

CITY OF LYNNWOOD
 BID OPENING POLICY AND PROCEDURES

03POL 0016
ORIGINAL

TITLE: Bid Opening Policy and Procedures	2003
EFFECTIVE DATE 1/21/03	SUPERSEDES: NA
MAYOR: <i>[Signature]</i> 1/21/03	Finance Director: <i>[Signature]</i> Purchasing Manager: <i>[Signature]</i>

Applicable To: All City sealed bids.

Not included: Requests for Qualifications, Request for Proposals, Small Work Roster Quotes, informal quotations, and other solicitations that do not require sealed bids.

Applicable Laws and Regulations:

LMC 2.92.020(B)(3)(d) and (E)(1)

2002 Standard Specifications 1-02.12 Public Opening of Proposals

Definitions:

Opening Buyer: Buyer in Purchasing designated to manage and control the bid opening process.

Bid Buyer: Buyer or Engineer responsible for the entire bid and contract project.

Fax Bid: A bid transmitted to the City via facsimile. A Fax Bid shall be considered sealed and shall be handled in a confidential manner.

Purchasing Manager: The Purchasing & Contracts Manager directs sealed bid openings. Once opened, Public Work bids above \$200,000 belong to the Director of the bidding department (Public Works Department, Parks Department, etc.) and certain determinations on those bids remain with those directors.

PURPOSE: To establish a standardized, fair, equitable and known policy for conducting bid openings.

POLICY STATEMENT: The City is committed to bid openings conducted in a fair, open, efficient and accountable manner that prevents risk of fraud, collusion, favoritism, and improvidence, as well as to promote and encourage competition among bidders. The bid opening process shall comply with all statutes and the Lynnwood Municipal Code, as amended.

Sealed bids shall be publicly opened by the Finance Director or designee at a designated time and date. At bid opening, the City shall make a record of bids received. The Finance Director herein delegates bid opening authority to the Purchasing Manager.

Requests for Proposals (RFP's), Requests for Qualifications (RFQ's), informal quotations and other similar solicitations do not require a sealed bid and are exempt from this policy. This policy is instructive to an RFP process but not mandated.

The City Purchasing & Contracts Manager directs sealed bid openings. The Manager may name an "Opening Buyer" to control these tasks. The Opening Buyer maintains a Bid calendar, assigns Bid numbers, schedules opening time, date, and location, collects and secures bid, conducts opening, and maintains the official bid tab. The Bid Buyer (and/or Engineer) and Opening Buyer shall maintain frequent communications to stay coordinated with mutual efforts.

Signature: It is not necessary that advertisements or outgoing bids be signed by the Finance Director. However, should a Bid Buyer (and/or the Engineer) desire Finance Director signature to authenticate a bid advertisement or bid document, this signature authority is delegated to the Purchasing Manager.

Advertising: Procedures for advertising of Bids is not included in this policy, except as noted above to delegate authority for advertisement signature.

Receipt and Safeguard of Bids

- A. **Receipt of bids:** The City desires to handle and manage sealed bids in a confidential manner without exception. Bids received by the City will be sent to City Purchasing and the Opening Buyer as soon as practical. The Opening Buyer shall keep bids sealed and stored in a secured location to the extent possible, and ensure bids are not viewed by employees or others.
- B. To maintain a clear public record of receipt, the Opening Buyer or other individual in the City that intakes a bid into the City system, should initial, date and time stamp each bid to the extent practical when received, or may otherwise vouch for the timeliness of the bid.
- C. **Fax Bids:** Public Work Sealed Bids shall not allow FAX offers, unless specifically authorized by the Public Works Director. However, for other type of solicitations (RFP, RFQ) and for equipment or supply bids, the City intends to promote Fax Bids to the extent practical, if it is considered to promote competitiveness and increased bid response and can be efficiently performed. Fax Bids are therefore permitted and defined to be a sealed bid if allowed in the bid instructions. Such faxed bids will be held and managed as confidential and as if sealed.
- D. **Withdrawal of bids:** A bidder may withdraw bids at any time before the date set for opening. This shall be done in writing. The bidder and/or Bid Buyer (and/or the Engineer) shall notify the Opening Buyer. Withdrawn bids shall typically be sent back to the bidder. The Opening Buyer may make a note of withdrawal on the Bid Tab.
- E. **Modifications of Bids before opening:** Bidders may modify bids or correct mistakes before bid opening, provided such corrections are made in writing and initialed. The Opening Buyer shall supervise such modifications.

