

City of Oxford Purchasing Policy

Scope

Ohio Revised Code Sections 5705.41 (b) and (d) require that no expenditure be made unless it is appropriated. The details that follow outline the City of Oxford's Purchasing Policy.

Under current purchasing guidelines, departments and divisions are required to quote anything to be purchased, leased, leased with an option to purchase, or constructed, including, but not limited to, any product, structure, construction, reconstruction, improvement, maintenance, repair, or service that costs more than one thousand dollars (\$1,000). However, competitive bidding is not required when purchasing certain types of professional services, purchases made by state and/or qualified joint cooperative contracts or the item being purchased can only be obtained from one vendor (sole source).

This policy describes the procedures, guidelines and desired purchasing practices by which City departments and divisions are expected to abide. It provides current, accurate guidance to those personnel who are responsible for or who participate in the purchasing functions on a regular basis providing a uniform and consistent approach to the purchasing function.

Purpose

Purchasing is a support service function that directly affects all City departments and divisions operating budgets, equipment inventories, and costs. Purchasing is an important component in accomplishing various City goals and objectives in a cost-effective manner.

The purpose of this policy is fivefold:

1. clarify procedures to be followed for issuance of Emergency and Non-Emergency Purchase Orders;
2. clarify procedures to be followed for an encumbrance purchase order or blanket purchase order;
3. clarify policies to be followed when a purchase is made through a formal competitive process or on a non-formal basis;
4. clarify procedures for all purchases; and
5. provide guidance and direction on the use and effect of prevailing wage requirements and findings for recovery.

Goal

It is the policy of the City of Oxford that all purchasing be conducted strictly based on economic and business merit to ultimately promote the interest of the citizens of Oxford. The City of Oxford encourages free and unrestricted competition on all bid contracts and quotes, encouraging participation from local vendors. Purchases will be handled so as to obtain the prime value for the City, with bids and quotations solicited whenever practical.

Statements of Policy

1. Conflicts of Interest

All City officials, officers, Council members, employees, or agents of the City shall comply with all applicable ethics laws.

1. No City official, officer, Council member, employee, or agent of the City shall participate in any purchase or the selection, award, or administration of a contract by the City and/or supported by City or public funds where there is or may be a conflict of interest, real or apparent, involved. A conflict of interest arises when the official, officer, Council member, employee, or agent of the City or his or her spouse, significant other, any member of his or her immediate family, his or her business associate or partner, or any entity or organization in which any such party has a financial, business, or other interest or which employs or is about to employ any such parties has any business, financial, or other interest in any vendor from whom a purchase is being considered, is to be made, has entered a bid, and/or is selected for an award and/or contract.
2. No City official, officer, Council member, employee, or agent of the City shall solicit or accept any bribe, gratuity, favor or anything of monetary value from any person or entity with whom the City is considering making a purchase, or any vendor, bidder, contractor, and/or party to a purchase contract. As used in this section, “bribe, gratuity, favor, or anything of monetary value” does not include gifts that are de minimis, not substantial in nature, or are unsolicited items of nominal value.
3. In addition to any penalties required or provided by law, any City official, officer, Council member, employee, or agent of the City who violates a provision of this section shall be subject to disciplinary action up to and including termination from employment.

2. Definitions

A **purchase requisition** is the source document for all purchasing activity \$1,000 and over. This form communicates a department’s needs to the Finance Department and authorizes the Finance Department to enter into a contractual relationship for delivery of the goods and/or services. A requisition is for communicating internal requirements and should not be used by the departments for the order and delivery of goods and/or services.

A **purchase order** is a formal, binding, legal agreement between the City and a vendor for goods and/or services. **Purchases of \$1,000 or more will require a purchase order.** A purchase order is requested using a purchase requisition that details the merchandise or services required. A purchase order provides a detailed description of the goods/services being requested as well as the quantity, price and terms and conditions. When accepted by a vendor without qualifications within a specified time period, the agreement becomes a contract. A Purchase Order grants the vendor the authority to deliver the goods or services and invoice for the same. It is the City’s commitment to accept the goods or services and pay them at the agreed price.

