

ISANTI COUNTY
SECTION 3.00: PURCHASING AND DISBURSEMENT POLICY

3.01 PURPOSE

The purpose of this policy is to ensure proper disbursement of County funds in compliance with applicable laws, establish consistent methods for purchasing goods and services, and provide adequate internal control over purchases and disbursements.

3.02 DEFINITION OF PUBLIC FUNDS

As defined in Minnesota Statutes §118A.01, public funds refers to “all general, special, permanent, trust and other funds, regardless of source or purpose, that are held or administered by a government entity.” As such, all funds or accounts held or administered by Isanti County are considered public funds and subject to the limitations placed on public funds.

3.03 PUBLIC PURPOSE OF EXPENDITURES

All expenditures made by the County using public funds must be for a public purpose. An expenditure is made for a public purpose if it meets all of the following criteria:

- The expenditure will benefit the community as a whole.
- The expenditure is directly related to the functions of government.
- The expenditure does not have as its primary objective the benefit of a private interest.

The County Board will ultimately determine whether an expenditure meets the above public purpose criteria.

3.04 LEGAL AUTHORITY FOR EXPENDITURES

The County must have specific or implied statutory authority for all expenditure of county funds.

The County Board will ultimately determine whether an expenditure is specifically or implicitly authorized by statute.

3.05 PURCHASES TO FOLLOW APPLICABLE LAWS

All purchases of goods or services must follow any applicable federal, state, or local laws.

If any County purchasing policy does not allow for compliance with federal, state, or local laws, the policy should be brought to the attention of the Auditor-Treasurer or County Administrator for revision.

3.06 CONFLICTS OF INTEREST

County employees and officials will not participate in the purchase of goods or services, selection of vendors, the awarding of contracts, or the administration of contracts if the employee or official has a real or apparent conflict of interest.

A conflict of interest exists when an “interested party” has a financial or other interest in a firm considered for business with the County or receives a tangible personal benefit from the County’s business with the firm.

Interested party includes any of the following:

- County employee, official, or agent;
- A member of the immediate family or partner of a County employee or official;
- An organization that employs or is about to employ a County employee, County official, a member of the immediate family of a County employee or official, or the partner of a County employee or officer.

For purposes of this policy, immediate family includes an employee or official's spouse, child, parent, sister, brother, mother-in-law, father-in-law, sister-in-law, brother-in-law, and any member of the employee or official's household.

County employees or officials will not provide goods or services to the County as a vendor without specific and unanimous County Board approval. This policy applies even if the County employee or official providing goods or services does not directly participate in the County's vendor selection or purchasing process.

County employees or officials will not accept gifts, gratuities, favors, or any item of monetary value from contractors, vendors, or parties to subcontracts except as allowed per Section 23.2.C of the County's personnel policy.

All provisions of Section 23 "*Conflicts of Interest*" in the County's personnel policy applicable to the purchase of goods or services or selection of vendors are incorporated into this policy by reference.

Any violation of the conflict of interest policies may result in disciplinary action including oral or written reprimand, suspension without pay, or termination of employment regardless of any personnel policies concerning progressive discipline.

3.07 PERSONNEL AUTHORIZED TO APPROVE PURCHASES

All purchases of goods or services must be authorized by appropriate personnel. Department heads are authorized to approve purchases for goods or services related to the operation of their department or programs.

Department heads may designate other employees to approve purchases on their behalf. However, the department heads remain responsible for any purchases approved by their designee(s).

Department heads must provide written notice to the County Auditor-Treasurer of any other employees authorized to approve purchases on their behalf. On at least an annual basis, each department will present a list to the County Auditor-Treasurer of all staff members authorized to approve purchases. The department head is responsible for updating the list during the year.

The County Administrator may approve purchases for any department in the absence of the department head. In addition, the County Administrator may approve purchases for programs not directly administered by a specific department.

3.08 DOLLAR THRESHOLDS FOR APPROVAL OF PURCHASES

Department heads or their designees may authorize purchases of goods or services with a total cost less than \$5,000 without County Board approval.

The County Board must approve the purchase of any single tangible item (i.e. equipment) with a total cost greater than or equal to \$5,000. In addition, the County Board must approve the purchase of computer software with a total cost greater than or equal to \$5,000.

For all other purchases, department heads or their designees may authorize purchases of goods or services with a total cost less than \$25,000 without County Board approval.

The County Board must approve the purchase of goods or services greater than \$25,000 prior to the purchase.

