

	Policy Title: Administrative Policy for Procurement, Bidding, Bid Specifications, Consulting, Request For Qualifications (RFQ), and Evaluation Criteria	Policy Number: 2019-01	Page 1 of 15
		Policy Type: Administrative Regulation	
Effective date: July 1, 2019 Responsible Department Head: All Department Heads Approval Authority: City Manager	Policy Contact: City Manager's Office 307-721-5226 jjordan@cityoflaramie.org Revision Date: June 30, 2019 Next Revision Date: June 30, 2020		

I. Purpose:

The purpose of the administrative policy for Procurement, Bidding, Bid Specifications, Consulting, Request for Qualifications (RFQ), and Evaluation Criteria is to maintain a responsible and uniform purchasing process for the City of Laramie, and to ensure compliance with State laws concerning expenditures for public improvements, materials and supplies. This policy describes the City's purchasing process based on cost and state statute.

The policy identifies the conditions under which expenditures are required to be bid, as well as outlines administrative policies and procedures for purchases not required to be bid. This policy also includes procedures and standards to be followed when consultant services are required for a projects using federal funds and/or when the general services of consulting engineers, architects, surveyors, and other professionals are utilized to supplement City of Laramie personnel or provide services that the City of Laramie is not equipped or staffed to produce. It is important to note that any in-state preferences for procurement are not applicable for purchases made with Federal funds.

As the City of Laramie's purchasing process is decentralized, each Department Director will recommend a designated purchasing agent as determined necessary in each department and/or division. The designated purchasing agents will ensure compliance with the City's purchasing policy, applicable Wyoming Statutes, and all procedural standards for using federal funds in their respective department and/or division. As the overall purchasing agent for the City, the City Manager will have final confirmation of purchasing agents recommended by Department Directors.

All provisions of this policy must be followed unless otherwise approved by the City Manager. Exceptions will be determined on a case by case basis, and must be requested in writing. If granted, a request for exception will be approved by the City Manager and kept on file.

Certain exceptions to Wyoming Statute can only be granted by the City Council. In those cases, approval will be obtained in a scheduled City Council meeting and a record of the proceedings will be kept on file.

II. Policy Statement

The City of Laramie is committed to promoting a fair and open competitive bidding process that provides an opportunity for all responsible bidders and qualified service providers to compete for City projects and service contracts in accordance with applicable Wyoming Statutes and Federal Guidelines.

III. Definitions:

“In State” means a person or business with a permanent address in Wyoming and registered with the Wyoming Secretary of State, if incorporated. A current list of registered resident contractors can be found on the Wyoming Department of Workforce Services website here:

<http://wyomingworkforce.org/employers-and-businesses/labor-standards/Pages/Residency-Certifications-List.aspx>

or by calling the Wyoming Labor Standard Division office at (307) 777-7261.

“Qualified lowest bidder” means the bidder deemed responsible and qualified to perform work, offering the lowest bid total.

“Public improvement” means any improvement made within the city for which general bonded obligation may be incurred.

“Purchases” mean any acquisition of materials, supplies, or other products or services by the City of Laramie in exchange for funds.

“New Vehicle” means any motor vehicle that has had no previous owner and is still covered by the manufacturer’s warranty.

“Consultant” means engineering firms, architectural firms, surveying firms, and other firms or individuals engaged in providing consulting or other professional services.

“Architectural and Engineering Services” means:

(A) professional services of an architectural or engineering nature, as defined by state law, if applicable, that are required to be performed or approved by a person licensed, registered, or certified to provide the services described in this paragraph;

(B) professional services of an architectural or engineering nature performed by contract that are associated with research, planning, development, design, construction, alteration, or repair of real property; and

(C) other professional services of an architectural or engineering nature, or incidental services, which members of the architectural and engineering professions (and individuals in their employ) may logically or justifiably perform, including studies, investigations, surveying and mapping, tests, evaluations, consultations, comprehensive planning, program management, conceptual designs, plans and specifications, value engineering, construction phase services, soils engineering, drawing reviews, preparation of operating and maintenance manuals, and other related services.

IV. Applicability:

- This policy is applicable to all City of Laramie departments and staff.
- This policy does not apply to contracts for *emergency* work.

V. Purchasing/Contracting Requirements:

The following section outlines the specific requirements and authorization required for purchases as mandated by Wyoming State Statutes, the Laramie Municipal Code and Federal Uniform Grant Guidance. These provisions must be followed at all times.

