

Category: 230

Number: 231

Subject: **PURCHASING POLICY**

1. PURPOSE: To provide for the fair and equitable treatment of all persons involved in public purchasing by Bay County, to maximize the purchasing value of public funds in procurement, to provide safeguards for maintaining a procurement system of quality and integrity, to inform and provide guidance to all individuals involved in public purchasing regarding the application of the policies and procedures to be adhered to in the procurement of products and services, and to ensure that expenditures are incurred and recorded timely in compliance with the annual budget.
2. AUTHORITY: Bay County Board of Commissioners
3. APPLICATION: All Bay County employees, department heads and elected officials.

BAY COUNTY, MICHIGAN

PURCHASING POLICY

ADOPTED APRIL 14, 1998

AMENDED FEBRUARY 9, 1999, BY RESOLUTION NO. 99-014
AMENDED MARCH 9, 1999, BY RESOLUTION NO. 99-050
AMENDED DECEMBER 12, 2000, BY RESOLUTION NO. 00-340
AMENDED FEBRUARY 6, 2001, BY RESOLUTION NO. 01-016
AMENDED AUGUST 10, 2004, BY MOTION NO. 131
AMENDED FEBRUARY 21, 2006 BY RESOLUTION NO. 06-023
AMENDED NOVEMBER 1, 2016 BY RESOLUTION NO. 2016-279

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**BAY COUNTY
PURCHASING POLICY**

PART I

PREFACE

The most common and simplistic definition of purchasing is buying and everyone knows what buying involves. However, governmental purchasing, whether at the local, state, or federal level, is very different and far more complex than buying that occurs in the private sector. Unlike everyday consumer buying, governmental purchasing involves the expenditure of taxpayers' money to obtain products and services that the government will use to deliver public services. The legal requirements of governmental purchasing complicate the seemingly simple task of procuring needed products and services. As a result, this critical support function has evolved into a highly controlled and accountable process that is governed by a myriad of laws and ordinances, rules and regulations, judicial and administrative decisions, and procedures and practices.

The following Purchasing Policy ("policy") identifies the various policies and procedures generally accepted throughout government and tailored to Bay County's ("the County") specific needs in the procurement of its products and services.

PURPOSE

The purpose of this Policy is; (1)to provide for the fair and equitable treatment of all persons involved in public purchasing by Bay County ("the County"); (2), to maximize the purchasing value of public funds in procurement; (3) to provide safeguards for maintaining a procurement system of quality and integrity; (4)to inform and provide guidance to all individuals involved in public purchasing regarding the application of the policies and procedures to be adhered to in the procurement of products and services; (5) to ensure that expenditures are incurred and recorded timely in compliance with the annual budget as adopted by the Bay County Board of Commissioners via their General Appropriation Budget Act Resolution and any amendments to the annual budget as approved by the Bay County Board of Commissioners; and (6)assure that the County complies with the federal laws, regulations and grant terms under OMB circular 2 CFR 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards*.

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. It shall apply to every expenditure of public funds by a public agency for purchasing irrespective of its source. When the procurement involves the expenditure of Federal or State assistance or contract funds, the procurement shall be conducted in accordance with any applicable mandatory Federal or State law and regulations which are not reflected in this Policy. Nothing in this Policy shall prevent any public agency from complying with the terms and conditions of any grant, gift, or bequest which are otherwise consistent with law.

PUBLIC ACCESS TO PROCUREMENT INFORMATION

Procurement information shall be a public record to the extent provided in Act 442 of the Public Acts of 1976 (Michigan Compiled Law (MCL) 15.231 *et seq.*), as amended, and shall be available to the public as provided in said statute.

REPEAL AND AMENDMENT OF INCONSISTENT ORDINANCES AND RESOLUTIONS

All ordinance or parts of ordinances in conflict with this Policy, or inconsistent with its provisions, are hereby repealed or superseded to the extent necessary to give this Policy full force and effect.

VALIDITY OF WHOLE IF PART IS HELD INVALID

If any provision of the Policy or any application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or application of this Policy which can be given effect without the invalid provision or application.

CENTRALIZED PURCHASING

Purchasing shall be centralized within the Finance Department as per the resolve of the Board of Commissioners in compliance with the Optional Unified Form of County Government Act, 1973 PA 139, Article 5.302(63), Section 13(b) which states:

“THE DEPARTMENT OF FINANCE SHALL supervise the execution of the annual county budget and maintain expenditure control; perform all central accounting functions; collect monies owing to the county not particularly within the jurisdiction of the county treasurer; PURCHASE SUPPLIES AND EQUIPMENT REQUIRED BY COUNTY DEPARTMENTS; and

perform all investment, borrowing, and debt management functions except as done by the county treasurer.”

In accordance with this Policy and under the direct supervision of the Finance Officer, the Purchasing Agent or his/her designee shall serve as the County’s principal public purchasing official for the procurement of supplies, services, equipment, and construction needed by Bay County, as well as the disposal, by way of selling via competitive bids, trading, auctioning, or scrapping of surplus supplies and equipment belonging to the County.

Consistent with this Policy and with the approval of the Finance Officer, the Purchasing Agent may adopt operational procedures relating to the execution of his/her duties and may delegate authority to purchase certain supplies, services, equipment, or construction items to other County officials, if such delegation is deemed necessary for the effective and efficient procurement of those items.

ETHICS IN PUBLIC PROCUREMENT

All County employees and officers (public servants) shall conduct themselves in conformity with 1968 PA 317, MCL 15.321 *et seq.*; MSA 4.1700 (51) (“Act 317”). Act 317 establishes standards in respect to governmental decisions and conflicts of interest arising out of the solicitation, negotiation, or approval of contracts between public servants and public entities such as the County.

I. ETHICAL STANDARDS OF CONDUCT

A. CONFLICT OF INTEREST

1. It shall be unethical for any employee or officer of the County to participate directly or indirectly in a procurement, without disclosure where the employee or officer knows that:
 - a. The employee or officer or any member of the employee’s or officer’s family member has a financial interest pertaining to the procurement; or
 - b. Any other person, business, or organization with whom the employee or officer, or any member of an employee’s or officer’s family member is negotiating or has an arrangement concerning prospective employment is involved in the procurement.

2. It shall be unethical for, and this Policy prohibits, employees or officers of the County from acting as a vendor of Bay County. This prohibition shall not apply to part-time County employees who are paid for working an average of twenty-five (25) hours or less per week pursuant to Public Act 317 of 1968, as amended (MCL 15.321, et seq).
3. It shall be unethical for any current employee or officer of the County who is participating directly or indirectly in the procurement process to be or become employed by any person or firm contracting with the County.
4. It shall be unethical for any current employee or officer of the County to use a County Purchase Order or their County influence to obtain goods or services for themselves or others at County prices or at a discount which could not otherwise be obtained.

B. CONFIDENTIAL INFORMATION AND COLLUSION

1. Confidential Information. It shall be unethical for any employee, officer, former employee, or former officer to knowingly use confidential information for actual or anticipated personal gain or for the actual or anticipated personal gain of any other person.
2. Collusion. It shall be unethical for two (2) or more vendors, suppliers or bidders to collude with the intent to defraud the County by submitting prices, quotes, or bids that are identical or nearly identical or submitting prices, quotes, or bids that will favor one or more vendors, suppliers, or bidders.
 - a. When for any reason collusion or other anti-competitive practices are suspected among any bidders or offers, a notice of the relevant facts shall be transmitted to the State Attorney General.

C. DISCLOSURE

1. All bidders must disclose any pecuniary interest held by County employees or officers in their request for proposal or request for information packet.
2. Any employee or officer of the County participating directly or indirectly in procurement must disclose any pecuniary interest in the contract to the official body that has power to approve the

contract which disclosure shall be made a matter of record in its official proceedings.

3. If the employee or officer of the County will directly benefit from the contract in an amount less than \$250.00 or less than 5% of the public cost of the contract, then the employee or officer must file a sworn affidavit to that effect with the official body or the contract is for emergency repairs or services, the disclosure shall be made in either of the following manners:
 - a. The employee or officer must promptly disclose, in writing, to the presiding office, or to the clerk if the presiding office is making the disclosure, the pecuniary interest in the contract at least 7 days prior to the meeting at which a vote will be taken. The disclosure shall be made public in the same manner as a public meeting notice.
 - b. The employee or officer discloses the pecuniary interest at a public meeting of the official body. The vote shall be taken a meeting of the official body held at least 7 days after the meeting at which the disclosure is made. If the amount of the direct benefit to the public servant is more than \$5,000.00 disclosure must be made as provided under the subparagraph.
4. The contract is approved by a vote of not less than 2/3 of the full membership of the approving body in open session without the vote of the public servant making the disclosure.
5. The official body discloses the following summary information in its official minutes:
 - a. The name of each party involved in the contract.
 - b. The terms of the contact, including duration, financial consideration between parties, facilities or services of the public entity included in the contract, and the nature and degree of assignment of employees of the public entity for fulfillment of the contract.
 - c. The nature of any pecuniary interest.