County Board approval may be obtained through approval of a contract, bid, rate, or quote prior to the actual purchase.

3.09 CONTRACTING, BID LAWS AND VENDOR SELECTION

For the purchase or rental of supplies, materials, and equipment, or the construction, alteration, repair or maintenance of real or personal property, vendors or contractors must be selected according to the processes outlined in the following chart:

Estimated Dollar Amount of Purchase	Quote/Bid Process	Approval Requirement
Less than \$5,000	Competitive quotes are not required. Purchase can be made on the open market. If quotes are obtained, the quotes must be kept on file for at least one year.	Department head or designee
\$5,000 to \$25,000	Competitive quotes are not required. Purchase can be made on the open market. If quotes are obtained, the quotes must be kept on file for at least one year.	County Board <u>or</u> department head/designee per Section 3.08 above
\$25,001 to \$175,000	Contracts require sealed bids or direct negotiation based on quotations. Two or more competitive quotes are required when possible. All quotes must be kept on file for at least one year. For the purchase of supplies, materials, and equipment, the availability, price, and quality of the item available through the state's cooperative purchasing venture (i.e. the "state contract") must be considered before purchasing from another source. Competitive bidding is not required if the purchase is made through the state's cooperative purchasing	County Board

	venture (i.e. the “state contract”) or a national municipal association’s purchasing cooperative created by a joint powers agreement that purchases items from more than one source on the basis of competitive bids or quotations.	
Greater than \$175,000	<p>Contract or purchase requires sealed bids solicited through public notice in the County’s official legal publication. County Board approval is required prior to advertising for bids.</p> <p>For the purchase of supplies, materials, and equipment, the availability, price, and quality of the item available through the state’s cooperative purchasing venture (i.e. the “state contract”) must be considered before purchasing from another source.</p> <p>Competitive bidding is not required if the purchase is made through the state’s cooperative purchasing venture (i.e. the “state contract”) or a national municipal association’s purchasing cooperative created by a joint powers agreement that purchases items from more than one source on the basis of competitive bids or quotations.</p>	County Board

The purchase of professional services follows the above guidelines and thresholds except contracts for professional services estimated to exceed \$175,000 do not require sealed bids. Instead, professional service contracts estimated to exceed \$175,000 should be awarded based on two or more competitive quotes whenever possible. Departments are encouraged to use a request for proposals (RFP) process for professional services contracts.

3.10 REQUIREMENTS FOR SOLICITATION OF SEALED BIDS

If a contract or purchase requires sealed bids, the solicitation of those bids must occur in the County’s official legal publication. The solicitation must state the time and place of awarding the contract and contain a brief description of the goods or services to be provided.

The solicitation must be published at least two weeks prior to the bid deadline for the purchase of property or for work and labor. The solicitation must be published at least three weeks prior to the deadline for the construction and repair of roads, bridges, or buildings.

3.11 AWARDING OF CONTRACT THROUGH SEALED BIDS

If sealed bids are used to award a contract or purchase agreement, the contract or purchase must be awarded to the lowest responsible bidder.

Responsible bidders are those bidders that possess the ability to perform successfully under the terms and conditions of the contract. In determining whether a bidder is responsible, the County

will consider the contractor's integrity, compliance with public policy, record of past performance, financial and technical resources, and any other factors deemed appropriate by the County Board.

If the contract or purchase is for work, labor, or construction or repair of roads, bridges, or buildings, the lowest responsible bidder must provide an adequate faithful performance bond to the County.

If the lowest bidder is deemed not responsible or otherwise not awarded a contract or purchase agreement, the County's rationale for not selecting that bidder must be documented in the County Board minutes.

The names of all bidders and the amount of the bids must be documented in the County Board meeting minutes.

If no satisfactory bids are received, the County may restart the process and solicit additional sealed bids.

3.12 EXCEPTION FOR SOLE SOURCE OR BRAND PROCUREMENT

The above guidelines related to bid laws and vendor selection do not apply to sole source or brand procurement. Sole source or brand procurement is allowed only the in following situations:

- Only a single vendor or contractor can supply the needed product or service; or
- Only a single brand or model will meet a department's technical or functional requirements.

Since sole source and brand procurement minimizes or eliminates competition, it should be avoided whenever possible.

In order to use sole source or brand procurement for a purchase, department heads or their designee must document the rationale for using the method. The documentation must be maintained with the department's other documentation related to the purchase for at least one year or as required by records retention schedules.

