

Management Committee

Meeting date: December 8, 2021

For the Metropolitan Council meeting of December 22, 2021

Subject: FM 14-1 Procurement Policy

District(s), Member(s): All Districts; All Members

Policy/Legal Reference: Minn. Stat. §§ 473.123 Subd. 4(d)

Staff Prepared/Presented: Jody Jacoby, Procurement Director, 651-602-1144

Division/Department: Regional Administration/Procurement

Proposed Action

That the Metropolitan Council adopt FM 14-1 Procurement Policy version 11.

Background

This version 11 of FM 14-1 Procurement Policy edits the purchasing thresholds to align with Council action taken in Business Item No. 2020-152 to increase the threshold for micro purchases and small purchases. This version also includes plain language revisions and clarification of procurement contract method. The Council-wide Policy and Procedure Review Team reviews all policies and procedures for consistency, clarity, and compliance. This team reviewed version 11 of FM 14-1 and endorsed it to move forward to Management Committee for approval.

Rationale

Minnesota Statutes section 473.123, subdivision 4(d), permits the Metropolitan Council to adopt policies and procedures governing its operations. These revisions clarify the policy and align with best practices and legal requirements.

Thrive Lens Analysis

This action further supports the previous Council actions of increasing the dollar thresholds for goods and service contracts consistent with the Council's Thrive Equity Outcome. This will further promote equity by using the Council's influence and investments to build a more equitable region.

Funding

No funding is tied to the proposed action.

Known Support / Opposition

There is no known opposition to the proposed action.

POLICY

Procurement Policy

FM 14-1

Category: Financial Management

Business Unit Responsible: RA: Procurement

Policy Owner: Director of Procurement

Policy Contact: Jody Jacoby, Procurement Director

Synopsis: This policy defines the methods of procurement the Council will use to procure the goods and services required to meet its needs and fulfill its mission.

POLICY

The Metropolitan Council will procure goods and services in a manner that is economical, efficient, straightforward, equitable, and which complies with all applicable federal and state laws and regulations, and Council policies and procedures.

Methods of procurement

The Council will use the following methods of procurement based upon the value. Procurements cannot be split to avoid competition.

Micro purchases

A micro purchase is a procurement:

- 1) Valued up to \$10,000 for all funding types; or
- 2) Valued up to \$25,000 when purchasing from a Metropolitan Council Underutilized Business (MCUB) vendor with only local funds.

A micro purchase can be made without obtaining competitive quotations or proposals. Council staff will ensure that the price is fair and reasonable.

Small purchases

A small purchase is a procurement:

- 1) Valued between \$10,001 up to \$175,000 for all funding types; or
- 2) Valued between \$25,001 up to \$175,000 if from an MCUB vendor.

A small purchase can only be made after obtaining an adequate number of quotations, bids, or proposals from qualified sources, in accordance with applicable law and Council procurement procedures.

Large purchases

A large purchase is a procurement valued at greater than \$175,000 and will be made by publicly soliciting bids or proposals in accordance with Council procurement procedures and as required by Minnesota Statutes.

Joint purchasing agreements

The Council has the authority to enter into joint purchasing agreements with other governmental units as provided for in Minnesota Statutes. Procurements made through joint purchasing agreements satisfy the Council's competitive procurement requirements.

Interagency agreements

Interagency agreements can be made between the Council and a governmental unit. Interagency agreements include joint power agreements.

Joint power agreements

All joint power agreements under [Minnesota Statutes section 471.59](#) must be approved by Council action.

Contract amendments

Contract amendments greater than 10% of the original value of the contract will be considered separate procurements and will be supported by the appropriate competitive process.

Noncompetitive purchases

Noncompetitive purchases can be made under the following circumstances:

For micro purchases

Where the Regional Administrator or the Council has declared an emergency, in accordance with Council policies and procedures

Where a [sole source justification](#) has been approved, in accordance with Council policies and procedures

Where the goods or services are not available through a competitive process, such as utilities, subscriptions, professional dues and memberships, insurance, conference and seminar registration, permits and licenses, advertisements in publications, taxes, required federal, state, and local fees and charges, etc.