6. This disclosure does not prevent an employee or officer from making or participating in making a governmental decision to the extent that the public servant's participation is required by law. If 2/3 of the members are not eligible under this Section to vote on a contract or to constitute a quorum, a member may be counted for purposes of a quorum and may vote on the contract if the member will directly benefit from the contract in an amount less than \$250.00 and less than 5% of the public cost of the contract and the member files a sworn affidavit to that effect with the official body. The affidavit shall be made a part of the public record of the official proceedings. As used in this subsection, "governmental decision" means a determination, action, vote or disposition upon a motion, proposal, recommendation, resolution, ordinance, order or formulates public policy.

II. ADMINISTRATIVE SANCTIONS

A. EMPLOYEES/OFFICERS

1. The Board of Commissioners or County Executive may impose on a County employee or officer, for any violations of the ethical standards of conduct set forth in this section, any one or more of the following administrative sanctions as allowed for in any applicable labor agreement, personnel policy, or State statute.
 - a. Oral or written warnings or reprimands;
 - b. Suspension from work, with or without pay, for specified periods of time; or
 - c. Termination of employment.
2. Disallowed Expenditures. Michigan law prohibit officers or employees from using funds under the officer's or employee's official care for personal gain or benefit. Therefore, Bay County officials and employees are prohibited from expending County Funds for flowers, plants, fruit baskets, expressions of sympathy, etc. except as authorized specifically by statute. The Finance Department will disallow expenditures made in violation of this policy. Please see the sections relating to "Public Celebrations and Events" and "Food and Beverage Purchases" for further details.

B. NON-EMPLOYEES

1. The Board of Commissioners or County Executive may impose on a non-employee for any violation of the ethical standards of conduct set forth in this section, any one or more of the following administrative sanctions:

- a. Written warnings or reprimands;
- b. Termination of contracts, or;
- c. Debarment or suspension from conducting business with the County for specified periods of time.

III. CRIMINAL PENALTIES

To the extent that violations of the ethical standards of conduct set forth in this section constitute violations of the State Criminal Code they shall be punishable as provided therein. Such penalties shall be in addition to the administrative sanctions set forth in this section and/or any civil sanctions. Criminal, civil, and administrative sanctions against employees or non-employees which are in existence on the effective date of this Policy shall not be impaired.

IV. RECOVERY OF VALUE

The value of anything transferred or received as the result of a violation of any of the ethical standards of conduct set forth in this section by any employee or non-employee shall be recovered from said employee or non-employee.

DEBARMENT OR SUSPENSION

AUTHORITY TO DEBAR OR SUSPEND. After reasonable notice to the person(s)/vendor(s) involved and reasonable opportunity for that person/vendor to be heard, the Finance Officer, after consulting with the County's Corporation Counsel and Purchasing Agent, is authorized to debar a person/vendor, for cause, from consideration for award of contracts. The debarment shall not be for a period of more than three (3) years. After consultation with the County's Corporation Counsel and Purchasing Agent, the Finance Officer is authorized to suspend the person(s)/vendor(s) from consideration for award of contracts if there is a probable cause to believe that the person(s)/vendor(s) has engaged in any activity which might lead to debarment. The suspension shall not be for a period exceeding three (3) months. The causes for debarment include:

1. Conviction for commission of a criminal offense as an incident to obtaining or attempting to obtain a public or private contract or subcontract, or in the performance of such contract or subcontract;
2. Conviction under state and federal statutes of embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property or any other offense indicating a lack of business integrity or business honesty which currently, seriously, and directly affects his/her responsibility as a County contractor;
3. Conviction under state or federal antitrust statutes arising out of the submission of bids or proposals;
4. Violation of contract provisions, as set forth below, of a character which is regarded by the Finance Officer to be so serious as to justify debarment action:
 - a. Deliberate failure without good cause to perform in accordance with the specifications or within the time limit provided in the contracts; or
 - b. A recent record of failure to perform or of unsatisfactory performance in accordance with the terms of one or more contracts; provided that failure to perform or unsatisfactory performance caused by acts beyond the control of the contractor shall not be considered to be a basis for debarment.
5. Any other cause the Finance Officer determines to be so serious and compelling as to affect his/her responsibility as a County contractor, including debarment by another governmental entity for any cause listed in this policy; and
6. For violation of the ethical standards set forth in the ETHICS IN PUBLIC PROCUREMENT section of this policy.

The Finance Officer shall issue a written decision to debar or suspend. The decision shall state the reasons for the action taken and inform the debarred or suspended person(s)/vendors(s) involved of their rights concerning judicial or administrative review. A copy of the decision shall be mailed or otherwise furnished immediately to the debarred or suspended person(s)/vendors(s), the Bay County Board of Commissioners, and the Bay County Executive.

A decision to debar or suspend shall be final and conclusive unless the debarred or suspended person(s)/vendors(s), within ten (10) days after receipt of the decision, makes an appeal to the Bay County Board of Commissioners or commences a timely action in court in accordance with applicable law.

DISCRIMINATION

Any individual or business entity providing goods and/or services to Bay County shall be required to comply with current provisions of the Americans with Disabilities Act (ADA) (the Equal Opportunity Act for Individuals with Disabilities 42 USC 12101 *et seq.*), Equal Employment Opportunities (42 USC 2000e), Section 504 of the Rehabilitation Act of 1973, as amended (29 USC 794), the Elliot-Larsen Civil Rights Act (MCL 37.1201 *et seq.*), and the Michigan Person with Disabilities Civil Rights Act (MCL 37.1101 *et seq.*). Such individual or business entity shall not discriminate against any individual with respect to hire, tenure, terms, conditions or privileges of employment because of a handicap that is unrelated to the individual's ability to perform the duties of a particular job position, or because of race, color, religion, national origin, age, sex, height, weight, or marital status. Breach of this covenant shall be regarded as a material breach of any transaction or agreement between the County and the individual or business entity. The County shall vigorously enforce this covenant through use of sanctions available within this Policy or other available legal action.

QUALIFICATIONS-BASED SELECTION

Qualifications-Based Selection (QBS) has received national and state attention in the public sector through legislation for many years. In 1972, the federal government enacted Public Law 92-582 (The Brooks Selection Bill) covering the selection of architects and engineers based on qualifications. In 1987, the Michigan Legislature passed House Concurrent Resolution #206 which provided a documented understanding of the process.

Qualifications-Based Selection is a fair and rational procedure that facilitates the selection of a design professional on a basis of qualifications and competence in relation to the scope and needs of a particular project shall be used for obtaining architectural, engineering, land surveying, and other related professional design services on Bay County public projects. The QBS process, as outlined in the publication, Qualifications-Based Selection of Design Professionals by Qualifications-Based Selections, Inc., or a modified version thereof suitable to the project being undertaken will include all or some of the following steps:

1. The Bay County Board of Commissioners identifies the general scope of the work.
2. A selection schedule is established.
3. A list of firms is developed.
4. Qualification documents are requested.

5. Qualification documents are evaluated.
6. A short list of firms to be interviewed is composed.
7. A briefing is held
8. Interviews are conducted.
9. Firms are ranked for selection.
10. Detailed scope of work negotiated with the top ranked firm.
11. A contract is negotiated with the top ranked firm.
 - a. If an agreement cannot be reached, those negotiations are ended and negotiations are begun with the second ranked firm, and so on down the line, until agreement is reached and a firm selected.
12. All firms involved receive post-selection communications.

Qualifications-Based Selection may be used for the selection of other, non-federally funded, professional services as deemed appropriate by the Purchasing Agent or his/her designee and the Department/Division Head, Elected Official or their designee from the requesting department. These other, non-federally funded, professional services shall include, but are not limited to, the following:

1. Architects
2. Professional Engineers
3. Professional Surveyors
4. Other Professional Services

When deemed appropriate to utilize the QBS process in the selection of professional services, this process shall be carried out through the establishment of a QBS Committee. QBS shall be used in every instance where the Qualifications-Based Selection Committee determines that attorney services needed for a proposed project are likely to exceed \$20,000. This Committee will be charged with the responsibility of implementing the QBS process at a level commensurate to the project at hand and to provide a recommendation to the Bay County Board of Commissioners.

