



CITY OF HAYWARD

Hayward City Hall
777 B Street
Hayward, CA 94541
www.Hayward-CA.gov

Cover Memo

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DATE: November 3, 2015

TO: Mayor and City Council

FROM: Director of Finance

SUBJECT

City Procurement Policy Update

RECOMMENDATION

That Council adopts a Resolution to approve changes to City procurement policies.

SUMMARY

The City's procurement policies have not been updated in close to twenty-five years. In an effort to align the City's policies and procedures with how the City transacts business today and with current best practices, staff has updated its Procurement Policies & Guidelines manual. While the manual is a staff document that provides guidance to internal City operations, the procurement policies are established through City Council approval.

Staff is recommending that Council consider changes to several key policies, including the threshold and expenditure authority levels required for competitive bidding and the levels for which the City Manager can execute certain City contracts. The recommended changes attempt to correct for inflation while improving effectiveness, efficiency, and consistency in City procurement processes while maintaining appropriate oversight and controls. In addition, staff provides clarification and offers a possible modification to its Local Preference procurement policy. These changes are in keeping with the related provisions of the City Charter, Article XIII, Sections 1302, 1303, and 1304.

BACKGROUND

On March 13, 2015, the Council Budget & Finance Committee (CB&FC) held a discussion regarding the City's procurement policies and possible changes to the current policies. On July 1, 2015, staff brought to the CB&FC a version of this report for feedback on the proposed changes to the City's procurement policy. This report is inclusive of the feedback received by Committee members and is now being presented to the full Council for approval.

There have been no significant changes to the City's purchasing and procurement policies for nearly twenty-five years. Moreover, threshold limits on bid requirements and City Manager/City Council approval remain at levels set nearly forty years ago in some cases. The last review of bid thresholds was in 1989, with an update in 1992; these levels are still in place today. Given inflation that has occurred in

the intervening periods, an adjustment to these levels is warranted to give the Council and staff the same operating parameters as when the levels were last updated.

DISCUSSION

The procurement policies provide the framework for the City's procurement process. There are four primary policy areas that staff is recommending to update:

1. Inclusion of principles to uphold the values, goals, and objectives set forth by Council
2. Bid requirements
3. Thresholds for City Council vs. City Manager approval of certain contracts/agreements
4. Local preference

This policy update includes the areas of: 1) General Supplies & Equipment, 2) Repair, Maintenance & Routine Work, and 3) External Services (consultants and contractors). A subsequent update to the procurement policy will focus on modernizing the Public Projects element of procurement.

Overarching City Procurement Principles

It is the City's responsibility to promote Council Priorities while meeting the service needs of the citizens of Hayward. In all purchasing and procurement decisions, staff shall consider the current needs of the City while bearing in mind the impact of each purchase on long term fiscal stability. In updating the procurement policies, staff offers the following procurement principles for Council consideration, which will be present in all procurement actions the City takes:

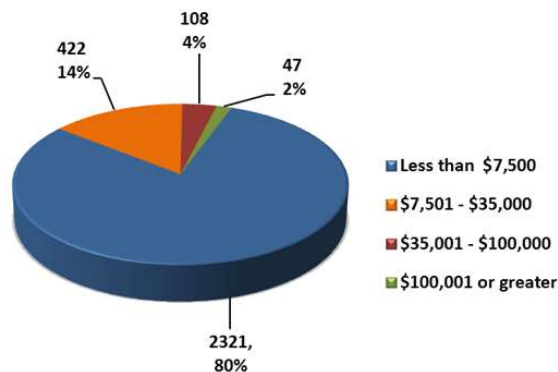
- Providing for ethical and accountable stewardship of public funds
- Assuring fair, open, and transparent competition in procurement processes
- Providing the residents of Hayward the best value possible
- Supporting City Council Priorities
- Stimulating the local economy by extending preferences to local Hayward vendors as appropriate

Changes to Bid Requirements

The City's procurement policy establishes levels to determine the type of competitive process necessary to make a purchase. The proposed changes increase the threshold for formal bidding, thereby increasing operational efficiency and reducing staff time by eliminating the volume of time-intensive procurement procedures for lower dollar expenditures.

Attachment II reflects a comparison of procedures and thresholds between what is currently in place and what staff is proposing as a change. These changes are in keeping with procurement best practices and are similar to levels employed by other local cities.

Chart 1 - FY 2014 Purchase Order Breakdown (2,898 total)



As seen in Chart I above, of the 2,898 purchase orders issued in FY 2014, all but forty-seven of them were for goods or services less than \$100,000, with eighty percent of all purchases falling below \$7,500. Under the proposed changes, most purchases would still require an informal process in which staff will ensure competitive pricing. Purchases greater than \$50,000 for Supplies and Equipment, Repairs and Maintenance and External Services (consultants & contractors) will require more stringent and formal processes for which one of the following two methods of solicitation will be employed:

- Competitive Bid: Focuses on obtaining the lowest possible price
- Competitive Process: Focuses on obtaining the best possible value

Competitive Bids are for purchases where pricing dictates formal competition, and utilizes an Invitation to Bid (ITB) as the solicitation package. A Request for Proposal is the solicitation method where value and competence are the primary drivers. . Both require a minimum response period of ten calendar days for vendor responses; however, common practice allows for longer response time to increase the volume and quality of bids received.