Prior to any procurement of bids, or entering into a contractual obligation, all staff must consult and comply with the City of Laramie's Grants Policy (2013-06 and all subsequent revisions) and appendices to ensure proper administrative adherence. In addition, staff must consult with the funding entity to ensure grant application and management obligations are met in every instance.

Reference: Wyoming State Statute § 15-1-113, Wyoming State Statute § 16-6-101 to 16-6-1001, Laramie Municipal Code 2.56; Federal Uniform Grant Guidance 2 CFR Subpart D and Appendix K of this policy

Procurement Process - Federal Uniform Grant Guidance (2 CFR 200.320)

Purchases made with Federal funds must comply with applicable State of Wyoming Statutes and local procurement policies. Additionally, purchases must be compliance with the regulations outlined in Federal Uniform Grant Guidance (2 CFR 200.317 - .326). Appendix K must be read and understood before obligating and funds for any procurement. All details of this policy and Appendix K must be followed for all procurements.

Authoritative Guidance: 2 CFR 200 Subpart D – Post Federal award Requirements Section .317 through .326 (Procurement Standards).

Specific Procurement Guidance:

In addition to applicable Wyoming statutes and local procurement policy, all non-Federal entities and all non-State entities, including subrecipients of a state, will follow sections 200.318 General procurement standards through 200.326 Contract provisions.

Uniform Grant Guidance Procurement requires five general standards to be followed:

1. Documented Policies and Procedures
2. Purchase must be necessary
3. Full and open competition
4. No conflict of interest
5. Document cost and price analysis and vender selection

Procurement of good or services under section .320 will be under the following five methods:

1. **Micro-Purchases:** The maximum threshold for a micro-purchase is \$ \$7,500. Micro-purchases are made without soliciting competitive quotations. Upon division discretion, it may be prudent to request informal quotes for effective cost comparisons among qualified suppliers. The Federal standard notes that to the extent practical, the non-federal entity must distribute micro-purchases equitably among qualified suppliers.

a. Expenditures \$ \$7,500 or less

Authority to Award: Division Supervisor (with Authorization from Department Head or Manager)

2. **Small Purchases:** The dollar threshold for small purchases is greater than \$ \$7,500but less than or equal to \$150,000. For small purchases, and adequate number of price or rate quotations must be obtained.
 - a. Expenditures \$\$7,500 to \$34,999
Authority to Award: Department Head (with City Manager Authorization)
 - b. Expenditures \$ \$35,000 or greater
Authority to Award: City Council
3. **Sealed Bids:** For services greater than \$150,000, primarily for construction projects, sealed bids are required. Price is a major factor under this option. Bids must be public and formally solicited and a firm fixed contract (lump sum or unit price) awarded to the responsible bidder whose bid, conforming to all the material terms and conditions for the Bid Specifications, is the lowest price.
 - a. Expenditures \$150,000 or greater
Authority to Award: City Council
4. **Competitive Proposals:** This method is for goods and services greater than \$150,000. Generally, a fixed price or cost-reimbursement type contract is awarded. Request for Qualifications are publicized and identify all evaluation factors and their relative importance. A written method for conducting technical evaluations of the proposals received and for selecting the recipient. Contracts must be awarded to the responsible firm whose proposal is most advantageous to the program with price and other factors considered.
 - a. Expenditures \$150,000 or greater
Authority to Award: City Council
5. **Procurement by Noncompetitive Proposals (Sole Source):** To use this method of procurement, one or more of the following circumstances must be applicable:
 - a. The item or service to be procured is only available from a single source (unique item)
 - b. There is a public emergency situation that requires the item or service immediately.
 - c. The Federal awarding agency or Pass-through Entity expressly authorizes noncompetitive proposals in response to a written request from the non-Federal entity.
 - d. After solicitation of a number of sources, competition is determined inadequate.
 - e. Expenditures \$150,000 or greater
Authority to Award: City Council

Price quotes shall be solicited in writing from potential vendors. For all purchases, at least two (2), preferably three (3) suppliers will be contacted. Every effort shall be made to obtain the required amount of quotes and adhere to the requirements of the Wyoming Preference Act. It is the policy of the City of Laramie to support local purchasing and, in practice, give proper consideration to local vendors for all purchasing opportunities. If the required number of quotes is not obtained within ten (10) days of the request, the Division Supervisor is authorized to select the supplier from the quotes received.

