

Business Item

Management Committee



Committee Meeting Date: June 12th, 2024

For the Metropolitan Council: June 26th, 2024

Business Item: 2024-160

FM 14-2 Expenditures for the Procurement of Goods, Services, and Real Estate Policy

District(s), Member(s): All Districts: All Members
Policy/Legal Reference: Minn. Stat. §§ 473.123 Subd. 4(d)
Staff Prepared/Presented: Jody Jacoby, Chief Procurement Officer, 651-602-1144
Kelly Jameson, Director of Real Estate, 651-602-1556

Division/Department: Regional Administration/Procurement/Real Estate

Proposed Action

That the Metropolitan Council adopt FM 14-2 Expenditures for the Procurement of Goods, Services, and Real Estate Policy version six.

Background

Version six of FM 14-2 clarifies that real estate acquisitions and settlements before condemnation exceeding one million must be approved by the Council and settlements after condemnation are governed by Metropolitan Council Bylaws, Article IV, Section F. Additionally, clarifying that when the initial offer for real estate acquisition is under one million, Council action is not required unless the administrative settlement value exceeds the initial offer by more than \$500,000.

This version also adjusts the construction signature authority change order thresholds from 2.5 million to 10 million. Increasing the construction change order signature authority levels to those approved by the Council is an administrative cleanup, and aligns with the Council's previously approved action, taken in Business Item No. 2022-251, to raise the Council construction approval threshold to exceeding 10 million.

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, align with best practices and previously taken Council action.

Thrive Lens Analysis

Increasing the signature authority construction contract approval amounts promotes the Council's Thrive Prosperity and Equity outcomes by making the construction procurement process quicker. All contractors, but especially our Metropolitan Council Underutilized Businesses and Disadvantaged Business Enterprise partners, benefit from shorter spans between bidding and being awarded contracts, especially in periods of significant pricing fluctuation.

Additionally, Council project offices and property owners whose land is needed to support projects benefit from settlements before condemnation that don't require Council action.

Funding

No funding is tied to the proposed action.

Small Business Inclusion

As stated above, increasing the signature authority for construction contract approvals will help the small business community.



POLICY

Expenditures for the Procurement of Goods, Services, and Real Estate Policy

FM 14-2

Category: Financial Management

Business Unit Responsible: RA: Procurement

Policy Owner: Chief Procurement Officer
Assistant Director of Procurement

Policy Contact: Jody Jacoby, Chief Procurement Officer
Laura Vedder, Assistant Director of Procurement

Synopsis: Provides direction for managing and responsibly expending public funds of the Council.

POLICY

The Metropolitan Council will expend funds consistent with the public purpose doctrine, governing laws, rules, and regulations. Expenditures must be within the approved annual operating or capital budgets and consistent with established policies and procedures.

The Regional Administrator may delegate expenditure authority and develop expenditure procedures consistent with this policy. No expenditures may be made without approval by those with delegated expenditure authority. Any expenditures beyond the delegated limits must be approved by the Metropolitan Council.

Expenditures for the procurement of goods and services

The Regional Administrator is authorized to perform the actions identified below.

1. Accept or reject any offer for any procurement of goods or services valued at not more than \$500,000
2. Accept or reject any offer for any procurement of construction or design-build services valued at not more than \$10,000,000 that meet these identified conditions.
 - a. The project for which the services are required is included in the Metropolitan Council-adopted capital program.
 - b. The amount of the offer the Regional Administrator would accept is less than the engineer's cost estimate plus 10% or a review of the engineer's estimate is evaluated to determine why it is over the 10% with General Manager or Executive Division Director approval.
 - c. Sufficient funds are available in the capital budget to complete the resulting contract.
3. Set the micro purchase (or single bid) level:
 - a. Up to \$10,000 for all funding types or

- b. Up to \$25,000 when purchasing from a Metropolitan Council Underutilized Business (MCUB) vendor with only local funds

The Regional Administrator must ensure that a quarterly report is made to the Metropolitan Council, through the Management Committee, on all procurements valued between \$175,000 and \$500,000.

Expenditures for incremental amendments to contracts for goods and services

The Regional Administrator is authorized to amend contracts and increase the contract prices in the following amounts:

1. For any non-construction contract with an original contract price of \$500,000 or less, the Regional Administrator, or staff as delegated, may increase the contract price by an aggregate amount not to exceed 10% of the original contract price.
2. For any non-construction contract with an original contract price of more than \$500,000, the Regional Administrator may increase the contract price by an aggregate amount of up to 10% of the original contract price.
3. For any construction or design-build contract with an original contract price of \$10,000,000 or less, the Regional Administrator, or staff as delegated, may increase the contract price by an aggregate amount not to exceed 10% of the original contract price.
4. For any construction or design-build contract with an original contract price of \$10,000,000 or more, the Regional Administrator, may increase the contract price up to a maximum of 10%.
5. As otherwise delegated by the Metropolitan Council

Emergency expenditures

The Regional Administrator is authorized to declare an emergency on behalf of the Metropolitan Council, if the Regional Administrator determines that an emergency situation exists. An emergency situation exists when:

1. The health, safety or welfare of the public, including Metropolitan Council employees or facilities, is compromised or potentially compromised and remedial action is necessary or desirable or
2. A significant cost savings is immediately available through circumstances previously unknown and requires prompt action to take advantage of the situation.

