



## **Federal Procurement Policy**

### **Purpose:**

Establish standards and guidelines for the procurement of services, supplies or other property purchased with federal monies by Union County.

### **Scope:**

This policy applies to all departments within the County who don't otherwise have their own federal procurement policy.

### **Definitions:**

Any purchase of services, supplies or other property through direct payment, reimbursement or on-behalf benefits paid for with federal funds.

### **General Procurement Standards:**

All County employees will maintain prudent judgment in purchasing matters and shall not abuse their positions in making decisions as to the awarding of contracts or purchases. When conflicts of interest exist, the employee will notify their supervisor immediately. The employee is to be relieved of all involvement with the particular contract or negotiation which presents the conflict of interest. No employee, agent, or beneficiary can participate in the selection, award, or administration of a contract when any of the following has financial interest in that contract:

- The employee or agent;
- Any immediate family members of the employee or agent;
- The partner of an employee;
- An organization in which any of the above is an officer, director, or employee;
- A person or organization with whom any of the above is negotiating or has any arrangements concerning prospective employment;

County employees shall neither solicit nor accept gratuities, favors or anything of monetary value from contractors or potential contractors. Employees must immediately inform their supervisor of any offers of monetary value from contractor or potential contractors or suppliers/potential suppliers. The supervisor will enforce this rule to the maximum extent within the legal and practical capacity available under the law. Depending on the offense, penalties shall include verbal or written reprimand, and/or suspension or termination of employment and/or referral to the county prosecutor for further legal action.

All procurement of the County regardless of whether by sealed bids or by negotiation, and without regard to dollar value, will be conducted in a manner so as to provide for maximum open and free competition. The County will at all times be alert to organizational conflicts of interest and noncompetitive practices among contractors/suppliers that restrict or eliminate competition or restrain trade.

The County in drawing specifications for negotiated or sealed bid purchases will seek to make the specifications clear and accurate and descriptive of the technical requirements in materials, product or service, eliminating features which unduly restrict competition by giving one vendor unfair advantage over another. §200.319 (a) requires that all procurements be conducted in a manner providing for full and open competition. Practices specifically considered restrictive include:

1. Placing unreasonable requirements on firms in order for them to qualify to do business;
2. Requiring unnecessary experience and excessive bonding;
3. Noncompetitive pricing practices between firms or between affiliated companies;
4. Noncompetitive contracts to consultants that are on retainer contracts;
5. Organizational conflicts of interest;
6. Specifying only a “brand name” product instead of allowing “an equal” product to be offered and describing the performance or other relevant requirements of the procurement and;
7. any arbitrary action in the procurement process.

§200.319 (b) prohibits the use of statutorily or administratively imposed state or local geographical preferences in the evaluation of bids or proposals, except in those cases where applicable Federal statutes expressly mandate or encourage geographic preference.

Notwithstanding the above, the County will make positive efforts to utilize small, women’s and minority owned businesses as sources of supplies and services. Said efforts will include assuring that these businesses are solicited whenever they are a potential resource, and when practical, dividing total contract requirements into small tasks, quantities or delivery times to permit maximum small and minority business participation when economically feasible. Separation will not be done to avoid competitive bidding requirements.

#### **Procurement Methods:**

##### **Small Purchases:**

Defined as simple and informal procurement methods for securing services, supplies, or other property that do not cost in aggregate more than the simplified acquisition threshold currently set at \$100,000 (41 USC 403(11)) or state bidding threshold, which is currently \$50,000 (ORC 307.86). As used here, aggregate value relates to purchases which may reasonably and in good faith be deemed to constitute a separate contract or purchase order.

##### **For Purchases from \$250-\$3,000**

Formal documentation of vendor selection is not required. Buyers are expected to document an informal cost/price analysis and select the vendor offering the best mix of quality, service and price for the specified need. Reasonable efforts shall be made to ensure fair and competitive pricing.

##### **For Purchase from \$3,000 - \$20,000**

A minimum of three (3) written or verbal bids are required. Each vendor must be provided with the same precise and accurate description of the specifications and technical requirements for the item or service. Web price lists and catalogue listings can be considered verbal bids. All written bids must be attached to the selected vendor’s invoice and submitted to the department supervisor for processing and payment.