3. Purchases Not Requiring Purchase Orders

Purchases under \$1,000

All purchases under \$1,000 do not require purchase orders.

Petty Cash Procedures

Petty cash funds are used to avoid the time and expense of issuing purchase orders for small purchases or reimbursements. All Petty Cash is to be distributed from the Finance Department and requires the approval of the Finance Director or their designee. Payments of Petty Cash are for amounts of \$50.00 or less. Payments more than \$50.00 may be approved by the Finance Director or their designee only when other forms of payment are not possible.

The Parks and Recreation Department manages its own petty cash funds, but submits requests to replenish its funds to the Finance Department. The Finance Department will biannually audit the Parks and Recreation Department's petty cash fund.

4. Types of Purchase Orders & Procedures

Purchases Under \$50,000

For Material & Supply items estimated to cost under \$1,000, price quotations are not required, although they could be beneficial. All purchases of \$1,000 or more will require a Purchase Requisition Form initiated by the head of the Department or division (or their designee) whose appropriations will be charged, and a purchase order approved by the Finance Director. For items estimated to cost between \$1,000 and \$49,999.99, the requisitioning department or division will secure at least three quotations from vendors and reference them on the Purchase Requisition Form for both audit and historical price information purposes.

If a department or division has a compelling reason for not soliciting multiple quotes for purchases between \$1,000 and \$49,999.99, they can attach a Contract Award Form to the requisition, detailing the reasons for awarding the purchase on a non-competitive basis. The contract award form should include:

- Basis of award, to include:
- Was it a budgeted item
- Was it included in department/division goals.
- Original signature of department/division head.
- Description of services or scope of work.
- Copies of any bids obtained.
- Contract value or cost of services.
- Name/address company being recommended.
- Contract terms.
- Purchase Requisition.

The Contract Award Form must be signed prior to issuance of Purchase Order and notification of award of a contract. If a vendor has their own contract form that they want signed, that form will be secondary to the City's Contract Award Form. Any supplemental form from a vendor should be attached to the City's form. Any contracts awarded under this basis shall have the following contract limitation clause, or something similar, typed on the Purchase Order:

CONTRACT/PURCHASE ORDER WILL NOT EXCEED \$ _____. ANY INCREASE TO THIS PURCHASE ORDER MUST BE DONE, IN WRITING, BY THE CITY OF OXFORD ON A CITY CHANGE ORDER FORM.

Any changes to the contract must be approved, IN ADVANCE, by the Finance Director and City Manager on the City's Change Order Form. **PLEASE NOTE:** Any projects that exceed \$50,000 will still require approval by City Council. No contract will be issued to any vendor unless and until the Finance Director certifies that a sufficient unencumbered appropriation balance is available to pay for the supplies, materials, equipment or contractual services for which the contract or order is to be issued. Inclusion in an approved budget does not automatically entitle a City department to the equipment, supplies or materials requisitioned.

Competitive Sealed Bid Procedure (Over \$50,000)

Purchases of more than \$50,000 must be expressly approved in advance by legislative resolution of the City of Oxford City Council. Any required legal advertising and formal sealed bids procedures must be followed. The following sets forth the procedure to be followed by the requisitioning departments or divisions when competitive sealed bids are being solicited:

Preparation of the Bid:

1. Identifies goods, services, equipment items or a construction project.
2. Prepares the specifications and/or statement of work.
3. Coordinates advertisement and issuance of the solicitation.

Awarding the Contract:

1. Opens and orally reads bids at the date and time specified in the bid.
2. Tabulates bids and submits copies to the department or division.
3. Prepares and submits requisition once the low bidder is identified.
4. Evaluates the bids for responsiveness.
5. Prepares recommendation for award.
6. Prepares contract document, as appropriate, and submits to the Clerk of Council, Finance Director, Law Director and City Manager, for approval.

Competitive Negotiated Bid Procedure (Over \$50,000)

Purchases of more than \$50,000 must be expressly approved in advance by legislative resolution of the City of Oxford City Council. For projects that require competitive negotiated bids, any required legal advertising and formal negotiated bids procedures must be followed. The competitive negotiation bid process allows for negotiation with bidders following the receipt and opening of bids and may be used for both professional and nonprofessional services. Contracts

awards are based upon the lowest and best bid criteria.

