



**CITY COUNCIL**

**AGENDA BILL # AB22-0016**

**City of Algona  
200 Washington Blvd.  
Algona, WA 98001**

**ITEM INFORMATION**

<b>SUBJECT:</b>  <b>Algona Policy Manual Chapters 700 Purchasing, 701 Types of Purchases, and 702 Bidding.</b>	<b>Agenda Date: March 14th, 2022</b>		
	<b>Department/Committee/Individual</b>	<b>Created</b>	<b>Reviewed</b>
	Mayor		X
	City Administrator		X
	City Attorney		
	City Clerk		X
	Finance Dept		
	PW/Utilities		
	Planning Dept		
	Community Services		
<b>Cost Impact:</b>	Police Dept		
<b>Fund Source:</b>	Finance Committee		X
<b>Timeline:</b>	Planning Commission		
	Civil Service Committee		

**Staff Contact: Jessica Griess, City Clerk**  
**Attachments: Algona Policy Manual Draft Chapters 700, 701, and 702**

**SUMMARY STATEMENT:**  
 Here are the first three completed chapters in our drafting of a procurement policy for our policy manual. We did not have a policy like this before and it was time to produce one. These chapters provide guidelines and clarification on purchases for staff and municipal leaders ranging from office supply purchases to large public works projects. It provides clarification on when to use the Small Works Roster with MRSC and when/how to utilize the bidding process.  
  
 These chapters were provided to the Council at the 2/28 meeting.

**COMMITTEE REVIEW AND RECOMMENDATION:** Finance Committee reviewed and recommends Councils further review and passage.

**RECOMMENDED ACTION:**  
**Make a motion to waive the three touch rule and approve the adoption of chapters 700, 701, and 702 during this second reading.**

**RECORD OF COUNCIL ACTION**

<i>Meeting Date:</i>	<i>Action:</i>	<i>Vote:</i>

## Purchasing

### 700.1 PURPOSE

The Purchasing Policy is provided to guide and assist City staff on basic procurement and contracting requirements as set forth in the City of Algona Municipal Code and Washington State statutes.

This Policy establishes guidelines and clarifies the procedures for purchasing supplies and materials, public works construction, and contracting for services by the City. The procedures set forth in subsequent sections of this document are designed to assure the citizens, the City Council, and City staff that the City of Algona is receiving maximum value for each tax and utility dollar expended and assure fiscal responsibility in the procurement process.

### 700.2 CODE OF ETHICS

Purchasing employees may neither solicit, accept, nor agree to accept any gratuity for themselves, their families or others that results in their personal gain which may affect their impartiality in making decisions on the job. Discounts or concessions realistically available to the general population, items received that do not result in personal gain, and samples to the City used for general City use are examples of items that are not gratuities. Personal judgment should be used and questions regarding particular problems/events should be referred to the employee's manager.

### 700.3 DEFINITIONS

**Purchasing** is the act, function and responsibility for the acquisition of equipment, materials, supplies and services. The term describes the process of buying.

**Procurement** includes all functions that pertain to the acquisition, including description of requirements, selection and solicitation of sources, preparation and award of contract and all phases of contract administration.

**Vendor** is typically used when referring to a supplier, one who sells goods, materials, or supplies.

**Contractor** is typically used when referring to a construction or maintenance company. Can also apply to an individual or business having a contract with the City.

**Consultant** is typically used when working on a Professional Service Contract. The term means a person with education and/or experience which uniquely qualifies them to perform some specialized services.

**Bid** is an offer submitted by a contractor in response to an invitation to bid or advertisement. Typically, bids result in contracts awarded to the lowest responsive, responsible bidder.

**Quote** is a statement of prices, terms of sale, and description of goods or services offered by a vendor to the City. Commonly used in more informal solicitations.

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**Proposal** is the document submitted by the offeror in response to a request for proposal. Proposals allow contract award based on factors other than cost and may result in negotiations.

**Designee** to the Mayor is the Mayor Pro Tem.

### **700.4 GENERAL PROVISIONS**

#### **700.4.1 Controlling Laws**

The expenditure of public funds for the purchase of and contracting for goods, services, supplies, and materials shall comply with all applicable state law requirements as set forth in the Revised Code of Washington (RCW) and the Washington Administrative Code (WAC). Where this policy conflicts with state law requirements, the more restrictive provision shall prevail. Where this policy is silent with regards to purchasing and/or bidding requirements, state law shall prevail.

Purchases and/or contracts that include federal funding shall also comply with the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, published under Title 2 of the Code of Federal Regulations (2 CFR 200), hereinafter referred to as the Uniform Purchasing Guidance.

