

## PURCHASING POLICY

**POLICY:** To provide a fair, accountable, and transparent public procurement system in Douglas County, Wisconsin.

**PURPOSE:** To establish uniform procedures for Douglas County to secure, for County taxpayers, the advantages of economies

**SCOPE:** This policy applies to all Douglas County departments and all organizations for which Douglas County is a fiscal agency, and where not superseded by State or Federal law, rules or regulations or other funding agreements or contractual provisions.

**CODE OF ETHICS:** Ordinance #1.25, Douglas County Ethics Ordinance, was enacted on September 18, 2003, under the authority of Section 19.59 of the Wisconsin Statutes, and is incorporated herein by reference to apply to all County employees. This ordinance establishes a code of ethics that sets out acts or actions which are incompatible with the best interest of the County and requires certain disclosure of personal and financial interests, in matters affecting the County.

Any purchase made by an employee or County official that is contrary to the provisions in Ordinance #1.25 shall in no way obligate the County for payment. Any such purchase shall be considered a personal liability of the involved employee or official.

### CONSIDERATIONS IN PURCHASING:

**Contracting Authority:** Only the County Board Chairman or the Administrator may legally bind the County to any total lease valued or contract valued at or above \$25,000, unless State law requires the signature of the County Treasurer, County Clerk or any other party. Copies must be forwarded to the Administrator after signing. The Health and Human Services may serve as the contracting authority for client services. See below for contracting authority relating to construction projects.

**Local Preference:** The County recognizes the importance of County purchases in supporting the local economy, and supports purchases, whenever possible, within the constraints of State and Federal law. Departments shall take into consideration the monetary value of the availability of local service and transportation costs in determining the lowest price and, further, if the difference in price between the local vendor and a vendor from outside Douglas County is negligible, shall award the bid to the local vendor, all else being equal and absent any legal restriction that would prevent the award.

**Blanket Contracts and Standardization:** Where it is in the best interest of the County due to dollar volume, standardization, conformance or favorable terms, the County may enter into contracts that affect all or multiple departments. The approval for entering these contracts shall be consistent with this Policy.

If the County has standardized the purchasing of a good or service and has issued contracts for these goods or services, such goods or services shall be purchased from these vendors (e.g. office supplies).

**Sole-Source Purchasing:** Sole source purchasing is acceptable when, after a good faith review of all possible sources, it is determined that there is only one (1) viable source for the material, supply, or service. To be a sole source, a vendor shall have the ability to deliver a unique material or service, have

technical expertise or qualifications, the ability to deliver at a particular time, or have the ability to fulfill the needs for a special purpose or situation such as a client choice purchase from a qualified provider.

**Purchases from Governmental Units:** Materials, supplies, machinery or equipment offered for sale by the State, Federal, County or municipal governments may be purchased without bids. Dollar threshold and approval processes shall be followed.

**Cooperative Purchasing:** Departments may participate with a network of other governmental purchasing which will meet the competitive bidding requirements.

**Purchases through State and Federal Contracts:** In order to utilize the mass purchasing power of the State, material goods and services may be purchased directly from vendors awarded bids by the State, without solicitation of County bids. Dollar threshold and approval processes shall be followed.

**Public Works Projects:** In accordance with Wisconsin Statutes 66.0901 and 59.52 (29), public works contracts for construction, execution, repair, remodeling, or improvement of a public work, building or for the furnishing of supplies or materials of any kind, over \$25,000, shall be competitively bid and shall be awarded to lowest, responsible, responsive vendor without regard to the vendor's location.

The above requirements for public works are not mandatory for the repair or reconstruction of public facilities when damage or threatened damage creates an emergency, as determined by a County Board resolution, in which the public health or welfare of the County is endangered. A notice pursuant to Wisconsin Statutes 59.52(29) must be prepared as required and, in an emergency, the procedure followed as provided in the same section as in effect at any given time.

**Highway Department Contracts:** Pursuant to Wisconsin Statutes section 83.035 as in effect at any given time, the highway commissioner, with the approval of the DOUGLAS COUNTY Highway Committee, is authorized to execute contracts for the purpose of enabling the county to construct and maintain streets and highways in cities, villages and towns within the County, with a copy filed with each respective clerk. Maintenance includes the furnishing of any road supplies and equipment to these municipalities. The highway department may not undertake construction or maintenance for such municipalities in excess of the county aid authorized by the County Board.