For every purchase or acquisition of \$\$7.500 and over, a *Check List for Purchases/Small Projects (Appendix A)* shall be completed as documentation. If the vendor providing the lowest quote is not

selected, written justification must be provided to the Department Head for approval on the *Purchase Check List*.

For purchases/acquisitions and project contracts approved by Department Heads, a copy of the *Check List for Purchases/Small Projects* shall be placed on file for review in the City Clerk's Office. For projects approved by Department Heads, a copy of the *Small Project Contract* shall be placed on file for review in the City Clerk's Office.

Before advertising for a bid for any construction or public improvements, detailed plans and specifications shall be prepared, including an estimate of the probable cost and a proposed contract, if other than the Bid Form/Contract (**Appendix C**). The bid shall be awarded to the lowest bidder deemed qualified and responsible by the City Council.

A list detailing the distribution of specifications and bid documents shall be kept for each advertised bid and shall include the name of each potential bidder and a complete list of all bid documents provided to the potential bidder.

The City Manager shall make recommendations to the City Council regarding bids received. Contracts or purchases shall be rejected or approved by resolution of the City Council. The City Council may reject all bids if none of the bid responses are found to be in the public interest.

All bids are subject to the requirements in the ensuing sections related to standard forms, publication, contract requirements, and preference.

A. Standard Bid Forms

The following standard forms are maintained by the City Clerk and must be used for every bid packet:

Purchasing Checklist (Appendix A)

The Purchasing Checklist is to be used for every purchase or acquisition of \$7,500 and over. This checklist is a tool to help organize and qualify prospective vendors / contractors for projects.

Small Project Contract (Appendix B)

The Small Project Contract is to be used for every project / purchase or acquisition valued between \$20,001 and \$34,999. It delineates that the bidder is agreeing to enter into contract with the City if awarded the bid, that the form is the contract, and has an approval line at the end for the City Manager's signature as purchasing agent. Upon approval by the City Council, the bid form becomes contractual.

Bid Form/Contract (Appendix C)

The Bid Form/Contract is to be used for projects valued over \$35,000, it delineates that the bidder is agreeing to enter into contract with the City if awarded the bid, that the form is the contract, and has an approval line at the end for the City Manager's signature as purchasing agent. Upon approval by the City Council, the bid form becomes contractual. This form shall be used as is with regard to the preliminary language and the language following the listing of items.

This form includes language requiring the bidder to comply with specifications part and parcel of which is the Instructions to Bidders, which includes specific language regarding bid and performance guarantees.

The Bid/Form Contract shall be completed with a listing of all bid items, trade ins, etc., and a copy of the executed Bid Form/Contract shall then be returned to bidder with a Notice of Award or placement of order.

Bidding Requirements for Furniture and Fixtures and Movable Equipment for Construction Projects (W.S. 16-6-1001)

Unless prohibited by federal law or waived by political subdivision of the state furnishings and fixtures are subject to the bid requirements and specifications written for products that are available from Wyoming resident suppliers; or if specified products are not available from a resident supplier performance standards must meet or exceed specifications shall be accepted as substitute products.

Waivers must be approved by governing body of the political subdivision.

Table of Contents (Appendix D)

The Table of Contents provides a reference list of all of the forms included in the bid packet. It shall be modified to include all documents intended to be included in the specifications.

Notice of Call for Bids (Appendix E)

The Notice of Call for Bids serves as the official notification that the City is soliciting bids for contracts or purchases. It shall include all pertinent information including the Wyoming Preference Act and the City's Energy Policy noted; shall follow all publication requirements; shall be signed by the City Manager and signed and sealed by the City Clerk with originals of all notices and bid packets provided to the City Clerk for scheduling of bid openings.

Instructions to Bidders (Appendix F) and Contract Terms & Conditions (Appendix G)

The Instruction to Bidders provides complete instructions for bidders to follow when bidding for a City of Laramie project or purchase. It shall be used as provided with no addition or deletion without specific approval of the City Manager. A pre-bid conference shall be required for any item that is desired to be added to these instructions.

When requesting bids for labor or small projects, the Instructions to Bidders must include the city *Contract Terms and Conditions (Appendix G)*.

Detailed Specifications (Appendix H)

Detailed Specifications provide the bidder with a comprehensive description of the project or purchase being bid by the City. The Detailed Specifications shall be completed by each department for the item(s) to be bid using only the general format provided on the standard form.

