

**CALHOUN COUNTY
BOARD OF COMMISSIONERS
POLICY STATEMENT**

SUBJECT: PURCHASING	DATE APPROVED 02/16/17	EFFECTIVE Immediately	POLICY NO. 405
		REPLACES 405 Adopted 06/04/15	

I. PURPOSE

The purpose of this Policy is to provide for the fair and equitable treatment of all persons involved in public purchasing by the County, to maximize the purchasing value of public funds in procurement, and to provide safeguards for maintaining a procurement system of quality and integrity. MCL 46.11(l), (m), 46.13a, and 46.13b.

II GENERAL POLICY

All purchasing shall be executed in a manner consistent with the intent to promote maximum competition among suppliers, to assure the greatest economy consistent with quality requirements, and to avoid any appearance of impropriety, favoritism or conflict of interest on the part of responsible officials or employees. This policy shall be interpreted to accomplish these objectives.

A. Application

This Policy applies to contracts for the procurement of supplies, services, and construction, entered into by the County after the effective date of this Policy, unless the parties agree to its application to contracts entered into prior to the effective date and shall apply to every expenditure of public funds, irrespective of the source of the funds, by any elected official and all departments of the County. Any contract which authorizes the use of a County facility or County resources in order to generate revenue or profits for an outside vendor will also be subject to the terms and conditions of this policy. When the procurement involves the expenditure of Federal or State assistance or contracts, the procurement shall be conducted in accordance with any mandatory applicable Federal or State law and regulation. This Policy shall not prevent any public agency from complying with the terms and conditions of any grant, gift, or bequest that is otherwise consistent with law.

This policy shall not apply to:

1. Procurement contracts between the County and non-profit organizations, other government entities or other public entities.

2. Procurement of dues and memberships in trade and professional organizations; advertising; subscriptions for periodicals, abstracts, and insurance.
3. Procurement of waste removal services, water, sewer, electrical, gas and other utilities for County facilities for contracts not exceeding seven (7) years in length and the County Administrator/Controller or his/her designee is authorized to negotiate and sign all such agreements as authorized by MCL 46.13b without the approval of the Board of Commissioners.
4. Procurements under State purchasing programs such as MIDEAL or other government approved cooperative purchasing programs.
5. The County may limit a solicitation to County or MDOT prequalified vendors to meet statutory or licensing requirements applying to the solicitation or when the time necessary to complete the formal bid process would jeopardize timely award of contracts. In those cases, the County may access MDOT prequalified vendors or screen potential vendors on a variety of factors including ability, expertise, experience, and compliance with legal terms. Upon approval of the prequalification, the County may solicit professional consulting, services and materials in the construction or maintenance of roads from that pool of vendors.

B. Administration

All purchasing as specified in section II(A) shall be the responsibility of the County Administrator/Controller. MCL 46.13b. With approval from the Board of Commissioners the County Administrator/Controller may delegate purchasing authority to staff under the direct supervision of the County Administrator/Controller.

C. Public Access to Procurement Information

Procurement information shall be a public record to the extent provided in the provisions of Public Act No. 446 of 1976 known as the "Freedom of Information Act" and shall be available to the public as provided in such statute.

D. Road Department Purchasing

1. In compliance with MCL 224.10(3), Road Department purchases for machines, tools, appliances, and materials in an amount greater than Fifteen Thousand and 00/100 Dollars (\$15,000.00) shall advertise for sealed proposals for the items to be purchased, except under emergency conditions in which case the limit shall not exceed Fifty Thousand and 00/100 Dollars (\$50,000.00). Road Department purchases of passenger vehicles and trucks weighing less than 5,000 pounds shall also be advertised for sealed proposals.

2. In compliance with MCL 224.19(5), if the Road Department decides to build or rebuild a road or bridge by a method other than by employment of day labor and purchase of necessary materials, the Road Department shall advertise for sealed bids for the work if the work involves an expenditure of an amount more than Twenty Thousand and 00/100 Dollars (\$20,000.00).
3. All Road Department purchasing not subject to paragraphs II(D)(1) or II(D)(2) shall be subject solely to the other requirements of this Purchasing Policy.

