City of Carroll

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MEMO TO: Mike Pogge-Weaver, City Manager

FROM: Laura A. Schaefer, Finance Director/City Clerk

DATE: December 17, 2020

SUBJECT: Updated Policy No. 0501 – Purchasing Policy and New Policy No. 0501.1 – Purchasing Policy – Federally Funded Purchases/Contracts

In August 2020, the City began the process to submit a grant reimbursement request with Federal Emergency Management Agency (FEMA) and the Iowa Homeland Security & Emergency Management. The request is for expenses related to mitigating the spread of COVID-19 and for the health and safety of employees and the public.

Part of the process is a review of certain City policies including the city's purchasing policy. City staff has worked with Iowa Homeland Security & Emergency Management to draft the proposed attached updated Policy No. 0501 and new Policy No. 0501.1.

The update to Policy No. 0501 was to state that the City has its own documented procurement procedures that confirm to Federal, State and local laws. In addition, Policy No. 0501 references new Policy No. 0501.1 that is specific to procedures for federally funded purchases and contracts. New Policy No. 0501.1 references the website for the Uniform Grant Guidance in Title 2 Code of Federal Regulation (C.F.R) Grants and Agreements, Part 200 Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards. The new policy also lists the steps the city will take for federally funded contracts to solicit and award contracts to qualified small and minority firms, women's business enterprises and labor surplus area firms whenever reasonably possible.

With this update, staff also reviewed Policy No. 0501 for other changes. Staff recommends changing City Council responsibility limit of reviewing, approving and awarding budgeted purchases to $25,000. Purchases between $10,000 and $25,000 would be approved by the City Manager with a report to Council after the purchase is made. Departments would be allowed to make purchased for budgeted items under $10,000. Additionally, changes are being recommended related to commodities/consumables/repairs purchases.

RECOMMENDATION: Council approval, by resolution, of the updated Policy No. 0501 – Purchasing Policy and new Policy No. 0501.1 – Purchasing Policy – Federally Funded Purchases/Contracts.

RESOLUTION NO. _____

A RESOLUTION AMENDING POLICY NO. 0501 – PURCHASING POLICY AND NEW POLICY NO. 0501.1 – PURCHASING POLICY – FEDERALLY FUNDED PURCHASES/CONTRACTS

WHEREAS, the City has applied for a Federal Emergency Management Agency (FEMA)/Iowa Homeland Security & Emergency Management grant for reimbursement of COVID-19 expenses and;

WHEREAS, a requirement of FEMA is to have an updated Purchasing Policy that specifically addresses requirements when spending federal money on purchases or contracts; and

WHEREAS, City staff has worked with Iowa Homeland Security & Emergency Management to prepare an amended Purchasing Policy and create a new policy relating to spending federal money; and

WHEREAS, the City Council of the City of Carroll, Iowa, finds that the amended purchasing policy and new purchasing policy is accepted and should, therefore, be approved.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Carroll, Iowa, that the attached amended Policy No. 0501 – Purchasing Policy and new Policy No. 0501.1 – Purchasing Policy – Federally Funded Purchases/Contracts is approved.

PASSED AND APPROVED this 21st day of December, 2020.

CITY COUNCIL OF THE
CITY OF CARROLL, IOWA

_____
Jerry Fleshner, Mayor Pro Tem

Attest:

_____
Laura A. Schaefer, City Clerk

CITY OF CARROLL

POLICIES AND PROCEDURES MANUAL

Subject	Policy No.
Purchasing Policy	0501

Responsible Division(s), Office(s)	Related Policies & Procedures
All Departments	0501.1

Effective/Revision Date	Approval(s)
11/28/88; 01/22/90; 04/10/17	Mike Pogge-Weaver

Purpose

The City of Carroll Purchasing Policy is created to:

1. Clarify certain procedures and safeguards governing purchases of supplies and services by the City.
2. Provide for increased public confidence in the procedures followed in City purchasing decisions.
3. Ensure the fair and equitable treatment of all persons who are involved with the City's purchasing procedures.
4. Provide increased economy in City purchasing activities and maximize the purchasing value of public monies for the City.