Notice of Award (Appendix I)

The Notice of Award informs the winning bidder of the acceptance of their bid and their contract with the City of Laramie for their services. The Notice of Award shall be sent to successful bidders

by the City Clerk. Once the successful bidder has entered into contract, bid securities will be returned to unsuccessful bidders.

For public improvements, the Project Manager shall issue the Notice of Award. The Project Manager will issue a Notice to Proceed once the contractor has met the requirements set forth in the Notice of Award.

Sub-consultant Agreement (Appendix J)

The sub-consultant agreement is to be used when procuring the services of a consultant who is going to subcontract all or a portion of the services to be provided. It identifies all provisions and criteria for performance evaluation.

Federal Uniform Grant Guidance Requirements (Appendix K)

Purchases made with Federal funds must comply with applicable State of Wyoming Statutes and local procurement policies. Additionally, purchases must be compliance with the regulations outlined in Federal Uniform Grant Guidance (2 CFR 200.317 - .326). Appendix K must be read and understood before obligating and funds for any procurement. All details of this policy and Appendix K must be followed for all procurements.

B. Bid Publication Requirements

Reference: Wyoming State Statutes § 15-1-113 (b), § 16-6-106, § 16-6-116; Federal Uniform Grant Guidance (2 CFR 200.320)

All bid advertisements, including pre-bid and post-bid advertisements, must be signed by the City Manager prior to publication.

Pre-Bid Advertising Requirements:

The following policy applies to purchases and public improvements that are required to be competitively bid (in excess of \$35,000). The City Clerk shall place advertisements for bids to be published on two different occasions, at least seven days apart, in the newspaper having general circulation in the City of Laramie. The published notice shall state the place, date, and time when the bids or proposals will be received; the place where interested persons may obtain complete specifications of work to be performed; and that bids will be publicly opened. The forms of guarantee required shall also be specified, and if an automobile or truck will be offered as trade in for the purchase of a new vehicle, it shall be included in the advertisement.

In an effort to reduce advertising costs, the short form may be used for publication, with the full form included in the packet provided to bidders.

Post-Bid Advertising Requirements:

Before the City is to make the final payment on any contract for which a bond or other financial guarantee is required, the City shall publish three times in a newspaper of general circulation in the City of Laramie, at least forty (40) days prior to the final payment, a notice that persons having claims for labor and/or materials furnished the contractor shall present their claims to the City prior to the date specified for payment.

C. Preference Policy

Reference: Wyoming State Statutes § 16-6-102 to 16-6-107

General:

In-state preference shall be defined as a person or business with a permanent address in Wyoming and registered with the Wyoming Secretary of State, and having maintained such for a period of not less than one (1) year prior to submitting a bid. All requests for bids and proposals shall contain the statement "preference is hereby given to materials, supplies, equipment, machinery and provisions produced, manufactured, supplied or grown in Wyoming, quality being equal to articles offered by the competitors outside of the state."

All buildings, monuments, and other public structures shall be constructed and maintained by materials produced or manufactured in Wyoming if these products are suitable and can be furnished in marketable quantities, and if the difference in cost is not higher than 5% above "out of state" products, for projects and purchases not in excess of \$5,000,000.

All purchases for supplies, material, equipment, machinery, vehicles and provisions to be used for general city maintenance, products produced, manufactured, grown or supplied by a competent and capable resident of the state of Wyoming shall be preferred. Preference shall not be granted for products of inferior quality to those offered by out of state suppliers, and the difference in cost must not exceed 5%. This section applies when requesting quotes from vendors.

Preference When Competitive Bid Is Required:

When a bid is required, any contract awarded shall be let to the responsible Wyoming-certified resident making the lowest bid, if the certified resident's bid is not more than 5% higher than the lowest responsible nonresident bidder.

Preference When No Bid Is Required:

When public improvements are not required to be bid, any contract for erection, construction, alteration or repair of any public structure, or for making any addition thereto, or for any public work or improvements, shall be let to a resident of the state. In the event that an in-state contractor cannot be found, the contract may be awarded to a non-resident contractor with the approval of the City Manager. In-state preference is not applicable to federally funded procurements or projects.

D. Vendors/Bidders List

Source: Laramie Municipal Code 2.56.010 (D)

List Maintenance

The City Manager's Office, or designated department, shall make every reasonable effort to contact local interested businesses and inform them of the City's purchasing practices.

Each city department shall be responsible for maintaining a list of vendors/potential bidders for each project type under the supervision of their department. The City Manager's Office shall keep a master list of all vendors/potential bidders which shall be updated annually, with the assistance of each department.