Council Approval Thresholds

The City's procurement policy - as partially re-authorized each year in the annual budget resolution - establishes that the City Manager may approve professional services contracts up to \$25,000 without Council approval. Hayward has one of the lowest Council approval thresholds relative to neighboring East Bay municipalities. This comparative discrepancy is understandable considering the threshold today was enacted forty years ago. When adjusted for inflation, \$25,000 in 1975 dollars is equal to \$109,947.77 in present day dollars. Put another way, \$25,000 in present day dollars is equal to \$5,684.72 in 1975 dollars. The Council approval thresholds no longer provide the monetary threshold originally intended. An increase will provide efficiency in contract processing without jeopardizing fiscal oversight.

Staff is requesting that the threshold for all contracts except those related to Public Projects (as defined by PCC 22002 PW CIP, Non-Maintenance Work) requiring Council approval be increased from \$25,000 to \$75,000 as depicted in Attachment 2. The proposed changes will increase the approval level for contracts related to Supplies and Equipment, Repairs and Maintenance as well as External Services (consultants & contractors).

Table 1: Council Approval Thresholds

Municipality	Council Approval Threshold
Alameda	\$75,000
Berkeley	\$100,000
Fremont	\$100,000
Livermore	\$100,000
Oakland	\$150,000
Hayward	\$25,000

Along with adjusting the current threshold for inflation, this proposed change will allow for increases in operational efficiency and faster provision of services to the residents of Hayward. Staff will be able to achieve project objectives and Council priorities more expeditiously as a result of eliminating time intensive procedures while still upholding the overarching principles noted above.

Local Preference

Council has expressed a desire for a local preference element to be built into the City's procurement policies. The City currently employs such a policy for the purchase of goods. Article 9 of the Hayward Municipal Code establishes a Business Enterprise Preference System. Under the provisions of this article, a 'Local' business is a business firm with fixed offices or locally taxable distribution points within the City of Hayward, holds a valid City business license and has a Hayward street address. In accordance with the Municipal Code <<https://www.fremont.gov/73/Municipal-Code>>, the City supports businesses located in Hayward by offering a Local preference of 5% with a maximum of \$10,000 for purchases of personal property over \$35,000 (whichever is less). The 5% preference is for the purchase of personal property such as goods, supplies, and equipment.

Aside from the limitations set forth in Hayward Municipal Code Chapter 2 Section 9.01-9.03, there are no other known (internal or external) statutory limitations for Council when establishing percentage or dollar limitations for local preference. As a point of reference, demonstrated below are the varying local preferences used in procurement by neighboring cities.

- The cities of Fremont, San Leandro, Berkeley, and Concord allow for a local preference that ranges from 2.5 percent to 5 percent (with a not-to-exceed dollar amount) for goods and non-professional services only.
- The City of Oakland uses a complex Local & Small Local Business Program to provide preference to vendors that meet the standards set-forth by the City of Oakland Local and Small Local Business Program. Their program extends preference points based on specific criteria set forth by policy. These points are then tallied and a corresponding bid discount is applied based on number of criteria met. Oakland's program allows for a maximum discount of 5%.
- The Cities of Union City, Pleasanton, and Richmond do not offer a preference to local vendors.

While staff has considered the application of a local preference policy for services, it is a far more complicated application. Often, these types of contracts are not entirely a "low bid" selection process. Other variables such as experience, quality, and ability to provide the requested service(s), are key considerations in making a selection. Staff does propose a more formal policy stating that if two vendors are almost identical in all areas of the proposal including qualifications and pricing and one of them is a

Hayward vendor, the local vendor should be selected.

In addition, the staff Procurement Manual has been updated to require broad distribution of information about bidding and proposal opportunities with the City of Hayward. A new section has been added to ensure that this occurs particularly where local vendors or providers are known or are likely to exist, so that extra effort is made to assure that local businesses are made aware of business opportunities with the City.

There may be other ways Council could design a local preference program. However, as such a program becomes more complex, it becomes increasingly difficult to consistently and appropriately use and administer. Staff will collect relevant data over the next year and report back on the 'demographics' of the City's vendors/consultants/contractors, etc. to inform consideration of possible modifications or enhancements to a local preference policy.

FISCAL IMPACT

The proposed changes to the purchasing and procurement policy will not have a fiscal impact on the City's budget except to increase efficiency of operations. Adoption of the budget by Council grants authority to staff to use budgeted amounts to achieve Council priorities and objectives. The changes outlined in this report attempt to update and adjust thresholds for inflation and increased efficiency in operations and service provision, not increase expenditure or appropriation levels.

NEXT STEPS

Once Council approves changes to the City's procurement policies, City staff will implement the policy and related procedural changes. Staff will initiate an update to the Public Projects section of the procurement policy this winter.

Prepared by: Tracy Vesely, Director of Finance; Dustin Claussen, Deputy Director of Finance; Maria Carrillo, Purchasing Manager

Recommended by: Tracy Vesely, Director of Finance

Approved by:



Fran David, City Manager

Attachments:

Attachment I

Resolution

Attachment II

Summary of Threshold & Approval Levels
(Current and Proposed)