Although purchases made using sole source or brand procurement methods are excluded from competitive bidding requirements, these purchases still require County Board approval when exceeding the applicable dollar value.

3.13 SPLITTING PURCHASES OR INVOICES PROHIBITED

Purchases of goods or services cannot be split into multiple smaller purchases to avoid bidding/quotation requirements or circumvent County policy under any circumstances.

3.14 LOCAL CHARGE ACCOUNTS

Local charge accounts are in-store open purchase accounts with vendors that allow employees to charge purchases to the County without payment at the point-of-sale.

Local charge accounts will only be used when the County makes a significant number of purchases from a particular vendor as determined by the County Administrator or Auditor-Treasurer. Departments are encouraged to use the County's purchasing cards for point-of-sale purchases rather than establishing a local charge account.

All local charge accounts must be approved by the County Administrator or the County Board prior to opening the account. In order to request approval for a local charge account, a department head must submit a request in writing to the County Administrator. The request should include the rationale for the local charge account and a list of the employees (or positions) authorized to use the local charge account.

If a local charge account is established, the department head must ensure purchases made under the account are exempt from sales tax as applicable.

3.15 CLAIMS FOR PAYMENT

For all departments except Family Services, a claim for payment ("claim") must be submitted to the Auditor-Treasurer department in order for the County to disburse funds as remuneration for the purchase of goods or services.

The claim must include the name and address of the entity to be paid, a description of the good or service purchased, the proper accounting code, and evidence of authorized department approval such as a signature.

The Auditor-Treasurer will establish the claim form to be used by departments.

3.16 DEPARTMENT RESPONSIBILITY FOR CLAIMS FOR PAYMENT

Department heads or their designees are responsible for ensuring all invoices and claims for payment submitted to the Auditor-Treasurer department are accurate, consistent with the order in terms of quantities and price, and reflect only goods or services used to conduct County business.

Department heads or their designees are responsible for notifying the Auditor-Treasurer department of any specific funding source (e.g. a grant) for the purchase on the claim form. The Auditor-Treasurer department will determine the appropriate account coding.

Department heads or their designees are responsible for resolving any disputes, returns, inaccurate invoices, late fees, missing documentation or other concerns with a purchase.

Department heads are responsible for ensuring claims for payment are submitted in a timely manner. This responsibility includes allowing sufficient time for the Auditor-Treasurer to process and issue payment for a claim before the due date.

3.17 SUPPORTING DOCUMENTATION

All claims for payment must be accompanied by adequate supporting documentation. If at all possible, the supporting documentation should consist of an original invoice that includes the vendor's name and address, a description of the goods or services purchased, and the total cost of the goods or services.

If an original invoice is not available, the claim for payment must be accompanied by enough additional documentation to verify the entity providing the good or service, a description of the goods or services purchased, and the total cost of the goods or services.

Monthly statements for purchasing card or charge accounts do not represent adequate supporting documentation. The statements for purchasing cards or charge accounts must be accompanied by any receipts and invoices for the individual purchases.

3.18 FOOD AND BEVERAGE PURCHASES

All purchases of food and beverage must be accompanied by an explanation of the public purpose met by the purchase.

If food or beverages are purchased for a meeting or training session, a list of those attending the meeting/training session and an agenda must be submitted to the Auditor-Treasurer department prior to payment. The County will not pay for any food or beverages for meetings or training sessions attended exclusively by Isanti County employees without prior County Board approval.

The County will not pay for alcoholic beverages under any circumstances.

3.19 TECHNOLOGY PURCHASES

All purchases of computer hardware or software must be coordinated with the Information Technology department to ensure compatibility with other County technology or network requirements.

3.20 DONATIONS AND GIFTS PROHIBITED

The County will not provide donations or gifts to individuals, businesses, non-profit organizations, charities, or any other entity without specific statutory authority. This prohibition includes both monetary donations/gifts as well as the donation/gift of tangible items.

3.21 WITHHOLDING AFFIDAVIT OR CERTIFICATE

Prior to making the final payment under a contract requiring the payment of wages by a contractor or subcontractor, the County must obtain a certificate from the State of Minnesota Commissioner of Revenue that the contractor or subcontractors has complied with the withholding requirements of Minnesota Statutes §290.92. The certificate is generally an affidavit of withholding (IC-134) form.