The List of Bidders shall be filed with the City Clerk's office.

Procedure for Adding Vendors/Bidders to the Vendors/Bidders List

Vendors may be added to the list at any time during the year. Vendors may apply to be on the vendor's list by contacting the City Clerk's office, the appropriate department, or by applying online on the City Manager's website.

VI. Contracts, Pre-Qualification, and Guarantees:

Reference: Wyoming State Statute § 15-1-113

Use of Contracts:

The City's standard form written contract shall be used for all projects in excess of \$3,000 or more, or as deemed necessary by the Department Head if the contract total is \$3,000 or less.

Specialized Contracts:

Large scale public improvement projects and major purchases may require the use of a specialized contract. Use of a contract other than the standard Bid Form/Contract or Small Project Contract/Purchase Agreement shall be determined at the discretion of the Department Head with written authorization from the City Manager and City Attorney. Other contract forms may include Design/Build contracts or Construction Manager at Risk contracts.

Pre-Qualification:

For contracts in excess of five hundred thousand dollars (\$500,000), contractors may be pre-qualified based on the following criteria:

Project type	Staff proposed
Experience	Schedule proposed
Expertise	Financial strength
Professional qualifications	Qualification of supervisors proposed
Past performance	Technical solutions proposed
References	

Awarding Bid Contracts

Pursuant to Wyoming State Statute sections 16-6-119 and 15-1-113, the governing body of the City is authorized to exercise sole discretion in the determination of the qualification and responsibility of bidders or respondents for contracts for public improvements.

Guarantee (W.S 16-6-112)

A Bid Guarantee is required for all public improvements exceeding fifty thousand dollars and purchases for which bids are required. The bid guarantee shall be in the amount not less than 5% of the bid. In all cases the bid guarantee shall be forfeited to the City of Laramie as liquidated damages if the bidder fails to enter into contract within 30 days following the Notice of Award.

For all bids less than one hundred fifty thousand dollars (\$) \$150,000, the bid guarantee shall be a bond or a cashier's check made out to the City. For all bids greater than one hundred fifty thousand dollars (\$) (\$150,000), the bid guarantee shall be a bond.

Performance Guarantee

A performance guarantee in the amount of 100% is required for every public improvement contract awarded for a bid by the City and the contract exceeds fifty thousand dollars (\$50,000.00). For all bids for public

improvements the performance guarantee shall be a bond. For all new vehicle bids the 5% bid security may be substituted for the performance guarantee.

Publication of Final Payment for Non-Bid Expenditures

Publication of the notice of final payment is not required for projects and purchases not requiring bids. However, staff is expected to use discretion to determine when it would be in the best interest of the city, the public, and the contractor, to publish for forty (40) days a notice of final payment (*see Section B of this Policy*) for projects of less than \$35,000 which fall below the legal bid threshold. To determine when a forty (40) day notice would be useful, consider the number, type, and location of subcontractors and other factors which require the City exceed notification requirements.

VII. Procedure for Procurement of Consulting Services

References: 23 CFR 172. Administration of Engineering and Design Related Service Contracts
40 USC 11. Sections 1101-1104. Selection of Architects and Engineers
41 USC 403, Section 11. Simplified Acquisition Threshold
48 CFR 31. Contract Cost Principles

The following requirements apply to all consultant services agreements where the total contract costs are equal to or greater than the simplified acquisition threshold (23 CFR 172, Section 172.5[a][2]; 41 USC 403, Section 11). Section L, Miscellaneous, describes how procedures may differ when the total contract costs are less than the simplified acquisition threshold.

A. Scope of Services and Fee Estimate

Staff shall prepare a preliminary scope of work and fee estimate for the proposed services noting any extraordinary evaluation factors to be used in the selection process.

B. Consultant Selection

Upon preparation of the internal preliminary scope of work and fee estimate, the process of selecting a specific consultant may begin.

C. Requests for Qualifications (RFQ). This is the most formal, preferred method and will be directed by the City of Laramie. The RFQ is the preferred method of the City of Laramie and staff should use this method in every instance, unless extenuating circumstances preclude doing so as determined by the responsible Department Head. In every instance where the City of Laramie project is receiving funding from an outside funding agency, City staff must receive written approval from the funding agency to utilize the RFQ process or Statements of Interest.