Opening of Bids

- A. **Bid Opening Date, Time and Location:** It is within the City's sole authority to determine bid opening date, time and location. Likewise, the City may change those conditions at any time in the interest of the City.

It is City policy to comply with the stated bid opening named in the original bid documents to the extent possible and appropriate, in order to minimize disruption to the bid process. The City shall consider whether a change is necessary, fair and equal to all bidders. Such consideration does not need to be documented. After such consideration, the City has full authority to change bid-opening instructions as warranted. Reasons to change the bid instructions may include, but is not limited to, the following:

1. Change to City bid instructions and/or specifications that increases time required by bidders to respond;
2. Inclement weather that reasonably prohibits City employees and/or bidders from complying with bid opening;
3. Extension to allow more time to notify interested bidders and to reach out to additional bidders if the candidate pool as not been well notified in advance of the opening.

B. **Late bids:** The City intends to comply with the professional standard of a “late bid,” as a matter of fair and equitable handling for all bidders, however recognizes the authority of the Purchasing Manager to designate bid opening and determine when a bid is considered late.

1. A bid discovered or received after the designated date and time is categorized an “apparent late bid.” Apparent late bids are kept unopened and secured, for consideration by the Purchasing Manager. The Purchasing Manager will determine if the bid is a late bid.
2. All official late bids are intended to be returned to bidder unopened.
3. It is possible that a bid is not opened at the time of bid opening, but is not ruled late by the City. Some examples include:
 - a. Bid in the City Mail System prior to bid opening;
 - b. Bid was faxed to City prior to bid opening;
 - c. Bid received by City but employee did not transport to Bid Opening in time;
 - d. City changes bid opening date and time, as is the authority of the City;
 - e. Bid is received late but tardiness is found as immaterial, in a reasonable interpretation by the Purchasing Manager given case rulings of material lateness.

C. **Bid Clock:** The Purchasing Manager has authority to declare and shall determine which clock shall serve as the official bid clock.

D. **Bid Tab:** The City desires to keep a clear record of received bids. For this purpose, the Opening Buyer shall read and record bids received using a bid tabulation form. The Opening Buyer and another witness to the bid opening shall sign that form. The Bid Tab shall be provided to the Purchasing Manager for verification before being publicly distributed. The Purchasing Manager shall verify and may correct, including correction of incorrect extended prices. Once authorized by the Purchasing Manager, it shall be provided to the Bid Buyer (and/or Engineer), posted on the web site if appropriate, and filed into the Contract File.

E. **Public information:** It is City Code that sealed bids and bid tab information (submitting vendor and bid price if read) is public record upon reading; however, RFP’s and quotes are not a matter of public record until award is made because they remain working documents until the award decision is complete per 43.19. After award, all documents are a matter of public record unless the submitting company declares sections of the response or offer as private and not disclosable. It shall be the opinion of the Purchasing Manager and/or Director of the affected Department, with concurrence by the City Attorney as appropriate, to determine whether any such marked information is non-disclosable.

Following Bid Openings

- A. **After bid opening:** A bidder may not alter or amend an offer after bids have been opened. The Purchasing Manager or Director in charge of the bid (i.e. Public Works Director, Parks Director, etc.) may allow an offer to be withdrawn in accordance with LMC; such as if bidder demonstrates that they miscalculated offer prices.
- B. To the extent required by RCW, now or as later amended, a low bid company for Public Works projects who claims error and fails to enter into a contract, is prohibited from bidding on the same project if the requirements are subsequently rebid by Lynnwood. This same practice is intended likewise for all other bids, although the bid documents and the decision by the Purchasing & Contracts Manager (or Public Works Director) shall prevail in such determination.
- C. **Original Bid Documents:** After Bid Opening, the Opening Buyer shall collect and secure original bid documents, and then submit them immediately to the Bid Buyer (and/or Engineer) in charge of the bid. The Bid Buyer (and/or Engineer) will be responsible for storage of bid documents from that point forward. The Opening Buyer shall transfer the bids to the Bid Buyer (and/or Engineer), and shall proceed in an advisory role only.

Responsibility Returns to the Bid Buyer (and/or Engineer): It is intended that the Bid Buyer (and/or Engineer) be responsible to determine eligibility, responsiveness, responsibility, and accuracy and name the winning bidder.