The highway commissioner may enter into a contract to procure materials for construction, maintenance and repair of highways valid for a period not to exceed one year. For purposes of this section, an indefinite quantity contract means an agreement to procure these materials at a set rate per amount, with the total amount to be purchased estimated only. These contracts must competitively bid following the standard procurement procedure appropriate for the estimated dollar cost of materials to be purchased during that year.

**End of Year Purchases:** Unless provided by other policy, State and Federal law, grant or other funding contract, all expenditures for capital assets must be made so that delivery of that asset occurs on or before December 31 in the year in which the purchase was authorized, unless authorized by the County Administrator or the Finance Director.

## **STANDARD PURCHASING PROCEDURE (Please See Appendix A for Grant Funded Purchases):**

Departments shall use a bidding process in purchasing unless otherwise provided in this policy. Awards generally are made to the lowest responsible bidder, unless there is a compelling reason not to. When comparing bids or quotes, the following elements shall be considered: price, conformity with original specifications, warranty, delivery date (if specified), and freight charges. If all original bids are deemed unacceptable, additional bids may be solicited.

Except as permitted by the sole source purchase provisions of this policy, all departments shall follow the procedures listed below based on the amount of the purchase. No purchase of a single good or commodity at the same general time may be divided into separate purchases to qualify for a lower threshold of approval, process or documentation.

**Purchases less than \$5,000:** Department managers are authorized to spend up to \$5,000 for any items that are a part of their approved departmental budget. The purchase is subject to the availability of funds.

**Purchases from \$5,000 to \$25,000:** The Department Manager shall obtain at least two informal bids, i.e. not necessarily in writing or obtained through a full request for proposal process. These bids may include current price lists or catalogs, recent price quotations on file (within 30 days), phone or verbal quotations solicited from vendors and written informal price bids (including faxes). Purchases must be part of their approved departmental budget or approved through the budgetary transfer process.

**Purchases over \$25,000:** All authorized and/or budgeted purchases of materials or services over \$25,000 shall be made by sealed bid or R.F.P., with the exception of the following types of purchases: purchases from governmental units, purchases through state and federal contracts, sole source purchasing or contract extensions through negotiation. **(HHS/Highway)**

### **OTHER PURCHASING CONSIDERATIONS:**

**Internet Purchases:** Purchases via the Internet shall comply with all other requirements of this policy.

**Auctions:** Purchasing agents may purchase goods at auction only if the vendor offers protection against purchasing defective or erroneously described merchandise, or prior inspection of merchandise, and that the vendor allows for refunds, if necessary, after a physical inspection of the goods received.

**Lease Agreements:** All lease agreements shall follow purchasing policy.

**Sales Tax Exemption:** All employees shall provide sales tax exemption to any hotels, car rentals and/or similar expenses when traveling on County business.

**Promotional Items:** Departments may purchase items of negligible value for educational or promotional purposes to be given to members of the public only at events generally open to the

public or educational sessions. Such items must be clearly and permanently marked with the name of the County and the department or agency.

**Computer/Electronic Purchases:** Purchase or lease of computer hardware and software must be managed and authorized for procurement by the Information Technology staff. Technological compatibility must be a consideration in awarding any contracts for computer hardware and software.

**Legal Services:** No Department Manager may approve the purchase of legal services without the prior approval of the corporation counsel, with the exception of court ordered legal services. The Corporation Counsel may establish a procedure for granting such approval.

**Prohibited Expenditures:** Unless specifically authorized by the County Board of Supervisors, the following expenditures shall not be made using County funds:

- Entertainment expenditures, such as tickets for admission to public entertainment events, theaters, and similar;
- Alcoholic beverages and tobacco; except in compliance with an investigation.
- Retirement party or similar expenditures beyond cake and beverages.
- Common courtesy expenditures such as flowers or cards for ill county employees or local officials; and
- Any travel or related expenses for an employee's spouse, other family member or acquaintance.

**Disposal of Excess Supplies or Obsolete Equipment:** County owned supplies or equipment must not be sold to County employees except by public auction or through public, competitive bidding.

## APPENDIX A

### GRANT FUNDED PURCHASES:

Nothing in this Policy shall supersede any federal, state or regulatory requirements. Unless specifically prohibited by the granting authority, grants must be administered through a written contractual agreement between the County and the party providing the service. All purchases made with grant funds must comply with the terms and conditions of the grant and this policy. If the grant requirements conflict with this policy, the County Administrator may suspend those provisions of this policy only for the specific grant and for the duration of that grant. The department head is responsible to comply with purchases covered by grant funds.

