

November 9, 2015

COUNTY OF CUMBERLAND, PENNSYLVANIA
PURCHASING POLICY

SECTION I. Purpose.

The purpose of this policy is to provide for equitable public purchasing by the County, to maximize the purchasing value of public funds in procurement, and to assure a procurement system of quality and integrity in compliance with all applicable laws.

SECTION II. Application.

This policy applies to the procurement of goods, services, insurance, and construction by the County involving the expenditure of public funds.

All purchases made by Cumberland County must be made by contract, purchase order, or be specifically exempt under this policy from using a contract or purchase order. If a department feels that it has specific circumstances that warrant an exemption and it is not specifically addressed in this policy, it may apply in writing to the Finance Office for an exemption. All exemptions must be approved by the Director of Finance and the County Solicitor. A list of all approved exemptions will be maintained by the Finance Office.

When the procurement involves the expenditure of federal assistance or contract funds, in addition to the guidelines set forth in this policy, the procurement will be conducted in accordance with any applicable federal laws, regulations which are not reflected in this policy, and any grant requirements. Nothing in the policy shall prevent the County from complying with the terms and conditions of any grant, gift, or bequest which are otherwise consistent with law.

SECTION III. Objectives.

The objectives of procurement by the County are:

- i. To purchase goods and services of the required quality, in the proper quantity, at the right time, from the proper sources, and at the best value.
- ii. To conserve public funds through reduction in cost and improvements in the quality of materials purchased.
- iii. To maintain a staff of highly qualified purchasing personnel in order to maintain an efficient and effective purchasing process.
- iv. To perform purchasing activities in such a manner as to create a favorable public image for the County.

- v. To provide safeguards for the maintenance of a procurement system of quality and integrity.

SECTION IV. Statutory Guidelines.

Cumberland County's procurement activities regarding conditions for which advertised bidding is required and contracts awarded are governed by the County Code.

Cumberland County shall use, to the maximum extent possible, competitive bidding practices in the expenditure of the County's funds. The Commissioners encourage competitive pricing for purchases which fall below the minimum dollar value set by law.

The limitations on amounts established for bidding and obtaining quotes change on an annual basis through notice published by the Department of Labor and Industry in the Pennsylvania Bulletin, typically in December for the following calendar year. The bidding and quotation limitation contained in this policy will be updated annually as of January 1st in accordance with the amounts established through the Department of Labor and Industry. As an example, in 2015 the thresholds state that expenditures \$19,400 or more require advertised bid, and expenditures from \$10,500 - \$19,399 require three quotes.

The bidding requirements may not be evaded by separating items and bidding them separately for the purpose of obtaining prices not exceeding the amounts that require advertised bids. It is illegal to make a series of purchases or contracts each for less than the advertising requirement price that should otherwise be combined as a prudent business practice.

When bidding is required, the County can either purchase through the formal bid process or through approved purchasing consortiums. In order to provide flexibility for purchases of items that are typically used by all or most County departments during the year, an approved consortium must be used to make the purchase. As an example, in 2015 office supplies and printing purchases were made through approved purchasing consortiums.

A. Additional Laws That May Apply to County Purchases.

Regardless of the need for bidding or obtaining quotations or whether the service desired to be purchased is exempt from bidding requirements, there are numerous laws that may apply to the purchase or contract. Among these laws are the Steel Products Procurement Act, the Antibid-Rigging Act, the Prevailing Wage Act, the Public Works Contractors' Bond Law, the Contractor and Subcontractor Payment Act, the Motor

Vehicle Procurement Act, and the Public Works Employment Verification Act among numerous others.

B. Non-receipt of Bids.

If a purchase is required to be advertised for bid and no bids are received, the Municipal Property Purchasing and Sale Law requires that the purchase be re-bid. If bids are not received a second time, then the political subdivision is free to purchase, or enter into contracts for the purchase, of any item from any supplier within 45 days of the second advertisement for bid.

C. Exceptions to Bidding Requirements.

Contracts or purchases that do not require advertising, bidding, or price quotations are the following:

