

		<b>POLK COUNTY GOVERNMENT</b>				
		<b>Procurement Office</b>				
		<b>Title/Subject:</b>		Best Practices Procurement Manual		
		<b>Applies to:</b>		All Polk County Employees, Applicants and Program Beneficiaries	<b>Effective Date:</b>	April, 2021
<b>End Date:</b>	N/A					
X	Policy	<b>Approved by:</b> Board of Supervisors		<b>Policy #</b>		
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**Procurement Office Vision**

Establish the Procurement Office as the central procurement source for County departments to ensure the appropriate and most cost-effective acquisition of goods and services through fair and open competition.

**Procurement Office Mission**

To apply highly effective, efficient, ethical, and transparent procurement processes to ensure the availability and quality of materials and services to best serve the needs of the citizens of Polk County, Iowa.

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## **Section I - Introduction**

### **1. Overview**

Procurement in a government organization is the process of finding qualified suppliers, establishing vendor agreements, and acquiring goods and services through fair and open competition. Polk County departments, offices, and staff should follow procedures in this manual when purchasing supplies, equipment, and services with county funds. The Procurement Office will constantly strive to provide high quality products and services at the best overall value to the citizens of Polk County. County operated sources of supplies, such as the Printing Facility, shall be the primary source of supply for users of the procurement system. Only when county operated sources of supply cannot meet a particular need of a department will items or services be procured from outside sources. In the event that a department or office head feels it is necessary to procure an item or service from an outside source when a like or similar item or service is available from a County contracted source, the department/office head should submit in writing to the Procurement Supervisor why the County item or service is not suitable for their use. The decision to proceed with the requested procurement is at the discretion of the Procurement Supervisor and/or the Polk County Board of Supervisors.

### **2. Procurement Authority**

The Procurement Office is directed by the Procurement Supervisor and is responsible for ensuring all requirements pertaining to procurements are followed. Only the Procurement Office has the authority to conduct solicitations for any products or services used by Polk County unless an emergency situation (i.e. natural disaster, vote counting machine breakdown a week before an election, etc.) precludes a complete process, internal Polk County departments are able to conduct and complete a project without the need to secure outside parties (i.e. the printing area printing pamphlets and General Services construction and installation projects), or the Procurement Office assigns an individual procurement to another county department with Procurement Office oversight (excludes Polk County Conservation Board). The Procurement Office will utilize the expertise of each department in developing specifications and evaluation methods. Depending on the products and services being procured, each department may have a more hands-on role in the procurement process; including serving on an evaluation committee. Preference will be made to Polk County and State of Iowa suppliers of goods and services.

## **Section II – Procurement Policies**

### **1. Polk County Board of Supervisors Vendor Preference Policy Statement**

The Polk County Board of Supervisors and the Procurement Office retain discretion in applying preference in purchasing goods and services from vendors who produce goods, provide services or maintain an office in Polk County. Preference may also be given to suppliers of goods and services who maintain facilities in Iowa, but outside of Polk County. Further, it shall be the policy of Polk County to actively solicit and seek out local vendors of goods and services and to encourage said vendors to stock and supply Polk County and Iowa-made products.

### **2. Excluded Parties**

All respondents will be searched on the System for Award Management (SAM), <https://www.sam.gov> to verify they have not been excluded from entering into contracts funded with public monies. This must be documented and placed in the specific bid file.

### **3. Conflicts of Interest**

As used in this section, “contract” means a claim, account, or demand against or agreement with a county, express or implied, other than a contract to serve as an officer or employee of the county. However, contracts subject to Iowa Code section 314.2 are not subject to this section.

An officer or employee of a county shall not have an interest, direct or indirect, in a contract with that county. A contract entered into in violation of this section is void. The provisions of this section do not apply to:

- a. The designation of a bank or trust company as a depository, paying agent, or for investment of funds.
- b. An employee of a bank or trust company, who serves as treasurer of a county.
- c. Investment firms utilized by the Polk County Treasury Office.
- d. Contracts made by a county upon competitive bid in writing, publicly invited and opened.
- e. Contracts in which a county officer or employee has an interest solely by reason of employment, or a stock interest of the kind described in paragraph “h”, or both, if the contracts are made by competitive bid, publicly invited and opened, or if the remuneration of employment will not be directly affected as a result of the contract and the duties of employment do not directly involve the procurement or preparation of any part of the contract. The competitive bid qualification of this paragraph does not apply to a contract for professional services not customarily awarded by competitive bid.
- f. The designation of official newspapers.
- g. A contract in which a county officer or employee has an interest if the contract was made before the time the officer or employee was elected or appointed, but the contract shall not be renewed.
- h. A contract with volunteer fire fighters or civil defense volunteers.
- i. A contract with a corporation in which a county officer or employee has an interest by reason of stockholdings when less than five percent of the outstanding stock of the corporation is owned or controlled directly or indirectly by the officer or employee or the spouse or immediate family of the officer or employee.
- j. A contract made by competitive bid, publicly invited and opened, in which a member of a county board, commission, or administrative agency has an interest, if the member is not authorized by law to participate in the awarding of the contract. The competitive bid qualification of this paragraph does not apply to a contract for professional services not customarily awarded by competitive bid.
- k. Contracts not otherwise permitted by this section, for the purchase of goods or services by a county, which benefit a county officer or employee, if the purchases benefiting that officer or employee do not exceed a cumulative total purchase price of six thousand dollars in a fiscal year.
- l. A contract that is a bond, note, or other obligation of the county and the contract is not acquired directly from the county, but is acquired in a transaction with a third party, who may or may not be the original underwriter, purchaser, or obligee of the contract.