#### **700.4.2 Monitoring and Compliance**

The department director shall implement, monitor, and enforce these policies. In the event of any conflict in procurement requirements or questions about proper procedure or other requirements, the matter shall be referred to the City Administrator and/or the Administrator's designee for further action. Willful or intentional violations of public procurement requirements may result in personal penalties, financial liabilities, and/or discipline (RCW 39.30.020).

In addition to the enforcement of these policies, the department director shall insure that reasonable measures are taken to safeguard protected, personally identifiable information and other information the federal awarding agency or pass-through entity designates as sensitive or that the City considers sensitive consistent with applicable federal, state, and local laws regarding privacy and obligations of confidentiality.

#### **700.4.3 Proper Authorization/Certifications**

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

#### **700.4.4 Budget Sufficiency**

Each department director must ensure that purchases are initiated only when the departmental budget is sufficient to cover the anticipated cost. Expenditures that exceed departmental appropriations require a budget amendment approved by City Council. Requests for budget amendments must be submitted in writing, and shall be approved by the requesting director or

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manager and forwarded to the City Administrator and City Clerk/Treasurer for review prior to being forwarded to the City Council for approval.

### **700.4.4 Financing**

If a department is requesting financing for equipment or vehicles, it is necessary to work with the City Clerk/Treasurer. Financing documentation shall be included as part of the documentation for City Council approval to authorize Mayor or designee to sign loan or bond documents.

### **700.4.5 Breaking Down or Bid Splitting Purchases**

The breaking down or bid splitting of any purchase or contract into units or phases for the purpose of avoiding the maximum dollar amount is prohibited.

### **700.4.6 Cost**

Purchase cost includes sales tax, use tax, delivery charges, and any related miscellaneous charges.

### **700.4.7 Local Businesses**

Local businesses should be encouraged to submit bids on City procurements that are open to everybody. When determining the lowest bid on purchase of supplies, materials, or equipment, the City may, whenever indicated in advance, take into consideration sales and/or B&O tax revenue it would receive from a supplier located within its boundaries pursuant to RCW 39.30.040.

### **700.4.8 Purchasing Limitations and Authority**

- A. Expenditures are required to be included in the annual budget.
- B. Purchase limitations apply to the aggregate cost of individual items, whether purchase in one order or over a series of orders. Cost is inclusive of sales tax, use tax, delivery charges, and any related miscellaneous charges.
- C. The Mayor or designee may execute purchases up to \$50,000 (fifty thousand), as long as the purchase is consistent with the adopted budget.
- D. Purchases greater than \$50,000 (fifty thousand) require Council authorization.
- E. Contracts of any amount that are not consistent with the adopted budget require Council approval.
- F. Initial Inter local agreements of any amount with governmental agencies require Council authorization. The Mayor or designee up to \$50,000 (fifty thousand) may execute renewal or extension of existing Inter local agreements with governmental agencies, if the agreement's terms address renewal and the agreement is consistent with the adopted budget. All other renewals require Council approval.
- G. The Mayor or designee may present any contract to the Council for approval even if the contract is not required to be approved by the Council.
- H. Department Directors are authorized to execute purchases up to \$10,000.
- I. Utility Supervisor is authorized to execute purchases up to \$5,000.

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- J. Utility Workers are authorized to execute purchases up to \$500.

# Types of Purchases

## 701.1 PUBLIC WORKS

Includes all work, construction, alteration, repair or improvement other than ordinary maintenance, executed at the cost of the City:

- Examples: demolition, remodeling, renovation, road construction, building construction, and utilities construction.
- For purposes of prevailing wage requirements, public works includes ordinary maintenance when performed by contract. See Section 3.3.
- Ordinary maintenance is not specifically defined in this statute but is generally considered to include work not performed by contract and performed on a regular basis to service, check or replace items that are not broken.

Reference: RCW 39.04.010

Type of Purchase of Project	Process	Other Requirements	Contract Authorization
Projects costing \$25K or more, but less than \$50K	Three informal quotes	<ul style="list-style-type: none"> <li>- Appropriate form(s) for prevailing wages</li> <li>- No bond</li> <li>- No retainage</li> </ul>	<ul style="list-style-type: none"> <li>- Must be within department budget</li> <li>- Less than \$50,000, Mayor or designee may execute</li> <li>- Over \$50,000, Council must authorize</li> </ul>
Projects costing \$50K or more, but less than \$350K	<p>May use Small Works Roster (the City uses the MRSC Rosters RCW 39.04.155)</p> <p>Or Formal Bids (see policy 702)</p>	<ul style="list-style-type: none"> <li>- Prevailing Wage</li> <li>- Insurance</li> <li>- Contract/ Performance bond</li> <li>- Bid bond/deposit (unless using Small Works Roster)</li> </ul>	<ul style="list-style-type: none"> <li>- Must be budgeted</li> <li>- Requires Council Approval</li> </ul>
Projects costing \$350K or more	Formal bids (see policy 702)	<ul style="list-style-type: none"> <li>- Prevailing Wage</li> <li>- Insurance</li> <li>- Contract/ Performance bond</li> <li>- Bid bond/deposit</li> </ul>	<ul style="list-style-type: none"> <li>- Must be budgeted</li> <li>- Requires Council approval</li> </ul>

