



AGENDA ITEM MEMORADUM

Finance Director

Tony Bryan

Department

Department Director

COMMISSION MEETING DATE (*) - 7:00 PM	Deadline to Town Clerk
<input checked="" type="checkbox"/> Jan 10, 2012	Dec 30 th

**Subject to Change*

- Presentation Reports Consent Ordinance
 Resolution Quasi-Judicial Old Business New Business

FY2011 DESIGNATED HIGH PRIORITY ITEM

SUBJECT TITLE: Resolution 2012-02 - Amendments to the Town Purchasing Manual

EXPLANATION: As we gain experience with using the revised Purchasing Manual we are finding sections that need more clarity, address issues not currently covered, and reflect changes in policy. The proposed amendment reflects three issues.

1. Capital Purchases

At the Commission meeting of October 11, 2011, the Audit Committee and the Finance Director recommended that the Town’s capitalization threshold be raised from \$2,000 to \$5,000 in order to cut down on the administrative burden of work on the Finance staff to depreciate and track small capital items. The Commission voted 5-0 to proceed with that recommendation and this amendment to the Purchasing Manual accomplishes that.

The Government Finance Officers Association recommends that no government have a capitalization threshold of less than \$5,000 and that capitalized items have a useful life of at least two years following date of acquisition. We have also reflected the increase in useful life from one to two years in the amendment to the Purchasing Manual.

The Finance Director has discussed this change with the Town’s external auditor, Grau & Associates, and they concur with this change.

2. Formal Vendor Selection Methods

Section III, Subsection D of the Manual describes the different types of formal selection methods for process of Invitation to Bid (ITB), Request for Proposals (RFP), Request for Qualifications (RFQ), and Letter of Interest (LOI). The process for appointing an evaluation committee, communicating with respondents, and short-listing respondents were listed under each subsection but were not completely consistent with each other. During two recent RFP processes we found that a bit confusing, so we propose to move those matters to its’ own subsection called “Evaluating Proposals”. The amendment shows the deleted text in each of the subsection, most of which was moved to a new subsection. The text was also edited to eliminate duplication.

We also propose to eliminate the prohibition which we had just added last summer that said members of the evaluation committee could not communicate with respondents during the evaluation process. That works in a large organization that has a professional Purchasing staff or



bench strength in technical fields who can communicate what is needed to respondents, but we are finding it is not very practical in a small organization such as ours, that has no assigned Purchasing staff and few employees.

3. Reference to Broward County Ethics Ordinance

The Town Attorney suggested that we reference the County Ethics Ordinance's prohibition of gifts to elected officials, and the need for lobbyists to register with the Town in the Purchasing Manual and that is accomplished in this amendment.

4. Leasing Property

We recently realized that there are no guidelines for leasing Town property in the code or in the Purchasing Manual. A survey of other cities (see attached memo) indicates that is not unusual, but we think it would be helpful to have some direction to follow in leasing Town property for an extended period of time. We have recommended that the Town have a rental market analysis done in advance of leasing Town-owned property for a period of two years or more, excluding sidewalk café leases, encroachment agreements, and parking space leases, and that the lease be approved at a public meeting. The Town would not be obligated to attain the market rate, but the mere fact of having the research done and made public, would insure a level of transparency in the transaction.

RECOMMENDATION: We recommend approval of Resolution 2012-02, which adopts the proposed amendments to the Purchasing Manual.

EXHIBIT(S):

Resolution 2012-02
External Auditor's Concurrence with Proposed Changes to Capitalization Policy
Memo dated 12/29/2011 from Asst to the Town Manager

Reviewed by Town Attorney
 Yes No

Town Manager Initials CA

Tony Bryan

From: Tony Grau Jr. <TGrauJr@graucpa.com>
Sent: Wednesday, December 21, 2011 5:41 PM
To: Tony Bryan
Cc: Jennifer Wasserman
Subject: RE: LBTS Capitalization Policy

I agree

From: Tony Bryan [<mailto:TonyB@lauderdalebythesea-fl.gov>]
Sent: Wednesday, December 21, 2011 5:18 PM
To: Tony Grau Jr.
Cc: Jennifer Wasserman
Subject: LBTS Capitalization Policy

Tony –

The Town's purchasing policy currently defines a capital purchase as tangible personal property having an original acquisition cost of two thousand dollars or more per unit and a life expectancy of more than one year, including but not limited to, the purchase of software.