See Iowa Code § 331.342.

Polk County employees whom conduct procurements and/or purchase goods and services must disclose all potential conflicts of interest at the request of the Procurement Office and/or Boards of Supervisors. A Disclosure of Conflicts of Interest form must also be completed by all purchasers as part of the purchasing card ("Pcard") purchasing training program.

#### 4. **Gratuity and Gift Policy**

In order to maintain integrity and to continue to foster ethical and equal opportunity among the business community, Polk County employees are prohibited from accepting any gratuities, in any form, from any supplier or potential supplier either directly or indirectly. Polk County employees are required to adhere to the state of Iowa Gift Law. (See Iowa Code § 68B.22).

#### 5. **Sales Representative Office Visits**

Sales representatives are essential in establishing lines of communications between the vendor and the Procurement Office in regards to state of the art advancements or product improvements, in resolving problems with products and services, billing and payment difficulties, and other similar procurement-related matters. However, due to the high volume of procurements conducted and limited staff time, meetings will be limited to suppliers of products and/or services on current or upcoming scheduled procurements only, or at the request of county procurement staff. Any information that could be considered evaluation criteria provided to the County outside of a requested quote or formal bid may exclude that supplier from contracting with the county.

#### 6. **Discrimination and Affirmative Action**

Responders shall comply with the provisions of federal, state, and local laws and regulations to ensure that no employee or applicant for employment is discriminated against because of race, religion, color, sex, age, sexual orientation, gender identity, national origin, creed, genetic information, disability, veteran or military service. When requested, respondents shall provide the County with reports required to ensure compliance with equal employment legislation and regulations if requested. Respondents shall insure that all authorized sub-contractors comply with the provisions of this clause. A copy of the respondent's policy (or sub-contracted supplier's policy) must be made available to Polk County upon request.

Polk County, in accordance with Title VI of the Civil Rights Act of 1964, 78 Stat. 252, 42 U.S.C. 2000d to 2000d-4 and Title 49, Code of Federal Regulations, hereby notifies all bidders that it will affirmatively insure that in any procurement conducted on behalf of Polk County that minority business enterprises will be afforded full opportunity to submit bids in response to an invitation and will not be discriminated against on the basis of any protected classification in consideration for an award.

#### 7. **Confidential Information**

Iowa Code Chapter 22 makes certain records in the possession of a government body, such as Polk County, public and subject to examination and/or copying. There are, however, some public records that remain confidential unless otherwise ordered by a court, a lawful custodian, or another person duly authorized to release information. Some of these confidential records include:

- a. Trade secrets and proprietary information recognized and protected as such by law [Iowa Code 22.7(3)].
- b. Records that represent and constitute the work product of an attorney, related to litigation or claim made by or against a public body [Iowa Code 22.7(4)].
- c. Reports to governmental agencies that if released, would give advantage to competitors and serve no public purpose. [Iowa Code 22.7(6)].
- d. Personal information in confidential personnel records of government bodies relating to identified or identifiable individuals who are officials, officers, or employees of the government bodies. [Iowa Code § 22.7(11)]

- e. Copies of voided checks from vendors containing bank account information.

Respondents who submit records, as defined by Iowa Code chapter 22, to Polk County acknowledge that such records may be subject to release by Polk County to a requesting party. To the extent a Respondent asserts some of the record(s) it submits are confidential, the Respondent must specifically designate which part(s) of the records it maintains are confidential and cite specific legal authority supporting its confidentiality claim.

#### **8. Collusion Amongst Suppliers**

Any agreement or collusion among respondents/prospective bidders or among proposers/prospective proposers, in restraint of freedom of competition by agreement to bid or propose a fixed price or otherwise shall render the bids or proposals of such bidders or proposers void. Each bidder/proposer shall accompany his or her bid/proposal with a sworn statement or shall otherwise swear or affirm that he or she has not been a party to any such agreement. Any disclosure by one bidder or proposer to another bidder or proposer of the content of a bid or proposal in advance or the submission of bids or proposals shall render the bids or proposals of both such bidders or proposers void, and may at the discretion of the procurement administrator render the proceedings void and/or bar the supplier(s) from future bid opportunities and contracts with the count

#### **9. Change Order Cost Verification**

All change order requests submitted by the contractor will be evaluated for fair market value and must be approved by the Boards of Supervisors before the vendor implements the change. Any change order performed without pre-approval of the Polk County Board of Supervisors and/or their designated personnel, will not be billable to the county. If the evaluation of the proposed change order cost determines that the change order request from the contractor is not of fair market value, the County reserves the right to deny the change order, request the vendor match the fair market value, or procure the item from another source. All change order requests must be submitted on the electronic Procurement Office Change Order Request form and submitted to the Procurement Supervisor.

### **Section 3 – Procurement Purpose and Methods**

#### **1. Purpose**

The primary purpose of any governmental procurement is to obtain optimal quality and service at minimum cost through fair and open competition. Secondary purposes are to guard against favoritism and profiteering at public expense and to provide equal opportunities to participate by every qualified vendor. All procurements should be designed to ensure that all qualified vendors have a fair opportunity to benefit from the use public funds. The ultimate goal of any governmental procurement should be to provide the best value to the public.

