

# Policy 4.1: Purchasing

## I Policy Index



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Department of Responsibility: Finance

## II Policy

It is the policy of the City of Spearfish that all purchasing shall be conducted strictly based on economic and business merit. This policy is intended to promote the best interest of the citizens of the City of Spearfish, South Dakota.

City purchasing operates in full view of the public. In order to assure an open purchasing process and economy in purchasing, competitive pricing solicitation will be used to the extent possible during the purchasing process.

Time is required to complete the steps required by State and local law. In order to accomplish timely, cost-effective purchasing of products and services, all departments must cooperate fully. Prior planning is essential to expedite the purchasing process and to assure that the process is orderly and lawful.

The purchasing policies of the City of Spearfish encourage local vendors to provide goods or services to City of Spearfish government, resulting in increased economic activity through more local jobs, tax revenues, and expenditures, and to entice businesses to relocate to the City. "City of Spearfish businesses" means the physical and economic relationship to Spearfish determined by a verifiable business address (not a PO Box) within the corporate boundaries of the City of Spearfish.

However, this encouragement to find a qualified City of Spearfish vendor(s) does not prohibit finding and using a vendor(s) outside the City of Spearfish. Spearfish businesses should be considered, but all efforts will be made to obtain the lowest cost for the citizens of Spearfish.

## III Bidding

The procurement of City supplies, services, or construction is governed by SDCL 5-18A Public Agency Procurement, 5-18B Procurement of Public Improvements, and 5-18C Procurement by Local Government Units (the “bid limit”), as amended from time to time. As of July 1, 2020, the bid limits are as follows:

- Public improvements as defined by SDCL 5-18A-1: \$100,000
- Equipment: \$50,000
- Supplies as defined by SDCL 5-18A-1: \$25,000
- Services, excluding professional services, as defined by SDCL 5-18A-1: \$25,000

## **IV Procedures**

### **A. General Policies**

Vetting of professional service providers must be completed for contracts exceeding \$25,000 when the City lacks knowledge of past performance. The vetting process will include review of qualifications and references of the proposed vendor.

When purchases of items under the legal bid limit are made or recommended, no City employee who is an immediate family member of the owner or manager of a vendor shall be involved in any part of obtaining quotes or proposals, making recommendations or actual purchase of any item from that vendor unless that vendor is the only available supplier (sole source supplier) of that item or service or written documentation is obtained and submitted to the finance office to prove the vendor has the lowest cost to the City. “Immediate family member” is defined as the employee’s spouse, parents, step-parents, children, step-children, brothers, sisters, step-brothers, stepsisters, grandparents, and grandchildren. The term also includes an employee’s spouse’s equivalent of the above. Conversely, the City will not exclude a business due to family connection unless required to do so by state law.

All employees who are responsible for purchasing goods or services for the City should use a purchase card whenever advantageous to the city and will work with the finance office to ensure the retailer(s) or affiliate(s) hold a South Dakota Sales Tax License, possess a valid City of Spearfish Contractor’s License, if applicable, obtain required permits, if applicable, and are a currently established City vendor within the accounts payables program.

The City of Spearfish is a South Dakota Sales Tax exempt entity. It is the responsibility of every employee making purchases to ensure sales taxes are not added to the purchase or are removed from the charge.

### **B. Establishing Vendors**

If a purchase card is not used, the department head is required to obtain a completed and legible Internal Revenue Service (IRS) Form W-9 from all new vendors and provide the vendor with a current City of Spearfish, South Dakota Streamlined Sales Tax Agreement (Sales Tax Exemption Certificate). A copy of the South Dakota Streamlined Sales Tax Agreement may be obtained from the finance office or found on the City's website under the department of finance.

New vendors will be informed of the City's payment schedule by the department head making the purchase. If the new vendor requires a credit application, the finance office will process the credit application.

### **C. Credit Card Use**

Pursuant to Resolution No. 2008-30 and Resolution 2020-24, Credit Card Acquisition and Use Policy, the following rules apply:

The finance office is hereby authorized to acquire and use purchase or credit card accounts (cards) for the purchase of certain necessities on behalf of and for the benefit of the City of Spearfish, in accordance with the policies set out below:

The cards shall be used for the purchases of meeting registration, motel room guarantees, or other purchases that cannot be accomplished by utilizing charge accounts or being billed directly to the city to be processed in the normal bill list process. Cards may be used to pay for pre-authorized purchases through the Internet.

The cards may not be used to pay for meals that qualify for reimbursement through per diem or for any item which does not directly benefit the City.