III. SOURCE SELECTION AND CONTRACT FORMATION

A. Local Small Business & Minority/Women Owned Business Enterprise Preference

1. All factors being equal and to the extent authorized by law, the County shall prefer supplies and contractors located in Calhoun County or utilizing labor from Calhoun County in the award of contracts.
2. Minority/women-owned business enterprises are encouraged to bid. The Purchasing Department will ensure in every possible way that minority and women-owned and small business firms shall have every opportunity to participate in providing materials and services to the County without being discriminated against on the grounds of race, religion, sex, age or national origin.

B. Employment of Local Labor

1. The County of Calhoun is committed to the use of local labor and will make this commitment a requirement when awarding any new construction contract in excess of two hundred and fifty thousand dollars (\$250,000). New construction is defined as; the creation of a new facility or the addition, expansion, or extension of an existing facility that adds to the building's overall gross square footage. Prior to the award of the contract successful bidders will be required to provide a written statement concerning their plans to hire responsible contractors from the labor supply residing in Calhoun County.
2. Subcontractors not including suppliers of materials shall be covered by the same provisions as are applicable to the prime contractor. This policy shall not be applicable when there is conflict with State or Federal regulations.

C. Payment of Prevailing Wage

1. Any County of Calhoun new construction project in an initial amount of two hundred and fifty thousand dollars (\$250,000) or more, involving craftsmen, mechanics and laborers employed directly upon the site of the

work, shall be entered into, approved or executed through a contract, agreement, understanding or arrangement that provides and requires that all craftsmen, mechanics and laborers so employed are to receive at least the prevailing wages and fringe benefits of the building trades industry for corresponding classes of craftsmen, mechanics and laborers, as determined and published as of the time of execution of the contract by the Davis-Bacon Division of the United States Department of Labor for the greater Battle Creek area. New construction is defined as; the creation of a new facility or the addition, expansion, or extension of an existing facility that adds to the building's overall gross square footage. In addition, such contract, agreement, understanding or arrangement, shall provide that all subcontractors entered into by the contractor shall contain the payment of prevailing wage condition as set forth in this provision with respect to the contractor, and all such contracts shall provide that all contractors and subcontractors engaged in the performance of services or work for the County, to which this provision applies, shall furnish payroll records to the County as required.

2. This provision shall not govern contracts subject to Federal and State of Michigan prevailing wage law or Federal Davis-Bacon Act requirements, which contracts shall be enforced pursuant to State or Federal law.

D. Competitive Procurement Limits

1. All contracts of the County shall be awarded by competitive sealed bidding when estimated costs of the contemplated purchase exceed \$20,000, unless specifically waived by the County Board of Commissioners.
2. Any contract not exceeding \$20,000 shall be made in accordance with the small purchase procedure authorized in this section unless specifically waived by the County Board of Commissioners. Contract requirements shall not be artificially divided so as to constitute a small purchase under this section.
3. To the extent practical for small purchases in excess of \$1000, a Purchase Order is required and no less than three suppliers shall be solicited to submit quotations. Award shall be made by the Purchasing Department to the supplier offering the lowest acceptable quotation. The names of the suppliers submitting quotations, the date, and the amount of each quotation, shall be recorded and maintained as a public record by the Purchasing Department.
4. The Administrator or designee shall adopt operational procedures designed for efficiency in making small purchases of \$1000 or less. Such operational procedures shall make an attempt to obtain adequate and reasonable competition for the supply, service, or construction being purchased.

IV. SOLE SOURCE PROCUREMENT

A contract may be awarded without competition when the County Administrator/Controller or designee determines, after conducting a good faith review of available sources, that there is only one source for the required supply, service, or construction item. The County Administrator/Controller or designee shall conduct negotiations, as appropriate, as to price, delivery, and terms.