An RFQ shall be used when there is a lack of sufficient candidates available from a granting agency's consultant registry, specialty services are required, the scope of work is undefined enough to encourage value-driven ideas from prospective consultants, or at the discretion of the City of Laramie. For each project, the selection team will determine specific details related to the solicitation and selection processes.

D. Professional Services – Architects & Engineers and Land Surveyors of Record (W.S. 9-2-1028 – W.S. 9-2-1031)

If professional services in an amount exceeding twenty-five thousand dollars (\$25,000.00) are required, the department shall notify all qualified architects, engineers and land surveyors on record any amount exceeding fifty-thousand dollars (\$50,000.00) the department shall notice the paper of general

circulation in the state at least once each week for (2) two consecutive weeks prior to initiation or selection procedure.

If the professional services are over fifty-thousand (\$50,000.00) the representative shall interview not less than (3) firms selected from the submitted proposals

E. Soliciting Consultants. Following are three methods of soliciting consultants to complete an RFQ:

- i. **The WYDOT Consultant Registry (or Other Granting Agency Registry).** If applicable, this method works well for traditional consultant work types. The WYDOT Engineering Services office generates a long list of all potential consultants from the WYDOT consultant registry. Similar lists may be available from other granting agencies. The selection committee may reduce this list at their discretion to create a short list of three or more eligible firms.
- ii. **Project-Specific Statements of Interest.** This method may be used when the work type is unconventional and the WYDOT consultant registry (or other granting agency registry) does not contain a sufficient number of firms known to be qualified in the work needed. Firms may be solicited by the City of Laramie through an advertisement or in industry publications. Firms may also be solicited based on their information in the WYDOT registry, City of Laramie Bidders List, or on their reputation in the appropriate industry. The objective is to develop an adequate number of firms to ensure a competitive selection. The solicitation should ask the firms to respond directly to project-related factors set by the City of Laramie.
- iii. The City of Laramie has a comprehensive list of consultants that is regularly maintained. This list is available by contacting the City Clerk's Office.

F. Evaluation and Selection. The following items apply to the evaluation and selection process:

- i. **Selection Committee.** The City of Laramie appoints a committee to select a consultant. The selection committee consists of at least three members, but generally not more than five. Each member shall ensure that he or she has no possible conflict of interest that may influence the selection process. If such a conflict of interest exists, or could exist, that member shall be excused from the selection committee.
- ii. **Evaluation Factors.** The selection committee shall consider the selection in light of the preliminary scope of work and fee estimate previously established by the City of Laramie. Factors used to select consultants for the short list and for final evaluation and ranking may include the following items:
 1. Experience of the firm in the work needed
 2. Qualifications of the firm's personnel
 3. Previous performance by the firm
 4. Knowledge about the project
 5. Special product delivery requirements (such as computer hardware or software)
 6. Workload with other clients (if known)
 7. Location (In-state or out-of-state consultant location cannot be a factor, but proximity to the project is an allowable factor.)At the selection committee's option, additional factors may also be used.

iii. **Selection by Scoring and Ranking.** To determine the final selection, the committee ranks the consultants being considered. This process involves prioritizing each factor and developing an overall score. If it becomes apparent that a particular consultant is not qualified, the committee may eliminate the consultant from further consideration. The following items should be considered to determine if a consultant is minimally qualified:

1. The consultant shall have an exemplary ethical and professional reputation.
2. Individuals the consultant employs shall possess the levels of education, training, and experience necessary to perform the required services satisfactorily.
3. If the consultant will be engaged to perform engineering, surveying, or architectural services for the City of Laramie, the employee overseeing the work shall be licensed by the Wyoming Board of Registration for Professional Engineers and Professional Land Surveyors or the Wyoming State Board of Architects and Landscape Architects.
4. The consultant shall be established in the area of expertise for which the firm is being considered, with recent experience in a responsible role.

iv. **Miscellaneous**

- a. For architectural or engineering related projects, the selection must be qualification-based. Therefore, the City of Laramie shall not solicit fee proposals before the consultant selection. Within the RFQ process, fee proposals may be requested in separate sealed envelopes, and only the selected firm's fee proposal will be opened after the selection is complete.
- b. For projects that are not architectural or engineering related, fee proposals can be considered a part of the selection criteria.

G. Approval of Consultant

After the selection committee has made its choice, the City of Laramie shall submit, in writing, the selected consultant's name to the appropriate agency's grant administrator for Federal and State approval. The appropriate agency's grant administrator's approval authorizes the process of negotiating the agreement with the selected consultant.