#### **2. Competition**

Competition in procurement is defined as the process in which two or more vendors attempt to secure business by the most favorable price, quality, and service. Procurement practices should only rule out vendors for sound business reasons. Exclusionary practices that limit competition for reasons other than business or bona fide policy goals will not be allowed. Two sources/vendors are not considered adequate when there are additional sources/vendors in the area that are fully qualified to compete. Examples of procurements that may restrict competition by using exclusionary or discriminatory specifications are:

- Placing unreasonable requirements on firms in order for them to not qualify to do business
- Requiring unnecessary experience and bonding
- Allowing noncompetitive practices between firms (collusion, price fixing)
- Non-competitive awards to any person or firm on retainer contracts
- Conflicts of interest within the county
- Specification of a product without listing its salient characteristics and not allowing an alternative product to be considered
- Specifications provided by a supplier
- Using any arbitrary action in the procurement process

The intent of Polk County is to offer all goods and services for public bidding when feasible.

#### **3. Contract Life**

No contract with a vendor should exceed 3 years without that product or service being re-solicited. Contracts longer than 3 years may eliminate fair and open competition practices. In rare instances, situations may arise where contracts need to be extended beyond 3 years, but it is the objective to limit to 3 years if at all possible.

#### **4. Fair and Open Quotes and Proposals**

No quotes, specifications, nor performance proposals shall be presented by a vendor to any Polk County employee and/or other suppliers prior to bid opening. No attempt shall be made by any vendor to induce any person or firm to submit, not to submit, adjust pricing, and/or provide pre-bid specifications in any manner that may be viewed as limiting fair and open competition. Any information deemed to be part of the selection process that is presented to any Polk County employee and/or other suppliers prior to bid opening may eliminate that supplier from submitting a response on a specific project and/or may bar the supplier from bidding/contracting with the county on future business.

#### **5. Procurement Methods**

- a. *Consortium* - A consortium is a competitive procurement involving more than one agency. Each agency in the consortium must agree on the specifications and work together with one lead agency to develop common specifications.
- b. *Government to Government Cooperative Purchases* - The Procurement Office may utilize a current contract, agreement, or purchase order issued by another governmental agency to make a purchase without further competition. The County may join a contract or agreement let by a government purchasing consortium when the Procurement Office reasonably believes it is in the best interest of the County.

The Procurement Office shall request use of a contract, agreement, or purchase order to the procuring governmental agency prior to purchasing any goods and services provided:

1. The original procuring agency allows for government to government cooperative purchases
2. The original award was made through fair and open competition
3. The County and vendor agree to adhere to terms and conditions of the original contract
4. The conditions of the County purchase do not adversely impact the governmental entity which was the original signatory to the contract.

Each year, the State of Iowa establishes contracts for purchases of various products and services. To the extent that these state bids meet county requirements, Polk County may purchase from the existing state bids. Open state of Iowa contracts and open bid opportunities for the state of Iowa may be found at <https://das.iowa.gov/procurement>

- c. *Piggybacking* – The post award practice of allowing someone who was not included in the original procurement to purchase the same supplies or equipment through the original contract. The distinction between Piggybacking and a Government to Government Competitive Purchase is in how the original procurement was written. If an RFP was written for a specific number of items only and not all of those were purchased, Piggybacking is the ability to only order the remaining number of available items to the max allowed on the contract. For example, a bid is conducted for only 50 vehicles and the agency that conducted the RFP only ended up purchasing 40. Another agency could “piggyback” and purchase the remaining 10 units to fulfill the max allowed in the RFP. Purchases above the max stated in the original RFP is not allowed. Piggybacking should be considered the last option in procurement and will only be conducted when a competitive procurement has yielded no qualified bidders, all proposals are cost prohibitive, and/or no other governmental agency administered contracts have products available that would meet the county needs. To be considered an eligible party in which to piggyback, the following rules are required:
  1. the original solicitation must include an assignability clause that provides for the assignment of all or part of the deliverables as originally advertised and competed
  2. the original solicitation and contract must contain both a minimum and maximum quantity
  3. no additional quantities can be added
  4. units must be as originally specified with no "cardinal changes" which is defined as a fundamental change to a product of service drastic enough to require the supplier to perform duties or purchase materials outside of the original scope of work and/or specifications. This could be viewed as an intentional attempt to circumvent fair procurement practices.
- d. *Governmental Grants and Funding Sources (Non-Polk County)* - In the event that grants and/or any public funding sources become available outside of Polk County funds, the Procurement Office will have the authority to waive the county procurement rules in order to follow the specific funding agency rules only for that specific project in order to be eligible for funding. The Procurement Supervisor and/or assigned Procurement Office staff will work with the funding agency to determine what rules and regulations must be followed and will have the responsibility to author any and all documents and administer all processes from initial research through vendor award.
- e. *Competitive Procurements* -
  1. *Micro-Purchase* – Micro Purchases are procurements under \$5,000 that can be made without obtaining competitive quotations. These purchases should be equitably distributed amongst qualified Polk County and state of Iowa suppliers if available. No purchases or projects can be split to be under the dollar threshold to avoid competition.
  2. *Small Purchase Procedure (informal quotes)* – The informal small purchase procedure may be used for goods or services costing between \$5,000 and \$49,999 and construction/public improvement project projects costing less than \$100,000. It is the value of the total contract that determines the procedure to use. If an individual item is under \$50,000, but the approved total project cost is \$50,000 or more, the formal bid procedure will be followed even if the items are purchased individually (same rule applies to construction projects where \$100,000 is the max threshold). Preference will be given to companies that have offices and/or manufacturing facilities in first Polk County then second in Iowa. To use the small purchase procedure, obtain competitive pricing from an adequate number of qualified sources (typically 3 or more, but two may be determined adequate if no other supplier is found to be available in the area). Typically,



low price is the sole determining factor in a small purchase procurement, but other factors may be considered (e.g., lead time on deliveries and company location). Determining factors should be part of the quote instructions.