The composition of the QBS Committee shall consist of the following individuals or their designee:

1. Chair of the Board of Commissioners (or designee)
2. Board of Commissioner's Financial Analyst
3. The Purchasing Agent.
4. The Elected Official (or designee), Department/Division Head.
- 5.
6. Finance Officer.
7. For all QBS involving the procurement of information technology related products and/or services a representative of the Information Systems Dept.
8. Any other individual who could provide valuable input and be beneficial to the selection process as identified by the three (3) previous named individuals, such as the Director of Administrative Services, etc.

SALES TAX EXEMPTION

The County shall not be charged or pay sales tax. Bay County, as a Michigan municipal corporation, is exempt from sales tax per Act 167 of Public Acts established in 1933. Per Section 4 of the General Sales Tax Act, MCL 205.54(5); MSA 7.524(5), and Michigan Sales and Use Tax Rule, 1979 AC, R205.79 provides that sales to the United States government, the State of Michigan, and their political subdivisions, departments and institutions are not taxable when ordered on a Purchase Order and paid for by warrant on government funds. In the alternative, the government may claim exemption at the time of purchase by providing the seller with a signed Certificate of Exemption stating that the purchaser is a governmental entity. This position was affirmed by the Michigan Department of Treasury through its Revenue Administrative Bulletin 2002-15, approved on June 10, 2002.

Under above referenced documents, the State of Michigan maintains that Bay County is not required to have a sales tax exemption number and that unless a purchase is paid for by warrant on governmental funds (with a Bay County check), the seller does not have to exempt the sale. The issuance of a Bay County Purchase Order or a Michigan Sales Tax Exemption Certificate does not, by itself, mandate the seller to exempt the sale. Therefore, all departments, divisions, and elected officials shall utilize Bay County's Purchase Order and accounts payable system to the fullest extent possible

when purchasing and paying for tangible personal property while still adhering to the other provisions within this Purchasing Policy.

VENDOR MASTER FILE AND LOG BOOK

VENDOR MASTER FILE

A Vendor Master File shall be maintained by the Finance Department that will serve as its source document to be used by all responsible employees and officials in the procurement process.

This file will be contained in the electronic financial management system currently in use by the County. This database will be maintained and developed by the Finance Department and including use of the on-line vendor registration process currently in use by the County.

LOCAL VENDORS

The County does not advocate providing local vendors preferential treatment in the awarding of bids, contracts, or Purchase Orders. In order to preserve the integrity of the County's procurement system, and to promote fair and pure competition for the County's business, local vendors shall not be provided a preferential status in the procurement of goods or services for the County; however, when vendor submissions are equal, supplies offered by vendors who have an established local business in the County shall have preference.

MINORITY/WOMEN BUSINESSES

When required, pursuant to the federal Office of Management and Budget Circular 102, Grants and Cooperative Agreements with State and Local Government, the Common Rule for Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments and State of Michigan, Public Act 428 of 1980, affirmative steps will be implemented to seek out, solicit and use minority-owned firms and/or women's business enterprises when purchasing goods or services with federal funds.

SOLE SOURCE PROCUREMENTS

A contract may be awarded without competition when the Purchasing Agent or his or her designee determines, in writing, after conducting a good faith review of available resources, and upon the concurrence of the Finance Officer, that there is only one appropriate source for the requested product or service. The Purchasing Agent will conduct negotiations, as appropriate, as to price, delivery, and terms. A record of sole source procurements will be maintained in the electronic financial system as a public

record that lists each vendor's name, the amount and type of each purchase, and a listing of the item(s) procured from each vendor.

EMERGENCY PROCUREMENTS

Notwithstanding any other provision of this Policy, when there exists a threat to the public's health, welfare, safety, or a threat of deterioration of a critical departmental service the Purchasing Agent or his/her designee, upon the concurrence of the Finance Officer, may make emergency procurements of products or services; or in a circumstance when an emergency condition arises during a time, e.g., after regular business hours, when the procedures outlined in the exemption section under "Large Purchases" are not practicable, the Department/Division Head, Elected Official, or their designee may procure only those products or services minimally required to alleviate the emergency condition provided that such emergency procurements 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 a particular vendor shall be included in/on the procurement file/paperwork. As soon as it is practicable, a record of each emergency procurement shall be made and it shall set forth the vendor's name, the amount and type of each purchase, a listing of the item(s) procured from each vendor.

FLEETING BUSINESS OPPORTUNITY

The Finance Officer may, in his or her discretion, authorize a department to accept a fleeting business opportunity that is presented to the County that would become unavailable through ordinary competitive bidding opportunities. A fleeting business opportunity may include the acquisition of goods or services at significantly reduced prices for a narrow time period, the pursuit of grants under time constraints, taking advantage of a substantial benefit that becomes available for County employees and other similar situation. Under these circumstances, the County should make and document any reasonable efforts to ensure that the County received fair and reasonable value for the service rendered or goods received under the time constraints involved and taking into account the significance of the fleeting opportunity.

REVERSE ON-LINE AUCTIONS

When the Finance Officer determines that the use of an RFP will not result in the best value for the County, the Finance Officer may use an alternative form of competitive selection known as the "Reverse Auction." A Reverse Auction is a real-time purchasing event that is conducted over the internet. Interested bidders submit responses in a manner similar to those in a standard Invitation for Bid (IFB), with the exception that no prices are included. Those bidders whose products or services meet the specifications are invited to the reverse auction event. These bidders will then be provided with instructions for the reverse on-line auction event. These bidders will then

be provided with instructions for the reverse on-line auction event. During the event, bidders may submit multiple prices electronically over a short time period, with the lowest cost winning. Reverse Auctions are often advantageous for items of definite quantity and definite delivery. Price is a primary factor in the award.

CAPITAL ASSET TAGS

It shall be the responsibility of the Finance Department to assign a permanent, prenumbered Bay County asset tag to any item purchased deemed by them to be an item necessary to be inventoried and controlled. The asset tag shall be assigned at the time the purchase is made and shall be noted on the Purchase Order. The asset tag shall be sent to the applicable department and it shall be the department's responsibility to attach the asset tag to the asset.

LABOR-MANAGEMENT COOPERATION AGREEMENTS/PREVAILING WAGES

Unless prohibited by law, the Board of Commissioners may designate projects for which a prevailing wage standard or labor-management cooperation agreement shall be advantageous to the County and shall be employed.

The County will ensure that construction or repair contracts that utilize Federal funds in excess of \$2,000.00 (or any amount as required by law) will comply with all requirements of the Davis-Bacon Act, 40 U.S.C. 3141 *et seq.*

The County will ensure that construction or repair contracts utilizing of State funds will comply with all requirements of Michigan's Prevailing Wage Law, 1965 PA 166; MCL 408.551 *et seq.*

METHODS OF CONSTRUCTION MANAGEMENT

The selection of an appropriate method to manage a construction project should depend on factors such as: the method of the construction to be procured, the uncertainties which may be involved in the construction; and the extent to which the County or the Contractor is to assume the risk of the cost of performance of the construction contract. The various methods differ in the degree of responsibility assumed by the contractor.

The objective when selecting an appropriate method to manage a construction project is to obtain the best value in the needed construction, in the time required, and at the lowest cost to the County. In order to achieve this objective, the County, before choosing a construction method, should review those elements of each alternative method which directly affect the cost, time, risk, and profit incentives bearing on the performance.

Among the factors to be considered are:

1. The type and complexity of the construction;
2. The difficulty of estimating performance costs such as the inability of the County to develop definite specifications, to identify the risks to the contractor inherent in the nature of the work to be performed, or to establish clearly the requirements of the project;
3. The amount and type of financing available;
4. The administrative costs to both parties;
5. The degree to which the County must provide technical coordination during the construction project and a realistic appraisal of the availability, qualifications, and experience that County personnel can bring to the project;
6. The availability of outside consultants;
7. The effect of the choice of the method of management of the construction project on the amount of competition to be expected;
8. The stability of material prices or wage levels;
9. The urgency of the construction;
10. The length of construction;
11. The size, scope, complexity, and economics of the project;
12. The location of the project and whether a contractor's site may be used;
13. The results achieved on similar projects in the past and the methods used; and
14. The extent to which the County's requirements and the ways in which they are to be met are known.

The following are the most common methods of construction management which are not all mutually exclusive and may be combined on one project:

1. SINGLE PRIME CONTRACTOR. The single prime contractor method of contracting is typified by one business, a general contractor, contracting

with the County to timely complete an entire construction project in accordance with plans and specifications provided by the County. Often these plans and specifications are prepared by a private architectural firm under contract to the County. Further, while the general contractor may take responsibility for successful completion of the project, much of the work may be performed by specialty contractors with whom the prime contractor has entered into contracts.