H. Pre-Negotiation Audit Evaluation

Pre-negotiation audits may be performed by appropriate agencies on consultants working on architectural-engineering projects who do not already have a cognizant audit performed by a federal or state agency in accordance with the Federal Acquisition Regulation (48 CFR 31). An audit report or comparable correspondence will be provided by Internal Review to the City of Laramie for use in negotiating the agreement.

I. Basis of Compensation

The method of payment to compensate the consultant shall be set forth in the agreement. It may be a single method for all work or may involve different methods for different elements of the work. The following methods shall be used:

- i. **Cost Plus Profit Percentage.** Actual costs payable are the direct labor established in the agreement plus direct reimbursable expenses. Billing rates established in the project agreement shall be used for all billings. The consultant may request a revision of the base wage rates without a change order if pay raises take effect before the agreement is concluded. Revisions to any other billing rates require a change order. A maximum amount payable (cost-not-to-exceed) for the agreement shall be established.

- ii. **Lump Sum.** May be used when the extent of work can be accurately established and a cost estimate can be evaluated with reasonable accuracy.
- iii. **Unit of Work Payment.** May be used when a unit cost of work can be determined in advance with reasonable accuracy, but the extent of work is indefinite. Quantities and characteristics of each unit should be uniform, and a maximum amount payable shall be established. This method is often used for work with established standards for commercial rates.

Periodic progress payments shall be made for work satisfactorily completed based on invoices submitted to the City of Laramie.

J. Duration of the Agreement

All consultant agreements shall contain a clause stipulating a specific number of calendar days or a calendar date by which all required services shall be completed.

If the consultant is unable to complete the work within the time limits specified in the agreement, the City of Laramie may authorize a schedule modification after receiving the consultant's written request showing sufficient justification for an extension. In some cases, the City of Laramie may initiate the schedule modification itself, especially when the City of Laramie has delayed the project.

Schedule modifications may require a contract modification as specified in Section J, Contract Modifications, of this policy. If required, the change order shall specify an additional number of calendar days or a revised deadline for completing the required services.

The City of Laramie reserves the right to terminate any agreement, as described in the agreement. In this event, compensation is made to the consultant based upon the progress of the work performed prior to termination. Work performed shall be defined as the deliverables specified in the agreement and accepted by the City of Laramie, and not the labor hours billed. The City of Laramie will notify the consultant of such termination in writing.

K. Provisions in the Agreement

Consultant agreements shall contain all of the required federal provisions and/or administrative clauses listed in *Consultant Services Policy (Attachment J)* of this policy. The General Provisions in the *Consultant Services Policy* shall also apply to all subconsultants engaged by the Consultant. Provisions for determining the extent to which a consultant may be reasonably liable for costs resulting from errors or deficiencies in design will be addressed on a project-by-project basis as necessary.

L. Negotiating the Final Cost Proposal

After a consultant has been selected and a scope of work developed, the City of Laramie begins negotiations with the consultant for a final cost proposal. The draft agreement, including the scope of work, is provided to the consultant with instructions for preparing the cost proposal. The consultant is advised at the beginning of negotiations that consultant selection is subject to negotiating a satisfactory agreement for terms and fees, and that the City of Laramie assumes no obligation to the consultant until the agreement is executed.

The use of subconsultants is allowed only with written approval from the City of Laramie of the proposed subconsultants. The consultant shall describe the work to be done by the subconsultant in the fee proposal and include a cost for that portion of the work. The City of Laramie may request a detailed proposal for the subconsultant work to include proposed rates. These rates will be evaluated for reasonableness.

The City of Laramie reviews the consultant's fee proposal, compares it to the cost estimate done by the City of Laramie, and carefully reviews the proposal details. The consultant's estimate for completing the

work is also reviewed to determine if the established time schedule permits completing the work in the time required by the City of Laramie. If the consultant's proposed fee is acceptable, the agreement is finalized and executed by the City Manager if under \$35,000 or the City Council if \$35,000 or over.

If the consultant's proposed fee varies substantially from the estimate done by the City of Laramie, the items of variance are identified and discussed in order to resolve them. After agreeing on the terms and fees, the consultant submits a revised proposal to support the fee. The City of Laramie shall maintain sufficient documentation to constitute a record of negotiations.

If the consultant and the City of Laramie cannot reach a satisfactory agreement, the City of Laramie will cease negotiations with the consultant. After notifying the consultant, the City of Laramie may begin the process over with the next highest ranked consultant or, at the option of the City of Laramie, initiate a new selection process.