3. *Request for Proposal/Invitation for Bid (RFP/IFB – Formal Bid)* - The RFP/IFB procurement process must be conducted for all products and services with a total cost over \$50,000 and public improvement projects (also referred to as capital improvement projects or “CIP”) with an anticipated cost of \$100,000 or more. RFPs should be conducted when projects are general and specifications less detailed. Respondents may have different features in their proposals that will be evaluated for best value. IFBs are conducted when projects are specific with detailed specifications. Respondents should only bid according to the exact specifications listed and awards are primarily based on lowest priced bid, but other factors may be considered (e.g., lead time on deliveries and company location). Determining factors should be part of the IFB instructions.
4. *Request for Qualifications (RFQ – Qualifications Based)* –The RFQ procedure is used when contracting for Architectural and Engineering services (A&E). Other types of services that may be procured using RFQ procedures include: program management, construction management, preliminary engineering, design, surveying, mapping, and/or services that require performance of a registered or licensed architect. Award criteria will be based on qualifications and geographic location before price considerations. Respondents must submit costs proposals on a separate document clearly marked “Cost Proposal” which will not be reviewed until the qualifications have been reviewed and scored. If the RFQ review committee concludes the cost proposal of initial selected vendor precludes an award to the most qualified vendor, the office maintains the right to negotiate a lower cost. If that negotiation does not yield the results the County desires, the County may move to the next most qualified vendor and review their pricing.

	<b>Micro Purchase</b>	<b>Small Purchase (Informal Quotes)</b>	<b>Request for Proposal (RFP/IFB-formal bid)</b>	<b>Request for Qualifications (RFQ)</b>
Amount of Purchase	Total under \$5,000	Total under \$50,000 for Goods and Services	Total \$50,000 or more for Good and Services	Professional Services over \$10,000
Nature of Product or service	Standardized Product/service	Specific Product/service in which price is the primary evaluating factor	Typically Non-specific product/service where combination of factors may be evaluated for best value	Architectural and Engineering
Competitive	No	Yes	Yes	Yes
Advanced Authority to Incur Costs (see page 15)	No	Yes	Yes	Yes

f. *Non Competitive Procurements*

1. *Sole Source Purchases* - Sole source procurements are allowed **ONLY** when the award of a contract is infeasible through a competitive process by any one of the following conditions:
  - a. The item is only available from one source (determined by way of only receiving one qualified bid).
  - b. The procurement is of such a specialized nature or related to a specific geographical location that by virtue of experience, expertise, proximity, or ownership of intellectual property rights, only one vendor could most satisfactorily provide the good or service.
  - c. Applicable law requires, provides for, or permits use of a sole source procurement.
  - d. The federal government or other provider of funds for the procurement (other than Polk County) has imposed clear and specific restrictions on the use of the funds in a way that restricts the procurement to only one vendor.
  - e. The procurement is an information technology device or service that is systems software or an upgrade; or compatibility is the overriding consideration; or the procurement would prevent avoidance or termination of a warranty, or the procurement would prevent or default under a contract or other obligations.
  - f. A current contracted Polk County or state of Iowa vendor can meet all requirements and specifications of only the specific item or service being procured at a substantial cost savings.
2. *Emergency Procurements* - It is sometimes necessary to make an emergency purchase of an item or service. Instances where emergency procurements are required are rare (e.g., needing a sump pump in a flood, tree removal service following a violent storm, power outage at a detention facility, or a time limiting factor such as a ballot counting machine breakdown a week before election day), but such situations require a policy so there is no doubt about having authority to make an emergency purchase.
  - a. A situation in which an immediate or emergency need exists for the item or service because of events and circumstances not reasonably foreseeable;
  - b. The situation threatens the public health, safety, or welfare;
  - c. The situation dictates a need to protect the health, safety, or welfare of persons occupying or visiting a public property; and
  - d. A situation requiring a department or office to act quickly to preserve critical services or programs.

In these circumstances, Polk County departments, offices, and staff may not have time to conduct a formal bid, solicit quotes, or notify the Procurement Office. Therefore, Polk County staff should be empowered to make quick decisions. In creating the emergency procurement policy, it is emphasized these situations are rare and short-lived in nature. Emergency procurements should not be used often and should not be utilized just to get around the traditional, required procurement process. The intent of this process is still to purchase as many goods and services from current contracted County suppliers, but when certain situations arise, the ability to make quick, ethical, non-competitive purchases is allowed.

If a Polk County employee makes an emergency purchase and is unable to notify or consult with the Procurement Office or their department representative tasked with approving purchases prior to making the purchase, the employee must notify the Procurement Office and/or their department purchasing representative of the emergency procurement (including an explanation of the circumstances generating the need for the emergency procurement) as soon as possible. All attempts should be made to purchase from existing contracted suppliers.

3. *Internal Polk County Department Conducting Work* – If in the best interest of the County, internal Polk County offices and departments may perform tasks without seeking bids from outside parties when they are capable of meeting project scope, specifications, and timelines. Examples of this are: The Print Shop printing pamphlets, General Services carrying out construction, installations, landscaping/lawn care, or IT developing a program.