2. MULTIPLE PRIME CONTRACTORS. Under the multiple prime contractor method, the County or County's Agent contracts directly with a number of specialty contractors to complete portions of the project in accordance with the County's plans and specifications. The County or its agent may have the primary responsibility for successful completion of the entire project, or the contracts may provide that one of the multiple prime contractors has this responsibility.
3. DESIGN-BUILD OR TURNKEY. In a design-build or turnkey project, a business contracts directly with the County to meet the County's requirements as described in a set of performance specifications by constructing a facility to its own plans and specifications. Design responsibility and construction responsibility both rest with the design-build contractor. This method can include instances where the design-build contractor supplies the site as part of the package.
4. CONSTRUCTION MANAGER. A Construction Manager is a person experienced in construction that has the ability to evaluate and to implement plans and specifications as they affect time, cost, and quality of construction; and the ability to coordinate the design and construction of the project, including the administration of change orders. The County contracts with a qualified Construction Manager to act for the County in the construction project as specified in the Construction Management Contract. At times the Construction Manager may become a single prime contractor, or may guarantee that the project will be completed on time and will not exceed a specified maximum price (Guaranteed Maximum Price - GMP). At such times the Construction Manager will become responsible, just as any single prime contractor, to complete the project at or below the specified price.
5. CONSTRUCTION CONSULTANT. The Construction Consultant is a person that shall serve as agent of the County, providing pre-construction and construction administration services by assisting and providing administrative support to the County in connection with a construction project. The Construction Consultant accepts the relationship of trust and confidence established between it and the County. The Construction

Consultant agrees to furnish its best skill and judgment to perform its services in the most expeditious economical manner consistent with the stated interests of the County and with the staff organization of the Construction Consultant.

6. SEQUENTIAL DESIGN AND CONSTRUCTION. Sequential design and construction denotes a method in which design of substantially the entire structure is completed prior to beginning the construction process.
7. PHASED DESIGN AND CONSTRUCTION OR FAST-TRACK CONSTRUCTION. Phased design and construction denotes a method in which construction is begun when appropriate portions have been designed, but before substantial design of the entire structure has been completed.

CONSTRUCTION CONTRACT CHANGE ORDERS

During the course of a construction project it may become necessary to modify the scope of the project in varying degrees depending on each individual circumstance. By modifying the scope of the project it will necessitate amending the construction contract via a change order. Construction contract change orders may be approved by the Bay County Board of Commissioners after consultation with the architect, engineer, consultant, or a qualified individual involved with and has knowledge of the project and the requested modification, and that the Bay County Board of Commissioners is satisfied with the rationale provided for the requested change. Any change order must be in writing and signed by both parties to the contract.

BID AND PERFORMANCE BONDS

All contracts for equipment, supplies and services may require bid security and performance bonds at the discretion of the Finance Officer in consultation with the applicable department head. Bid security, when required, shall be in an amount equal to at least five percent (5%) of the amount of the bid. Performance bonds, when required, will normally be equal to 100% of the contract. A determination regarding bids received for equipment, supplies and services without requiring bid security will be made by the Finance Officer. A cashier's check/official bank check made payable to the County may be submitted in lieu of a bond. All construction contracts in excess of \$50,000.00 shall require both a bid and performance bond.

BLANKET PURCHASE ORDERS

Blanket purchase orders are those Purchase Orders that are issued in response to ongoing purchases made during a specific twelve (12) month period of time to a single vendor and will expire at the end of the fiscal year. Blanket purchase orders may be issued when the Purchasing Agent or his/her designee determines, after consultation

with the requesting department, that the issuance of a blanket purchase order will result in procurement efficiencies or in a financial benefit to the County.

Items such as food services, household goods storage, equipment maintenance or leases, printing services and the like, use permits, software licenses, etc. fall into this category. Blanket purchase orders shall not be used for the purchase of equipment.

COMPUTER HARDWARE/SOFTWARE

The County has recognized the need to review and control the purchasing of computer hardware and software. All County departments requesting computer hardware and/or software shall submit their requests to the Information Systems Division (ISD).

The Information Systems Division must review all requests regardless of funding source. If the requesting department requirements are budgeted within ISD's budget, ISD will initiate the necessary procurement documents. In order to produce efficiencies in the procurement of computer hardware and/or software, to enhance employee productivity, and to receive financial benefits from excellent pricing, the Information Systems Division shall purchase computer hardware and/or software at or below the prices that have been negotiated for federal Government Service Administration (GSA) contract pricing or the State of Michigan, Department of Management and Budget, Extended Purchasing Program, when applicable.

VENDING MACHINES

The County has recognized the need to control the placement of vending machines in or at all County facilities. The placement of vending machines in or at a County facility is a contractual relationship between the vendor and the County. It shall be the responsibility of the Purchasing Agent or his/her designee to solicit, through Competitive Sealed Bids, potential vendor(s) who would be interested in contracting with the County to place vending machines of the type requested and in/at the facilities designated by the County.

MAINTENANCE CONTRACTS

Generally, no full, preventative, or time and material maintenance contracts shall be purchased on equipment that has a replacement value of less than one thousand dollars (\$1,000) unless deemed financially beneficial by the Department/Division Head, Elected Official or their designees, and the Purchasing Agent.

Equipment having a replacement value in excess of one thousand dollars (\$1,000) shall be eligible for coverage under a full, preventative, or time and material maintenance contract as deemed appropriate by the Purchasing Agent or his/her designee, and the

Department/Division Head, Elected Official, or his/her designee of the benefiting department.

INSUFFICIENT FUNDS

If the balance in an identified budget account number or budget category (as required in the annual General Appropriation Budget Act Resolution) is insufficient to accommodate the purchase, the department shall be required to submit to the Finance Department/Budget Division an appropriate budget adjustment form. No Purchase Order shall be assigned or placed until a budget adjustment in a sufficient amount to accommodate the order has been entered into the system or has been approved by the Bay County Board of Commissioners.

PROCUREMENT RECORDS

All determinations and other written records, such as purchase requisitions/orders and bid files, pertaining to the solicitation and/or award of County business shall be maintained for the County by the Purchasing Agent within the Finance Department.

All procurement records shall be retained and disposed of by the County in accordance with the records retention schedules and guidelines as determined by the County Finance Officer.

TRAVEL EXPENDITURES

For all County Employees and Elected/Appointed Officials who will be traveling on County business and who will be incurring business related expenses associated with their travels should refer to the County of Bay, Standard Travel Policy, for guidance.

PUBLIC CELEBRATIONS AND EVENTS

MCL 46.11a specifically allows counties to appropriate money for the purpose of a public celebration of Armistice (Veterans) Day.

It is improper for a unit of government to expend public money for an annual picnic or their celebration that is not specifically authorized by law and does not serve a public purpose. The Michigan Supreme Court in *Wayne County v Hathcock*, 471 Mich 445; 684 NW2nd 765 (2004), defined "public purpose" as having "for its objective the promotion of the public health, safety, morals, general welfare, security, prosperity and contentment of all the inhabitants or residents with the municipal corporation, the sovereign powers of which are used to promote such public purpose.

FOOD AND BEVERAGE PURCHASES

The purchase of coffee, food, etc., must be for a public, not an individual or private group or purpose. These expenditures for use at a regular or special meeting where the public is also participating in the coffee, food, etc., for volunteer or full-time employees, when working an extended period of time or when dedicating public buildings are normally considered expenditures for a public purpose.

Coffee, food, etc., for employees use during normal working hours is considered personal, not for a public purpose and improper unless specifically provided for in a collective bargaining agreement or duly adopted employment policy of the governmental unit (fringe benefit). See the definition of "public purpose" in "PUBLIC CELEBRATIONS AND EVENTS" section above.

PETTY (IMPREST) CASH PURCHASES

(PURCHASES COSTING \$100 OR LESS)

All items of expense with a value of one hundred dollars (\$100) or less may be purchased with cash. These cash acquisitions can be advanced and/or reimbursed to the employee or official through the petty (imprest) cash fund maintained by the County Treasurer or their department upon submission of a Bay County Petty Cash Voucher.

The Petty Cash Voucher must be completed in its entirety before it can be honored by the Bay County Treasurer or the individual department. The Petty Cash Voucher requires the following information to be supplied in addition to a sales slip, invoice, or some other document that can support the purchase and be attached to the Petty Cash Voucher, if applicable.

1. Date purchased/advanced.
2. Amount advanced.
3. Vendor.
4. Item(s) purchased.
5. Cost per item purchased.
6. Total price paid.
7. Department name.

8. Thirteen (13) digit budget account number(s) and related amount to be charged.
9. Employee/Official who made the purchase/received advance.
10. Department/Division Head or Elected Official or their designee authorization for reimbursement.