Consistent with GFOA Best Practices, I'd like to recommend that the Commission change the dollar threshold from two thousand or more per unit to **five thousand** or more per unit; and I'd like to change the phrase a life expectancy of more than one year to a life expectancy of **more than two years**.

Please let me know if you concur with the proposed changes.

Kind regards,

Tony Bryan
Finance Director
Lauderdale-By-The-Sea
954 640-4206
TonyB@lauderdalebythesea-fl.gov

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RESOLUTION 2012-02

A RESOLUTION OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, AUTHORIZING AND INCORPORATING CHANGES IN THE TOWN'S PURCHASING MANUAL BY REVISING DEFINITIONS, PROVIDING FOR CERTAIN CHANGES IN THE REQUEST FOR PROPOSAL EVALUATION PROCESS, INCORPORATING A REFERENCE TO THE BROWARD COUNTY CODE OF ETHICS, AND PROVIDING A PROCEDURE FOR LEASING TOWN PROPERTY; PROVIDING FOR REPEAL OF ANY CONFLICTING RESOLUTION, SEVERABILITY, AND AN EFFECTIVE DATE.

17 **WHEREAS,** The Town of Lauderdale-By-The-Sea ("Town") wishes to provide for
18 certain changes to the Purchasing Manual in order to clarify certain terms and processes set forth
19 in the Manual.

20 **NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COMMISSION OF**
21 **THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA:**

22 **Section 1. Recitals.** Each "WHEREAS" clause set forth is true and correct, and
23 herein incorporated by this reference.

24 **Section 2. Amendment to Purchasing Manual.** The Purchasing Manual is hereby
25 amended as provided in the attached Exhibit "A".

26 **Section 3. Implementation.** The Town Manager or his or her designee and the Town
27 Attorney are authorized to take all actions necessary to implement the new provisions of the
28 Purchasing Manual.

29 **Section 4. Conflict.** All resolutions or parts of resolution in conflict herewith are
30 hereby repealed to the extent of such conflict.

31 **Section 5. Severability.** If any clause, section or other part of this resolution shall be
held by any court of competent jurisdiction to be unconstitutional or invalid, such

32 unconstitutional or invalid part shall be considered as eliminated and in no way affecting the
33 validity of the other provisions of this resolution.

34 **Section 6. Effective Date.** This resolution shall become effective immediately upon
35 its passage.

36 **PASSED AND ADOPTED** this _____ day of _____, 2011.

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Mayor Roseann Minnet

Attest:

June White CMC, Town Clerk
(CORPORATE SEAL)

APPROVED AS TO FORM:

Susan L. Trevarthen, Town Attorney

Definitions

DEFINED TERMS ---

...

7. **Capital Purchases** means all tangible personal property having an original acquisition cost of ~~two~~ five thousand dollars (\$~~2~~ 5,000.00) or more per unit and a life expectancy of more than ~~one~~ two years, including, but not limited to, the purchase of software.

...

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III. GENERAL PURCHASING POLICIES

A. OVERALL PURCHASING REQUIREMENTS

1. General Purchasing Policies apply to all procurement of goods, construction, and/or services by LBTS unless specifically excluded as described in Section IV of this manual.

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11. The Broward County Code of Ethics, Section 1-19 of the Broward County Code of Ordinances generally prohibits Town Commissioners from receiving gifts from vendors, contractors, lobbyists and potential suppliers of goods and services to the Town, and from being involved in procurement matters. Anyone seeking to lobby the Town on any matter must register as a Town lobbyist pursuant to Section 2-1 of the Town's Code of Ordinances, and follow the other regulations and prohibitions of that section of Code. Anyone who seeks to do business with the Town must conform to all of the detailed requirements of these County and Town ethics regulations.