The Purchasing Department is responsible for making all sole-source determinations in accordance with the procedures set by the County Administrator/Controller. In doing so, at least one of the following circumstances must exist:

- A. The item is only available from a single source;
- B. After solicitation of a number of sources, competition is determined inadequate;
- B. There are patented or proprietary rights that fully demonstrate:
 - 1. A patented feature providing a superior utility not obtainable from similar products; or
 - 2. A product/service available from only one prime source, and not merchandised through wholesalers, jobbers, or retailers where the elements of competition could be encouraged.
- C. The item is an associated capital maintenance item that is procured directly from the original manufacturer or supplier as the only available source for such an item.

V. EMERGENCY PROCUREMENT

Notwithstanding any other provisions of this Policy, the County Administrator/Controller or designee may make or authorize others to make the emergency procurement of supplies, services, or construction items when there exists a threat to public health, welfare, or safety; provided that such emergency procurement shall be made with such competition as is practicable under the circumstances. A written determination of the basis for the emergency and for the selection of the particular supplier shall be included in the contract file. As soon as practicable, a record of each emergency procurement shall be made and shall set forth the supplier's name, the amount and type of contract, and a listing of the item(s) procured under the contract.

VI. PUBLIC AUCTION PURCHASES

The County may purchase vehicles and equipment from public auctions and online public auctions upon the approval of the Purchasing Department under the authority delegated by the County Administrator/Controller when the auction sale is in the best interest of the

public. The purchase of equipment but not professional services may be made from a public auction or by reverse auctioning. The Administrator/Controller shall, pursuant to this section, have authority to spend up to seventy five thousand dollars (\$75,000.00) of any one piece of equipment without prior approval of the Board of Commissioners.

VII. COOPERATIVE PURCHASING

The purpose of cooperative purchasing is to seek lower prices through combined requirements and larger volume and reduce duplications of work done in such areas as preparing specifications, solicitation of bids and award of contracts. Subject to state law, the County may participate in, sponsor, conduct, or administer a cooperative agreement for procurement with the State of Michigan (MiDeal), and other government procurement units for the cooperative use of goods and services under the terms agreed upon between the parties.

VIII. CANCELLATION OF INVITATION FOR BIDS OR REQUEST FOR PROPOSALS

An Invitation for Bid, a Request for Proposal, or other formal solicitations may be canceled, or any or all bids or proposals may be rejected in whole or in part as may be specified in the solicitation, when it is for good cause and in the best interest of the County. The reasons therefore shall be made part of the contract file. Each solicitation issued by the County shall state that the solicitation may be canceled and that any bid or proposal may be rejected in whole or in part for good cause when in the best interest of the County. Notice of cancellation shall be sent to all suppliers solicited. The notice shall identify the solicitation, explain the reason for cancellation and, where appropriate, explain that an opportunity will be given to compete on any re-solicitation or any future procurement of similar items. Reasons for rejection shall be provided upon request by unsuccessful bidders or offerors.

IX. DEBARMENT OR SUSPENSION

After reasonable notice to the person involved and reasonable opportunity for that person to be heard, the County Administrator/Controller or designee, after consulting with the County Corporation Counsel, is authorized to debar a person for cause from consideration for award of contracts. The debarment shall be for a period of not more than three years. After consultation with the County Corporation Counsel, the Administrator/Controller or designee is authorized to suspend a person from consideration for award of contracts if there is probable cause to believe that the person has engaged in any activity which might lead to debarment.

X. APPEALS AND REMEDIES

Any actual or prospective bidder, offeror, or contractor who is aggrieved in connection with the solicitation or award of a contract may protest to the County Board of Commissioners. Protestors are urged to seek resolution of their complaints initially with the Administrator or designee. A protest with respect to an Invitation for Bid or Request

for Proposal shall be submitted in writing prior to the opening of bids or proposals, unless the aggrieved person did not know and should not have known of the facts giving rise to such protest prior to bid opening or the closing date for proposals. The protest shall be submitted within seven (7) calendar days after such aggrieved person knows or should have known of the facts giving rise thereto.