The Bay County Treasurer or individual department may advance up to one hundred dollars (\$100) from petty cash to any employee/official to facilitate the purchasing needs of the procuring department upon receipt of a Petty Cash Voucher authorizing an advance to be granted. Such advance must be expended within the working day the advance was granted. By the end of the working day the employee/official shall return to the custodian of the petty cash fund any unspent cash remaining after the procurement, along with a completed Petty Cash Voucher and any support documents as identified above. The total of the remaining cash returned and the Petty Cash Voucher must equal the total amount advanced.

The Bay County Treasurer or any department which maintains a petty (imprest) cash fund shall not honor a Petty Cash Voucher unless all the required information requested on the Petty Cash Voucher is supplied. Periodically, when their funds are nearly depleted, and by utilizing the Petty Cash Vouchers they have honored, the County Treasurer and other departments shall replenish their petty cash funds by completing, and forwarding to the Finance Department/Accounts Payable, a Master Bay County Accounts Payable Voucher for processing identifying the various departmental budgets and amounts to be charged.

MINUTE PURCHASES

(PURCHASES COSTING LESS THAN \$1,000)

Providing for the adequate and proper controls over the procurement of products or services to ensure that County dollars are being expended in compliance with adopted budgets and to detect or to prevent irregularities in the procurement functions would necessarily require Purchase Orders to be produced for all procurements. However, a determination needs to be made regarding the efficiency and cost effectiveness of controlling every purchase made by the County through the issuing of Purchase Orders. The question needs to be asked as to whether the value of the benefit received is greater than the cost incurred in controlling every purchase. It is the opinion of the Board of Commissioners that the cost of issuing Purchase Orders on purchases, whether for products or services, costing less than \$1,000 is greater than the benefit the County will receive. Therefore, for the procurement of products or services costing less than \$1,000 the following shall apply:

1. Purchase Orders shall not be required.
2. Departments can place the order or purchase the product(s) or service(s) directly, or utilize the Purchasing Agent or his/her assistant in the Finance Department for purchasing assistance.
3. Three (3) phone quotations shall not be required prior to procurement.

However, all departments are encouraged to implement the prudent person philosophy when placing an order. This philosophy dictates that a department shall carry out this function with the care, skill, prudence and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of like character with like aims.

Whenever possible user departments are encouraged to utilize existing contracts for the procurement of goods and/or services regardless of the dollar amount. These contracts have been established to increase efficiency by streamlining the procurement process for both the Purchasing Division and user departments. Other benefits include pricing discounts resulting from volume purchasing. Since there will not be a County Purchase Order number assigned to these purchases, it is essential that the department placing the order informs the vendor that it is critical that the following information be clearly and accurately identified on the face of the invoice:

1. Name of the person who placed the order.
2. County Department that placed the order.
3. Proper mailing address where the invoice should be mailed.

If the vendor is not willing to identify items one (1) and two (2) above on the face of the invoice, the proper mailing address should be that of the ordering department; otherwise, the invoice can be sent to the Finance Department/Accounts Payable.

MINIMAL PURCHASES

(PURCHASES COSTING \$1,000 BUT LESS THAN \$5,000)

Any acquisition of products or services costing \$1,000 but less than \$5,000 shall obtain quotes and place the order directly.

- A. The requesting department shall enter a requisition into the computerized financial system with the required information and attach any supporting documentation. The requisition shall be released and forwarded to the Department/Division head for approval. The requisition is then forwarded to the Purchasing Agent in the Finance Department for processing.

The Purchase Requisition shall contain the following information:

1. Requesting department name.
2. Date of requisition.
3. Date the product or service is needed.
4. To whom or where the product or service is to be delivered.
5. The proper Thirteen (13) digit budget account number(s) to be charged and their current budget balance(s).

Indicate if a budget adjustment is in process to accommodate the purchase.

6. Name of requesting individual.
7. The product item number.
8. Quantity.
9. Description of products or services, as detailed as possible.
10. Freight/shipping charges, if applicable.

B. When a department decides to place an order, the department shall do so according to the following:

1. Purchase all office supplies from the Board of Commissioners designated contract vendor, subject to availability.
2. One phone or written quote is sufficient for purchases costing \$1,000 but less than \$5,000 dollars or when it is determined that there is an emergency condition or there is only a sole source provider to purchase the products and/or services. In the event a department is claiming an emergency or sole source condition, the procedures identified in the exemptions section under "Large Purchases" must be adhered to. Phone quotes must be documented as to the name of company and salesperson contacted, unit price of the product and/or service requested, quantity ordered, time and date of the call and any other pertinent information.
 - a. Quotes shall be net of freight charges and exclusive of sales tax. When obtaining quotes, the vendor must be questioned concerning

any freight or additional charges and these items should be identified separately on the Purchase Requisition.

3. Obtain a Purchase Order number and Terms and Conditions from the Purchasing Agent or his/her assistant and provide it to the selected vendor for inclusion on the vendor's invoice.
 - a. Vendors shall not fill an order for \$1,000 or greater unless they are provided a Purchase Order number.
 4. Confirm delivery mode and inquiry about and any special delivery instructions such as a lift truck or other equipment.
- C. Orders may be phoned, emailed or faxed to vendors.
- D. The Purchasing Agent or his/her assistant in the Finance Department will be available to answer questions and/or provide direction regarding these purchases.

SMALL PURCHASES

(PURCHASES COSTING \$5,000 BUT LESS THAN \$20,000)

Although Competitive Sealed Bidding is the procedure universally preferred in governmental procurement, consideration of the time and cost involved dictates that a less formal procedure be used for small purchases.

This Purchasing Policy provides that purchases, including professional services, not exceeding \$20,000 may be made in the open market without a formal written bid, and further provides that these purchases, when practicable, shall utilize competitive written requests for quotations. All such purchases shall be made cooperatively by the Purchasing Agent in the Finance Department and the Department/Division Head, Elected Official or their designees.

The requesting department shall prepare and forward via the electronic financial system a Purchase Requisition attaching any supporting documentation and release for approval. The Purchase Requisition shall contain the same information as outlined for "Minimal Purchases", Section A, Items 1 through 11.

In utilizing the small purchases procedures, the following shall apply:

1. Award shall be made to the vendor providing the greatest value for the cost while meeting the minimum needs of the County.

2. Requisitions shall not be artificially divided so as to constitute small purchases.
3. If any Department foresees a need for products or services of a like or similar nature, costing more than \$20,000 in aggregate within a fiscal year, it shall arrange for Competitive Sealed Bidding, even though the products and services individually may be under the \$20,000 bid-threshold.
4. Departments or Divisions with County-wide responsibility for products or services, such as the Buildings and Grounds Department for hand towels and tissues, shall combine requirements for like or similar commodities expected to be needed in the foreseeable future (usually a fiscal year) and arrange for Competitive Sealed Bidding.
5. When previous experience indicates a reasonable expectation that combined requirements from all Departments and/or Divisions, for a product or service, will exceed the bid threshold within a fiscal year, the Purchasing Agent shall solicit requirements from all users of this product or service, and cause specifications and bid documents to be developed, and shall arrange for Competitive Sealed Bidding.
6. The Purchasing Agent shall be responsible for obtaining the quotations required by this procedure. In instances where it is more practicable, the Purchasing Agent may delegate the obtaining of quotes to his/her designee or to the requesting/user department. This shall not absolve the Purchasing Agent from the responsibility of having proper quotes on file prior to issuing a Purchase Order, as required by this procedure, or from assuring that acceptable value is being obtained.
7. At least three (3) written quotes are required, with the exception of an emergency condition or sole source provider. In the event a department is claiming an emergency or sole source condition, the procedures identified in the exemption section under "Large Purchases" must be adhered to. Quotations received via photo facsimile (FAX) machines or email shall be accepted as written quotes required by this procedure. The Purchase Order shall be placed after the receipt of the quotes.
8. On occasion, good business judgment or common sense may dictate deviations from the requirements outlined in Item 7 of this section. In this instance, the reason(s) for the deviation shall be documented by the Purchasing Agent on the Purchase Requisition and such deviations shall not violate any other requirement of the Purchasing Policy.

9. Emergency purchases shall be exempt from some of the provisions of this policy. A request and explanation of the reasons for the declaration of an emergency shall be documented by the department requesting such declaration and forwarded to the Purchasing Agent who in turn will forward the request to the Finance Officer. The Finance Officer shall decide whether or not the request is warranted and instruct the Purchasing Agent to act accordingly. The request and explanation shall be attached to the requisition. This provision shall be used only if there is imminent danger to the health or welfare of the citizens of the County, or threat of deterioration of a critical departmental service.
10. Documentation of a sole source provided for a required product and/or service shall be attached to the requisition.
11. The Purchasing Agent, assisted by the Department/Division Head, Elected Official or their designee from the requesting department shall have the responsibility for selection of the vendor.
12. The Purchasing Agent after consultation with the Department/Division Head may elect to seek pricing using a more formal method. A use of a Request for Quotation (RFQ) will be used to secure pricing.