- A. **Mistakes in bids:** The Bid Buyer (and/or Engineer) in charge of the bids shall receive and examine the offers. In cases of apparent error the Bid Buyer (and/or Engineer) shall inform the Purchasing Manager and/or Director in charge of the bid (i.e. Public Works Director, Parks Director, etc) for concurrence and direction.
- B. **Error in Extended Price:** In the event of a discrepancy between unit prices and extended prices, the Bid Buyer (and/or Engineer) shall correct extended price to match unit price unless the bid documents instruct differently. Such corrections are to be documented and the Opening Buyer shall also be notified in order to update the official Bid Tab. It is preferred that changes are made to a *copy* of the original bid and so noted, although the Bid Buyer (and/or Engineer) shall use their judgment as the clearest way to display, record and account for these corrections.
- C. **Responsible Bids:** Lynnwood has a fiduciary responsibility and public duty to consider if low bidders meet standards of responsibility. Standards of responsibility include those listed in 43.19.1911(9). Bid opening therefore does not reflect if the low bidder has passed the standard of responsibility. The Purchasing Manager or Department Director, as appropriate, shall make a determination of responsibility after bid opening but before award. Purchasing may update the bid tab with such notation, if appropriate, in order to keep a complete record of the bids
- D. **Responsive Bids:** The City may find that a bid is not responsive to the specifications and/or qualifications and must be rejected. The Purchasing Manager, or Department Director, if appropriate (i.e. Public Works Director, Parks Director), makes that determination. Examples include, but are not limited to:
 - 1. Failure to supply required bid or performance bond.
 - 2. Failure to clearly meet specifications, delivery time, qualifications, or other requirements in the solicitation.
 - 3. Failure to provide all required information.

4. Bids not submitted on City forms may be rejected if it is clear in the solicitation that City forms are to be used for submission of bids and that failure to do so will cause rejection of the bid.
 5. Bids missing signature of Bidder may be rejected if no other binding signature is found, and the failure is material.
- E. **Bid Irregularities:** The City acknowledges informalities or immaterial irregularity, which are merely a matter of form, and/or is some immaterial variation from the exact requirements of the invitation for bid, having no effect (or merely a trivial or negligible effect). The Purchasing Manager may determine an irregularity is not material and waive such deficiency. For Public Works bids, the Department Director shall concur.

END OF POLICY

Bid Opening Procedures

These procedures are established and may be modified by the Finance Director. They give general instructions and are not binding except as required by policy.

Definition:

- A. Opening Buyer: Opening Buyer is assigned by the Purchasing Manager to manage bid opening.
- B. Bid Buyer (and/or Engineer): The individual who is responsible for the ITB, the Bid evaluation, Bid award. May be a Buyer but is not necessarily the same person who conducts bid opening.
- C. Witness: A person who joins the Buyer to open the bids and serves as a witness. Could be Bid Buyer (and/or Engineer).

Preparing a Bid

Bid numbers are obtained by calling the Opening Buyer. Purchasing shall collaborate with the Bid Buyer (and/or Engineer) to assign a:

- Bid title;
- Assign Bid Number (same as Contract Database Number);
- Agree upon Bid opening date, time, location;
- Name the Bid Buyer (and/or Engineer) in charge of the bid.

If the Bid Buyer (and/or Engineer) desires an addendum that changes this information, the Bid Buyer (and/or Engineer) should collaborate with the Opening Buyer before addendums are issued. Bid Buyer (and/or Engineer) and Opening Buyer should also collaborate to insure that the Bid Tab is appropriate to the bid opening.

Issuing of Bid Numbers

As Bid numbers are issued to Bid Buyer (and/or Engineer) s, the Opening Buyer will:

- Locate and/or start a contract in the contract database. The Opening Buyer will check to make sure a record hasn't already been started in order to avoid duplicates.
- Issue Bid Number (it should be the same as Contract Database Number).
- Review Bid Opening calendar to verify that desired Bid Opening date and time are convenient for the Opening Buyer.
- Designate Bid opening location. Generally, bids managed by Purchasing will be scheduled at the Purchasing Office. Public Works bids are expected to open at City Hall.
- Schedule Bid Opening room.
- Document on Bid Opening calendar, located in Purchasing: Bid Number, Bid Title, Bid Buyer (and/or Engineer), and Bid Opening location.
- E-mail an "appointment request" to Bid Buyer (and/or Engineer), confirming bid date, time and location. This e-mail may also serve as scheduling Bid Buyer (and/or Engineer) as a witness to the Bid Opening.