- i. Maintenance, repair or replacement of water, electric light, or other public works of the County which do not constitute new additions, extensions, or enlargements of existing facilities or equipment.
- ii. Improvements, repairs, and maintenance of any kind made and provided by the County through its own employees (excepting construction materials used in any street improvement).
- iii. Contracts or purchases where a particular type, model, or piece of new equipment, articles, apparatus, appliances, vehicles, or parts thereof are desired by the Commissioners, which are patented, manufactured, or copyrighted products.
- iv. Purchases of insurance or surety bond, those made for public utility services and electricity, natural gas, or telecommunications services (except, however, if the utility is not under tariff with the PUC, where contracts may be made without advertising and bidding only after receiving written or telephonic price quotations).
- v. Contracts involving services of the members of the legal or medical profession, registered architects, engineers, certified public accountants, or other personal services involving professional expertise.
- vi. Those involving contracts entered into by non-profit cooperative hospital service associations for hospitals and nursing homes which are part of the industrial district or which are owned by the County, operated by the County, or affiliated with the County by the purchasing of or participation in contracts for materials, supplies, and equipment.
- vii. Those made with any public body, whether by sale, lease, loan of any supplies or materials to the County by a public body provided that the price shall not be in excess of that fixed by the public body. (A “public

body” includes the Federal Government, the Commonwealth of Pennsylvania, any other State, a political subdivision or municipal authority of the Commonwealth or any other State, an agency of the Federal Government, Commonwealth, or any other State).

- viii. Contracts exclusively involving construction management services.
- ix. Purchases and contracts involving computer software.

D. Services Related to Technology and Information Systems.

The County Code authorizes the Board of Commissioners to enter into contracts for equipment and services related to technology and information systems on the basis of best value procurement. Best value procurement requires the solicitation of proposals based on performance and outcome specifications developed by the County describing objectives to be met, tasks to be performed, the user of the system, security issues, and the time frame for system implementation, among other requirements. Best value requirements do not require a sealed bid process and allow negotiation with the prospective service provider with respect to the terms of the agreement.

E. Contracting Requirements for Renovation, Repair, or Construction of County Buildings.

When work is done to construct or renovate any building of the County and the entire cost of the proposed work requires advertising and bidding (for 2015, \$19,400 or more) the County Code requires both separate specifications and contracts/bids for the following trades: (1) plumbing; (2) heating; (3) ventilation; (4) electrical work; (5) elevators and moving stairs; and (6) all other work to be done as part of the construction or renovation. Where an air conditioning unit or units are to be installed, the heating and ventilation portions involved may be regarded as one unit of work and bid together.

The County Code provides that with respect to improvements, repairs, and maintenance of any kind made by the County through its own employees, bidding and price quotations are not required. Bidding and price quotations are also not required for the construction materials needed for the improvements, repairs, and maintenance being done by County employees, unless the construction materials are used for street improvements, in which case the construction materials must be bid or purchased compliantly.

Equipment that is needed as part of the renovation, repair, or construction work must be either: (1) purchased as part of the project being bid; (2) purchased separately compliantly; or (3) separately bid.

The cost – typically labor – of equipment installation is bid as a separate item unless installation was a component bid with the equipment to be purchased. There can be no purchase of equipment through COSTARS (or any qualified cooperative purchasing program) where the price of installation is separately negotiated with the COSTARS supplier unless the installation price negotiated is \$10,500 or less (based on 2015 requirements), in which event the procurement of labor would be considered a compliant purchase.

SECTION V. Authority.

The Board of Commissioners has the sole authority and responsibility to purchase the County's goods and services. The Finance Office, under the direction of the Board of Commissioners, will serve as the Purchasing Agent for the County. Other County departments, whether under the Board of Commissioners or other elected officials, shall have no authority to obligate the County for purchases not made through the Finance Office unless the purchase is under \$500 and not an office supply or a service that is determined to be other than low risk by the Finance Office in conjunction with the Solicitor's Office.

The County Solicitor and the Finance Office will observe and enforce all of the procedures herein outlined in a manner that purchases may be made fairly, expeditiously, competitively, and insure that the best interest of the County will be served.

A. The Finance Office as assigned will have the authority and duty to:

- i. Issue all purchase orders and supporting documentation for goods and/or services required by the using department, in accordance with this purchasing policy.
- ii. Ensure proper procedures are followed to maintain public records and serve in a 'watchdog role'.
- iii. Act to procure the highest quality of goods and services at the best value within the parameters of County Code.
- iv. Ensure proper authorization and recording of all purchase transactions by departments.
- v. Confirm product and contractor compliance with the purchasing policy and procedures.
- vi. Maintain and update the purchasing manual and the purchasing procedures on an as needed basis.
- vii. Define and maintain the purchasing groupings list and make necessary changes on an as needed basis.
- viii. Require contracts to be routed through the Finance Office prior to review by the Solicitor's Office.

- ix. Enter, execute, and bind the County to written contracts, provided:
 - 1. The contract amount shall be less than \$10,000.
 - 2. Procurement of the contracted materials, products, equipment, technology, services, or other subject matter complies in all respects with applicable law.
 - 3. The contract is within the pertinent budget allowance.
 - 4. The contract has been duly approved in writing by the Solicitor's Office and the Finance Office.
- x. Define purchases with exemption status in regards to requiring a contract or purchase order in conjunction with the Solicitor's Office.

