

NICOLLET COUNTY PROCUREMENT POLICY

1. PURPOSE

The purpose of this policy is to provide County departments, citizens and vendors with procurement and contracting services of the highest professional standards. In addition, it will provide the framework that allows department heads and elected officials to operate as efficiently and economically as possible, within State Statute, while allowing directing larger procurements.

2. SCOPE

This policy shall apply to all procurement procedures by County departments, employees, and elected officials, unless otherwise stated.

Competitive bidding and procurement requirements apply to the procurement of supplies, materials, equipment or the rental thereof, or the construction, alteration, repair or maintenance of real or personal property.

3. ETHICAL PRACTICES

A. It is the policy of the County to operate in an ethical manner with respect to its employees and the public it serves. The Nicollet County Code of Ethics covers the receipt of gifts, favors, use of confidential information, conflicts of interest, outside employment, and acceptance of advantage. County employees and elected officials in a position to procure goods or services will abide by the County's Code of Ethics found in the Nicollet County Employee Handbook and by State Statute.

B. An act of fraud is committed if an employee or elected official of the County negotiates a personal procurement by fraudulent use of a County Purchase Order/Claim Form or the purchasing capability of the County. Fraud also occurs if an employee claims a purchase is on behalf of Nicollet County when in fact the purchase was made solely for personal use. Fraud and personal procurement from the State Contract is an offense subject to prosecution and employee discipline. Willful violation of the County's Procurement Policy may result in disciplinary action up to and including termination of employment. Violation of the County Procurement Policy could also void the purchase and the person who violated the policy could be personally liable for the cost.

4. PURCHASING RESPONSIBILITIES

- A.** The County Administrator, Department Heads, and Elected Officials shall be responsible for ensuring that all employees adhere to this Procurement Policy.
- B.** Procurement is under the broad direction of the Finance Department. Authority to procure products and services is granted to Department Heads/Elected Officials and his/her official designee(s) within the scope and authority of his/her department. Official designee(s) must be acknowledged in writing annually by Department Heads/Elected Officials.
- C.** Budgeted funds must be available before a procurement commitment is made. If sufficient funds are not available, a reallocation or additional appropriation request must be submitted and approved.
- D.** The general requirements applicable to all procurements are as follows:
 - 1. The purchase must have a public purpose.
 - 2. Maintain records sufficient to detail the history of the procurement.
 - 3. All solicited bids, estimates or quotations must be in writing.
 - 4. Determine if the procurement of an item through any cost effective use of shared goods and services is available and beneficial to the County.
 - 5. Consider state and federal excess and surplus property in lieu of purchasing new equipment and property whenever it is feasible and reduces project costs.
 - 6. A Property Acquisition/Disposal Record must be provided to Finance for all capital procurements over \$5,000.00 to ensure proper asset documentation and binding of insurance coverage.
 - 7. Avoid duplicative or unnecessary items.
 - 8. Capital procurements should follow established capital improvement and equipment plans.
 - 9. If federal award funds are used, please see Nicollet County Federal Grant or Award Procurement Policy.

5. PROCUREMENT METHODS

- A. The procurement method used depends on the total cost of the transaction. The following methods apply:
1. Procurements of \$10,000 or less.
If the amount of the procurement is estimated to be \$10,000 or less, the Department has discretion to make the procurement by obtaining quotes or it may buy the item on the “open market” through direct negotiation with a vendor/supplier. If the Department chooses to obtain quotes, it must obtain at least two quotes when possible and keep them on file for at least one year or until completion of the procurement year financial statement, whichever date is later.
 2. Procurements between \$10,001 and \$25,000.
If the amount of the procurement is estimated to exceed \$10,000, but not to exceed \$25,000, the Department shall make the procurement by obtaining quotes. If quotes are not able to be obtained because of the nature or availability of the item being procured, the Department may buy the item on the “open market” through direct negotiation with a vendor/supplier. If the Department obtains quotes, it must obtain at least two quotes and keep them on file for at least one year or until completion of the procurement year financial statement, whichever date is later.
 3. Procurements between \$25,001 and \$175,000.
If the amount of the procurement is estimated to exceed \$25,000 but not exceed \$175,000, the procurement may be awarded through either a sealed bid process or by quotation. If the Department chooses to obtain quotes, it must obtain at least two quotes and keep them on file for at least one year or until completion of the procurement year financial statement, whichever date is later. If the Department elects to obtain sealed bids, the Department must then comply with all the requirements of Section 7 below, Minn. Stat. § 375.21, and Minn. Stat. § 471.345.
 4. Procurements over \$175,000.
If the amount of the procurement is estimated to exceed \$175,000, the Department is required to use the competitive bidding process to obtain sealed bids. In lieu of using competitive bids, the procurement can be made if the item procured was obtained through a competitive bidding process such as through the State of Minnesota Cooperative Purchasing Venture.