**Section IV – Competitive Bid Process**

Standard outline of a formal RFP procurement:

- a. Pre-Bid Activities
  1. Determine project title and description
  2. Determine scope of procurement
- b. Develop solicitation package
  1. General Instruction to bidders, including standard terms and conditions, required clauses, evaluation process, and protest procedures.
  2. Quality Assurance Questionnaire
  3. Scope of Work
  4. Specifications
  5. Documents and attachments
- c. Solicitation Activities
  1. Finalize solicitation package
  2. Develop list of vendor to solicit (County and State if possible)
  3. Advertise procurement
  4. Send digital RFP package to all vendors requesting package and the solicitation group (or notify of E-Procurement website)
  5. Conduct pre-bid conference if deemed necessary by the County. Pre-Bid Conferences should not be mandatory (as that may be considered a competition limiting practice), rather should be considered “highly recommended.”
  6. Respond to vendors’ requesting clarifications, approved equals, or exceptions to the solicitation in writing (verbal questions/responses are not official)
  7. Author and post addendums and amendments to the original solicitation if applicable
  8. Public opening (or access if E-Procurement) of proposals at time and location specified in solicitation package
- d. Bid review and award
  1. Convene review committee
  2. Analyze bid for responsiveness to requirements, vendor responsibility, submittal of Quality Assurance Questionnaire, and tabulate quotes (or determine most qualified if RFQ)
  3. Notify vendors of record of intent to award and bid tabulation
  4. All bids may be rejected if in the public interest
  5. Wait three days for protests/respond to protests
  6. Award contract

## **Section V – Developing Solicitation Packages**

### **1. Determining Project Parameters – Pre-Bid Activities**

Before beginning the procurement process, the project title, description, and goals of the procurement should be established. Clearly stated goals will lead to more effective decisions regarding the methods and procedures needed to make the purchase. Once the goals of a procurement are clear, detailed specifications can be developed.

### **2. General Instructions to Bidders**

- a. *Cover Sheet* – The cover sheet may contain a brief synopsis of the requirement(s) or any other brief facts that will be restated in greater detail in later parts of the bid package. This sheet should show the procurement schedule.
- b. *Procurement Schedule* – The schedule should include the following dates (time frames are suggestions only):
  1. Date of Pre-bid conference if one will be held (RFP)
  2. Deadline for submission of requests for approved equals, exceptions, and clarifications
  3. Date sealed/electronic bids are due
  4. Date and time of bid opening
  5. Date of anticipated contract award – Date needs to allow time for bid analysis, staff concurrence, board action if required and announcement of intent to award
- c. *Conditions and Notices to Bidders* – This section provides special information to prospective bidders, such as:
  1. The availability of a pre-bid conference
  2. Pre-Bid Standard Terms and Conditions
  3. Quality Assurance Questionnaire
  4. Directions for obtaining copies of documents (plans, drawings)
  5. The requirement for a certification of compliance with specifications - The Procurement Office assumes the responsibility for verifying a bid's compliance. The certificate of compliance may suffice, but requirements for submission of descriptive literature and/or bid samples may also be required. Supplemental information necessary to confirm responsiveness of product may be required after bids are opened:
    - a. The name, address and phone number of designated contact person should be identified
    - b. Contract provisions required by law and regulation
    - c. Evaluation factors for award
    - d. Remedies such as bid or performance bond requirements, liquidated damages, etc.
- d. *Approved Equals, Exceptions and Clarifications* - The instructions to bidders should explain the approved equals, exceptions and clarifications procedure. The deadline for receipt of these requests must be specified. Vendors must be given the opportunity to request changes or clarifications in the bid package. By allowing vendors this opportunity, you will enhance competition and improve the likelihood that your needs will be met. All requests must be submitted in writing only (via email) to the procurement supervisor and/or the procurement staff member administering the procurement.
- e. *Evaluation Factors for Award* - This section should contain a statement of the exact basis upon which bids will be evaluated and the award made. In an RFP procurement, awards shall normally be made on the basis of best value for a unit which fully complies with the specifications. The exact nature of each factor, and the relative weighting, must be presented. No factors other than those listed may be used once bids are received. Preference will be given to first suppliers with offices and/or manufacturing facilities in Polk County, second the state of Iowa.
- f. *Protest Process* - The procuring agency must make every effort to award a contract in a fair, open, ethical, and transparent manner. In the event that a bidder feels that a contract award has been made unfairly or improperly, the bidder has the right to protest the award. If a protest has been filed before the opening of bids (pre-bid protest must be submitted at least 48 business hours prior to bid opening), the

procurement administrator should not open bids prior to the resolution of the protest, unless the Procurement Office has given approval to open the bids on the basis of an emergency situation. Formal protests must be submitted in writing to the procurement supervisor. The procurement supervisor will meet with the staff administering the procurement and all evaluation team members and respond in writing with a formal decision which will include explanation of how the decision was derived. If the protest is approved, the Procurement Office will notify all bidders and may issue an addendum to the original bid and extend the due date or terminate the bid and re-issue. The decision of the procurement supervisor is final.

