

2.28.110 Procurement exceptions.

The following procurement exceptions are authorized by this chapter:

A. *Emergencies.* Where there is an emergency situation involving a threat to public health, welfare, or safety, including, but not limited to, essential public works such as the wastewater treatment system, culinary water system, stormwater system, or the like, the purchasing agent, in consultation with the City Manager, may waive the procurement rules specified by this chapter. The purchasing agent shall report the emergency procurement exception to the City Council no later than thirty days from the date of the procurement. The purchasing agent shall assure that the terms of the procurement are as competitive and favorable as the circumstances will allow. When the emergency has passed all further procurement shall be conducted in conformity with the other procedures of this chapter.

1. City department heads should seek to obtain competitive emergency purchases by using telephone quotes, internet or catalog quotes, limited invitations to bid, or similar procedures to the extent practicable, and consistent with the need to protect public health and safety.
2. The purchasing agent and City Manager shall make a written determination documenting the emergency and the selection of the procurement item. A record of the determination and selection shall be kept in the contract file. The documentation may be made after the emergency condition has passed.

B. *State Approved Contracts.* Pursuant to Section [11-13-201](#), Utah Code Annotated 1953, the City is authorized to enter into joint purchasing arrangements with other governmental entities. Where the state of Utah or other competitive purchasing groups have established standard procurement contracts for state agencies which are available to local governments, the City is not required to engage in a different procurement process, and may purchase goods, services, equipment, or the like pursuant to the published price schedules, catalog prices, or specified terms established by the state or the competitive purchasing group. City departments are encouraged to utilize state of Utah competitive purchasing group procurements where appropriate. The purchasing agent must approve the purchase order in advance and, if it exceeds the sum of one hundred thousand dollars, the purchase is subject to City Council review and approval.

C. *Single Source Procurement.* Where there is only a single source available for a particular procurement, the purchasing agent may waive proposal or bid requirements; provided, that the department head undertakes reasonable efforts to: (1) document that no alternative provider is available; and (2) secure the most advantageous terms for the City. The purchasing agent must approve the purchase order in advance and, if it exceeds the sum of fifty thousand dollars, the purchase is subject to City Council review and approval.

1. Sole-source procurement awards do not involve standard procurement process and should only be used when justified after reasonable research has been conducted to determine if there are other available sources, and an analysis has been done to determine if a sole-source award is cost-justified.
2. Circumstances for which a sole-source contract awards may be justified include:

- a. A procurement item for which there is no comparable product or service, such as a one-of-a-kind item available from only one vendor;
 - b. A component or replacement part for which there is no commercially available substitute, and which can only be obtained directly from the manufacturer; or
 - c. An exclusive maintenance, service, or warranty agreement.
3. Prior to awarding a sole-source contract, the applicable department shall conduct a price analysis to determine if the same or similar items are available from another source.
4. An urgent or unexpected circumstance for a procurement does not justify the ward of a contract using the sole-source exception.

D. *Exclusions.* The following contracts or transactions are excluded from the procurement provisions of this chapter: contracts for the purchase/sale of an interest in real estate; employment contracts; contract change orders or modifications; intergovernmental agreements; grant or similar agreements where the City serves as a funding conduit to a third party; nonemployee statutory appointee contracts; utility, franchise, or public right-of-way agreements; extensions of existing contracts; and agreements with interlocal co-op entities (e.g., local government mutual insurance agencies).

E. *Alternative Procurement Processes.* The City Council may authorize other or alternative procurement procedures on a case-by-case basis upon a showing of good cause. (Ord. 18-03 (part), 2018)

F. *Legal Service Contracts.* Contracts for legal services may be awarded at the discretion of the City Manager without using the competitive sealed bids process. Legal service contracts shall be awarded based on professional qualifications, experience, and ability to meet the City’s specific service requirements, cost of service, and other criteria deemed important by the City Manager.

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The Moab Municipal Code is current through Ordinance 21-14, passed July 13, 2021.

Disclaimer: The City Recorder's Office has the official version of the Moab Municipal Code. Users should contact the City Recorder's Office for ordinances passed subsequent to the ordinance cited above.

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