The following sets forth the procedure to be followed by the requisitioning departments or divisions when competitive negotiated bids are being solicited:

Preparation of the Bid:

1. Identifies goods, services, equipment items or a construction project.
2. Prepares the specifications and/or statement of work (including The Request for Proposal [RFP] or Request for Qualifications [RFQ])
3. Coordinates advertisement and issuance of the solicitation.

1. **Awarding the Contract:**

1. Opens and reads bids at the date and time specified in the bid.
2. Tabulates bids and submits copies to the department or division.
3. Prepares and submits requisition once the low bidder is identified.
4. Evaluates the bids for responsiveness.
5. Either:
 - i. Chooses two vendors that are likely to be selected and engage in negotiation for the purpose of clarification and to assure full understanding of the requirements and to help define the scope of work. Does not disclose any information about competing proposals.
 - ii. Ranks the proposals and begin discussions with the first ranked vendor, proceeding to subsequent vendors if an agreement cannot be reached.
6. Prepares recommendation for award.
7. Prepares contract document, as appropriate, and submits to the Clerk of Council, Finance Director, Law Director and City Manager, for approval.

Lowest and Best Requirements

It is the policy of the City of Oxford to award a contract to the lowest and best bidder. A bidder is considered lowest and best if the bidder's proposal responds to the bid specifications in all material respects and contains no irregularities or deviations from the bid specifications which would affect the amount of the bid or otherwise give the bidder a competitive advantage

The factors that the City will consider in determining whether a bidder of a contract is lowest and best include, but is not limited to:

- the experience of the bidder,
- the bidder's financial condition,
- conduct and performance of previous contracts,
- job history or references,
- facilities,
- management skills, and

- ability to execute the contract properly
- key personnel assigned to the project, their resumes, and their availability for the project
- whether the bidder is licensed to do business in Ohio

For non-contractual purchases it is the policy of the City of Oxford to accept the lowest and best quotation for the material or service to be provided by a specific vendor. Each purchase made should comply with the “Non-Competitive Purchase Procedures” section of this policy, the “Purchases made by State Contract” section or the “Procedures for Competitive Purchases Under \$50,000” section of this policy.

Professional Service Contract Procedures

Presentation of multiple proposals in the award of professional services contracts is encouraged. Professional services require the selection of the firm which is the most highly qualified provider of those services based on demonstrated competence and qualifications.

The Competitive Negotiated Bid process is required under the following conditions:

- a. For architectural or engineering services on construction projects with a professional services fee greater than or equal to \$50,000.
- b. For planning and analysis projects where the professional services fee is estimated to be greater than or equal to \$50,000.
- c. Professional services covering multiple projects.
- d. To hire a project or construction manager.

The Competitive Negotiated Bid process can be waived in cases where a proposed project is the extension or expansion of a previous project, and it is in the best interest of the City to use the same consultant because of the familiarity with the project.

Contracts Through Cooperative Purchasing Programs (ORC § 125.04)

A political subdivision may purchase supplies and service under state contract made through the Department of Administrative Services. The Department may charge the City a reasonable fee to cover the administrative costs. The City will submit an ordinance or resolution approved by City Council and maintain on file with the Department of Administrative Services to participate in a particular contract. The resolution or ordinance will request that the City be authorized to participate in such contract and will agree to be bound by the terms and conditions set by the state department. The payment of the contract will be made directly to the vendor under each purchase contract.

Purchases made by the City under this ORC provision are exempt from the competitive bidding procedures otherwise required by law. The City will not make any purchase subject to State Contract (ORC § 125.04) when bids have been received for the purchase, unless the purchase can be made upon the same terms, conditions and specifications at a lower price.