g. *Scope of Work*

1. *Supplies/Services, and Quantities* – This section should contain the specifications, a detailed description of the items or services being procured, and the quantities required (if applicable). An informal quote will have straightforward specifications of products and request quantities. An RFP will describe a scope of work and a description of intended product and tasks to complete the scope of work.
  2. *Delivery Performance* – This bid should state the required time of delivery, delivery destination, and method of delivery. The county should have goods shipped F.O.B. to the receiving location stated in the bid. All delivered products should be inspected upon delivery to final end user location to verify product is in good working order and meets the specifications stated in the bid.
  3. *Bid/Performance Bond* –Iowa Code requires that a bond must be secured for public improvement projects that exceed \$25,000. The bond amount should not be less than 5% of total project cost and not more than 10% of the project cost. Whether a contract uses subs or not does not have a bearing on the bond requirement.
  4. *Special Provisions* – This bid should contain provisions pertaining to optional features, quantity options, and other special provisions, which support the requirements if applicable.
  5. *Descriptive Literature* – The term "descriptive literature" means information, such as illustrations, floor plans, drawings and brochures showing the characteristics or construction of a product or explaining its operation. Descriptive literature is furnished by a bidder as a part of the bid to describe the products offered in the bid. It may be appropriate to require descriptive literature in the procurement of highly technical or specialized equipment, or where considerations such as design or style are important in determining acceptability of the product. If descriptive literature is not required, but such literature is furnished with a bid, it should not be considered to qualify the bid. If the vendor has certified compliance with the bid specifications, but the literature appears inconsistent with the bid specifications, the vendor should be challenged to reconfirm their certification of compliance. It is important to note that submission of descriptive material showing nonconformance with specifications does not establish an exception, even if the Procurement Office fails to challenge the vendor.
  6. *Bid Sample* – A "bid sample" is a sample unit of the items being procured and may be required to be furnished by a bidder. Such samples should be used only for the purpose of determining the responsiveness of the bid. The bid should not be considered on the issue of a bidder's ability to produce the required item or sample. If bid samples are not required by the solicitation, but samples are furnished with bids, they should not be considered as qualifying the bid. In a few cases, a bid sample may be required, particularly when the product has characteristics that cannot be described adequately in the specifications. A bid sample should not be sent unless requested by the county. A bid sample may be requested when the procurement is for products that must be suitable from the standpoint of balance, ease of use, general "feel", color or pattern, or that have certain other characteristics that cannot be described adequately in the specifications. The bid package should list all of the characteristics of the sample that will be examined. Also, bids should be rejected as non-responsive if the sample fails to conform to any of the listed characteristics.
- h. *Specifications* – A specification is defined as a clear and accurate description of the technical requirements for a material, product or service, including any procedures by which it will be determined that the requirements have been met.

It is the Procurement Office's responsibility to prepare or secure specifications that best reflect the County's needs. The procurement administrator should state exactly what the requirements are and not leave specifications open to differing interpretations unless conducting a general IFB. Wording should

always be clear and specific as possible so the respondent knows what is needed by the County. Specifications should not be so narrow that bids are restricted to a sole provider.

Use the following guidelines when writing valid specifications:

- Reflect the actual minimum functional requirements of the county, not what may be desired
- Describe requirements in plain, precise language
- Allow the preparation and evaluation of bids on a common basis
- Deal with measurable/verifiable features, not intangibles
- List all salient features of a required item in generic terms -- use of brand names shall generally be limited to illustrative examples. (If a brand name is given, the specifications should state "or approved equal" and a listing of salient features which will allow something to be considered equal must be made available upon request.) In some instances, a specific name brand may be required but would only be allowed if that name brand is available from more than one supplier; thus keeping the procurement competitive.

There are three basic types of specifications that can be described in your bid package: Design Specifications, Performance Specifications, and Combined Design and Performance Specifications.

1. *Design specifications* - contain the data necessary to produce an item (this normally would include details, size, dimensions, etc.). Any specific design details must have a functional justification.
  2. *Performance specifications* - express requirements in the form of output, function or operation of an item and equipment, and leave the details of design, fabrication, formulation or internal workings to the producer's option.
  3. *Combined Specifications* - Most specifications have both design and performance characteristics. When a specification is referred to as a performance specification, it indicates that the requirements in the specification are predominately performance.
- i. *Amendments* - Specifications and instructions may be amended prior to the bid opening, as long as a reasonable amount of time is provided for vendors to respond to the change(s). The responses to requests for approved equals, exceptions and clarifications, and answers to publically submitted questions may include some minor amendments to the specifications. An amendment which causes a major (cardinal) change in the scope of the procurement may result in cancelation of the solicitation in order to update and post as a new solicitation.
  - j. *Addendums* – On occasion, additional information not included in the original bid documents may be added. It is typically an ad hoc item, usually compiled and executed after the bid has been published, which contains additional terms, obligations, answers to public questions, other relevant information. If the addendum has any form of required response from the bidder, a reasonable amount of time shall be provided for vendors to respond.

An amendment and/or addendum to either the solicitation specifications or bidder instructions becomes a permanent part of the bid packet. Amendments and Addendums should be sent to each vendor solicited to bid and published publically with the original bid posting. Each amendment and addendum must:

1. Identify the bid with description, date and/or number and specify amendment date;
2. Clearly state the changes made and/or additional information added to the bid package and whether there is to be an extension of the opening date. If no extension of time set for opening is involved, the amendment should state accordingly;
3. Include instructions to prospective bidders for acknowledging receipt of the amendment and/or addendum. The effect of failure to acknowledge any amendments and/or addendums should be made clear for the prospective bidders.