Application

This policy applies to procurement of all supplies, equipment, construction and services of and for the City of Carroll that include any federal program funding, including but not limited to, those related to the implementation and administration of the Community Development Block Grant (CDBG) award, Assistance to Firefighter's Grant (AFG), the Community Facilities Direct Loan Program and the Community Facilities Grant Program (USDA Rural Development), Federal Emergency Management Administration (FEMA), the Pre- Hazard Mitigation Grant or the Emergency Management Planning Grant (EMPG). In regard to any such federal program, all procurement will be done in accordance with 2 CFR; Part 200. The Iowa Code, and specifically Chapter 26 and Section 331.341 will be followed when applicable. For more specific details about federally funded projects, refer to Purchasing Policy 0501.1

Purchasing Responsibilities

City Council

1. Adopt the annual operating budget to determine levels of expenditure by fund, department, and program, including capital expenditures.
2. Review, approve, and award budgeted purchases (including capital, equipment, contractual service) over $~~10~~25,000.

City Manager

1. Ensure budgeted levels for each fund are not exceeded.
2. Approve all purchases between $~~5~~10,000 and $~~10~~25,000.
3. Present purchasing recommendations for items requiring Council approval.
4. Coordinate purchases among departments.
5. Ensure compliance with this purchasing policy.

City Clerk/Finance Director

1. Monitor expenditures and advise City Manager of monthly expenditure rates.

Department Heads

1. Inform all personnel in their department of these purchasing policies.
2. Plan purchases (including budgeted items) in order to allow sufficient time to obtain proposals or quotations, determine best vendor, and issue contracts.

Other City Employees

1. All employees must be authorized by their Department Head to make purchases.
    a. Certain employees may be granted a standing purchasing limit by their Department Head. Employees will not be granted a standing purchasing limit that exceeds the limit of their Department Head.
    b. Employees also may be given approval by their Department Head on a case-by-case basis to make certain purchases.
2. Employees who have been approved to make minor purchases are encouraged to make such purchases from local vendors within the City limits.
3. When making purchases, employees are to put their signature and department name on the invoice. All invoices need to be turned in to the employees' respective departments.

Prohibited Purchases

The following purchases cannot be made from City funds:

1. The purchase of any illegal substance or services.
2. Gambling related purchases.
3. Purchases made for personal benefit with no value to the City.
4. Any purchase not done in accord with Iowa law or these policies.

General Procurement Guidelines

Purchases Exceeding $50,000

Contracts for goods or services exceeding $50,000 shall be awarded by the City Council through sealed competitive bidding.

Process for Obtaining Council Approval

1. All purchases or service contracts shall be listed on the agenda.
2. All purchases or service contracts shall be accompanied by a written recommendation from the City Manager for award.

Purchases between $~~10~~25,000 and $50,000

For all purchases over $~~10~~25,000, Council approval is required. At least three documented price quotes shall be solicited. Quotes may be solicited in person, by telephone, from websites, or in writing. The process for obtaining Council approval is as follows:

1. All purchases or service contracts shall require a separate agenda item.
2. All purchases or service contracts shall be accompanied by a written recommendation from the City Manager for award.

Purchases between $~~5~~10,000 and $~~10~~25,000

Purchases of goods or services greater than $~~5~~10,000 but less than $~~10~~25,000 ~~will~~ requires at least three documented price quotes ~~shall~~ be solicited. Quotes may be solicited in person, by telephone, from websites, or in writing. Purchases between $~~5~~10,000 and $~~10~~25,000 ~~shall~~ may be approved by the City Manager. The City Manager will provide written notice of said purchases in the Council Packet under City Manager Reports as soon as practical after such a purchase is made.

Purchases between $1,000 and $~~5~~10,000

Purchases of goods or services greater than $1,000 but less than $5,000 will require at least two documented price quotes ~~shall~~ be solicited. Purchases of goods or services greater than $5,000 but less than $10,000 will require at least three documented price quotes be solicited. Quotes may be solicited in person, by telephone, from websites, or in writing. Purchases~~d~~ under $10,000 may be approved at the Department level.

Purchases under $1,000

Purchases of goods or services totaling less than $1,000 shall not require multiple quotes if the prices are considered to be reasonable, unless requested by the City Manager. Informal quotes are encouraged. Purchases~~d~~ under $10,000 may be approved at the Department level.