The City may participate in a joint purchasing program operated by or through a national or state association of political subdivisions in which the city is eligible for membership. (ORC 9.48B2) This acquisition is exempt from any competitive selection requirements otherwise required by law, if

the contract in which it is participating was awarded pursuant to a publicly solicited request for a proposal or a competitive selection procedure of another political subdivision within this state or in another state (ORC 9.48C)

The City may also participate in contract offerings from the federal government that are available to a political subdivision including, but not limited to, contract offerings from the general services administration. (ORC 9.48B3) This acquisition is exempt from any competitive selection requirements otherwise required by law. The City shall not acquire equipment, materials, supplies, or services by participating in a contract under this section if it has received bids for such acquisition, unless its participation enables it to make the acquisition upon the same terms, conditions, and specifications at a lower price. (ORC 9.48C)

The City will not use the State Contract, Federal Contract, or joint purchasing program contract unless it provides effective and efficient use of public funds.

Types of Purchases Orders

Emergency Purchase Orders

Emergency situations, such as the need to quickly repair infrastructure or replace non-functioning equipment or parts that are essential for day-to-day City operations, may require a department or division to proceed with procurement on an immediate basis and bypass the approved purchasing process.

In emergency situations where the estimated cost is less than \$20,000, the department should obtain a purchase order number from the Finance Department prior to contacting the vendor, if possible, or at the beginning of the next working day if the emergency occurs during non-business hours. A requisition marked "Emergency Purchase Order" will then be sent to the Finance Department by the following business day, which shall include the reasons and justification for the emergency.

For those emergency situations where the estimated cost is greater than \$20,000, the approval of the Finance Director is required prior to contacting the Finance Department for an emergency Purchase Order. The use of Emergency Purchase Order must be restricted to only true emergency situations! Emergency Purchases Orders shall not be authorized for services, supplies, materials, or equipment that could have been anticipated in advance.

Blanket Purchase Orders

Blanket Purchase Orders are to be used for those vendors from whom repetitive purchases are made as supplies are required. Rather than issue a purchase order for each purchase, one purchase order is issued on an annual basis to cover all purchases during the year. Only one blanket purchase order is allowed per line item.

Super Blanket Purchase Orders

Super Blanket Purchase Orders are used when multiple blanket purchases or vendors are used under one expense account. Multiple super blanket purchase orders can be issued per line item.

Encumbrance Purchases Orders

Encumbrance Purchases Orders are used to designate funds for future purchases when a vendor for a project is yet to be determined. The funds are then encumbered by the city so as to prevent their usage on other projects other than the one designated.

Cooperative Purchasing Purchase Order

Cooperative Purchasing Purchase Orders are used for purchases made through joint purchasing programs or state contract or federal contract.

Changes to Open Purchase Orders

A Purchase Order Adjustment may be requested from the Finance Department to modify an open purchase order. Adjustments may include account numbers, increases encumbered amount, change the distribution between various accounts or any other financial related changes.

Modifications to purchase orders must be completed prior to processing payments using the revised purchase order. The City Charter clearly states that the Finance Director is responsible for ensuring that no contract, agreement, or other obligation involving the expenditure of money will be entered into unless he/she has first certified that the funds are available.

Prevailing Wage Policy (ORC Chapter 4115)

Legal Requirements

Before advertising for bids, contracting, or undertaking construction with its own forces to construct a public improvement, the City of Oxford will have the Ohio Department of Commerce determine the prevailing rates of wages for workers employed on the public improvement. The wage determination must be included in the project specifications and printed on the bidding blanks when work is done by contract. (ORC § 4115.034)

Every contract for public work will contain a provision that each worker employed by the contractor or subcontractor, or other person about or upon the public work, must be paid the prevailing rate of wages. If contracts are not awarded or construction undertaken within 90 days from the date of the determination of the prevailing wage by the Ohio Department of Commerce, then the City of Oxford must request a redetermination of the wage rates before the contract is awarded.

Within seven working days after the receipt of notification of a change in the prevailing wage rates, the City of Oxford will notify all affected contractors and subcontractors. If it is determined that a contractor or subcontractor has violated sections 4115.03 to 4115.16 of the Ohio Revised Code because they were not notified as required, the City of Oxford may be liable for any back wages, fines, damages, court costs and attorneys fees for the period of time covering the receipt of wage changes, until they give the required notice.