The card accounts shall be administered by the finance office. Sub-administrators for certain departments may be assigned to oversee the usage, limits, and processing for that department. When a card is used by any city employee, original receipts, invoices, or other authentic documentation stating what the card was used for shall be submitted to the finance office or sub-administrator. The finance office or sub-administrator will immediately verify that the purchase was necessary and for the benefit of the City. The invoice will be submitted to the finance office with the appropriate account coding information. Charges submitted to the finance office for payment without the proper documentation may become the responsibility of the employee. Personal use of City cards is strictly prohibited. Misuse of card accounts or repeated failure to provide proper documentation may result in disciplinary action up to and including termination.

Any perks, credits, or items of value earned because of the use of credit cards shall only be used for the benefit of the City and not for that of any employee.

## D. Documentation

It is the responsibility of the individual incurring charges to route to the finance office in a timely manner, all invoices, charge slips, purchase and credit card receipts. All invoices must contain the date, name, and address of the vendor and description of the item or services rendered. Account statements are not acceptable as invoices. This includes lodging accommodations, when traveling overnight; it will be the responsibility of the city employee to obtain a detailed receipt from the lodging establishment, regardless if it is a direct bill vendor or a charge account.

All invoices will be stamped with the attestation statement, coded properly, and signed by the appropriate staff member prior to submission to the finance office for payment. Attestation stamps may be obtained from the finance office.

## E. Spending Authority for City Staff

The following spending authorities are hereby established for budgeted expenses:

1. **Mayor or City Administrator:** Up to bid limits established under state law for public improvement contracts. See section III – Bidding for limits.
2. **Department head** (defined as City Attorney, City Engineer, City Planner, Finance Officer, Fire Chief, Human Resource Director, Library Director, Police Chief, Public Works Director, Public Safety Director, and Parks and Recreation Director): As set by City Administrator, not to exceed \$10,000.
3. **Foreman/Superintendent level:** As set by Department head, not to exceed \$5,000.
4. **Entry staff level:** As set by Department head, not to exceed \$500.

The City Council must authorize payment for all purchases through the bill list approval process. Department heads that wish to establish spending authority under 3 or 4 above must submit, in writing, to the finance office the list of employees, their title, and their specific spending authority. These documents will be retained for audit and verification of proper purchasing authority.

## F. Process

The following process will be followed when making purchases that do not require bidding:

1. Obtain appropriate approval for the purchase (see section E. Spending Authority for City Staff).
  - a. The department head must verify that the item is budgeted and budget authority currently exists for the purchase prior to authorizing the purchase.
2. Purchasers are required to be responsible with City funds. Purchases exceeding \$5,000 require the purchaser to obtain quotes, estimates, or proposals from the vendor(s).
  - a. Documented quotes, estimates, or proposals should prove the products/services are the most advantageous to the City based on functionality, quality and price.

- b. All written documentation must be submitted to the finance office for record keeping.
3. Complete the purchase.
4. When the product is delivered or the work is completed, obtain an invoice from the vendor.
5. Code the invoice and obtain the appropriate signature authorizing the payment, following the spending authority levels as outlined in section E.
  - a. Invoices (or pay estimates/requests) for items bid and awarded by city council may be signed by the department head or project manager.
  - b. All invoices or pay estimates/requests in excess of \$10,000 are required to be countersigned by the City Administrator.
6. Submit coded invoice to finance office for recording and payment.

### **G. Payments to vendors utilizing federal funds**

The City of Spearfish frequently receives federal funds either directly or through the State of South Dakota. Oftentimes federal funds are in the form of Community Development Block Grants (CDBG), Federal Emergency Management Agency (FEMA) Grants, State Revolving Fund (SRF) Funding, Clean Water Bonds or other financial loans and grants. If federal funding sources are utilized for any projects or services the finance office will utilize the Catalog of Federal Domestic Assistance (CFDA) number to determine the purchasing and audit requirements, at a minimum the following may apply:

**Suspension and Debarment:** If any federal funds are utilized or requested for a project or service, all vendors participating in the project or service shall certify that they are not federally suspended or debarred prior to payment being made by the City of Spearfish. A certification form is attached as Exhibit A. If the vendor is unable to provide the certification, the Finance Officer will verify that said vendor is not federally suspended or debarred using the Excluded Parties List System (EPLS) as maintained by the General Services Administration (GSA) prior to the payment being made to the vendor. If the vendor is found to be suspended or debarred, no payment will be made to the vendor until alternative funding is authorized and budgeted. Documentation of the certification or the EPLS check will be maintained with the payment voucher in the finance office files.