Regardless of cost limits, the City may in its discretion solicit formal bids at any time.

**Types of Purchases**

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Project budget authorization may include a project contingency, not to exceed 20% (twenty percent). If additional budget authority is needed for the project, Council must approve the increase for budget amendment prior to approval of the contract.

Change Orders: Change orders which fall within the Council approved scope, project budget, and project contingency may be executed by the Mayor or his/her designee. Change orders which would change the scope of the project and/or exceed the Council approved project budget and Council approved project contingency would require additional Council action.

All change orders, regardless of amount, will be reported to Council on a monthly basis.

Prevailing Wage Laws: Public work projects and maintenance, when performed by contract, are governed by chapter 39.12 RCW, Prevailing Wages on Public Works regardless of contract amount. It is the responsibility of the contracting employee to notify the vendor of prevailing wage requirements and obtain compliance documentation prior to awarding any public work or maintenance contract. Public work and ordinary maintenance contracts will only be awarded to contractors who document compliance with the Washington State Prevailing Wage Law. The department director or designee managing the project is responsible for collecting ongoing compliance documents. If a contractor is found to be in violation of prevailing wage laws by the Department of Labor and Industries, the City will have to withhold payment (including retainage) from that contractor.

**701.2 MATERIALS AND SUPPLIES**

Materials, supplies and equipment are considered tangible items which are manufactured and are moveable at the time of purchase. It is important to distinguish between materials, supplies and equipment used in public works contracts as opposed to non-public works contracts as different bidding requirements apply to each.

- Examples: Office supplies, off the shelf software, hardware, trucks, copy machines, auto prints, gravel, janitorial supplies.

Reference: RCW 39.04.010

<b>Type of Purchase</b>	<b>Process</b>	<b>Other Requirements</b>	<b>Contract Authorization</b>
Items costing \$7,500 or more, but less than \$15,000	Vendor List	Quote required prior to purchase	- Must be within department budget  -Department Director or designee may execute

*Types of Purchases*

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Items costing over \$15,000	Must call for bids or use State Bid or other Interlocal Council approved bid process	Publication of RFP if bidding	<ul style="list-style-type: none"> <li>- Must be within department budget</li> <li>- Less than \$50,000, Mayor or designee may execute</li> <li>- Over \$50,000, Council must authorize</li> </ul>
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**701.3 PERSONAL SERVICES**

Services that involve technical expertise provided by a consultant to accomplish a specific study, project, task, or other work. These activities and products are mostly intellectual in nature, involving the consistent exercise of judgment and discretion. They do not include architecture and engineering services, which have their own requirements. Certain professional services may require licensing or certification by state agencies, such as accounting, legal, or medical services. Professional services should not be confused with purchased/general services, which are generally routine, repetitive, or mechanical in nature and support an agency's day-to-day operations.

- Examples: accountants, attorneys, consultants, graphic artists

Type of Purchase	Process	Other Requirements	Contract Authorization
Personal Services costing \$25K or more, but less than \$50K	Three informal quotes		<ul style="list-style-type: none"> <li>- Must be budgeted</li> <li>- If under \$50,000, Mayor or designee may execute</li> <li>- All other must be approved by Council</li> </ul>
Personal Services costing \$50K or more	Formal bids (see policy 702)		<ul style="list-style-type: none"> <li>- Must be budgeted</li> <li>- Must be approved by Council</li> </ul>

**701.4 PURCHASED/GENERAL SERVICES**

Services provided by vendors for routine, necessary, and continuing functions of a local government agency, mostly relating to physical activities. These services are usually repetitive, routine, or mechanical in nature, support the agency's day-to-day operations, involve the completion of specific tasks or projects, and involve minimal decision-making.

The state Department of Labor and Industries considers some services, such as HVAC maintenance or road striping, to be public works (see Public Works above). Purchased services should not be confused with personal services, which are mostly intellectual in nature.