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D. FORMAL VENDOR SELECTION METHODS

1. A determination will be made by the Purchasing Administrator, after consultation with the user department, as to which formal competitive vendor selection method will be used. Methods include:

- a. **Invitation to Bid (ITB)**

An ITB is used when specifications are well-defined. The ITB shall include instructions to bidders, plans, drawings and specifications if any, a bid form, and other required forms and documents to be submitted with the bid. Under this type of solicitation, the recommendation of award is normally to the lowest responsive and responsible bidder. Life cycle costs of the commodity or equipment

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to be purchased can be used in evaluating which vendor is lowest responsive and responsible bidder.

~~Prior to the release of any ITB that the Town staff anticipates will result in a purchase in excess of fifteen thousand dollars (\$15,000) a draft copy of the ITB shall be sent to the Town Clerk for distribution to the Town Commission no less than one week in advance of publication of the ITB. (EDITING NOTE: MOVED)~~

b. Request for Proposals (RFP)

An RFP is a written request to vendors to submit proposals that describe the methodology the respondent will utilize to provide analysis, design or other professional services, design/build services, or operational services on an issue or a need Lauderdale-By-The-Sea has specifically identified.

In most cases, and except when prohibited by State Statute, prices for the services will also be requested. The vendor's experience and qualifications, together with the proposed methodology, are evaluated and may take precedence over price in the procurement decision in this selection method. RFPs will generally, but not always, state the relative importance that price and any other evaluation criteria will be accorded in the vendor selection process.

~~Prior to the release of any RFP that the Town staff anticipates will result in a purchase in excess of fifteen thousand dollars (\$15,000) a draft copy of the RFP shall be sent to the Town Clerk for distribution to the Town Commission no less than one week in advance of publication of the RFP.~~

~~Lauderdale-By-The-Sea may engage in discussions with respondents for the purpose of clarification to assure full understanding of and conformance to the solicitation requirements. Respondents shall be accorded fair and equal treatment with respect to any opportunity for discussion~~

~~The Purchasing Administrator will first review the proposals to determine if each proposal is responsive to the requirements of the RFP. The Purchasing Administrator has the authority to notify the responder of non-substantive omissions in their proposal and give them a short deadline to correct those omissions. The Purchasing Administrator will determine which proposals are deemed non-responsive to the RFP and those respondents will be notified in writing of the Purchasing Administrator's decision.~~

~~Evaluation of the responsive proposals will normally be completed by an evaluation committee that is composed of individuals who have knowledge of, or experience with the project, issue or profession that is the subject of the~~

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~~procurement. The evaluation committee members are appointed by either the Town Manager or Assistant Town Manager. The Purchasing Administrator normally facilitates the evaluation process, but is not a voting member of the evaluation committee. The Purchasing Administrator is also the only staff member who should be in contact with the responders between the times the evaluation committee is appointed and they complete their evaluation process and submit recommendations to the Town Manager or Town Commission.~~

~~Because the Town has a very small staff, there will be cases where it is appropriate for the Purchasing Administrator to be a member of the evaluation committee. In such cases, the Town Manager shall appoint another staff member to fulfill the facilitation and communication with respondents roles normally carried out by the Purchasing Administrator.~~

c. Request for Qualifications (RFQ)

An RFQ is a formal invitation to vendors to submit a statement of their experience, education, certifications, etc. that qualify them to perform work for the Town. This approach differs from an RFP in that it places greater emphasis on the qualifications of the potential respondents, and their track record of quality performance, rather than a specific methodology they utilize. The RFQ identifies the desired minimum qualifications of the respondents, a scope of work statement, project requirements, and states the relative importance of selection criteria that will be used in compiling a short list of prospective respondents for further consideration.

~~Responses are evaluated by an evaluation committee and facilitated by the Purchasing Administrator. Depending on the number of responses received, a shortlist of three to five respondents are usually identified for further consideration. These short-listed respondents may or may not be interviewed by the evaluation committee. The short-listed firms may either be ranked in order of the committee's evaluation of the respondents' experience, qualifications and, in some cases the quality of their presentation to or discussions with the committee, or a number of respondents may be determined to be qualified to perform work for the Town.~~

~~When respondents are ranked in order, this ranking is presented to the Town Manager or the Town Commission for approval, depending on the size of the contract that is anticipated. Staff will then negotiate a contract for the services needed with the number one ranked respondent and bring the contract back to the Town Manager if it is within his or her approval authority or to the Town Commission for approval if the contract amount exceeds the Town Manager's authority.~~