B. The Solicitor's Office as assigned will have the authority and duty to:

- i. Provide guidance to departments and the Finance Office in regards to interpretation of the purchasing policy, County Code, and other relevant law as it applies to situations that are either not addressed in the policy or are out of the ordinary.
- ii. Interpret the law.
- iii. Update the County's terms and conditions and distribute them to the Finance Office.
- iv. Ensure proper administration approval has been completed for contracts, RFPs, and bids prior to request for Commissioners' approval.
- v. Prepare and review contracts, RFPs, and bids.
- vi. Define purchases with exemption status in conjunction with the Finance Office.
- vii. Determine suitable levels of insurance by contractors and providers in conjunction with input from the Human Resources department, as necessary.

C. Additional Authority Delegation.

The Board of Commissioners may delegate authority to purchase certain supplies, services, insurance, or construction items to other County departments, if such delegation is deemed necessary for the effective procurement of those items. For example, delegate limited authority to the Director of Planning to approve and execute change orders, modifications and/or revisions to the work as it proceeds, provided that a requested change has no monetary effect on the project, or provided that no single order shall result in a change (increase or decrease) in cost in excess of \$7,000. This delegation of authority terminates at such time as the aggregate total sum of changes (increases or

decreases approved reaches a limit of \$35,000. In addition, delegate limited authority to the Director of Facilities Management to approve and execute change orders, modifications and/or revisions to the work as it proceeds, provided that a requested change has no monetary effect on the project, or provided that no single order shall result in a change (increase or decrease) in cost in excess of \$7,000. This delegation of authority also terminates at such time as the aggregate total sum of changes (increases or decreases approved reaches a limit of \$35,000.

Along with this special authority the Director of Planning and the Director of Facilities Management has the responsibility to:

- i. Provide the Board of Commissioners biweekly status reports as to approved change orders, the effect on the total construction cost, and the remaining balance available under the aggregate limits set forth.
- ii. Follow the guidelines set forth in this policy and also the procedures of the purchasing manual.

D. Information Management & Technology Office

To ensure technology purchases are sustainable, secure, and compatible with existing technology systems and services, all technology equipment, software, and peripheral devices must be approved through the Information Management & Technology Office prior to the purchase.

E. Facilities Management

To ensure building maintenance purchases and repairs are completed in accordance with County requirements, all purchases and repairs must be approved through the Facilities Management Office.

SECTION VI. Contract/Purchase Order.

The guidelines for using either contracts or purchase orders are:

Contracts will be used for:

- i. Good and services that are bid.
- ii. Services that are determined to be other than low risk by the Finance Office in conjunction with the County Solicitor.
- iii. RFPs.
- iv. Purchases that require acceptance of contractor terms and conditions and/or formal signature.

Purchase Orders will be used for:

- i. All goods \$500 or more that do not require bidding.
- ii. All office supplies.
- iii. Purchases made through an approved purchasing consortium.
- iv. Services that are not required to be a contract.

SECTION VII. Purchasing Philosophy.

Cumberland County will use a method of grouping supplies/goods and services together by categories that will serve as a purchasing guide for departments, the Finance Office, and the Solicitor's Office to identify how these items are purchased. These groupings are looked at as a whole across the County unless otherwise noted on the groupings. Annual spending is determined for each grouping and is based on the prior year's spending and next year's budget. Once annual spending is determined for a grouping the bidding and quotation limitations will be applied and each grouping will be marked as: requiring bid or purchase through an approved consortium; requiring three informal quotes or purchase through an approved consortium; or does not require bidding or quotation.

A. Purchasing Methods.

In order for a purchase to be authorized through purchase order, contract, or exemption, all County purchasing requests shall be awarded by one of the following methods:

i. Formal Bid Requests.

Any purchase of supplies/goods or services where the amount exceeds limits as established annually by law for advertised bid, must be done by advertising for bid (or purchased through an approved consortium). A bid may be awarded only to the lowest responsible and responsive bidder that submits a bid in conformity with the specifications provided. These specifications are to be approved by the Board of Commissioners.

ii. Informal Quote Requests.

All purchases in excess of the base amount requiring price quotation as established by law and less than the amount requiring advertised bidding must be accomplished by written or telephonic price quotations from at least three qualified and responsible contractors (or purchased through an approved consortium), with the contract being given to the lowest responsible bidder. A memorandum is required to be kept on

file to show that fewer than three qualified contractors exist in the market area within which it is practical to obtain quotations.

iii. Small Purchases.