**Types of Purchases**

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- Building maintenance, elevator maintenance, application, recycling/ disposal/ litter pickup service, automotive services, etc.

<b>Type of Purchase</b>	<b>Process</b>	<b>Other Requirements</b>	<b>Contract Authorization</b>
Purchased/General Services \$10K or more, but under \$20K	Three informal quotes		- Must be budgeted - Mayor or designee may execute
Purchased/General Services \$20K or more	Formal bids (see policy 702)		- Must be budgeted - If under \$50,000, Mayor or designee may execute - All other must be approved by Council

There are no statutory requirements for procurement of Purchased/General Services for local governments.

**701.5 ARCHITECTURAL AND ENGINEERING SERVICES**

Architectural and Engineering Services (A&E SERVICES):

- Architecture (RCW 18.08)
- Engineering (RCW 18.43)
- Land Surveying (RCW 18.43)
- Landscape Architecture (RCW 18.96)

State licenses and certifications are required in these professions, and A&E projects may be performed in conjunction with public works projects.

<b>Type of Purchase</b>	<b>Process</b>	<b>Other Requirements</b>	<b>Contract Authorization</b>
Architectural, Land Surveying, and Engineering Services	Request for Qualifications (RCW 39.80)	- Publish RFQ - Must evaluate on performance and qualifications - Negotiate contract after selection	- Must be budgeted - If under \$50,000, Mayor or designee may execute - All other must be approved by Council

There are no statutory requirements for Professional Services other than architectural and engineering services for local governments.

## Bidding

### 702.1 BID PROCEDURES

The following shall apply for public work contracts and when formal bidding is required for the purchase of materials, supplies, or equipment, except as otherwise noted:

- To ensure consistency and fair process, the City will use standard forms, documents contracts, and terms and conditions, when practical. The City's Project Coordinator will maintain templates for bid-related documents for use by departments when practical. The City may use an evaluation selection committee to promote an open, proper selection. The requesting department director will appoint committee members to act in an advisory capacity.
- Minimum qualifications and/or specifications are stated to ensure bids address the needs of the City. Minimum qualifications cannot be used to eliminate qualified contractors and vendors. Minimum qualifications should be tested against the marketplace to ensure they aren't overly restrictive.
- When practical for public works contracts, the City will conduct a pre-bid conference to allow a thorough discussion of the City's intent, scope, specifications, and terms. Interested companies should be encouraged to attend.
- Selection of a winning offer is based primarily on lowest responsive bid. Quality and expertise, however, may be a consideration to the extent legally permissible.

### 702.2 FORMAL COMPETITIVE BID (RCW 35.23.352(1))

#### A. Publication of Notice.

1. After authorization by the City Administrator or designee, the requesting department will publish the Call for Bids for sealed bids in the official newspaper, or a newspaper or publication of general circulation most likely to bring responsive bids, at least thirteen (13) days prior to bid submittal deadline. Provided, that in addition to the foregoing, the Call for Bids may also be published in any publication deemed appropriate in the sole discretion of the City Administrator or designee. This subsection does not apply if using an authorized Interlocal cooperative purchasing agreement as described in § 11.6 of these Policies.

#### B. Notice Contents for Public Works Contracts.

1. Notice (or advertisement) for bids should contain definite specifications and procedures for bidders to use to estimate their bids. At a minimum, a bid notice for public works must include:
  - (a) Project title;
  - (b) Nature and scope of work;
  - (c) Where contract documents (plans and specifications) can be reviewed or obtained;

**Bidding**

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- (d) Cost to obtain a set of contract documents;
  - (e) Place, date, and time that bids are due;
  - (f) Place, date, and time that bid will be opened;
  - (g) Statement that a bid bond must accompany the bid;
  - (h) Statement that the City retains the right to reject any and all bids and to waive minor irregularities in the bids and/or the bidding process;
  - (i) Statement that the contract involves "public work" and that workers shall receive the prevailing rate of wage pursuant to the Prevailing Wages on Public Works Act (Chapter 39.12 RCW);
  - (j) List of the applicable prevailing wage rates or prevailing wage statement;
  - (k) Statement that the City is an equal opportunity employer and invites responsive bids from all qualified responsible bidders;
  - (l) The materials and equipment to be furnished, if any.
- C. Notice Contents for Purchases of Materials, Supplies, or Equipment.
1. Notice (or advertisement) for bids should contain definite specifications and procedures for bidders to use to estimate their bids. At a minimum, a bid notice must include:
    - (a) Name and description of requested items;
    - (b) Where contract documents (plans and specifications) can be reviewed or obtained;
    - (c) Cost to obtain a set of contract documents;
    - (d) Place, date, and time that bids are due;
    - (e) Statement that the City retains the right to reject any and all bids and to waive minor irregularities in the bidding process;
    - (f) Place, date, and time that bid will be opened.