Uniform Grant Guidance issued by the Federal Office of Management and Budget (OMB) outlined the following procurement standards for all dollars applied to federal grant programs:

#### **A. Micro Purchases (Items less than \$3,000):**

Procurement by micro-purchase is the acquisition of supplies or services, the aggregate dollar amount of which does not exceed the micro-purchase threshold (§200.67 Micro-purchase). To the extent practicable, the non-Federal entity must distribute micro-purchases equitably among qualified suppliers. Micro-purchases may be awarded without soliciting competitive quotations if the non-Federal entity considers the price to be reasonable.

#### **B. Small Purchases (Items between \$3,000 and \$150,000):**

Small purchase procedures are those relatively simple and informal procurement methods for securing services, supplies, or other property that do not cost more than the Simplified Acquisition Threshold. If small purchase procedures are used, price or rate quotations must be obtained from an adequate number of qualified sources.

#### **C. Large Purchases (Items greater than \$150,000):**

Follow requirements under 1 (construction) or 2 (all other) below depending on applicability.

1. Sealed Bids for Construction Contracts: Note that a federally funded public works project shall follow the lower dollar threshold requirements of Wisconsin Statutes 66.0901 and 59.52(29) outlined in the public works projects section above. Bids are publicly solicited and a firm fixed price contract (lump sum or unit price) is awarded to the responsible bidder whose bid, conforming with all the material terms and conditions of the invitation for bids, is the lowest in price.

In order for sealed bidding to be feasible, the following conditions should be present:

- (i) A complete, adequate, and realistic specification or purchase description is available;
- (ii) Two or more responsible bidders are willing and able to compete effectively for the business; and
- (iii) The procurement lends itself to a firm fixed price contract and the selection of the successful bidder can be made principally on the basis of price.

If sealed bids are used, the following requirements apply:

- (i) Bids must be solicited from an adequate number of known suppliers, providing them sufficient response time prior to the date set for opening the bids, for state, local, and tribal governments, the invitation for bids must be publically advertised;
- (ii) The invitation for bids, which will include any specifications and pertinent attachments, must define the items or services in order for the bidder to properly respond;
- (iii) All bids will be opened at the time and place prescribed in the invitation for bids, the bids must be opened publicly unless specifically stated on the request for bids that there will not be a public opening..
- (iv) A firm fixed price contract award will be made in writing to the lowest responsive and responsible bidder. Where specified in bidding documents, factors such as discounts, transportation cost, and life cycle costs must be considered in determining which bid is lowest. Payment discounts will only be used to determine the low bid when prior experience indicates that such discounts are usually taken advantage of; and
- (v) Any or all bids may be rejected if there is a sound documented reason.

2. Competitive Proposals for Other Contracts Greater than \$150,000: The technique of competitive proposals is normally conducted with more than one source submitting an offer, and either a fixed price or cost-reimbursement type contract is awarded. It is generally used when conditions are not appropriate for the use of sealed bids. If this method is used, the following requirements apply:

- (i) Requests for proposals must be publicized and identify all evaluation factors and their relative importance. Any response to publicized requests for proposals must be considered to the maximum extent practical;
- (ii) Proposals must be solicited from an adequate number of qualified sources;
- (iii) The non-Federal entity must have a written method for conducting technical evaluations of the proposals received and for selecting recipients;
- (iv) Contracts must be awarded to the responsible firm whose proposal is most advantageous to the program, with price and other factors considered; and
- (v) The non-Federal entity may use competitive proposal procedures for qualifications-based procurement of architectural/engineering (A/E) professional services whereby competitors' qualifications are evaluated and the most qualified competitor is selected, subject to negotiation of fair and reasonable compensation. The method, where price is not used as a selection factor, can only be used in procurement of A/E professional services. It cannot be used to purchase other types of services though A/E firms are a potential source to perform the proposed effort.

**D. Noncompetitive Proposals:**

Procurement by noncompetitive proposals is procurement through solicitation of a proposal from only one source and may be used only when one or more of the following circumstances apply:

- (1) The item is available only from a single source;
- (2) The public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation;
- (3) The Federal awarding agency or pass-through entity expressly authorizes noncompetitive proposals in response to a written request from the non-Federal entity; or
- (4) After solicitation of a number of sources, competition is determined inadequate.