The City of Oxford will not award a contract for a public improvement to any contractor or subcontractor whose name appears on the list of debarred contractors. This list is filed with the Ohio Secretary of State. The filing of the notice of conviction with the Secretary of State constitutes notice to all public authorities. These Contractors are prohibited from working on public improvements for a period of up to three years. Upon receiving a contract award notification, the Finance Department will validate that the vendor is not debarred prior to finalizing a contract.

Prevailing Wage Coordinator Guidelines

The Department Head or his/her designee will serve as the Prevailing Wage Coordinator for projects within the department/division under the authority of the Director for the life of the contract for constructing the public improvement. A Prevailing Wage Coordinator must be appointed no later than 10 days before the first payment of wage by contractors to employees working on the public improvement.

The City of Oxford requires that the architectural engineer contracted for the public improvement complete the Prevailing Wage Request Form. (A copy of this can be obtained by going to www.com.ohio.gov.)

The prevailing wage coordinator for the City of Oxford must keep a copy of this form on file with the contract.

The Prevailing Wage Coordinator will:

1. Set up and maintain records of payroll reports, final affidavits, and related documents with respect to the project for all contractors. Files must be available for public inspection and copying by an authorized agent of the State. These records must not be removed from the records of the City of Oxford for a period of one year following the completion of the project.
2. Obtain from each contractor a list of its subcontractors' names, addresses, and telephone numbers.
3. Obtain from each contractor, the name and address of its Bonding/Surety Company. Obtain from out-of-state corporations, the name and address of their Statutory Agent. (This agent must be located in the State of Ohio and registered with the Ohio Secretary of State).
4. Obtain from each contractor, its certified payroll report, within two weeks after the first pay. A certified report is one that is sworn to and signed by the contractor. (The initial report must be filed within two weeks.)

Establish and follow procedures to monitor compliance by contractors and subcontractors.

- a) Visit the project to verify posting requirements and job classifications.
- b) Review certified payroll reports to ensure they are submitted in a timely fashion and complete
with the following information for each employee.

- 1) Name, current address, social security number
- 2) Classification (must be specific for laborers and operators)
- 3) Hours worked on the project
- 4) Hourly rate
- 5) Fringe benefits, if applicable
- 6) Gross wages, all deductions, net pay

c) Compare rates and fringes reported to rates in prevailing wage schedule.

Upon completion of the project and prior to the final payment, the City will require an affidavit of compliance from each contractor and subcontractor. The City of Oxford will not make final payment to any contractor or subcontractor unless the final affidavits have been filed by the respective contractor and subcontractor (ORC Section 4115.07).

Report any and all possible violations to the:

Ohio Department of Commerce, Wage and Hour Bureau,
50 West Broad Street
Columbus, Ohio 43215, (614) 644-2239

Prevailing Wage Threshold Levels (ORC Chapter 4115.03)

There are separate thresholds for new construction of a building and for new construction of public improvements that involves roads, streets, alleys, sewers, ditches, and other works connected to road or bridge construction. There are also separate thresholds for new construction and reconstruction.

The threshold for new construction of a building is \$250,000.

The threshold for reconstruction, enlargement, alteration, repair, remodeling, renovation, or painting of a building is \$75,000.

The thresholds for new construction and reconstruction or repair or alteration involving roads, streets, alleys, sewers, ditches, and other works connected to road or bridge construction can be found at <https://www.com.ohio.gov>. These thresholds are to be adjusted biennially by the Director of Ohio Department of Commerce.

Biennial adjustments to threshold levels are made according to the Price Deflator for Construction Index, United States Department of Commerce, Bureau of the Census, but may not increase or decrease more than 3% for any year.

Accessing Prevailing Wage Rates

To gain free access to the Prevailing Wage Rate Database go to

<https://www.com.ohio.gov>. You must enter information requested prior to gaining access. This database is primarily for Public Authorities, Unions, Contractors, and others who are in the process of complying with Ohio's prevailing wage laws on public projects.

Applicability of Prevailing Wages

Ohio's prevailing wage law applies to construction projects undertaken by public authorities and requires that the public authorities pay the locally prevailing rate of wages to workers on the project.