##### **For Purchases over \$20,000**

A minimum of three (3) written bids are required. Each vendor must be provided with the same and accurate description of the specifications and technical requirements for the item or service. Written bids may be received by mail, fax or e-

mail and should be signed/e-mailed by an authorized representative or vendor. All written bids must be attached to the selected vendor's invoice and submitted to the fiscal office for processing and payment.

#### Price Analysis/Cost Analysis

For all procurements of \$3,000 and greater, the County requires documentation verifying that the purchase price is fair and reasonable. Price analysis and cost analysis are the two primary techniques used to accomplish this purpose.

**Price Analysis:** Comparison of prices of multiple bids or information from other sources, such as established catalog or market prices or prices for similar past purchases.

**Cost Analysis:** Evaluation of the separate elements (e.g., labor, materials, etc.) that make up a contractor's total cost proposal or price (for both new contracts and modifications) to determine if they are allowable, directly related to the requirement and reasonable for the value received.

Price analysis should always be performed and documented; under certain circumstances, cost analysis also needs to be performed and documented (cost analysis is always required if payment is based in whole or in part on reimbursement of costs, and it may also be required for other contract types when there is not adequate price competition).

The buyer should always make sure to obtain enough data from the offeror(s) to determine that the price is fair and reasonable.

#### **Sealed Bids (Formal Advertising):**

Bids are publicly solicited and a firm-fixed price contract (lump sum or unit price) is awarded to the responsible bidder whose bid conforming to all the material terms and conditions of the invitation for bids is the lowest price for the conditions required to use sealed bidding.

The competitive sealed bidding/formal advertising method will be used when making purchases expected to exceed \$50,000 in aggregate value. This procurement method will apply to anything to be purchased, leased, or constructed, including, but not limited to, any product, structure, construction, reconstruction improvement, maintenance, repair, or service, except the services of an accountant, architect, attorney at law, physician, professional engineer, construction project manager, consultant, surveyor or appraiser. A competitive sealed bid is used when the award of the contract is made primarily on the basis of price alone.

This method of procurement requires the product or service to be completely described in the bid specifications, bids to be sealed and bids to be opened publicly. To be feasible, these conditions must be present: a complete, adequate, and realistic specification or purchase description, known as the Invitation to Bid (ITB) is available; two or more responsible suppliers are willing and able to compete and; the procurement lends itself to a firm fixed price contract and the selection of the bidder can be made principally on the basis of price.

When competitive sealed bidding/formal advertising is used, the following requirements will apply:

- (1) Bids will be solicited from an adequate number of known suppliers. The ITB may be sent to known suppliers of the product or service to be procured. Lists of these suppliers will be kept and reviewed, adding new names whenever a supplier requests to be included in the bidders' lists.

The ITB will be published weekly once a week for not less than two consecutive weeks preceding the day of bid opening in a newspaper of general circulation within the county. The notice shall contain:

- (a) A general description of the goods or services desired, the time and place where plans and specifications or itemized list of supplies, facilities or equipment and estimated quantities can be obtained or examined.
- (b) The time and place where bids will be opened.
- (c) The time and place of filing bids.
- (d) Terms of the proposed purchase
- (e) Conditions under which bids will be received.

The Board of Commissioners shall also publicly POST a notice of competitive bidding on the Commissioner's Bulletin Board at the County Administration Building.