The department administering the contract will be responsible for obtaining the certificate prior to submitting a claim for the final payment on a contract.

The department administering the contract must retain the form on file as required by records retention statutes or audit requirements, whichever is longer.

3.22 PERSONAL USE OF REBATES, REWARDS, AND DISCOUNTS PROHIBITED

All rebates, rewards, credits, and discounts received from vendors through the purchase of goods or services by the County must be used only for County business. Rebate and reward checks from vendors must be made payable to the County.

County employees or officials will not use vendor rebates, rewards, credits, and discounts received through the purchase of goods or services by the County for personal use under any circumstances.

Gift cards issued by a vendor must only be used to purchase items for use in County business.

3.23 TIMING FOR PAYMENT OF INVOICES

All invoices received by the County will be paid within 35 days from receipt unless the payment is subject to terms of a contract that allows for an alternative payment schedule. In the case of an incorrect or otherwise disputed invoice, the County will pay the vendor within 35 days from receipt of a corrected invoice.

3.24 MINIMUM AMOUNT FOR WARRANTS TO BE ISSUED

In general, warrants will not be issued for amounts less than \$10.00. The payment of amounts less than \$10.00 due from the County will vary depending on the vendor's relationship with the County.

For vendors paid by the County on a recurring basis, the County Auditor-Treasurer department may withhold payment until the total amount owed to the vendor from all County departments exceeds \$10.00. However, the County Auditor-Treasurer may not withhold payments longer than necessary to comply with Minnesota Statutes §471.425

For purchases less than \$10.00 from one-time or infrequent vendors, employees should use the County's purchasing card or purchase the item as an out-of-pocket business expense. If an item is purchased as an out-of-pocket business expense, the employee will submit an expense form to be reimbursed through the payroll system.

In the case of refunds less than \$10.00, the County will issue a warrant for the refund amount only after receiving a written request for the refund. The request for refund must be received within 90 calendar days of receipt of payment. If no written request is received, the amount of the overpayment will be credited as revenue to the appropriate department.

3.25 AUTHORIZATION FOR PAYMENT OF CLAIMS

Unless otherwise allowed by statute or County Board policy, the payment of all claims must be approved by the County Board. Minnesota Statutes §375.18 subd.1b allows the County Board to delegate its authority to pay certain claims to a county administrative official.

The County Board has delegated the authority to pay certain claims to the County Auditor-Treasurer. The County Auditor-Treasurer is authorized to pay claims that meet any of the following criteria:

- Payments on fully executed contracts that have been approved by the County Board and accepted as completed for which there is no dispute on performance of completion.

- Progress payments on partially executed contracts executed in accordance with a pre-set payment schedule when the contract has been approved by the County Board, subject to the limitation that final payment cannot be made prior to the County Board's acceptance of the project as completed.
- Payments on contracts for road construction or maintenance projects when approved by the County Highway Engineer.
- Payments for current billings for goods or services. These payments are subject to a maximum dollar amount per payment of \$5,000; all claims over the maximum should not be paid prior to County Board approval.
- Payments for utility bills for which a delay in payment may incur finance charges even if the billing exceeds the \$5,000 limit as described above.
- Payments for fuel card and purchasing card bills to avoid finance charges even if the billing exceeds the \$5,000 limit as described above.
- Payments for any bill allowing for a discount if paid within a specified timeframe even if the bill exceeds the \$5,000 limit as described above.
- Reimbursements of overpayments or other misdirected funds where the County has no claims to the funds.
- Agency fund payments, interest payments, and redemption payments on debt.

The County Board has delegated the authority to pay certain claims to the Family Services Director. The Family Services Director is authorized to pay claims related to the operation of the Family Services department that meet any of the following criteria:

- Payments on fully executed contracts that have been approved by the County Board and accepted as completed for which there is no dispute on performance of completion.
- Payments for social service and public assistance actions on behalf of eligible clients of the Family Services Department. These payments are subject to a maximum dollar amount per payment of \$5,000; all claims over the maximum should not be paid prior to County Board approval.
- Payments for current billings for goods or services provided to the Family Services department. These payments are subject to a maximum dollar amount per payment of \$5,000; all claims over the maximum should not be paid prior to County Board approval.
- Reimbursement of overpayment or other misdirected funds where the County has no claims to the funds.
- Agency fund payments where the county is holding money in a fiduciary capacity on behalf of a separate legal entity.
- Payments to foster care providers.