Purchases by the County which have a purchase price less than the amount outlined under bidding and quotation requirements can be made without bidding, obtaining price quotations, or purchasing through an approved consortium.

iv. Sole Source Purchases.

A “sole source” purchase is a common term used to describe the purchase of an item contrary to the normal bidding or quotation requirements of the County Code when very specialized equipment or services related to that equipment are needed. The County Code in fact makes no reference to a sole source purchase, but does refer to the purchase of patented and manufactured or copyrighted products of a particular type or model specifically desired by the Commissioners.

A true sole source item is a unique item available through only one manufacturer/contractor that typically has a patent or copyright on the item. Whether an item is being sold or provided as a sole source item, the status of the item being from a sole source is typically confirmed by a letter from the manufacturer/contractor. The claim of being a sole source is often abused by a contractor and must be carefully evaluated.

There are times when a manufacturer/contractor claims to be the sole source for an item in a geographical area. If the same item is available through purchase outside the geographical area, purchasing the item will not qualify as a sole source purchase, unless the item in fact can be purchased from only one contractor/manufacture, regardless of the location where it is available for purchase.

A variation of the sole source purchase can apply to the purchase of service or replacement parts for specific equipment, particularly equipment under warranty. Certain manufacturers allow maintenance on specialized products by only certified service technicians who by franchise or other arrangements service products only within certain geographical areas. Also, “genuine” or manufacturer’s parts may need to be used so a warranty is not voided. In either case, a claim that a person is the only one authorized to maintain or service certain equipment or that only certain parts must be used should also be carefully evaluated.

v. Emergency Purchases.

Emergency Purchases or after hours situations are instances where delay will jeopardize the public health, welfare, or safety of persons if regular procedures are followed. Emergencies that occur other than during business hours will require an approved purchase requisition and confirming purchase order to be issued on the following business day.

vi. Cooperative Purchasing.

In order to provide flexibility for a department's purchase of items that are typically used by all or most County departments during the year, approved consortium purchases may be used. If the decision is made at the beginning of the year to purchase a grouping through a consortium, then all items purchased throughout the year are required to be purchased through a consortium.

Cumberland County will make purchases from contracts which have been negotiated to take advantage of cost-saving efforts from governmental purchasing organizations. The Finance Office maintains a master file of County contracts for reference by County departments. Each time a purchase order is issued to a contractor for an item covered by a purchasing consortium, the contract number shall be referenced on the purchase order so that the contractor is alerted to the fact that the provisions of the awarded contract govern the purchase.

vii. Exempt Purchases.

Purchases that do not require a contract or purchase order are considered exempt purchases. The list of exempt purchase is:

1. Purchases \$499 or less unless the purchase is for an office supply, or service that is determined to be other than low risk, then a purchase order is required regardless of amount.
2. Repetitive telephone, utility type services, or inter-agency payments.
3. Employee specific expense (e.g. tuition reimbursement, employee expense reimbursement, etc.)
4. An item that has been approved with an exemption status.

However a purchase order may be required or preferred in some of these instances.

B. Insurance Requirements.

The County requires that contractors have and maintain certain types of insurance coverage when they enter County property or otherwise perform service. The level of insurance required will be deemed appropriate by the Human Resources department and the County Solicitor based on the type/scope of services provided and the level of risk associated with the service.

Proof of insurance by a recognized insurance company, which is licensed to do business in the Commonwealth of Pennsylvania, must be provided by the purchasing department prior to the start of any work. Purchase orders for services requiring insurance will not be released until insurance certificates are on file with the County.

The request to reduce or waive insurance coverage requirements will be determined by the Human Resources department in conjunction with the Solicitor's Office.

C. Unauthorized Purchases.

If a County department purchases goods or services contrary to the provisions of the purchasing policy and procedures, or without the appropriate authority, the purchase or contract is void, of no effect, and does not obligate the County.

A department making an unauthorized purchase may be required to appear before the Chief Clerk to obtain approval of such expenditure with the possibility of becoming personally liable for the purchase.

SECTION VIII. Ethics in Purchasing.

- i. No public employee having official responsibility for a procurement transaction may solicit, demand, accept, or agree to accept from a bidder, offeror, contractor, or subcontractor any payment, loan, service, or gift.
- ii. No County employee, or any member of your family, are prohibited from having an adverse interest in any contract with the County department in which you are employed or influencing, or attempting to influence, the making of any contract in which you have an adverse interest. A "contract is defined as an arrangement for the acquisition or use by the County department of services, supplies, materials, equipment, land or any other personal or real property. "Adverse interest" is defined as being a party to a contract or being a stockholder, partner, member, agent, representative or employee of such party. If you violate any of these provisions, you will

automatically forfeit any office or employment with the County and you will be subject to legal prosecution.