- (2) The ITB, including specifications and pertinent attachments, will clearly define the items or services needed in order for bidders to properly respond. A bid is considered responsive when it does not deviate from the requirements of the ITB. Minimum requirements include price, expected quantities, delivery schedule, and quality. Any attempt to modify minimum requirements could make the bid non responsive.
- (3) All bids in excess of \$50,000 authorized by Sections 307.86 to 308.92 of the Ohio Revised code must be accompanied by a bond of certified check drawn on a solvent bank in a reasonable amount stated in the advertisement but not exceeding five (5) percent of the bid.
- (4) As per ORC 153.54, bids in excess of \$50,000 and for a contract for construction, demolition, alteration, repair or reconstruction of an improvement require that the bid be accompanied by a bond or certified check drawn on a solvent bank in a reasonable amount as stated in the ITB advertisement but not to exceed ten (10) percent.
- (5) All bids will be opened publicly at the time and place stated in the ITB.
- (6) A firm-fixed-price contract award will be made to the bidder whose bid is the lowest and best, as long as the bid conforms to the ITB Specifications. Factors such as discounts, transportation costs, and life cycle costs will be used in the determination of which bid is lowest and best, if these factors were specified in the bidding invitation. Payment discounts will only be used to determine the low bid when prior experience of this County indicates that such discounts are generally taken.
- (7) The County will reserve the right to reject any or all bids. Rejection of a bid may occur when there are documented business reasons that they are not in the best interest of the County or when the bid materially deviates from the specifications.

The bond or bid guarantee all of successful bidders will be returned to them immediately upon awarding the contract or rejecting all bids.

#### **Competitive (Negotiated Proposals):**

The County will employ the competitive negotiation procurement method when making procurements of over \$50,000 that are of such a complex and technical nature that they cannot be fully described in the bid specifications and it is logical to award a contract based on factors other than price. Evaluation factors other than price will only be used when they are clearly explained in the County's bid specifications known as the Request for Proposal (RFP). The County may negotiate price and methodology with respondents to the RFP after receiving their proposal. After negotiating with one or more of the respondents, the County may then award a contract.

The process of the competitive negotiation is similar to that of the competitive sealed bidding method. The RFP is prepared, stating the County's requirements and objectives; the RFP's are publicized; a deadline for receipt of proposals is set from two to six weeks after publication; and, after two to six weeks of evaluation and negotiation, a contract is awarded to the respondent whose overall proposal is most advantageous to the County.

When procurements are made by the competitive negotiation method, the County will follow the requirements listed below:

- (1) Proposals will be solicited from an adequate number of qualified sources to permit reasonable competition consistent with the nature and requirements of the procurement. The RFP will be publicized and reasonable requests by other sources to compete will be honored to the maximum extent practicable.
- (2) Public Notices informing potential bidders will be posted in both print media (newspaper) and electronic media (Delaware County website) to maximize exposure of the solicitation consistent with the prohibition of in state and local geographical preferences.
- (3) The County will maintain a list of prospective bidders to whom it will distribute the RFP Public Notice. The prospective bidders list which will contain as a minimum: bidders from prior years, current contract providers, organizations who have requested to be placed on the bidders list, and any organization or person the County feels may have an interest in knowledge of the solicitation.
- (4) The RFP will identify all significant evaluation factors, including price or cost where required and their relative importance.
- (5) Cost or price analyses will be conducted on all proposals received by the County to ensure compliance with economical procurement practices.
- (6) The County will provide a system for the technical evaluation of the proposals received, determinations of responsive bidders for the purpose of written or oral discussions, and the selection for contract award. Proposal evaluation will be conducted using evaluation criteria defined in the RFP and be conducted by parties where there is no conflict of interest or there is no direct involvement in contract administration or monitoring activities.
- (7) The award will be made to the responsive bidder whose proposal will be most advantageous, price and other factors considered. All bidders will be notified, in writing, of the results of the technical evaluation. Unsuccessful bidders will be advised in the non-award notification of their right to protest the decision.

#### **Non-Competitive Proposals (Sole Source):**

This method of procurement will only be used when one of the following circumstances exists: (a) public exigency or emergency prevents publicizing a procurement; (b) only one (1) source of the product or service exists; (c) the County authorizes the use of non-competitive proposals; or (4) after at a minimum of at least one competitive solicitation, proposals received are determined to be inadequate.

In order to negotiate non-competitively, the County will have one or more of the following conditions present:

- (1) The purchase is of an exigency or emergency nature and cannot be delayed by formal advertising. In emergency situations, the County will follow ORC Section 307.86 which prescribes the requirements for exemptions to competitive bidding when the estimated cost of the procurement is less than \$50,000. No emergency purchase shall be made until the requisite approval by the Board of County Commissioners is made.
- (2) The material or service to be purchased is available from only one person or firm.
- (3) No acceptable bids have been received after formal advertising.