XI. ETHICS IN PUBLIC CONTRACTING

A. Employee Conflict of Interest

It shall be unethical for any County employee, official or member of a County committee to participate directly or indirectly in a procurement contract when the County employee knows that:

1. The County employee, official or committee member or any member or their immediate families has a financial interest pertaining to the procurement contract; or
2. Any other person, business, or organization with whom the County employee, official or committee member or any member of their immediate families is negotiating or has an arrangement concerning prospective employment is involved in the procurement contract.

B. Gratuities and Kickbacks

1. It shall be unethical for any person to offer, give, or agree to give any County employee, or for any County employee to solicit, demand, accept, or agree to accept from another person, a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation, or preparation of any part of a program requirement or a purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing, or in any advisory capacity in any proceeding or application, request for ruling, determination, claim or controversy, or other particular matter, pertaining to any program requirement or a contract or subcontract, or to any solicitation or proposal.
2. It shall be unethical for any payment, gratuity, or offer of employment to be made by or on behalf of a subcontractor under a contract to the prime contractor or any person associated therewith, as an inducement for the award of a subcontract or order.

C. Sanctions

The County Administrator/Controller may impose sanctions on a County employee for violations of the ethical standards in this Article up to and including termination of employment.

XII. PROCUREMENT CARD USE

This section of the Purchasing Policy is intended to set forth the official policy of Calhoun County regarding the use of county procurement cards, in compliance with Public Act 266 of 1995. The reference to County Procurement Card Procedure Guidelines provides instructions and guidelines on the proper use of a county-issued procurement card. The intent of the procurement card program is to provide a convenient, efficient, and cost effective method of purchasing and paying for minimal dollar purchases of goods and services. Use of the procurement card must be in compliance and in conjunction with all other sections of this Purchasing Policy and practices as outlined in the County Procurement Card Procedure Guidelines.

XIII. DISPOSAL OF SURPLUS EQUIPMENT

The Purchasing Department is responsible for disposal of County equipment, supplies and vehicles which are declared surplus. The disposition of surplus equipment, supplies, and vehicles must be authorized and approved by the County Administrator /Controller prior to disposition. Once the decision has been made that the materials and/or equipment have no further use by the county; but there may be monetary value that can be obtained through proper disposal techniques, one of the following methods shall be used:

- A. *Public Auction:* to conduct an effective public auction, there must be a sufficient quantity and variety of material to attract interested buyers. An advertisement may be run in a public newspaper. Provisions for an auctioneer and other administrative staff necessary to conduct the role should be obtained in advance.
- B. *Sealed Bids:* when the quantity of equipment is not sufficient to justify a public auction, then the sealed bid method of disposal is probably the most practical. A list of potential buyers should be compiled for contact and for receipt of the Request for Bid. The equipment/vehicles to be sold should be properly displayed to allow easy access for interested buyers. Specifications for the RFB will be prepared by Purchasing and the bid package will contain the condition and location of the items being sold, as well as other administrative details; such as the opening of bids date, payment method, etc. A public notice may be published on the County website to alert potential buyers of the sale.
- C. *Trade-Ins:* disposal of material through trade-in is another option that may be used, particularly when new equipment/vehicle(s) are being purchased. This method should not be utilized unless it is documented to be economically advantageous. Several vendors should be contacted to see if there is a demand for the equipment/vehicle(s) being traded-in and the current market value. This determination shall be made by the Purchasing Department under the authority of the County Administrator/Controller in consultation with the affected department.

- D. *Scrap*: in the event the equipment/vehicle declared surplus is of no value because of a deteriorated condition which renders it useless, it shall be declared scrap and disposed of by whatever means is in the best interest of the County.
- E. *Online Auction Sites*: disposal of material through an online auction site is another option that may be used, particularly when equipment has been discontinued and it is in the County's best interest to dispose of in this manner.
- F. *Fair Market Value*: All property of the County must be disposed of for fair market value. Only if property is found, after following the above process, that it has no fair market value, can it disposed of as scrap.