Ohio's prevailing wage rate is determined by the Director of the Ohio Department of Commerce (DOC) and is the sum of the basic hourly rate of pay; the rate of contribution irrevocably made by a contractor or subcontractor to a trustee or third person pursuant to a fund, plan or program; and the rate of costs to the contractor or subcontractor which may be reasonably anticipated in providing fringe benefits. These rates vary from locality to locality, and are based on collective bargaining agreements.

Public authorities are required to pay the prevailing rate of wages for the locality where a construction project is being constructed. These rates apply to any new construction of any public improvement, the total overall project cost of which is fairly estimated to be more than \$250,000. Public authorities must also pay the prevailing rate of wages on any reconstruction, enlargement, alteration, repair, remodeling, renovation or painting of any public improvement, the total overall project cost of which is fairly estimated to be more than \$75,000. For all other projects involving roads, streets, alleys, sewers, ditches and other works connected to road or bridge construction, the (so called Prevailing Wage Threshold Levels are adjusted effective the first day of January of every even numbered year based upon the average change for each of the two years immediately proceeding the adjustment as set forth in the United States Department of Commerce, Bureau of the Census implicit price deflator for construction.)—The Prevailing Wage Threshold levels can be found at <https://www.com.ohio.gov>. ***See prior notes regarding these thresholds***

Every public authority authorized to contract for or construct with its own forces a public improvement, before advertising for bids or undertaking such construction with its own forces, will have the Department of Commerce determine the prevailing rates of wages for the classes of work called for by the public improvement in the locality where such work is to be performed. This schedule of wages is to be attached to and made a part of the specifications for the work and will be printed on the bidding blanks when the work is done by contract. For more information regarding the duties of Public Authorities and Prevailing Wage Coordinators please refer to ORC 4115.071.

Findings for Recovery Policy (ORC Chapter 9.24)

Legal Requirements

The ORC § 9.24 was adopted by the State Legislature in September 1993 to limit the ability of any State Agency or political subdivision in the State of Ohio from entering into a contract for goods, services or construction which would be paid for in whole or part with State funds, with a vendor

or contractor where a finding for recovery exists (see attached code). A finding for recovery must have been issued by the Auditor Of State (“AOS”) for this section to be effective.

A finding for recovery will be considered effective and unresolved unless:

1. The money identified is paid in full to the state agency or political subdivision to whom the money was owed;
2. The debtor has entered into a repayment plan approved by the Attorney General;
3. The Attorney General has waived a repayment plan;
4. The debtor and state agency or political subdivision have agreed to a repayment plan that is an enforceable settlement agreement;
5. Other provisions as listed in ORC § 9.24(B).

Procedural Guidelines

1. The Department Head of the division entering into the contract for the City of Oxford shall verify for all contracts within the department/division under his/her authority that are funded in part or whole with funds from the State of Ohio that a Finding For Recovery does not exist prior to the award of the contract.
2. If there is any question on the existence of a funding source from the State of Ohio, it is the responsibility of the Contract Administrator to conduct adequate inquiries of the Department Head(s) responsible for the project and the Finance Director if the Department Head does not have adequate information.
3. All vendors involved in such contracts shall be verified against a database maintained by the AOS. Under the provisions of § 9.24(D), the AOS shall maintain a database that is accessible to the public. The database can be accessed on the AOS website at <https://ohioauditor.gov/findings.html>. From this site a user can search the database for Unresolved Findings for Recovery on any vendor or contractor.
4. A user can download a list of the vendors or contractors for which an unresolved Finding For Recovery exists. This list is updated by the AOS on the 15th day of each January, April, July, and October.

5. If a Finding For Recovery exists on a vendor or contractor to which an award may be made, the Contractor or Vendor shall be notified of the existence of the Finding For Recovery and that the contract award cannot be made until the Finding For Recovery is resolved to the satisfaction of the AOS.

6. It is the sole responsibility of any contractor or vendor to resolve the Finding For Recovery prior to the final award of any contract.

7. The City of Oxford is not obligated to allow a contractor or vendor additional time to resolve a Finding For Recovery.