Where the contract is for services of consultants who perform engineering, legal, or professional services under Minnesota Statutes Section 473.129, subd. 3.

Interagency agreements

Disadvantaged businesses

The Metropolitan Council will utilize businesses owned and controlled by socially and economically disadvantaged individuals in the procurement of goods and services, and the award of contracts in accordance with the Council's Inclusion of Disadvantaged Business Enterprises (DBEs) and Metropolitan Council Underutilized Business (MCUBs) Policy and related procedures.

The Council will, in accordance with applicable federal and state laws and regulations, act affirmatively to create a "level playing field" for women-owned, minority-owned, veteran-owned, and disadvantaged business enterprises to achieve the goal of equal opportunity. Staff are directed to utilize the statutory tools and best practices available to reduce barriers and increase opportunities for such businesses, including those tools enumerated in Minnesota Statutes section 473.142.

Deviations

Approval to deviate from this policy must be documented and authorized by the Regional Administrator, or by other Council staff as delegated by the Regional Administrator in accordance with Council policies and procedures.

Prohibited interests in contracts

The Council may not enter into any contract or purchase order for goods or services in which a Council member, or Council employee or their immediate family members has an indirect or direct personal financial interest or will personally benefit financially from the contract or purchase order. In exceptional cases and if permitted by applicable law or regulation, this policy may be waived by the division leader for good cause after consulting with the Office of General Counsel.

PURPOSE & SCOPE

The intent of this policy and its supporting procurement procedures is to ensure that the procurement process complies with all applicable legal requirements and federal and state regulations, is fair to all participants, is as efficient as possible without eliminating needed controls, is understandable to all users, is administratively consistent with other Council policies and procedures, and maximizes the use of disadvantaged businesses whenever possible.

IMPLEMENTATION & ACCOUNTABILITY

All employees are responsible for adhering to this policy when procuring goods and services. Managers are responsible for monitoring adherence to this policy. Implementing procedures, guidelines, and rules are published on the [Council's Procurement Intranet page](#).

PROCEDURES

[FM 14-1a Procurement Procedure](#)

[FM 14-1b Classification of Independent Contractors Procedure](#)

RESOURCES

Statutory Resources

[Minnesota Statutes section 471.59](#)

[Minnesota Statutes section 473.129, subd. 3](#)

[Minnesota Statutes section 473.142](#)

Internal Resources

[Procurement \(MetNet\)](#)

Forms

[Sole Source Justification](#)

HISTORY

Version 11 – Approval Date ([link here](#))

07/21/2021 – Revised to increase procurement thresholds and clarify language.

Version 10 – Template Update

10/12/2020 - Updated content into new template.

Version 9 – Approval Date ([Business Item 2020-152](#))

06/10/2020 – Revised to increase the procurement thresholds.

Version 8 – Approval Date ([Business Items 2019-360 and 2019-29](#))

01/01/2020 – Revised to increase the procurement thresholds.

Version 7 – Approval Date ([Business Item 2013-268](#))

10/16/2013 – Revised to increase the micro purchase level and spending authorities.

Version 6 – Approval Date

08/01/2008 – Revised to reflect changes in [Minnesota Statute section 471.345](#).

Version 5 – Approval Date

08/01/1999 – This policy revision incorporates FTA best practices in accordance with a Procurement System Review conducted.

Version 4 – Approval Date

09/01/1998 – Incorporated additional changes developed through a procurement study project.

Version 3 – Approval Date

12/01/1997 – Revised and reissued.

Version 2 – Approval Date

09/01/1996 – Revised and reissued.

Version 1 – Approval Date

06/01/1995

Last Reviewed Date

Not Set

Next Content Review Date

07/15/2022

Former Reference #

3-4-3

Version

11