set forth in the first solicitation.
- c. Request for Proposals. If, under established rules, the Purchasing Authority determines that the use of competitive bidding is neither practicable nor advantageous to the Town, he may request that prospective bidders submit competitive proposals, and establish rules and or criteria for evaluation of proposals, and to provide the basis for a contract that may be entered into as a result of the proposal evaluation process.
1. Notice of the Request for Proposals shall be given in the same manner as provided in subsection b.1 above.
  2. Proposals shall be opened at the time and place designated in the Request for Proposals. The name of each offeror shall be read and recorded. All other information contained in the proposals shall be confidential so as to avoid disclosure of contents prejudicial to competing offerors during the process of evaluation. The proposals shall be open for public inspection after contract award. To the extent the offeror designates and the Purchasing Authority concurs, trade secrets or other proprietary data contained in the proposal documents shall remain confidential in accordance with this Policy.
  3. As provided in the Request for Proposals, and under established rules, discussions may be conducted with Responsible Offerors who submit proposals determined to be reasonably acceptable for contract award, for the purpose of clarification to assure full understanding of and responsiveness to the solicitation requirements. Revisions may be permitted after submissions and before award for the purpose of

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clarification. In conducting discussions, there shall be no disclosure of any information from proposals submitted by competing offerors.

4. The award shall be made to the Responsible Offeror whose proposal is determined in writing to be the most advantageous to the Town taking into consideration any appropriate evaluation factors which may be determined by the Purchasing Authority.

## Section 9 Professional Services. (Request for Qualifications)

- a. The Purchasing Authority or designee may procure professional services. Such services shall include, but not be limited to, the following: physicians, attorneys, engineers, architects, appraisers, accountants, and similar professions.
- b. Contracts for professional services which qualify for the Informal Purchase procedure specified in Section 8.c shall be made in conformance with said section.
- c. Contracts for professional services which qualify for the Formal Procurement process shall be made in conformance with Section 8.c (Request for Proposals), except if the Purchasing Authority determines that the use of the Formal Procurement process is not advantageous to the Town; then the following Request for Qualifications procedure shall apply:
  1. The Purchasing Authority shall solicit statements of qualification from persons or firms interested in rendering the needed professional services to the Town. Statements of qualification may be solicited by mailing notices to interested persons as is deemed appropriate under the circumstances. The notice shall contain a description of the professional services required and such other information, as deemed appropriate.
  2. The designated Town staff person seeking professional services, subject to approval by the Purchasing Authority, shall appoint a committee consisting of two or more persons to evaluate proposals.
  3. The committee shall use procedures and standards prescribed by the Purchasing Authority to screen and assess the qualification of interested persons or firms. The committee may, at any time, request such additional information from any interested person or firm as is deemed necessary and may require interested persons to participate in interviews.
  4. The committee shall recommend one or more persons or firms deemed qualified to render the services. The committee may rank the qualified persons.
  5. A contract for the required professional services, at a fair and reasonable compensation, shall be negotiated by the Purchasing Authority with one of the persons or firms deemed qualified by the committee.

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6. All contracts made pursuant to this section shall be in writing. Contracts for professional services shall not become binding upon the Town until signed by the Town Manager.

## Section 10 Bid and Contract Surety.

The submission of Surety to guarantee faithful bid and contract performance may be required. In determining the amount and type of surety required for each contract, the Purchasing Authority shall consider the nature of the performance and the need for future protection for the Town. The requirement for surety must be included in the solicitation documents.

## Section 11 Sole Source Procurement.

- a. The Purchasing Authority or designee may procure and contract for supplies and services without compliance with the procedures set forth in this Policy when there has been a written determination that competition is not available and there is only one known source for the supply or service.
- b. The department requesting Sole Source Procurement shall provide a written determination justifying the basis for the Sole Source Procurement, which is subject to approval by the Purchasing Authority.
- c. A Sole Source Procurement request that exceeds ten thousand dollars (\$10,000) shall be submitted in writing for approval by the Town Council. All Sole Source Procurements less than ten thousand dollars (\$10,000) but in excess of five thousand dollars (\$5,000) that are approved by the Purchasing Authority shall be reported to the Town Council within 30 days after such approval.

## Section 12 Cancellation of Solicitations and Rejection of Bids.

An Invitation for Bids, a Request for Proposals or other formal solicitation may be cancelled or all bids or proposals may be rejected by the Purchasing Authority if it is in the best interest of the Town. The reasons for the cancellation or rejection shall be made part of the contract file. Reasons for rejection shall be provided upon request by unsuccessful bidders or offerors.

## Section 13 Cooperative Purchasing.

PURSUANT TO A.R.S. § 41-2632 the Purchasing Authority or designee shall have the authority to participate with other political subdivisions of this state, the State, and the Federal Government for the procurement of supplies or services in cooperative purchasing agreements without a formal bidding process whenever other governmental units have already done so for the same item or service.

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## Section 14    Final Contract Approval.

No Contract shall be final until (1) Approved by Council, for contracts requiring Council approval, and (2) signed by appropriate parties. The recommendation by the Purchasing Authority for award of a contract to a prospective vendor does not, in itself, create a contract with the prospective vendor and no rights or remedies are created by virtue of the Purchasing Authority's recommendation.

## Section 15    Ethics.

- a. Town employees must discharge their duties impartially so as to assure fair competitive access to Town procurement by responsible contractors and vendors.
- b. Contractors and vendors doing business with the Town are expected to observe these same ethical standards.
- c. It shall be a breach of ethical standards for any person to offer, give or agree to give any employee or for any employee to solicit, demand, accept, or agree to accept from another person, a gratuity or offer of employment in connection with any decision, approval, disapproval, or recommendation in connection with the selection process of contract awards.
- d. It shall be a breach of ethical standards for any employee or former employee of the Town to knowingly use confidential information for actual or anticipated personal gain, or for the actual or anticipated personal gain of any other person.