The Regional Administrator may authorize appropriate contracts and payments necessary to meet the emergency situation provided that, if the cost to correct the emergency situation totals \$175,000 or more, the emergency declaration shall also be presented to the appropriate committee for ratification no later than the next regular meeting.

Expenditures for the acquisition of real property

The following matrix incorporates the expenditure and approval thresholds for acquisition of real property and real property interests.

	Approval Threshold	Approver
Authorization to make initial offer to acquire real property	Over \$1 million \$500,001 to \$1 million \$200,001 to \$500,000 Up to \$200,000	Metropolitan Council Regional Administrator General Manager Delegated Staff
Settlements after initial offer before filing of a condemnation petition where the settlement amount is less than \$1 million	\$500,001 to \$1 million \$200,001 to \$500,000 Up to \$200,000	Regional Administrator General Manager Delegated Staff

Settlements after initial offer before filing of a condemnation petition where the settlement amount is over \$1 million and the initial offer was approved by the Council	\$1 million over initial offer \$500,001 to \$1 million over initial offer \$200,001-\$500,000 over initial offer Up to \$200,000 over initial offer	Metropolitan Council Regional Administrator General Manager Delegated Staff
Settlements after initial offer before filing of a condemnation petition where the settlement amount is over \$1 million and the initial offer was not approved by the Council	Up to \$500,000 over initial offer Settlement over \$500,001 over initial offer	Regional Administrator Metropolitan Council
Settlements after the filing of a condemnation petition	Metropolitan Council Bylaws, Article IV, Section F	Chair and Regional Administrator in consultation with the General Counsel

The above thresholds apply only to the acquisition of real property. The thresholds specifically exclude statutory costs, attorneys’ fees, and litigation expenses.

Additionally:

1. FTA concurrence may be required for certain transit acquisitions.
2. Before initiating a condemnation action, the Metropolitan Council must authorize the public purpose and necessity of the property being acquired for the public project.

Expenditures for contracts with other governmental entities

The Regional Administrator is authorized to enter into contracts with other governmental entities for the expenditure of amounts not exceeding \$500,000.

PURPOSE AND SCOPE

This policy provides direction for managing and responsibly expending public funds of the Council, consistent with the public purpose doctrine.

The public purpose doctrine permits a governmental entity to expend public funds only if the primary purpose of the expenditure is public and the expenditure directly relates to the governmental purposes for which the entity was created. [Council Resolution No. 2022-22, Public Purpose Doctrine](#), acknowledges the legal doctrine and sets some parameters and guiding policies as to what is within the public purposes of the Metropolitan Council so that the Regional Administrator may establish administrative procedures and policies consistent with the Resolution.

IMPLEMENTATION & ACCOUNTABILITY

The Regional Administrator is expected to establish the framework and accountability for the effective implementation of this policy.

PROCEDURES

- [FM 14-2a Delegation of Procurement and Contract Authority Procedure](#)

RESOURCES

Related Policies

- [FM 9-1 Real Estate Policy](#)

Related Procedures:

- [FM 2-2a Food and Refreshment Procedure](#)

Statutory Resources

- [Council Resolution No 2016-26, Public Purpose Doctrine](#)

HISTORY

Version 6 – Revision

This version clarifies that real estate: 1) acquisitions that exceed 1 million must be approved by Council, and 2) settlements before condemnation go to Council if the settlement value exceeds the initial offer by 1 million, and 3) Settlements after condemnation are governed by Metropolitan Council Bylaws, Article IV, Section F. This version also of FM 14-2 also adjusts the construction signature authority change order thresholds from 2.5 million to 10 million. This is an administrative clean-up and aligns with Council action taken in Business Item No. 2022-251 to raise the Council construction approval threshold to exceeding 10 million.

Version 5 – Template Update ([Business Item 2022-251](#))

10/14/2022 – Updated procurement of construction or design-build services threshold pursuant to Business Item 2022-251.

Version 4 – Template Update ([Business Item 2022-17](#))

02/09/2022 – Updated procurement threshold and language pursuant to Business Item 2022-17.

Version 3 – Template Update

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

Version 2 – Approval Date

09/16/2016

Version 1 – Approval Date

09/11/1998

Last Reviewed Date

10/14/2022

Next Content Review Date

07/15/2023

Former Reference

3-3

Version

6



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 - b. The amount of the offer the Regional Administrator would accept is less than the engineer's cost estimate plus 10% or a review of the engineer's estimate is evaluated to determine why it is over the 10% with General Manager or Executive Division Director approval.
 - c. Sufficient funds are available in the capital budget to complete the resulting contract.
3. Set the micro purchase (or single bid) level:
 - a. Up to \$10,000 for all funding types or

Commented [AB1]: Can we change to Executive Division Director? I believe all of them now have that title. If we are cleaning this up, that is a minor change.

- b. Up to \$25,000 when purchasing from a Metropolitan Council Underutilized Business (MCUB) vendor with only local funds

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Commented [BA2]: To be clear, this authority is the same as the initial offer authority. Correct?

The above thresholds apply only to the acquisition of real property. The thresholds specifically exclude statutory costs, attorneys' fees, and litigation expenses.

Additionally:

1. FTA concurrence may be required for certain transit acquisitions.
2. Before initiating a condemnation action, the Metropolitan Council must authorize the public purpose and necessity of the property being acquired for the public project.

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Commented [AB3]: This was updated in 2022. Need updated language and link.

Commented [VL4R3]: I think this is correct.

Field Code Changed

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