~~In certain circumstances where continuing agreements are sought, multiple firms may be determined to be qualified and are placed on a qualified vendors list for the types of services identified in the RFQ. When a project or assignment is to be~~

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~~contracted to an outside vendor for such work, the Town may either rotate the work between qualified vendors or may ask the qualified vendors for sealed price quotes, if allowed by law, and/or schedules to do the work and make a selection based on price, if allowed by law, and/or schedule to complete the work. In such cases, staff will negotiate a contract with the selected vendor and bring it to the Town Manager for approval or to the Town Commission if the contract price exceeds the Town Manager's approval authority.~~

d. Letter of Interest (LOI)

An LOI is a formal invitation to vendors to submit a proposal. It identifies, in general terms, the work required and directs the respondents to provide a letter regarding the respondent's interest in working with the Lauderdale-By-The-Sea on the particular project(s). Respondents provide a statement of experience and qualifications of key personnel. Costs or fees are not part of the response. Architectural and engineering services are examples of services for which this type of solicitation is sometimes used.

~~Responses are evaluated by an evaluation committee as described in the RFP section. Based on the experience and qualifications, the responses are ranked. This ranking is presented to the Town Manager or Town Commission, depending on the dollar amount of the contract, requesting authorization to enter into contract negotiations with the top ranked respondent. The resulting contract is then brought back to the Town Manager if within his or her authority for approval, or to the Town Commission for approval if the contract amount exceeds the Town Manager's authority. Architectural and engineering services are examples of services for which this type of solicitation is sometimes used.~~

~~The Town may short-list the respondents to RFPs, RLIs or RFQs in order to facilitate more in-depth analysis of a more manageable number of responses. The Town may also seek clarification from proposers as long as such requests are made of, or discussions are held with, all proposers or all short-listed proposers. Individual members of the evaluation committee, however, may not conduct such discussions or communications; they must be done by the full committee or by the Purchasing Administrator. The opportunity for discussion and revision of proposals may also be limited to this group.~~

2. Pre-Release Requirements.

Prior to the release of any ITB, RFP, RFQ, or LOI that the Town staff anticipates will result in a purchase in excess of fifteen thousand dollars (\$15,000) a draft copy of the document(s) shall be sent to the Town Clerk for distribution to the Town Commission no less than one week in advance of publication of the solicitation.

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3. **Evaluating Proposals/Submissions**

a. **Responsiveness of the Proposal/Response**

The Purchasing Administrator will first review the proposals to determine if each proposal is responsive to the requirements of the solicitation. The Purchasing Administrator has the authority to notify the responder of *non-substantive* omissions in their proposal and give them a short deadline to correct those omissions. The Purchasing Administrator will determine which proposals are deemed non-responsive and those respondents will be notified in writing of the Purchasing Administrator's decision. (EDITING NOTE: MOVED FROM EARLIER SECTION)

b. **Evaluation Committee**

Evaluation of the responsive proposals will normally be completed by an evaluation committee that is composed of individuals who have knowledge of, or experience with the project, issue or profession that is the subject of the procurement. The evaluation committee members are appointed by either the Town Manager or Assistant Town Manager. The Purchasing Administrator normally facilitates the evaluation process, but is normally not a voting member of the evaluation committee. ~~The Purchasing Administrator is also the only staff member who should be in contact with the responders between the times the evaluation committee is appointed and they complete their evaluation process and submit recommendations to the Town Manager or Town Commission.~~

Because the Town has a very small staff, there will be cases where it is appropriate for the Purchasing Administrator to be a member of the evaluation committee. In such cases, the Town Manager shall appoint another staff member to fulfill the facilitation and communication with respondents roles normally carried out by the Purchasing Administrator. (EDITING NOTE: MOVED FROM EARLIER SECTION)

c. **Requests for Clarification or Additional Information**

During the evaluation process, the Purchasing Administrator or members of the Evaluation Committee may need or be assigned to communicate with respondents for the purpose of clarification to assure full understanding of the proposals and conformance to the solicitation requirements. (EDITING NOTE: MOVED FROM EARLIER SECTION)