**Davis-Bacon and Related Acts:** Some federal fund grants or loans may carry the requirement for compliance with the Davis-Bacon and Related Acts. The Davis-Bacon and Related Acts, apply to contractors and subcontractors performing on federally funded or assisted contracts in excess of \$2,000 for the construction, alteration, or repair (including painting and decorating) of public buildings or public works. Davis-Bacon Act and Related Act contractors and subcontractors must pay their laborers and mechanics employed under the contract no less than the locally prevailing wages and fringe benefits for corresponding work on similar projects in the area. The Davis-Bacon Act directs the Department of Labor to determine such locally prevailing wage rates. For prime

contracts in excess of \$100,000, contractors and subcontractors must also, under the provisions of the Contract Work Hours and Safety Standards Act, as amended, pay laborers and mechanics, including guards and watchmen, at least one and one-half times their regular rate of pay for all hours worked over 40 in a workweek. The overtime provisions of the Fair Labor Standards Act may also apply to DBA-covered contracts. The City of Spearfish will require certification from vendors prior to payment if the federal funding source requires compliance with the Davis-Bacon and Related Acts. The Davis-Bacon Act Compliance Certification as shown in Exhibit B and U.S. Department of Labor completed form WH-347 is required for payment from the City of Spearfish.

## **IX Responsibility**

It is the responsibility of staff to adhere to this policy. It is the responsibility of the City Finance Officer or designee to review this policy annually.

\_\_\_\_\_  
Michael Harmon, City Administrator

09/09/2020  
Date

EXHIBIT A



**Certification Regarding  
Debarment, Suspension, and other Responsibility Matters  
Primary Covered Transactions**

This certification is required by the regulations implementing Executive Order 12549, Debarment and Suspension, 13 CFR Part 145. The regulations were published as Part VII of the May 26, 1988 *Federal Register* (pages 19160-19211). Copies of the regulations are available from local offices of the U.S. Small Business Administration.

**(Before completing certification, read instructions on reverse)**

- (1) The primary participant certifies to the best of its knowledge and belief that it and its principals:
  - (a) Are not presently debarred, suspended, proposed for disbarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
  - (b) Have not within a three-year period preceding this application been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
  - (c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and
  - (d) Have not within a three-year period preceding this application had one or more public transactions (Federal, State, or local) terminated for cause or default.
- (2) Where the primary participant is unable to certify to any of the statements in this certification, such primary participant shall attach an explanation.

Business Name \_\_\_\_\_

Date \_\_\_\_\_

By \_\_\_\_\_  
Name and Title of Authorized Representative

\_\_\_\_\_  
Signature of Authorized Representative

## **Instructions for Certification**

1. By signing and submitting this proposal, the primary participant is providing the certification set out below.
2. The inability of a person to provide the certification required below will not necessarily result in denial of participation in this covered transaction. The participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the primary participant to furnish a certification or an explanation shall disqualify such person from participation in this transaction.
3. The certification in this clause is a material representation of fact upon which reliance was placed when the department or agency determined to enter into this transaction. If it is later determined that the primary participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.
4. The primary participant shall provide immediate written notice to the department or agency to which this invoice is submitted if at any time the primary participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
5. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of the rules implementing Executive Order 12549. You may contact the department or agency to which this invoice is submitted for assistance in obtaining a copy of those regulations (13 CFR Part 145).
6. The primary participant agrees by submitting this invoice that, should the covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction.
7. The primary participant further agrees by submitting this invoice that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transactions," provided by the department or agency entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
8. A participant in a covered transaction may rely upon a certification of a participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the ineligibility of its principals. Each participant may, but is not required to, check the Non-procurement List.
9. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
10. Except for transactions authorized under paragraph 6 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate for cause or default.

EXHIBIT B



Davis-Bacon Act Compliance CERTIFICATION

Project No: \_\_\_\_\_

Period from: \_\_\_\_\_ to: \_\_\_\_\_

I certify to the best of my knowledge and belief that the above referenced project:

Complies with Davis-Bacon and Related Acts of the American Recovery and Reinvestment Act (ARRA) of 2009 (per Section 1606 of ARRA) and that all laborers and mechanics employed by contractors and subcontractors during the above referenced period were paid wages at rates not less than those listed on the prevailing wage rate as established by the U.S. Department of Labor and that all applicable provisions of the Davis-Bacon and Related Acts have been met.

\_\_\_\_\_  
Name of Vendor Date

\_\_\_\_\_  
Signature of Authorized Representative

\_\_\_\_\_  
Print Name and Title of Authorized Representative

(Attach completed U.S. Department of Labor form WH-347)