Advertising

Advertising is not covered by this policy.

Bid Opening Duties

The Opening Buyer shall:

- Collect and secure bids on or before opening;
- Prepare and manage the Bid Attendance Roster;
- Prepare the Bid Tab and get concurrence from the Bid Buyer (and/or Engineer) that it meets its purpose;
- Conduct Bid Opening;
- Create the Bid Tab after opening;
- Submit Bid Tab to Purchasing Manager for authentication;
- Make corrections as necessary;
- Receive changes from Bid Buyer (and/or Engineer) as appropriate;
- Post Bid Tab results and/or changes on the Lynnwood website as appropriate.

Collect all Bids

It is desirable to have a record that the bid was received on time through a time stamp on the package. When possible, the employee receiving the bid shall write or stamp the date and time the bid is received and initial each bid package and/or be prepared to vouch for its timely receipt. When a bid is received, it shall remain confidential and/or unopened until the scheduled bid opening. No one shall comment to contractors until Bid opening. The list of contractors that submit a bid shall be closed and confidential until the time/date of bid opening as well.

Prepare Bid Attendance Roster

The Bid Attendance Roster shall document:

- Bid Number and Project Name
- Name, Company, phone number of all in attendance. (City employees must also sign roster.)

Prepare Bid Tab

Bid Tab form shall document the information required by LMC. The LMC currently requires the following at a minimum:

- Name of bidder
- Total of bid

Conduct Bid Opening

Purchasing shall conduct the Bid Opening meeting. It is desired that the Bid Buyer (and/or Engineer) attend as a Witness. The Opening Buyer, on behalf of the Purchasing Manager, shall:

- Declare clock recognized as the Bid Clock.
- Verify bids were received on time and/or apparent late bids.

After bid opening, Opening Buyer shall remove from the location, and shall in a secured location free from contractor's presence do the following.

- Note whether bids were signed, addendums acknowledged, and performance bonds or cashiers checks received.
 - Cashiers Checks - All cashiers checks will be filed with the Treasurer's office following bid opening. Buyer shall first photo copy checks and store copy with purchasing records.
- Collect and secure bonds for Public Works and give to the Bid Buyer (and/or Engineer).
- Type Bid Tab and provide to Purchasing Manager. Both Buyer and Witness initial Tab.
- Keep bids secured. Bids are to stay secured and submitted to the Bid Buyer (and/or Engineer).

Following Bid Opening

At this point, the original Bids, the Bid Tabs, and the management from this point forward revert to the Bid Buyer (and/or Engineer).

Public Works Projects:

Original bid packages are turned over to the Bid Buyer (and/or Engineer). Public Works shall complete all remaining aspects of the bid process. [Question: Does Purchasing Dep't want to keep a copy of the bid packages?]

All other Projects or Purchases:

Bids will be under the management of the Purchasing Department Bid Buyer (and/or Engineer) (not the Buyer opening the bid unless it is the same). Bid Buyer (and/or Engineer) reviews bids:

- Verify minimum qualifications were met;
- Verify proper signatures;
- Verify addenda were noted if appropriate;
- Verify proper extension of pricing;
- Verify proper application of sales tax;
- Verify financial responsibility, delivery, schedule, and other elements of responsibility per RCW 43.1911.

Bid Buyer (and/or Engineer) will:

- Make award recommendation to Purchasing Manager or Director in charge of the bid (i.e. Public Works Director);
- Offer to write or assist with writing council agenda, if applicable;
- Create contract;
- Create award letter;
- Request Insurance Certificate;
- Route contract for signatures;
- Distribute signed contract and copies as appropriate.

Rejected Bids – Bid Buyer (and/or Engineer) identifies apparent rejected bids.

- Confirm apparent bid rejection with Purchasing Manager.
- Update Bid Tab sheet to note rejected bids.
- Document cause in memo form for file.
- Prepare a letter for Purchasing Manager's signature (or Director in charge of bid) to reject bidders who failed initial screen.

Posting Bid Abstract results on the Lynnwood Website

Buyer will post Bid Results on the Lynnwood website. If project is managed by Purchasing, the Buyer will also add award information to the website.

Contract Database

The Purchasing Department will start a record in the contract database as the Buyer prepares a bid number. It is expected that the Contract Database ID number will also serve as the Bid Number. It will be the department's responsibility to complete the balance of the information on the contract database. The Buyer may assist in updating the contract database, although the responsibility of updating the contracts will remain with the using department.