5. Use of Minnesota Cooperative Purchasing Venture (i.e. State Contract) – The County, on an annual basis, renews its membership in the Cooperative Purchasing Venture (CPV) administered by the Minnesota State Department of Administration. For a procurement estimated to exceed \$25,000, the County must consider the availability, price and quality of supplies, materials, or equipment available through the State's Cooperative Purchasing Venture before purchasing through another source.

6. National Cooperative Purchasing - Procurement of supplies, materials, or equipment may be made without regard to competitive bidding requirements if the procurement is through a national municipal association's purchasing alliance or cooperative created by a joint powers agreement (for example, the National Joint Powers Alliance) that procures items from more than one source on the basis of competitive bids or competitive quotations.

7. Professional Services –Competitive bidding requirements do not apply to professional services. Professional services are those services that do not change the property. Professional services do not include the purchase of a fixed asset such as equipment, supplies and materials. The procurement protocol for professional services needs to take into consideration qualifications, specifications, competency, and availability of the most qualified service provider initially and independent of cost.

Procuring professional services can be done through open negotiation, quotation, or requests for proposals.

Professional services include, but are not limited to, the following: 1) architectural and engineering services; 2) consulting services; 3) legal services (beyond that provided by the County Attorney); 4) insurance consultation; 5) technology related software, licenses and maintenance agreements; 6) personnel consultation; and 7) financial consultation.

8. Repairs and maintenance of ditches are governed by Minn. Stat. § 103E.705, subds. 5, 6, and 7.

9. BEST VALUE PROCUREMENT As an alternative to bidding, the County may elect a “best value” procurement process for construction, building, alteration, improvement or repair work. If such a method is used, the County will solicit Request for Proposals (RFPs). The County will comply with all requirements for best value procurement under Minn. Stat. § 16C.28, subd. 1.

10. **SOLE SOURCE/BRAND PROCUREMENT** An exception to the standard bid process may be granted based on two premises: (1) Only a single company or organization can supply the needed product or service. (2) Only a single “brand/model” will meet the department’s technical/functional requirements. Sole source requests should not be made unless the department is confident that the request is reasonable, appropriately justified to meet the County’s requirements, and can withstand a possible audit or other public scrutiny. Sole source/brand purchasing minimizes or eliminates competition and should be avoided whenever possible. These purchases are excluded from standard bid process procedures, but are still required to.
11. **REVERSE AUCTION** A contract to purchase supplies, materials and equipment using an electronic purchasing process in which vendors compete to provide the supplies, materials or equipment at the lowest selling price in an open and interactive environment may be used. This process may not be used to contract for services, as defined by section 16C.02, subdivision 17, or a service contract, as defined by section 16C.02, subdivision 7a.

6. COMPETITIVE BIDDING – SPECIFICATIONS

- A. The following steps should be followed for competitive bids:
 1. Specifications shall be drawn by the Department Head/Elected Official or his/her designee. Specifications will incorporate a clear and accurate description of the technical requirements for the material, product or services to be procured. This description may include a statement of the qualitative nature of the material, product or service to be procured and, when necessary, must set forth those minimum essential characteristics and standards to which it must conform if it to satisfy its intended use. A “brand name or equivalent” description may be used as a means to define the performance or other salient requirements of the procurement only when impractical or uneconomical to make a clear and accurate description of the technical requirements. Specifications shall be available for public inspection at the applicable department office.
 2. The Department Head/Elected Official or his/her designee shall obtain authorization from the County Board to advertise for bids. County Board authorization is not needed to advertise for bids for a capital procurement in the department’s approved budget. All

road and building construction projects require County Board authorization to advertise for bids.