For all claims paid through a delegation of authority, the County Board will receive a list of claims paid under the delegation of authority at the next regularly scheduled County Board meeting.

The Auditor-Treasurer is authorized to pay employee salaries, payroll deductions, payroll taxes, benefits, and expense reimbursements through the County's payroll system.

3.26 ELECTRONIC PAYMENT METHODS

The Auditor-Treasurer department may use electronic payment methods to pay claims when the option is available and economically beneficial.

All electronic payments must be initiated and released through the Auditor-Treasurer department.

Electronic funds will not be released prior to receiving the required evidence of approval and supporting documentation for the transaction.

The Auditor-Treasurer or Finance Director must approve any vendors to be paid electronically.

The Auditor-Treasurer or Finance Director must approve payment of claims by automatic debit to the County's bank accounts.

3.27 PURCHASES AS OUT-OF-POCKET BUSINESS EXPENSE

Except as authorized in this policy, employees must not purchase goods or services as an out-of-pocket business expense to be reimbursed through the payroll process.

Employees may purchase the following goods and services as an out-of-pocket business expense:

- Travel costs including lodging, registration fees, airfare, ground transportation, parking, and meals;
- Food or refreshments for trainings and meetings hosted by the county as allowed by policy;
- Required uniforms or safety equipment as allowed by policy;
- Goods or services less than \$100 when it is not practical to obtain an invoice.

Regardless of the goods or services being purchased, the purchase of any goods or services as an out-of-pocket business expense in an amount greater than \$500 requires prior approval of the Auditor-Treasurer or Finance Director.

Employees are encouraged to use the County purchasing cards as an alternative to purchasing the items as an out-of-pocket business expense whenever possible.

If items are purchased as an out-of-pocket business expense and not authorized by this policy, the employee may not be reimbursed for the expense.

3.28 EMERGENCY PURCHASES

Emergency purchases occur when the goods or services being purchased are immediately necessary for the continued operation of a department or are immediately necessary for the preservation of life or property. An emergency need is one that could not have reasonably been foreseen.

Failure to submit a claim, invoice, or other request for payment in sufficient time to allow proper processing of the payment does not constitute a valid emergency.

If the County Board or an authorized County official has declared a state of emergency within the County and activated the County's emergency response plan, department heads are authorized to make emergency purchases in an amount not to exceed \$100,000 without County Board approval. The Auditor-Treasurer is similarly authorized to pay claims for emergency purchases up to \$100,000 without board approval. However, any such purchases and payments require the approval of the Chair of the County Board and the County Administrator.

Emergency purchases arising from the destruction or impassability of roads and bridges by natural disaster, the breaking or damaging of property in the County, or immediately necessary to support public health, safety or welfare may be made without advertising for bids as allowed in Minnesota Statutes §375.21. The County Board must record the action to award the contract without advertisement in its official proceedings.

Emergency purchases for the repair of county property may be made without advertising for bids if the work is authorized by a majority of the County Board as allowed in Minnesota Statutes §375.22. The County Board must ratify the purchase and record it in the official proceedings at its next meeting.

3.29 PURCHASES UNDER FEDERAL GRANTS

Purchases made under federally funded programs must follow the requirements of U.S. Code of Federal Regulations, Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance) as applicable to a particular federal program. These requirements apply to both purchases funded directly by federal grants and purchases used to meet a local matching requirement for federal funds.

Department heads are responsible for understanding these federal requirements and ensuring their departments follow all applicable requirements. In addition, department heads are responsible for determining whether a purchase is funded by federal grants or used to meet a local matching requirement for federal funds.

When requirements in the County's policies regarding purchases funded by federal grants or the Uniform Guidance are subject to interpretation, the department head or designee will work with the federal awarding agency or the pass-through entity (e.g. the State of Minnesota) to interpret the requirement.

Purchases made under federal grants are exempt from the requirements of Sections 3.30 through 3.40 of this policy only when a federal agency determines Sections 200.317 through 200.326 of the Uniform Guidance do not apply to the specific federal grant program. The department head must retain written documentation or guidance of the federal agency determination.

For purposes of this policy, the term "federal grants" includes all federal funding or awards governed by the Uniform Guidance.