- (4) The purchases are for equipment or services where the prices are established by law for technical equipment requiring standardization and interchangeability of parts with existing equipment.

The County will obtain prior approval from the appropriate federal County before awarding any contracts under this procurement method. Until approval is received, claims cannot be made for expenditures.

#### **Sub-Awards and Contracts - Suspension and Debarment:**

Sub awards and contract will not be permitted with parties that are debarred, suspended or otherwise excluded from or ineligible for participation in federal assistance programs or activities. Departmental Fiscal Supervisors are responsible for checking the Excluded Parties List System (EPLS) website prior to the approval of federal sub-awards or contacts of any amount or purchased of \$50,000 or higher of federal awards.

#### **Contracts:**

Contracts shall contain sufficient provisions to define a sound and complete agreement. The same provisions must apply to any subcontracts awarded by the vendor/sub-recipient. Contract language, whether in the body of the contract or in the form of an exhibit or attachment, shall contain applicable provisions of 45 CFR 92.36(i), 7 CFR 3016.36(f), 29 CFR 97.36(i), OAC 5101:9-4-07(K).

#### **Monitoring:**

The Supervisor (or his/her designee(s)) of the County shall monitor all contracts to ensure compliance with all terms, conditions and specifications.

A contract monitoring plan will be initiated annually with the beginning of each fiscal year and approved by the Supervisor. The monitoring plan will be updated and reviewed quarterly. The plan will contain as a minimum: Contractor name, contract dollar amount, funding source, type(s) of monitoring to be employed, and areas to monitor, projected and actual scheduled monitor dates.

The monitoring process will involve careful review of contract terms prior to finalizing the agreement. In agreements providing for the delivery of supplies, equipment, or materials, such items will be carefully checked and counted prior to acceptance. In agreements requiring services to be provided to Union County, a staff member(s) will be assigned responsibility to assure the quantity and quality of service contracted for is rendered.

Contract monitoring may be done on-site, as part of a desk review, or a combination of the two approaches. Contract monitoring may take place in three separate areas: (1) administrative, (2) fiscal, or (3) program. Administrative monitoring may entail the contractor's compliance with the terms and conditions included in the contract. Fiscal monitoring may entail monitoring the fiscal requirements of the contract to include but not limited to verifying accuracy of invoices and verifying allowable costs and reasonableness. Program monitoring may entail evaluating whether or not the contractor is delivering the agreed upon services specified in the Statement of Work in a timely and quality manner.

Before purchasing any equipment, due consideration will be given to lease, rental, and purchase alternatives to determine, consistent with prudent business judgment, which would be the most economical and practical procurements. In making this determination, due consideration will be given to useful life of the equipment to the program for which it is being purchased, technology obsolescence, maintaining considerations, purchase price versus lease or rental cost and any other matters considered by management to be warranted under the circumstances.

Legal disputes arising out of contracted procurements will be referred to the County Prosecutor if efforts to resolve the problem at the department level are unsuccessful.

The department Supervisor or his/her designee will be informed about contract limitations and termination dates. A monitoring system will be utilized to avoid inappropriate payments.

All procurements, large and small, will be reviewed and approved by a department Supervisor or his/her designee. All vouchers and invoices will then be forwarded to the County Auditor processing and payment after approved by the Union County Board of Commissioners. These efforts are employed to avoid improper or unnecessary payments and to ensure all provision of local, state and federal law are followed.

No purchases or orders, or delivery of items, except in an emergency situation as authorized by a department Supervisor or his/her designee, shall be authorized before a signed and approved purchase order is completed.

**Access to Records:**

The County, as well as any contractor or subcontractor of the County, will make available to the appropriate state or federal County all records, documents, or other papers which relate to any system, equipment, or service for which state and/or federal reimbursement is requested. Records will be maintained for a minimum of three years. If any litigation, claim, negotiation, audit, or other action involving the records has been started prior to the end of the three-year period, the records will be retained until completion of the action and resolution of all issues relating to the action.