### 3. Solicitation Activities

- a. *Identify and Notify Potential Bidders* – A list of prospective bidders should be developed for each procurement and the solicitation sent to each without their request. Bids must also be published and open to the general public. A bid notice should include:

1. A specific solicitation identifier
  2. General description of item/service to be procured
  3. Contact person, phone number, email address, and physical address
  4. How to obtain the bid packet
  5. Date and time of bid opening
  6. Statement of funding source
- b) *The Pre-bid Conference* – A pre-bid conference may be used to brief prospective bidders and explain and/or exhibit complicated specifications and requirements as early as possible after the bid package has been advertised, and before the bids are to be submitted. The pre-bid conference should never be used as a substitute for amending a defective or ambiguous solicitation. Attendance at the pre-bid conference cannot be mandatory; rather, worded as “highly recommended.” Any clarifications, exceptions, or approved equals provided at a pre-bid conference must be put in writing and sent to all potential bidders. It should be clear that oral statements do not take precedence over written specifications or instructions.
- c) *Bid Openings* – Proposals should be date and time stamped (either physically or digitally) as they are received, and a log kept to provide documentation of their receipt. Bids received in response to an RFP are opened publicly (or public access granted if digital procurement) and recorded at the time and place the right to attend the bid opening (or have access to all digital bid documents) and view the certifications and other elements of any proposal, including prices (except for A/E services).

#### 4. **Handling Late Bids and Withdrawals**

It is the Procurement Office's responsibility to ensure the policies and procedures relating to receipt of bids conforms to and supports the principle of integrity. The bid package will inform prospective bidders of the county policies concerning the receipt and withdrawal of bids, and the handling of late bids. No bids will be accepted after the precise due date and time. It is solely the bidder's responsibility to have the bid documents delivered or submitted electronically by the exact due date and time. If the bid is submitted electronically, an electronic notification will be sent to the bidder with the exact time of submission. The County reserves the right to extend, re-open, or re-bid a procurement if it is in the best interest of the County due to extenuating circumstances. The intent is not to circumvent a fair, open, ethical, transparent procurement process.

## **Section VI – Evaluating Responses**

### **1. Bid Analysis and Recommendations for Awards**

Once bids have been opened, it is the responsibility of the Procurement Office staff and/or review committee to analyze the bids in terms of responsiveness, responsibility, and quotes. Corrections for irregularities (see “Waiving Minor Formalities or Irregularities” below) may be requested by the Procurement Office. Major irregularities (i.e. not being able to meet delivery requirements, negative reference, missing essential documentation, etc.) will result in the determination of non-responsive and/or non-responsible resulting in the dismissal of the bid. These determinations are final.

### **2. Evaluating Responsiveness**

"Responsiveness" refers to a potential contractor's conformance to the requirements of the solicitation. In a formally advertised procurement, any bid that fails to conform to the essential requirements (specifications, terms and conditions) shall be deemed non-responsive and rejected. The vendor cannot tie their bid to another bid or make reservations such as, "price may increase due to raw metal price increases". Examples of some instances that make a bid non-responsive are:

- Bidder states a price but qualifies such price as being subject to price in effect at time of delivery
- Bidder takes exception to the terms and conditions by limiting the county's rights under any clause or extending the delivery period
- Bidder fails to return signed Quality Assurance Questionnaire
- Bidder has not completed, signed, or submitted the required certifications with bid package
- Bidder's proposal does not meet specifications
- When using a procurement process in which the bidders certify the product bid is in full compliance with the specifications, responsiveness is assumed unless the bidder withdraws that certification. If the procurement supervisor and/or assigned procurement staff has reason to believe that the certification may be based on a misunderstanding, the procurement is encouraged to challenge the bidder on specific points during the bid analysis. If it is clear that there has been a misunderstanding, a bidder should be allowed to withdraw a bid.

If a bid bond is required, or a bid sample or descriptive literature is required for evaluation purposes, the failure to furnish the requested item will result in the bid being rejected. A bid bond is a financially binding obligation or guarantee to insure fulfillment of a bid. The bid package should clearly state that failure to submit required documents will cause the bid to be rejected.

### **3. Waiving Minor Formalities or Irregularities**

Polk County may waive minor deviations at the discretion of the Procurement Supervisor and/or procurement administrator. Examples of minor deviations are:

- Failure of bidder to return number of copies of signed bids required by the bid package
- Failure of bidder to sign bid, but only if the unsigned bid is accompanied by other material indicating the bidder's intention to be bound by the unsigned bid document, such as the submission of a bid guarantee or a letter signed by the bidder with the bid, referring to and clearly identifying the bid itself.

### **4. Evaluating Responsibility**

Responsibility refers to the potential bidder's potential ability to perform successfully under the terms of the proposed contract. Such responsibility encompasses both technical (plant or facility) and financial capacities. Responsibility can be determined up to the time of bid award. The following are minimum standards that a potential bidder should meet as a responsible contractor:



- Has adequate financial resources or the ability to obtain such resources as required during performance of the contract;
- Must be able to comply with the required or proposed delivery or performance schedule, taking into consideration all existing business commitments;
- Has a satisfactory record of performance (for contractors who are or have been deficient in current or recent contract performance, consideration should be given to the number of contracts, and the extent of, the reason for, and the deficiency of each);
- Has a satisfactory record of integrity and business ethics;
- Must be otherwise qualified and eligible to receive an award under applicable laws and regulations;
- Must document the search of the System for Award Management (<https://www.sam.gov/portal/public/SAM/>) to verify excluded parties are not participating in the covered transaction;
- Must not appear on any list of debarred, suspended or ineligible concerns or individuals which is mandatory to the purchaser;
- Must have evidence of fiscal capacity based on apparent successful bidder financial data, such as balance sheet, profit and loss statements, financial histories of the contract and affiliated concerns, current and past production records, personnel records, list of tools, equipment, and facilities, written statements of commitments concerning financial assistance and subcontracting arrangements, and analysis of operational control procedures;
- Must provide evidence of production capacity and quality documents in publications, including credit rating, trade and financial journals, and business directories and registers; and,
- Must have a reputation for meeting debt obligations based on references from other sources, such as bank and financial institutions.