State of Iowa DAS Contracts

Items that are procured through a State of Iowa DAS Contract are exempt from soliciting additional quotes. At least one additional quote should be solicited from a local vendor when the State of Iowa DAS Contract vendor is out-of-town.

Retention of bids, quotes, and other related documents

For items with a price over $1,000 in value, copies of bids or quotes shall be attached to the invoice. The bids or quotes will be retained with the invoice for 5 years in accordance with the record retention policy (Policy # 0313).

~~Budgeted~~ Purchased related to Commodities/Consumable/~~Vehicle~~ Repairs

Various items such that are commodities, consumable, and ~~minor~~ repairs (like salt/sand supplies, postage, cleaning supplies, tools, vehicle/truck parts, repairs, replacement utility plant equipment etc.) may be purchased by departments in any amount without prior City Council or City Manager approval so long as the item is part of the approved annual budget. In all cases, the procurement requirements related to sealed bids and quotes shall be followed.

Purchases up to $50,000 related to equipment repairs or replacements related to major City systems at the Water Plant and Waste Water Plant may be made even when funding is not part of the current approved annual budget.

Due to the specialized nature of some systems (like the Water Treatment Plant, Waste Water Treatment Plant, City Pools, HVAC systems, etc.) specialized replacement parts or replacement system may be required which are available from only from a single vendor due to set dealer territories. In these cases, a single quote is acceptable when the prices are considered to be reasonable.

Local Preference

The City will make reasonable effort to purchase goods and services from suppliers located within the City limits of Carroll and the State of Iowa. City Staff shall not seek out-of-town bids or quotes except:

1. When no vendor or only one vendor exists within the Carroll City limits
2. The City has information that an out-of-town vendor may be price competitive.

This local preference policy does not pertain to:

1. Construction
2. Purchases involving State or Federal funding
3. Joint governmental purchases.

Procedures for Competitive Bidding

Note: State requirements will be followed for all public improvement projects for horizontal and vertical infrastructure.

General Procedures

1. Invitation for Bids – An invitation for bids shall be provided to those vendors requesting such notice at least 7 days in advance (when available) of the due date for submission of bids. Bid bonds may be required if determined by the City Manager.
2. Bid Opening – Bids shall be opened by a departmental representative with the City Clerk present. The amount of each bid shall be announced, and other relevant information shall be recorded along with the name of each bidder.
3. Bid Evaluation – Bids shall be evaluated based on the requirements set forth in the Invitation for Bids, which may include criteria to determine acceptability, such as inspection, testing, quality, and suitability for a particular purpose.
4. Award – The contract shall be awarded or rejected with reasonable promptness. Award will be made to the lowest responsible bidder who submits a responsive bid. The City reserves the right to reject all bids.

Professional Services Exemption

For purposes of this policy, professional services shall be those services being provided by a person with an advanced/specialized degree, such as a CPA, lawyer, architect, engineer, actuary, or in some cases a highly specialized consultant. The intended solicitation of professional services by itself does not necessarily exclude City staff from following bidding procedures noted in this policy. If a professional service is readily available in the marketplace (such as several engineering firms in the area), staff should exercise good judgment in obtaining more than one proposal for the service. Staff may establish minimum qualifications (such as experience) for those professional service firms to be evaluated. These factors can be taken into account when making the selection of a professional service provider, thus the selected vendor may not necessarily be the lowest cost proposal. Professional services being provided to the City should be reviewed by City Staff at least once every five years to ensure the City is receiving the best service and value.

Emergency Purchases

Emergency goods, services and construction items are those that are necessary to prevent or mitigate serious disruption of government services or threats to public health, welfare, or safety, or to protect city buildings and/or infrastructure or if it is needed as a result of events or circumstances not reasonably foreseeable. Emergency procurements shall be made with such competition as is practical based on the circumstances.

A written determination of the basis for the emergency and for the selection of the particular contractor and/or product shall be certified or prepared by the City Manager for emergency purchases exceeding $~~10~~25,000. Every attempt should be made to contact the Mayor or the Mayor Pro Tem for emergency purchases exceeding $~~10~~25,000 prior to making the purchase. The services of a professional such as an engineer or architect may be utilized to assist in determining the nature of the emergency.