3. Advertisements for bids shall be posted on the County's website for a minimum duration equivalent to publishing the advertisement in the qualified newspaper. The advertisement shall state, at a minimum, a brief description of the work, where the bid specifications can be picked up and dropped off, a deadline date for submission of bids, the date and time the bids will be opened, the bid documents required for consideration and any bid bond if applicable. In addition, proposals and specifications may be sent to the names listed on any prospective vendor's list maintained by the department. Advertisements only need to be published in a legal newspaper at the discretion of the Department Head/Elected Official.
4. All received bids shall be properly dated and stamped.
5. Bids shall be opened, reviewed and awarded at a specific time and date as prescribed in the bid advertisement. The applicable department head/elected official will present the board with the bids from vendors. Next, the applicable department head/elected official will make a recommendation to the Board on the bids as submitted. Bid approval by the Board is not needed for capital procurements in the department's approved budget. All road and building construction projects require County Board authorization to advertise for bids.
6. Bids may be accepted or rejected for any sound, documented reason. If no satisfactory bid is received, the Board may re-advertise the bidding.
7. It is the intent of Nicollet County to award the contract to the lowest responsive and responsible bidder or bidders meeting the specifications and/or minimum qualifications. The County Board shall have the right to waive any informalities or irregularity in any bid or bids received. The Department Head/Elected Official shall make his/her award recommendations to the County Board based on, but not be limited to, the following general criteria:
 - a) adherence to all conditions and requirements of bid specifications;
 - b) total bid price including any discounts, unit price or extended price;
 - c) that the successful bidder is responsive and responsible which includes consideration of the bidder's financial

responsibility, integrity, skill and ability, compliance to public policy and the likelihood that the bidder will do satisfactory work

- d) the contractor or related entity is not currently suspended or debarred by the federal government or the State of Minnesota or any of its departments, commissions, agencies or political subdivisions that have authority to debar a contractor and
- e) life cycle costing of the procurement.

8. Contractors that develop or draft specifications, requirements, statements of work and invitations for bids or requests for proposals will be excluded from competing for such procurements.

B. In the case of an emergency arising from breakage, damage or decay in county property that cannot be allowed to wait for the time required to advertise for bids, repairs may be made without advertising for bids if the action is ratified and recorded in the official proceedings of the Board at its next meeting.

7. CONTRACTS

A. All contracts require County Board approval unless:

- 1. A department head/elected official or his/her designee is granted the authority by the County Board to renew a specific contract.
- 2. The contract is less than \$20,000 in costs and is in the department's approved budget.
- 3. The contract is for a capital procurement in a department's approved budget unless it is a road or building procurement.

B. Emergency Contracts:

- 1. In case of an emergency arising from the destruction or impassability of roads or bridges by floods, rain or snow, or other casualty, or from the breaking or damaging of any property in the county, if the public health, safety, or welfare would suffer by delay, contracts for procurements or repairs may be made with the Board taking action at its next official proceedings.

8. PERFORMANCE/PAYMENT BONDS AND WITHHOLDING CERTIFICATES

A. Performance and Payment Bonds:

1. For contracts over \$100,000 for the performance of public work, counties must require contractors to provide a performance bond and a payment bond. The required performance bond benefits the county by ensuring that the work is completed according to the terms of the contract, and the required payment bond benefits subcontractors and people who provide labor and materials, by ensuring that their claims for labor and materials are paid. When a public works contract is let, the amount of the bond needs to be equal to the contract price. However, if the contract price increases for any reason, the public body may require additional bonds, the penalties of which shall be not less than the amount of the increase. Therefore, if the contract price increases due to change orders, unforeseen conditions, cost overruns or any other reason after the contract is signed, the County has the option of increasing the amount of the contractor's bond.

B. Withholding Certificates:

1. Before making the final payment to a contractor under a contract requiring employment for wages, the County Official must make sure the contractor and any subcontractors have complied with withholding tax laws. Contractors and subcontractors show compliance by submitting a withholding affidavit to the Minnesota Department of Revenue. Submission can be completed electronically or by mailing a completed Form IC134, "Withholding Affidavit for Contractors." If a contractor or subcontractor has withheld taxes as required, the Department of Revenue will return an electronic confirmation or sign and return the Form IC134, certifying compliance.

9. LEASE

If the amount of a contract for the rental of equipment is estimated to be \$60,000 or less, the contract may, in the discretion of the County Board, be made by direct negotiation by obtaining two or more quotations for the rental when possible and without advertising for bids or otherwise complying with the requirements of competitive bidding. All quotations shall be kept on file for a period of at least one year after their receipt or until completion of the procurement year financial statement, whichever date is later.

EFFECTIVE DATE: 9/27/16
AMENDED: 02/26/19

REFERENCES: Minn. Stat. §§ 471.345, 375.21, 103E.705; Chapter 16C of the Minnesota Statutes; Minnesota State Auditor Statement of Position – County Bidding and Contract Requirements (March 2014)