M. Executing the Agreement

The City of Laramie prepares the final agreement for execution by all parties. If under \$35,000, the City Manager will execute the contract on behalf of the City. If \$35,000 or over, the contract will be executed by the City Council.

All contracts shall be forwarded to the appropriate agency's grant administrator for approval before execution. Pursuant to appropriate approval of the agreement by all concerned, the City of Laramie will notify the consultant in writing to commence work. This document is referred to as the "Notice to Proceed."

N. Contract Modifications

If changes are required in the specific scope, complexity, or quantity of the work to be performed, or if changes causing an increase or decrease in the cost or time for performance are required, an equitable adjustment in fees and/or contract time shall be negotiated between the parties. The agreement shall then be amended accordingly by the City of Laramie, subject to approval by the appropriate granting agency. Work shall not begin on any change in services until the change order describing such services and fee has been executed. Services performed without prior request and approval are deemed to be covered in the compensation and time provided in the original agreement and previously executed change orders.

O. Final Performance Evaluation

When the consultant services specified in the agreement are completed and accepted, the City of Laramie shall prepare a memorandum evaluating the consultant's performance. This evaluation should consider such factors as the consultant's performance on specific aspects of the work, promptness in meeting schedules and deadlines, cooperation with the City of Laramie, and overall performance on the project. A copy of this memorandum shall be furnished to the consultant with space provided for consultant comments on the appraisal.

P. Miscellaneous

- a. When the City of Laramie requires consultant services costing less than the simplified acquisition threshold, the following requirements apply.
 1. An informal consultant selection can be made by the City of Laramie utilizing a consultant list obtained from the WYDOT Engineering Services office or other sources. A minimum of three firms should be considered. For architectural or engineering related projects, the selection must be qualification-based.
 2. A detailed scope of work shall be prepared (often by the consultant). The consultant shall submit a fee proposal including proposed billing rates, estimated

units of work, and the total proposed fee. The scope, fee proposal, and duration of agreement information will be forwarded to the City of Laramie, which will prepare an agreement and obtain the appropriate granting agency's grant administrator's approval prior to execution. Execution of the agreement will follow the normal procedure. In no case shall subsequent change orders be permitted to cause the total fee to exceed the simplified acquisition threshold.

- b. If applicable, prior appropriate granting agency approval is necessary before hiring a consultant to act in a management role for the City of Laramie.
- c. The City of Laramie shall maintain a correspondence file for each consultant services agreement documenting all aspects of the selection, negotiation, administration, and appraisal processes. The City of Laramie will retain such records for at least three years following agreement completion or termination.

References: 23 CFR 172, Administration of Engineering and Design Related Service Contracts
40 USC 11, Sections 1101-1104, Selection of Architects and Engineers
41 USC 403, Section 11, Simplified Acquisition Threshold
48 CFR 31, Contract Cost Principles

Q. Subconsultants Engaged by the Consultant

- a. Any subconsultants engaged by the Consultant shall be selected through by the same manner and process as used by the City of Laramie to select the Consultant.

VIII. Policy Authority

This policy is authorized by the City Manager's Office.

For assistance or questions concerning this policy, contact the City Manager's Office.

IX. Related Policies/References & Attachments

- **Code of Federal Regulations**
23 CFR 172, Administration of Engineering and Design Related Service Contracts
41 USC 11, Sections 1101-1104, Selection of Architects and Engineers
41 USC 403, Section 11, Simplified Acquisition Threshold
48 CFR 31, Contract Cost Principles
- **Wyoming State Statute §16-6-101 to 16-6-1001 and §15-1-113**
- **COL Municipal Code Chapter 2.56**
- **COL Energy Policy (2013-04)**
- **COL Preference Act Policy (2013-01)**
- **COL Grant Policy (2010-06 and revisions)**
- **Eleven (11) Appendices to this Policy (2019-01):**
Appendix A – Check List for Purchases/Small Projects
Appendix B – Small Project Contract Template
Appendix C – Bid Form/Contract
Appendix D – Bid Form/Table of Contents
Appendix E – Bid Form/Notice of Call for Bids
Appendix F – Bid Form/Instructions to Bidders
Appendix G – Bid Form/Contract Terms and Conditions
Appendix H – Bid Form/Detailed Specifications
Appendix I – Notice of Award



Janine Jordan, City Manager

Date 7-1-19