**702.3 BID OPENING**

Bids are submitted to the responsible department director or designee, where they are time and date stamped and processed. The bids shall be opened at the time and place specified in the advertisement for bids. Bid Openings shall be audio and video recorded.

- A. Report on Bids: The responsible department director or designee will prepare a report and recommendation on all bids received to the decision maker with the authority to approve the contract
- B. Bid Award: The City shall award the contract to the lowest responsible bidder or shall have power by Council resolution to reject any or all bids and to make further calls for bids in the same manner as the original call

## Bidding

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- C. **Bid Bonds for Public Works Contracts:** Upon award of a public works contract or rejection of all bids, bid bonds shall be returned to the unsuccessful bidders. All bid guarantees must be deposited to the City's account. Bid guarantees belonging to the unsuccessful bidders must be returned as soon as practical after the bid opening in the form of a check written to the contractor. The City shall hold the bid guarantees of the two lowest responsible bidders. If the successful bidder fails to enter into the contract, the bid guarantee is forfeited and the contract is awarded to the next-lowest bidder. If the lowest bidder enters into the contract, the guarantee for the second-lowest bidder is returned. The successful bidder's bid bond or deposit shall be retained until the bidder enters into a contract with the City and furnishes a performance bond in the full amount of the contract price.

Per RCW 35.23.352, if the City has previously issued a written finding that the lowest bidder has, within the last three years, delivered to the City a project that was late, over budget, or did not meet specifications, and the City does not find in writing that the lowest bidder has shown how they would improve performance so as to be likely to meet project specifications, the City may award to the second-lowest bidder that falls within 5% (five percent) of the lowest bidder and meets the same criteria as the lowest bidder.

### **702.4 SMALL WORKS ROSTER (RCW 9.04.155(1) AND (2))**

RCW 39.04.155 provides uniform small works roster provisions to award contracts for construction, building, renovation, remodeling, alteration, repair, or improvement of real property. The Small Works Roster may be used for public work projects valued below \$350,000 in lieu of formal bidding. Use of the Small Works Roster allows the City to waive the advertisement requirements of the formal competitive process.

The Washington State Municipal Research Services Center (MRSC) compiles small works rosters for cities and counties throughout the State of Washington. The City of Monroe has contracted with MRSC to use its small works rosters for public works contracts valued below \$350,000.

- A. **Invitations for Quotes**
1. Invitations for quotations shall include an estimate of the scope and nature of the work to be performed as well as materials and equipment to be furnished. However, detailed plans and specifications need not be included in the invitation. This subsection does not eliminate other requirements for architectural or engineering approvals as to quality and compliance with building codes.
- B. **Number of Contractors Invited**
1. Quotations shall be invited from all, or at least five (5), appropriate contractors per the attached Public Works Contract Requirements Matrix.
- C. Vendors/contractors selected from the Small Works Roster are not relieved from observing applicable legal requirements such as Contract Bond, Prevailing Wage, Retainage, etc.
- D. Immediately after an award is made, the bid quotations obtained shall be recorded, open to public inspection, and available by telephone inquiry

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- E. As required by RCW 39.04.200, the City must post a list of contracts awarded from the small works roster once every year. The list must contain the name of the contractor, the amount of the contract, a brief description of the type of work performed, and the date of the award.

**702.5 LIMITED PUBLIC WORKS PROCESS (RCW 39.04.155(3))**

For public work projects with an estimated cost of less than \$50,000, the City may use the Limited Public Works Process in lieu of the small works process.

- A. Invitations for Quotations.
  - 1. Invitations for quotations shall include an estimate of the scope and nature of the work to be performed as well as materials and equipment to be furnished. However, detailed plans and specifications need not be included in the invitation. This subsection does not eliminate other requirements for architectural or engineering approvals as to quality and compliance with building codes.
- B. Number of contractors invited.
  - 1. Quotations shall be invited from a minimum of three contractors from the appropriate small works roster and shall award the contract to the lowest responsible bidder. If no bids are received, see Section 11.7 for guidance.
- C. Vendors/contractors selected using the Limited Public Works Process are required to comply with prevailing wage and insurance requirements.

**702.6 EXEMPTIONS TO COMPETITIVE BIDDING REQUIREMENTS**

RCW 39.04.280 provides uniform exemptions to competitive bidding requirements utilized by municipalities when awarding contracts for public works and contracts for purchases.