## 5. Evaluating Price

The lowest bid is the response with the lowest dollar value when using the criteria stated in the bid package, i.e., low base bid or low life-cycle cost. Quantity discounts for the purchase of more units than listed in the bid package or discounts for early payments do not count. The bid analysis must be based on the bid price as listed in the bid submittal. Lowest price should only be one evaluation factor in an RFP where the goal is overall best value. In an IFB or Small Purchase (informal quote) procurement, lowest price may be the only evaluation factor depending on the project specifics (i.e. the county requires a supplier to provide delivery lead time; one supplier is two day delivery another is 4 week delivery, this could impact award) stated in the solicitation.

## 6. Geographic Location

Geographic location of offices and/or manufacturing facilities in Polk County and the state of Iowa may be selection criteria in the purchase of goods and services for the county. In the event that a known supplier is in the geographic area, a competitive process (for goods and services over \$5,000 in total project cost) must still be conducted in order to verify fair market value of the local vendor's quote(s) (see Polk County Board of Supervisors Vendor Preference Policy Statement section above).

## 7. Dealing with Ties

Should you receive two or more equally low, responsive bids from responsible bidders, the award should be in accordance with pre-established procedures consistent with requirements of state and local law which reflect the order of award priorities. It should be stated in the bid package how this will occur, e.g., coin toss. It must be based on chance and not allow any type of preference.

## 8. Dealing with Mistakes

Any clerical mistake apparent in the face of a bid may be corrected by the procurement administrator prior to award. Examples of apparent mistakes are:

- obvious errors in placing decimal point

- obvious discount error
- obvious reversal of the price Free On Board (FOB) destination and the FOB factory
- obvious error in designation of unit

Correct the bid by attaching the verification to the original bid and a copy of the verification to the duplicate bid. Correct the face of the bid and make sure the correction is reflected in the award document.

For other mistakes in bids before award, consideration should be given to permitting the bidder to withdraw the bid where the bidder requests permission to do so, and clear convincing evidence establishes the existence of a mistake. However, if the evidence is clear and convincing both as to the existence of a mistake and as to the bid actually intended, and if the bid both as uncorrected and corrected is the lowest received, a determination may be made to correct the bid and not permit its withdrawal.

When a mistake in a contractor's bid is not discovered until after the award, the mistake may be corrected by contract modification if correcting the mistake would make the contract more favorable to the county without changing the essential requirements of the contract.

#### **9. Dealing with Non-responsive and Non-responsible Bidders**

An award to a respondent other than apparent best value supplier can occur when the apparent best value supplier is deemed either non-responsive or non-responsible. In either case, the procurement administrator should document their determination by outlining the rationale that serves as the basis for such determination.

#### **10. Rejecting All Bids**

Bid packages should only be cancelled or rejected for valid reasons that are documented. Single bid situations may justify rejecting all bids if it is felt that greater competition can be obtained through re-soliciting. When only a single bid is received, analysis of the response should be conducted to verify the specifications are not too restrictive as to limit fair and open competition. It is important to recognize, however, that the single bidder has expended effort in responding to the initial procurement and will be placed at a disadvantage in a re-bidding since their pricing has been made public. If the bid specifications are deemed fair and open after single bid review, verification that the quote/proposal is of fair market value, and the single bidder is responsive and responsible, the single bidder should be awarded.

#### **11. Notifying Vendors of Intent to Award and Awarding Bid**

Once the Procurement Office and/or designated evaluation staff has concurred in the award decision, the procurement administrator should communicate the decision in writing to all parties submitting bids.

The Procurement Office shall then allow a 3-day-waiting period to determine whether there will be any protest of the award decision. At the end of that period, if no protest has been received, the county may proceed with issuing a contract to the winning bidder. Once the contract has been signed by both parties, the county may offer "Advanced Authority to Incur Costs" (see definition below) and/or issue begin to issue purchase orders according to contract terms.

#### **12. Advanced Authority to Incur Costs**

Once the award has been made to the best value supplier and the contract is signed by both parties, the Procurement Office may provide the supplier with "Advanced Authority to Incur Costs." Many Polk County procurements are conducted ahead of the July 1 state fiscal year start date with funds to pay for goods and services coming out of that next fiscal year's budget. In order for suppliers to have ample time to place their own orders and be able to start supplying to the county on the July 1 date, the county may grant a supplier with "Advanced Authority to Incur Costs" (at the suppliers request) with the understanding the county will only purchase agreed upon goods and services specifically stated in the bid in the quantities needed for the initial

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purchase order if the contract were to be terminated by the County. No startup or planning costs will be eligible for payment. If the supplier were to terminate the contract prior to the first purchase order being submitted by the county to the supplier, the county would not be obligated to pay for any costs incurred by the supplier.