CITY OF CARROLL

POLICIES AND PROCEDURES MANUAL

Subject	Policy No.
Purchasing Policy – Federally Funded Purchases/Contracts	0501.1
Responsible Division(s), Office(s)	**Related Policies & Procedures**
All Departments	0501
Effective/Revision Date	**Approval(s)**
12/21/2020	Mike Pogge-Weaver

Application

This policy applies to procurement of all supplies, equipment, construction and services of and for the City of Carroll that include any federal program funding, including but not limited to, those related to the implementation and administration of the Community Development Block Grant (CDBG) award, Assistance to Firefighter's Grant (AFG), the Community Facilities Direct Loan Program and the Community Facilities Grant Program (USDA Rural Development), Federal Emergency Management Administration (FEMA), the Pre- Hazard Mitigation Grant or the Emergency Management Planning Grant (EMPG). In regard to any such federal program, all procurement will be done in accordance with 2 CFR; Part 200. The Iowa Code, and specifically Chapter 26 and Section 331.341 will be followed when applicable. This policy is being followed in addition to the City's local Purchasing Policy 0501.

2 CFR §200.318 General procurement standards state the City of Carroll must use its own documented procurement procedures (see Purchasing Policy 0501) which reflect applicable State, local, and tribal laws and regulations, provided that the procurements conform to applicable Federal law and standards. Where State and/or local requirements conflict with Federal requirements, the strictest requirement, will be followed.

In compliance with Uniform Grant Guidance in Title 2 Code of Federal Regulation (C.F.R.) Grants and Agreements, Part 200 Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, all non-Federal entities (City of Carroll) must follow 2 CFR Part 200 Subpart D Subsections §200.318 General procurement standards through §200.326, and Appendix II to Part 200-Contract Provisions for Non-Federal Entity Contracts Under Federal Awards. These regulations are accessible online:
https://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title02/2cfr200_main_02.tpl

The City of Carroll will take affirmative steps to assure, to the greatest extent possible, that federal funded contracts are awarded to qualified small and minority firms, women's business enterprises and labor surplus area firms whenever reasonably possible. These affirmative steps include:

1. Placing qualified small and minority businesses and women's business enterprises on solicitation lists;
2. Assuring small and minority businesses and women's enterprises are solicited whenever they are potential sources.
3. Dividing total requirements, whenever economically feasible into smaller tasks or quantities to permit maximum participation by small and minority business enterprises and women's business enterprises.
4. Establishing delivery schedules where the requirement permits, which encourage participation by small and minority businesses and women's business enterprises.
5. Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce; and
6. Requiring the prime contractor, if subcontractors are to be let, to take the affirmative steps listed in paragraphs "i" through "v" above.

Federally Funded Contract Provisions

1. Contracts for more than the simplified acquisition threshold currently set at $150,000, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 U.S.C. 1908, must address administrative, contractual or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.
2. All contracts in excess of $10,000 must address termination for cause and for convenience by the non-Federal entity including the manner by which it will be effected and the basis for settlement.
3. Equal Employment Opportunity. Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of "federally assisted construction contract" in 41 CFR Part 60-1.3 must include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, "Equal Employment Opportunity" (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and implementing regulations at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor."
4. Davis-Bacon Act, as amended (40 U.S.C. 3141-3148). When required by Federal program legislation, all prime construction contracts in excess of $2,000 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction"). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be

required to pay wages not less than once a week. The non-Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency. The contracts must also include a provision for compliance with the Copeland "Anti-Kickback" Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). The Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.

5. Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708). Where applicable, all contracts awarded by the non-Federal entity in excess of $100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirement of 40 U.S.C. 3704 are applicable to construction work and provide that not laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.
6. Rights to Inventions Made Under a Contract or Agreement. If the Federal award meets the definition of "funding agreement" under 37 CFR §401.2(a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under the "funding agreement," the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.
7. Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended-Contracts and subgrants of amounts in excess of $150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, order or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).
8. Debarment and Suspension (Executive Orders 12549 and 12689)-A contract award (see 2 CFR 180.220) must not be made to parties listed on the governmentwide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR

180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), "Debarment and Suspension." SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

9. Byrd Anti-Lobbying Amendment (31 U.S.C. 1352)-Contracts that apply or bid for an award exceeding $100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.
10. See §200.322 Procurement of recovered materials.