Request for Quotation (RFQ) is a small order amount purchasing method. Generally used for small orders under a certain dollar threshold. A request is sent to suppliers along with a description of the commodity or services needed and the supplier is asked to respond with price and other information by a pre-determined date. Evaluation and recommendation for award should be based on the quotation that best meets, price, quality, delivery, service, past performance and reliability.

LARGE PURCHASES

COMPETITIVE SEALED BIDS

(PURCHASES COSTING \$20,000 OR MORE)

Competitive Sealed Bids shall be solicited for products or services that meet one of the following requirements:

- The product or service being procured has an individual cost of twenty thousand dollars (\$20,000) or more.
- When the requirements of a Department and/or Division, or the combined requirements of all Departments and/or Divisions, for products or services of a

like or similar nature has an aggregate cost of twenty thousand dollars (\$20,000) or more within a fiscal year.

- Determination of solicitation method (Invitation for Bid or Request for Proposal) shall be made after discussions between the Purchasing Agent and requesting department.
- An Request for Information will be utilized if assistance is needed in order to development the scope of a RFP. Request for Information (RFI) is a non-binding method whereby a jurisdiction publishes via newspaper, internet or direct mail its need for input from interested parties for an upcoming solicitation. It is a procurement practice used to obtain comments, feedback or reactions from potential suppliers (contractors) prior to the issuing of a solicitation. Generally price or cost is not required. Feedback may include best practices, industry standards, technology issues, etc.

The following section outlines the exemptions, elements, processes, and procedures for competitive sealed bids.

A. EXEMPTIONS

The Bay County Purchasing Policy provides that no procurement of products or services equal to or over twenty thousand dollars (\$20,000) shall be made without soliciting competitive sealed bids, except:

1. When cooperative purchases with other public entities are made.
2. When contracts of other local units of government or other public entities are used, if the Contractor extends the identical terms and conditions to the County, provided that the contract has been awarded through procedures substantially similar to those required by the Bay County Purchasing Policy.
3. When there is only a sole source for the required products or services.
4. In the event of the existence of an emergency procurement condition.
5. In the procurement of architectural, engineering, legal, landscape architectural, or land surveying services, when QBS is to be used.
6. In the procurement of services of an independent Certified Public Accountant selected to audit the County's books/operations, when QBS is to be used.

7. In the procurement of consultant, advisor, or other professional services as identified by the Bay County Board of Commissioners, when QBS is to be used.

By exempting the procurement of products or services in an emergency (Item No. 4) and entering into contracts for professional services (Items No.5, No.6, and No.7) allows the County to remain in compliance with Public Act 167 and 168 of 1993.

In the event when a Department requests an exemption from soliciting competitive sealed bids for the procurement of products or services for reasons of a sole source supplier or an emergency condition, the following shall occur:

1. The requesting department shall submit, to the Purchasing Agent, in the Finance Department, a Purchase Requisition which shall contain, in addition to the same information as outlined for "Minimal Purchases" Section A, Items 1 through 10, an attestation signed by the authorizing department official that the named vendor on the Purchase Requisition is the sole supplier of the requested product or service or; in the case of an emergency procurement condition, that the condition existing within the requesting department is causing an emergency situation and identify the consequences that will occur if the product or service is not purchased posthaste.
2. The Purchasing Agent, after discussion with the requesting Department, shall indicate approval or rejection and forward the requisition to the Finance Officer for consideration and final decision.
3. In a situation that required a Department/Division Head, Elected Official or their designee to make an emergency procurement(s), the above items one (1) and two (2) shall still occur, although after the fact, within two (2) business days of the emergency condition.

B. REQUEST FOR COMPETITIVE SEALED BID

The Department requesting the products or services that require competitive sealed bids be solicited shall present the request to the Purchasing Agent, which includes the following:

1. A brief description of the goods and/or services to be bid.
2. Source of funding for the expenditure (budget, grant, etc.) and budgeted amount

3. The Organization and object code to which the expenditure is to be charged.
4. Specifications for the equipment and/or service.
5. Specific requirements that shall be adhered to by each bidder.
6. Other pertinent information.

C. REVIEW OF BID PRIOR TO PUBLIC RELEASE

The Purchasing Agent shall request any additional information from the Department requesting the products and/or services and shall submit a draft of the Competitive Sealed Bid to Corporation Counsel and then the Finance Officer for their review and final approval.

D. BID PACKAGE PREPARATION

After the draft of the Competitive Sealed Bid is approved by Corporation Counsel and the Finance Officer, a final formal Competitive Sealed Bid shall be prepared by the Purchasing Agent, in conjunction with the Department/Division Head, Elected Official or his/her designee. The Competitive Sealed Bid shall include:

1. Invitation to Bid or Request for Proposal description
2. Specifications
3. Requirements of Bidders
4. General Conditions
5. ADA Assistance
6. Applicable Bid Forms

E. BID PACKAGE DISTRIBUTION AND PUBLIC NOTICE

The Purchasing Agent will distribute the Competitive Sealed Bid to all applicable vendors who are included on the County's Vendor Master File. The Purchasing Agent will advertise in one or all of the following: The Bay City Times, on Bay 3TV, cooperative purchasing websites, the County's website and Facebook page or any other pertinent publication, a notice inviting sealed competitive bids, for at least two days, preferably the Sunday publication for one or two weekends. There shall be an interval of at least five (5) days between the date of the final

notice and the bid opening. The notice shall include the following, when applicable:

1. Brief description of the product(s) or service(s) to be bid.
2. Place where bid documents, including specifications are available.
3. Competitive Sealed Bid Identification Number.
4. Cost, if any, of bid documents.
5. Date and time the bids are due.
6. All walk through(s) and/or pre-bid/proposal conference(s) as determined by the Purchasing Agent and the Department/Division Head, Elected Official or his/her designee of the requesting department.
7. Telecommunication Device for the Deaf (TDD) information and an Americans with Disabilities Act (ADA) statement that auxiliary aids and services are available upon request.

In addition to the public notice, the Purchasing Agent shall notify all vendors who have indicated an interest in furnishing the requested products and/or services to the County.

In the event that the original Competitive Sealed Bid needs to be amended, an addendum will be emailed to all known vendors who previously received a copy of the original Competitive Sealed Bid by the Purchasing Agent and the addendum will also be placed on the County's website and on cooperative purchasing websites.

F. WALK THROUGH AND PRE-BID/PROPOSAL CONFERENCES

When it has been determined that a walk through or pre-bid/proposal conference is necessary, the Purchasing Agent or his/her designee shall include language within the Competitive Sealed Bid identifying the following:

1. The date, time, and location of the walk through or pre-bid/proposal conference.
2. Whether or not potential bidders/offerors attendance is mandatory.
3. That potential bidders/offerors will not be compensated for their attendance.

4. That written and verbal questions will be accepted and addressed, with the County's preference that as many questions as possible be in writing in advance of the date of the walk through or pre-bidders/offerors conference.

If attendance by potential bidders/offerors is mandatory and a prospective bidder or offeror does not attend but does submit a bid or proposal, said bid or proposal shall be disqualified and returned unopened accompanied by a memo explaining why the bid or proposal was returned and not considered for the award.

All potential bidders or offerors shall sign-in at the location of either the walk through or pre-bidders/offerors conference and provide all the information requested on the sign-in form provided by the Purchasing Agent, or his/her designee.

G. BID SUBMISSION AND OPENING

Sealed bids are to be received and retained by the Purchasing Agent in the Finance Department until the date and time for the bid opening, as specified in the Public Notice/Competitive Sealed Bid. The sealed bid envelope shall be marked with a date stamp identifying the date (month/day/year) the bid was received in the Finance Department. The time of the day the sealed bid envelope arrived, if not automatically imprinted, will be manually written on the lines provided by the date stamp and initialed by the employee of the Finance Department who received the bid. Sealed bids are also accepted in person at the location of the bid opening up until the time specified by the Public Notice/Competitive Sealed Bid.

Bids received after the date and time specified in the Public Notice/Request for Proposal shall be disqualified and returned unopened accompanied by a memo explaining why the Request for Proposal was returned and not considered for the award. After receipt in the Finance Department, bids may be withdrawn up to the scheduled time for opening upon presentation of proper identification, as determined by the Purchasing Agent, or his/her designee. A formal written request for withdrawal must be made to the Purchasing Agent, who shall file the request in the Competitive Sealed Bid file. Bids shall be opened promptly at the time designated in the Public Notice/Competitive Sealed Bid by the Purchasing Agent or any other individual as designated by the Finance Officer, County Executive or County Board of Commissioners. The Purchasing Agent or his/her designee shall open and review the bid(s) and reads aloud the name of the bidder(s), the amount of the bid(s), and any other pertinent information contained in or omitted from the bid(s). The Purchasing Agent or his/her designee shall initial and date each bid after he/she has reviewed it and proceed to forward it to all individuals present at the bid opening for them to review,

initial, and date. The proceedings are recorded by the Purchasing Agent or some other designated individual.