3.30 CONSIDERATIONS FOR PURCHASES UNDER FEDERAL GRANTS

For purchases funded by federal grants, the following factors must be considered prior to making the purchase:

- The most economical approach to making the purchase without acquiring unnecessary or duplicative items, which may require consolidation with other purchases, separation of purchases, analysis of lease versus purchase options, and any other appropriate analysis;
- The appropriateness of entering into agreements with the State of Minnesota or other governments for purchasing common or shared goods or services;
- The feasibility of using federal excess or surplus property in lieu of purchasing new equipment to reduce project costs;
- The feasibility of using value engineering clauses in construction contracts to reduce project costs.

When practical, the consideration of the above factors should be documented in the department’s procurement records.

3.31 DOCUMENTATION FOR PURCHASES UNDER FEDERAL GRANTS

For purchases funded by federal grants, the department responsible for the purchase must maintain records to document the history of the purchase. These records must include, but are not limited to, the rationale for the method of procurement, selection of contract type, contractor selection or rejection, and the basis for the contract price. The documentation must be maintained for the time required by federal contracts, grant agreements, or records retention statutes.

3.32 CONTRACT TYPES FOR PURCHASES UNDER FEDERAL GRANTS

For purchases funded by federal grants, the County will not award time and material contracts except as provided in this policy. Time and material contracts are contracts that determine the County’s total contract cost as the sum of the actual cost of materials and direct labor hours charged at fixed hourly rates (i.e. “open-ended” contracts).

Time and material contracts are only allowed if no other type of contract is appropriate and the contract includes a maximum price that the contractor or vendor exceeds at their own risk. In addition, the department purchasing the good or service must regularly review the contractor’s work to ensure efficient methods and effective cost controls.

For purchases funded by federal grants, the County will not award contracts that use the “cost plus percentage of cost” or “percentage of construction cost” methods of contracting.

3.33 METHODS OF PURCHASING UNDER FEDERAL GRANTS

For purchases funded by federal grants, the County will use one of the following purchasing methods:

Purchasing Method	Quote/Bid Process	Criteria for Use of Method
Micro-Purchases	Competitive quotes are not required. Purchase can be made on the open market. If quotes are obtained, the quotes must be kept on file for at least one year.	The department responsible for the purchase determines the price for the goods or services to be reasonable.

	Purchases must be distributed equitably among qualified suppliers when practicable.	Total cost of the purchase is less than or equal to \$10,000.
Procurement by small purchase procedures	<p>Quotes are obtained from an adequate number of qualified suppliers. Two or more competitive quotes are required when possible.</p> <p>All quotes must be kept on file.</p>	Total cost of the purchase is less than \$175,000
Sealed bids	Sealed bids are publicly solicited and a firm fixed price contract is awarded to the responsible low bidder that conforms to the material terms and conditions of the bid requirements.	<p>The County has a complete, adequate, and realistic specification or purchase description available.</p> <p>Two or more responsible bidders are willing and able to compete for the business.</p> <p>The nature of the purchase lends itself to a firm fixed price contract and the selection of the successful bidder can be made principally on the basis of price.</p>
Procurement by competitive proposals	Quotes or offers are obtained from more than one source and a fixed price or cost reimbursement contract is awarded based on the County's evaluation of the quotes or offers.	Conditions are not appropriate for the use of sealed bids (e.g. professional services contracts).
Procurement by noncompetitive proposals	A quote or offer is obtained from a single source.	<p>One of the following criteria must be present to use this method:</p> <p>Goods or services are available only from a single source.</p> <p>A delay resulting from competitive solicitation is not permitted due to public emergency.</p> <p>The federal awarding agency or pass-through entity (e.g. State of Minnesota) expressly authorizes</p>

		<p>noncompetitive proposals upon request of the County.</p> <p>After solicitation of a number of sources, competition is deemed inadequate.</p>
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The dollar thresholds for approval of purchases, as stated in Section 3.08 of this policy, also apply to purchases made under federal awards.

All other County purchasing policies also apply to purchases under federal awards.

3.34 SEALED BID REQUIREMENTS UNDER FEDERAL GRANTS

If the sealed bids method is used to purchase goods or services funded by federal grants, all of the following requirements must be met:

- Bids must be solicited from an adequate number of known suppliers.
- The solicitation for bids must be publically advertised and provide sufficient time prior to the date for opening the bids.
- The solicitation for bids must include specifications or relevant attachments and define the goods or services to be purchase in a manner that allows bidders to properly respond.
- The bids must be publicly opened at the time and place stated in the solicitation.
- The contract will be awarded to the lowest responsive and responsible bidder after consideration of factors such as discounts, transportation costs, or life cycle costs if those factors were specified in the bidding documents.
- The lowest responsive and responsible bidder will be awarded a firm fixed price contract in writing.
- Any or all bids may be rejected for a sound reason, but that reason must be documented.