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d. **Shortlist and Ranking of Responders by Evaluation Committee**

Depending on the number of responses received, the Town may short-list respondents in order to facilitate more in-depth analysis of a manageable number of responses. These short-listed respondents may or may not be interviewed by the evaluation committee. The short-listed firms may either:

i. Be ranked in order of the committee's evaluation of the respondents' experience, qualifications and, in some cases, the quality of their presentation to or discussions with the committee, ~~or a number of respondents may be determined to be qualified to perform work for the Town.~~ (EDITING NOTE: MOVED FROM EARLIER SECTION)

ii. Be ranked as a group, all of which are determined to be qualified to perform work for the Town.

In certain circumstances such as where continuing agreements are sought, multiple firms may be determined to be qualified and are placed on a qualified vendors list for the types of services identified in the RFQ solicitation. (EDITING NOTE: MOVED FROM EARLIER SECTION)

e. **Approval of Ranking and Work Awards**

~~This ranking is presented to the Town Manager or Town Commission, depending on the dollar amount of the contract, requesting authorization to enter into contract negotiations with the top ranked respondent. The resulting contract is then brought back to the Town Manager if within his or her authority for approval, or to the Town Commission for approval if the contract amount exceeds the Town Manager's authority.~~ for approval to the appropriate authority (Commission or Town Manager). Once approved, staff will negotiate a contract with the number one ranked respondent or, failing to reach agreement, with the next ranked respondent and then submit the agreement for execution by the appropriate authority.

When a project or assignment is to be contracted to an outside vendor for such work, the Town may either rotate the work between qualified vendors or may ask the qualified vendors for

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sealed price quotes, if allowed by law, and/or schedules to do the work and make a selection based on price, if allowed by law, and/or schedule to complete the work. In such cases, staff will negotiate a contract with the selected vendor and submit it for execution by the appropriate authority. (EDITING NOTE: MOVED FROM EARLIER SECTION)

Section IV – EXCEPTIONS TO GENERAL PURCHASING POLICIES

K. Leasing Town-Owned Real Property

The Town shall have a market analysis done of prevailing market lease rates for like or similar property in advance of leasing Town-owned property, when such lease shall be for a period of two years or more. The Town is not obligated to attain those market rates in the lease, but the market lease rate analysis shall be provided to the Town Commission at a public meeting at which the proposed lease is presented for approval. Sidewalk café leases, encroachment agreements, and parking space leases shall be exempted from this requirement.



TOWN OF LAUDERDALE-BY-THE-SEA
4501 Ocean Drive
Lauderdale-By-The-Sea, FL 33308-3601
Phone: 954-776-0576 Fax: 954-776-1857

Memorandum

Date: December 28, 2011
To: Connie Hoffmann, Town Manager
From: Pat Himelberger, Asst. to the TM
Subject: Leasing Real Property

Your request that I survey other municipalities about policies covering the leasing of city owned properties and buildings resulted in the following information being located in various Municipal Code of Ordinances or from speaking with staff.

- **Pompano Beach** – none per staff.
- **Lighthouse Point** – none per staff.
- **Wilton Manors** – Per staff, the charter requires an ordinance to lease or convey City owned property.
- **Hollywood** – the only policies concern annual rentals exceeding \$100,000 annually and deal with police back ground checks per Code.
- **Fort Lauderdale** – can lease any property for no more than 50 years, any property leased for more than one year must go before the Commission with a resolution specifying its location and description, improvements and reason for offering property for lease. After the resolution, the City must advertise the terms it wants for the lease, accept sealed bids with a deposit and then take the lease back to the Commission with a resolution for approval. Fort Lauderdale has other ordinances concerning leasing to charitable organizations, shops in the parking garage, Bahia Mar and with other governmental agencies.
- **Tamarac**- by ordinance the City can lease any of its property, must publish a notice setting the terms of the lease and the time and date the Commission will consider it, any objections to it and shall also consider any further competitive bids for the property being leased.
- **Oakland Park** – none per staff.
- **Pembroke Pines** – none in Code.
- **Miramar** – none in Code.