Bidders/offerors and the public are encouraged to attend bid openings, and may examine the bid documents after all bids have been opened.

H. EVALUATION OF BIDS AND RECOMMENDATION OF SUCCESSFUL BIDDER

Following the bid opening, the Purchasing Agent presents the results of the bid opening to the Finance Officer with an analysis identifying the most responsible bidder/offeror and a recommendation as to which bidder/offeror to award the bid. The term "most responsible bidder" means a bidder whose bid conforms in all material respects to the Competitive Sealed Bid, who has the capability in all respects to perform the requirements, and who by its integrity and reliability gives reasonable assurance of good faith performance for the financial benefit of the County.

In determining the most responsible bidder, the Purchasing Agent or his/her designee may, after the bid opening, enter into discussions with any responsible bidder who submitted a proposal which is determined to be reasonably susceptible of being awarded the bid, to obtain additional information regarding the bidders ability to perform or to clarify a bidders proposal to assure the Purchasing Agent or his/her designee that the bidder(s) has a full understanding of and can conform to the requirements of the Competitive Sealed Bid. Bidders shall be accorded fair and equal treatment with respect to any opportunity for discussion and revision of proposals. Such revisions may be permitted, after the bid opening and prior to awarding, for the purpose of obtaining best and final offers. In conducting the discussions, there shall be no disclosure of any information derived from proposals submitted by competing bidders.

No bidder is permitted to alter the dollars bid after the opening.

A voluntary or negotiated reduction/increase in price from most responsible bidder can be accepted after the opening of the bid, provided such reduction/increase does not result in the modification or deletion of any conditions or specifications contained in the bid documents.

I. BID AWARD

1. The bid shall be awarded directly to the most responsible bidder/offeror by the Purchasing Agent upon concurrence of the Bay County Finance Officer upon the following criteria being met:

- a. The product or service for which the Competitive Sealed Bid was written is included and funded in the current years adopted/amended budget.
 - b. The most responsible bid received by the County, for which the bid will be awarded, is either equal to or less/greater than the amount budgeted for this procurement/sale in the current year adopted/amended budget.
 - c. Utilizing the Notice of Intent to Award form, the Purchasing Agent upon concurrence of the Finance Officer shall notify the Bay County Board of Commissioners, the Bay County Executive, and all bidders of his/her intent to award the bid to the most responsible bidder/offeror on the eleventh (11th) working day from the date of notice. Said notice shall include the names and addresses of all bidders/offerors, their respective bid(s), reason(s) for disqualifying certain bidders/offerors and for awarding the bid to a bidder other than the best responsible bidder.
 - d. If concerns or opposition from the Board of Commissioners and/or County Executive, inclusive of an unresolved bid protest being filed by a bidder in accordance with the procedures outlined in Section I, to the Intent to Award arise within ten (10) working days from the date of the Notice of Intent to Award, said concerns or opposition shall be communicated to the Finance Officer in writing and the Finance Officer shall be precluded from awarding the bid and shall follow the procedures outlined in Subsection (2) immediately below.
2. If the bid cannot be directly awarded to the successful bidder/offeror by the Bay County Finance Officer because the criteria in Subsection (1) immediately above could not be met, then:
- a. The recommendation to the Finance Officer from the Purchasing Agent is forwarded by the Finance Officer to the Ways and Means Committee of the County Board of Commissioners for their consideration and action who in turn will forward their recommendation to the full County Board of Commissioners for awarding.
 - b. Utilizing the Notice of Recommendation, the Finance Officer shall notify all bidders/offerors, as soon as it is practical, of his recommendation to the Ways and Means Committee of the Board of Commissioners.

- c. If a Bid Protest form has been filed by a bidder/offeror in accordance with the procedures outlined in Section L relative to the Notice of Recommendation within the time allotted for such filing, the Finance Officer shall communicate such protest to the Ways and Means Committee prior to their action on his/her recommendation. The Ways and Means Committee must then decide, after reviewing the Bid Protest and listening to the testimony of the Finance Officer and the protesting bidders/offerors, whether:
 1. To accept the recommendation of the Finance Officer and follow Subsection 2. (a) above and Section L. (4), or
 2. To take no action on the Finance Officer's recommendation and follow Section L. (4).
3. The Purchasing Agent or his/her designee shall notify all bidders/offerors of the final action taken, either by the Finance Officer or the Board of Commissioners, by preparing and mailing to them a Notice of Bid Action. For informational purposes only, a copy of the Notice of Bid Action shall be placed on the agenda of the next Ways and Means Committee meeting of the Board of Commissioners. In addition to the Notice of Bid Action being mailed, the Purchasing Agent shall also execute or facilitate the execution of the documents described below in Subsection 4.
4. The execution of the Notice of Bid Action is made by the Purchasing Agent or his/her designee to the most responsible bidder through one of two procedures:
 - a. By facilitating the execution of a formal contract between Bay County and the successful bidder/offeror, supported by a performance and payment bond, if required, when periodic payments are made for work performed pursuant to a Contract and prior to completion of all the work, (e.g., construction work), or
 - b. By issuing a Bay County Purchase Order.

J. LOW TIE BIDS

At the discretion of the Board of Commissioners, award shall be made in any permissible manner that will discourage tie bids. If no permissible method will be effective in discouraging tie bids, then the award shall be made by drawing lots.

K. EXTENSION OF DATES

As a result of extenuating circumstances, it may be necessary for the County to either extend the date which competitive sealed bids are due to be received by the County or the date to which all bids are to be valid. In either case, it shall be the responsibility of the Purchasing Agent or his/her designee to inform all parties concerned, via written communications, of the County's intent on extending the relevant date, inclusive of any other pertinent date(s) that will change, along with the reasons for the extension.

If the date which the competitive sealed bids were to be received has been extended, along with all the other pertinent dates, the dates identified in Subsection G of this section, "Bid Submission and Opening," shall be those identified in the above stated communication.

If the date to which all competitive sealed bids were to be valid needs to be extended, all bidders will have the right to withdraw their bid from consideration. A formal written request for withdrawal must be made to the Purchasing Agent, who shall file said request in the Competitive Sealed Bid file.

L. BID PROTEST PROCEDURE

The following process will be used to allow bidders to officially lodge a protest regarding any phase of the bid process including but not limited to specification preparation, competitive sealed bid solicitation, award, or disclosure of information marked confidential in the bid or offer:

1. Bidders/offerors must obtain and complete a Bid Protest form identifying the substance and reason for the protest. The Bid Protest form can be obtained from the Purchasing Agent in the Bay County Finance Department or his/her designee.
2. The bidder/offeror must file the protest within ten (10) working days from the date of the Notice of Intent by submitting the completed form to the Purchasing Agent or his/her designee.
3. The bidder must file the protest the earlier of the day prior to the County's Ways and Means Committee meeting, or within ten (10) working days from the date of the Notice of Recommendation by submitting the completed form to the Purchasing Agent or his/her designee. The protesting bidder(s) may address the Ways and Means Committee at the meeting where the Committee will consider the recommendation of the Finance Officer.

4. Within seven (7) working days of the filing of the bid protest form, the Finance Officer, after consultation with the Purchasing Agent, shall prepare and send, via certified mail through the U.S. Postal Service, a response to the bid protest filed under either Subsection (2) or (3) of this section.
5. If not satisfied with the response of the Finance Officer regarding the bid protest filed under Subsection (2) of this section, the bidder(s)/offeror(s) may address the Ways and Means Committee of the Board of Commissioners by requesting the Finance Officer place their protest on the agenda of their next scheduled meeting. Said request must be in writing and received in the Finance Department or postmarked within seven (7) working days from the date of response to the protestor. The protestor must clearly identify on the envelope **"BID PROTEST."**

The Purchasing Agent shall upon written request make available to any interested party information submitted that bears on the substance of the protest except where information is proprietary, confidential, or otherwise permitted or required to be withheld by law or regulation.

The Board of Commissioners or the Finance Officer shall not award any bid until the protest has been settled, unless the Board of Commissioners or the Finance Officer makes a written determination after consulting with Corporation Counsel that the award of the bid without delay is necessary to protect substantial interests of the County.