3.35 COMPETITIVE PROPOSAL REQUIREMENTS UNDER FEDERAL GRANTS

If the competitive proposal method is used to purchase goods or services funded by federal grants, all of the following requirements must be met:

- The request for proposals must be publicized and all responses to publicized requests must be considered when practical.
- The request for proposals must identify all evaluation factors and their relative importance.
- Proposals must be solicited from an adequate number of qualified sources.
- The department purchasing the goods or services must develop a written procedure for conducting technical evaluations of the proposals received and for selecting recipients in advance of requesting proposals.
- The contract must be awarded to the responsible firm whose proposal is most advantageous to the program with price and other factors considered.

3.36 CONTRACTING AND VENDOR SELECTION UNDER FEDERAL GRANTS

In addition to the County’s general purchasing policies, the selection of vendors or awarding of contracts for purchases to be funded by federal grants must allow “full and open competition.”

The County will demonstrate “full and open competition” by prohibiting the following situations in all purchasing actions funded by federal grants:

- The placement of unreasonable requirements on firms in order for them to qualify to conduct business with the County;
- A requirement of unnecessary experience or excessive bonding;
- The use of noncompetitive pricing practices between firms or between affiliated companies;
- The use of noncompetitive contracts to consultants on retain contracts;
- Any organizational conflicts of interest;
- The specification of a brand name product instead of allowing an equal product to be offered;
- Any arbitrary action in the procurement process; and
- The use of state or local geographical preferences in the evaluation of bids or proposals except when expressly mandated or encouraged by federal law.

If a contractor or vendor drafts specifications, requirements, solicitations, statements of work, or requests for proposal on behalf of the County for a specific purchase or contract, that contractor or vendor may not be awarded the contract.

In the selection of vendors for a purchase funded by federal grants, the County will not award a contract or make a purchase from any vendor or contractor that is debarred, suspended, excluded, or otherwise ineligible to participate in federal programs or activities. Department heads or their designees will be responsible for verifying a contractor or vendor is eligible to participate in federally funded programs. A contractor or vendor’s eligibility will be determined by one of the following options:

- The department head or a designee may use the federal System for Award Management or another federal website to search for the vendor’s name on lists of excluded vendors.
- The department head or a designee may require certification from the vendor or contractor as to their eligibility to participate in federally funded programs.
- The department head or a designee may add a clause or condition to the contract or purchase agreement requiring the vendor to be eligible.

3.37 REQUIREMENTS FOR SOLICITATIONS UNDER FEDERAL GRANTS

Any solicitation for goods or services to be funded by federal grants must contain a clear and accurate description of the goods or services requested. The description may include a statement about the qualitative nature of the good or service requested. The description may also include any minimum essential characteristics or standards that must be conformed to in order for the good or service to satisfy its intended used.

A solicitation for goods or services to be funded by federal grants will not specify any particular product when possible. When it is more practical or economical to create a clear description of the technical requirements for the goods or services, the solicitation may refer to a “brand name or equivalent” product in the description. However, the solicitation must clearly state the features of the named brand which must be met by the potential vendors.

The solicitation must identify all mandatory requirements for consideration of a bid or proposal and all factors that will be used in evaluating bids or proposals.

3.38 COST ANALYSIS REQUIRED FOR PURCHASES OVER \$250,000

The County must perform a cost or price analysis for any purchase or contract funded by federal grants with an estimated cost greater than \$250,000. A cost or price analysis must also be performed for the modification of any contract related to federal awards with a cost greater than \$250,000.

The cost or price analysis must include independent estimates prior to soliciting bids or proposals.

3.39 PURCHASES OF RECOVERED MATERIALS UNDER FEDERAL GRANTS

The purchase of certain goods funded by federal grants must comply with section 6002 of the Solid Waste Disposal Act as amended by the Resource Conservation and Recovery Act.

This requirement applies to the purchase of paper, vehicular, construction, transportation, park and recreation, landscaping, non-office paper, and miscellaneous products as designated in 40 CFR 247 if a department purchases \$10,000 or more worth of the products in a year or the department purchased \$10,000 or more of the products (or functionally equivalent products) during the preceding year. The products should be composed of the highest percentage of recovered materials practicable while allowing a satisfactory level of competition. In addition, a County department purchasing the above products under federal grants must establish an affirmative procurement program as specified in 40 CFR 247.6 and Environmental Protection Agency guidelines to the extent practicable.

The purchase of solid waste management services under federal grants must be performed in a manner that maximizes energy and resource recovery.

3.40 CONTRACT REQUIREMENTS FOR PURCHASES UNDER FEDERAL GRANTS

All contracts related to purchases funded by federal grants must contain the provisions described in Appendix II to the Uniform Guidance including the following as applicable:

- A. Contracts to purchase goods or services funded by federal grants with a total cost greater than \$250,000 must include administrative, contractual, or legal remedies for violations or breaches of contract terms. The contract must provide for sanctions or penalties for violations or breaches of contract terms as appropriate for the contract.
- B. Contracts to purchase goods or services funded by federal grants with a total cost greater than \$10,000 must address termination for cause and for convenience by the County including the manner termination is effected and the basis for settlement.
- C. Except as otherwise provided under 41 CFR Part 60, construction contracts that meet the definition of “federally assisted construction contract” in 41 CFR Part 60-1.3 must include the equal employment opportunity clause provided under 41 CFR 60-1.4(b).

- D. When required by federal program legislation, construction contracts funded by federal grants with a total cost greater than \$2,000 must include a requirement for compliance with the Davis-Bacon Act (40 U.S.C. 3141-3148) as supplemented by Department of Labor regulations (29 CFR Part 5). In particular, contracts funded by federal grants must include the following requirements:
- Contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor.
 - Contractors must be required to pay wages not less than once per week.
 - The County must place a copy of the current prevailing wage determination used by the Department of Labor in each solicitation.
 - The County must report all suspected or reported violations to the federal awarding agency.
 - The contract must include a provision requiring compliance with the Copeland “Anti-Kickback” Act (40 U.S.C. 3145) as supplemented by the Department of Labor regulations (29 CFR Part 3). The provision must prohibit any contractor or subrecipient from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled.
 - The County must report all suspected or reported violations of the Copeland “Anti-Kickback” Act to the federal awarding agency.
- E. Contracts to purchase goods or services funded by federal grants with a total cost greater than \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with the Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708) as supplemented by Department of Labor regulations (29 CFR Part 5) unless the contract is for the purchase of supplies, materials, or articles ordinarily available on the open market or the contract is for transportation or transmission of intelligence. In particular, contracts funded by federal grants that involve the employment of mechanics or laborers must include the following provisions:
- Each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours.
 - Work in excess of the standard work week is permissible provided the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week.
 - For construction work, no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous.
- F. If a federal grant meets the definition of a “funding agreement” under 37 CFR 401.2(a) and the contractor or subrecipient wishes to enter into a contract, subcontract, or assignment for the performance of experimental, developmental, or research work, the contract must require compliance with the requirements of 37 CFR Part 401 and any implementing regulations issued by the awarding agency.

- G. Contracts to purchase goods or services funded by federal grants with a total cost greater than \$150,000 must contain a provision that requires the contractor to comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). The County must report any violations to the federal awarding agency and the regional office of the Environmental Protection Agency (EPA).
- H. Contracts to purchase goods or services funded by federal grants must not be made to any parties listed on the governmentwide exclusions in the federal System for Award Management (SAM). The SAM exclusions list contains the names of parties debarred, suspended, or otherwise excluded by agencies as well as parties declared ineligible under statutory or regulatory authority.
- I. Contracts to purchase goods or services funded by federal grants with a total cost greater than \$100,00 must require the contractor to file the certification required by the Byrd Anti-Lobbying Amendment (31 U.S.C. 1352). The required certification states the contractor will not and has not used federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any federal contract, grant, or any other award covered by 31 U.S.C. 1352. The contractor must also disclose any lobbying with non-federal funds that occurs in connection with obtaining the federally funded contract from the County. The contract must require the contractor to forward to the County all certifications and disclosures required under 31 U.S.C. 1352 from any subcontractors or subrecipients receiving a portion of the federal grant funds.

The department responsible for the purchase of goods or services under federal grants should review Appendix II to the Uniform Guidance for additional details regarding contract requirements prior to solicitation of the purchase.

Departments may contact the federal awarding agency or the pass-through entity (e.g. the State of Minnesota) providing the federal funds to determine whether the specific provisions above or any other provisions are required for a particular purchase contract.

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