M. CANCELLATION OF INVITATIONS/REQUESTS FOR OR REJECTION OF QUOTES/BIDS/PROPOSALS

An Invitation for Quotes/Bids, a Request for Proposal, or any other solicitation may be canceled, or any or all bids, quotes, or proposals may be rejected in whole or in part as may be specified in the solicitation, when it is for a good cause and in the best interest of the County. The reason(s) for the cancellation or rejection shall be made part of the specific procurement file. Each solicitation issued by the County shall state that the solicitation may be canceled and that any quote, bid, or proposal may be rejected in whole or part for good cause when in the best interests of the County. A Notice of Cancellation shall be sent to all vendors solicited. The notice shall identify the solicitation, provide the reason(s) for cancellation, and, when appropriate, identify that an opportunity will be given to all vendors to resubmit a quote, bid, or proposal, on any resolicitations or any future solicitations of similar items. A Notice of Rejection shall be sent to all bidders whose bids(s), quotes(s), or proposal(s) were rejected enumerating the reasons for rejection.

SELECTION PROCESS FOR SUPPLEMENTAL PRIVATE ATTORNEYS

The Purchasing Policy hereby adopts all relevant portions of the Bay County Civil Counsel Guidelines adopted on June 17, 2014 by Resolution 2014-113.

DEFINITIONS

County procurement. Any transaction by which the County acquires, trades, or rents goods, equipment, land, services, or construction for County use; enters into concession agreements or rents, sells, or disposes of County property. The judicial appointment of assigned counsel for indigent defendants, mental incompetency cases, and public administrator for estates is deemed to be a County procurement.

County business. Any business which or person who has taken part in a County procurement as a contractor or as a County-approved sub-contractor within the previous 24 months, or which is expected to take part within the next 12 months. "Expected to take part" means that some specific action has taken place which manifests an intent to compete for a County procurement, such as the active solicitation of County work, a response to a bid or request for proposals, or a written request to be included on the bidders mailing list.

County employee. An individual drawing a salary or wages from the County, including, for the purposes of this Policy only, County elected and appointed officers, or any non-compensated individual who is performing contract management services for the County, such as a volunteer, or a member of an appointed board or commission. Judges of the 74th District Court, 18th Circuit Court and Probate Court are not contained within this definitional provision, but are subject to the Canons of Ethics of the Michigan Judicial Tenure Commission. (Note: County employees who manage or are party to contracts with or for the benefit of the courts remain subject to this article.)

Pecuniary interest.

(1) Ownership of any interest or involvement in any relationship from which, or as a result of which, a person within the past year has received, or is presently or in the future entitled to receive, more than \$500.00 per year, or its equivalent; except:

- (a) That a person who deposits personal funds in a financial institution and earns interest on these funds, or who has a loan, at a rate and on terms available to the general public is not deemed to have a financial interest in that institution; and
- (b) That ownership of stocks and bonds which are listed and traded on the American or New York Stock Exchanges, NASDAQ, or foreign stock exchanges, which have a current value of less than \$10,000.00, and which constitute less than one percent of the total outstanding shares of any specific ventures, or ownership of any amount of a publicly-traded mutual fund, is not deemed to be a substantial financial interest;

- (2) Ownership of five percent or more of any property or business; or
- (3) Holding a key position in a business such as an officer, director, trustee, partner, sales manager, or the like, or holding any position of management, but not including persons who serve without compensation on the board of directors of a charitable organization, which has recognized status under section 501(c)(3) of the Internal Revenue Code.

Family Member. People related to the individual as father, mother, son, daughter, brother, sister, uncle, aunt, nephew, niece, husband, wife, grandfather, grandmother, grandson, granddaughter, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half-brother, half-sister, and including the grandfather or grandmother of an individual's spouse. It shall also include a former spouse or an individual with whom the County employee or public servant has had a child in common as well as domestic partner and parents thereof, including domestic partners of any individual listed above. Any individual related by blood or affinity whose close association with the employee is the equivalent of a family relationship.

Best Interests of the County shall mean advantageous to Bay County.

Business shall mean any corporation, partnership, individual, sole proprietorship, joint stock company, joint venture, or any other private legal entity.

Change order shall mean an agreed-upon written order to a contractor executed by the County and the contractor after execution of the base contract, directing a change in the work which may include a change in the contract price, the time for the contractor's performance, or any combination thereof.

Construction shall mean the process of building, altering, repairing, improving or demolishing any public structure, or building, or other public improvements of any kind to any public real property.

County shall mean all agencies, boards, commissions, departments, and offices of the County of Bay.

Days shall mean a calendar day.

Designee shall mean a duly authorized representative of a person with formal responsibilities under this Policy.

Emergency procurement shall mean the procurement of goods, services, supplies or construction:

- (1) Necessary for the imminent protection of or to mitigate an imminent threat to public health, welfare or safety, including, but not limited to, widespread or severe damage, injury, or loss of life or property;
- (2) To avert a catastrophe from a natural or human-made cause, including, but not limited to, fire, flood, snowstorm, ice storm, tornado, windstorm, wave action, oil spill, water contamination, utility failure, hazardous peacetime radiological incident, major transportation accident, hazardous materials incident, epidemic, air contamination,

- blight, drought, infestation, explosion, or hostile military action or paramilitary action, or similar occurrences resulting from terrorist activities, riots, or civil disorders;
- (3) For emergency repair or construction caused by unforeseen circumstances when the repair or construction is necessary to protect life or property;
 - (4) In response to a declared state of emergency or state of disaster under Michigan Public Acts 1976 of 390; 1945 of 302; or 1982 of 191;

Invitation for Bid (IFB) shall be used when a competitive sealed bid is required for solicitations where price is the determining factor.

Public notice means the distribution or dissemination of information using methods that are reasonably available to interested parties. Such methods will often include publication in newspapers of general circulation, electronic or paper mailing lists, and web site(s) designated by the Finance Officer and maintained for that purpose.

Procurement shall mean the buying, purchasing, renting, leasing, or otherwise acquiring of any supplies, services, or construction services. It also includes all functions that pertain to the obtaining of any supply, service, or construction, including description of requirements, selection, and solicitation of sources, preparation and award of contracts, and all phases of contract administration.

Public agency shall mean a public entity subject to or created by the County.

Real property shall mean any land, all things growing on or attached thereto, and all improvements made thereto including buildings and structures located thereon.

“Request for Information (RFI): A non-binding method whereby a jurisdiction publishes via newspaper, internet or direct mail its need for input from interested parties for an upcoming solicitation. A procurement practice used to obtain comments, feedback or reactions from potential suppliers (contractors) prior to the issuing of a solicitation. Generally price or cost is not required. Feedback may include best practices, industry standards, technology issues, etc. *Request for Proposals (RFP)*: shall mean the submission of proposals to provide supplies, services, or construction services based on a generalized scope of work which ordinarily results in the award of the contract to the responsible person(s) submitting the most advantageous and responsive proposal. The award of the contract must be made on the basis of evaluation factors which must be stated in the RFP, and must include, but not be controlled alone by the factor of price proposed to be charged.

Request for Qualifications (RFQu): A document which is issued by a procurement entity to obtain statement of the qualifications of potential development teams or individuals (i.e. consultants) to gauge potential competition in the marketplace, prior to issuing the solicitation.

Request for Quotation (RFQ): A small order amount purchasing method. Generally used for small orders under a certain dollar threshold. A request is sent to suppliers

along with a description of the commodity or services needed and the supplier is asked to respond with price and other information by a pre-determined date. Evaluation and recommendation for award should be based on the quotation that best meets, price, quality, delivery, service, past performance and reliability.

Responsible bidder/offeror: A contractor, business entity or individual who is fully capable to meet all of the requirements of the solicitation and subsequent contract. Must possess the full capability, including financial and technical, to perform as contractually required. Must be able to fully document the ability to provide good faith performance.

Responsive bidder/offeror shall mean a person who has submitted a bid which conforms in all material respects to the minimum requirements set forth in the solicitation.

Service(s) shall mean the furnishing of labor, time, or effort by a contractor not required to deliver specific end product, other than reports which are merely incidental to required performance. This term does not include employment agreements or collective bargaining agreements.

Shall denotes mandatory.

Subcontractor shall mean any business having a contract to perform work or render service to a prime contractor as a part of the prime contractor's agreement with the County.

Specification shall mean any description of the physical or functional characteristics or of the nature of a supply, service, or construction item. It may include a description of any requirement for inspecting, testing, or preparing a supply, service, or construction item for delivery.

Supplies shall mean all personal property, including but not limited to equipment, materials, printing and insurance but excluding real property or an interest in real property.

Written or in writing shall mean the product of any method of forming characters on paper, other materials, or viewable screen, which can be read, retrieved, and reproduced, including information that is electronically transmitted and stored.

Written determination shall mean a written decision resolving a question or controversy, or finalizing a position within the limits of authority under this chapter.