

**THE COUNTY OF WESTCHESTER**  
**PROCUREMENT POLICY**

**Section 1. Statement of Purpose.**

This internal policy is intended to ensure, to the extent practicable, that Goods and Services procured by the County of Westchester including procurements on behalf of any County district therein, which are not required by law to be procured pursuant to competitive bidding, must be procured in a manner which:

- i. encourages the prudent and economical use of public monies in the best interest of taxpayers of Westchester County; and
- ii. facilitates the acquisition of goods and services of maximum quality at the lowest possible cost under the circumstances; and
- iii. guards against favoritism, improvidence, extravagance, fraud and corruption.

**Section 2. Determination Required.**

Prior to commencing any procurement of goods and services (other than procurements to be awarded pursuant competitive bidding), the procuring officer shall prepare a written statement setting forth the basis for: (i) the determination that competitive bidding is not required for such procurement; and if applicable (ii) any determination that such procurement is not subject to any requirements set forth in this policy. Such written statements shall be maintained by the procuring officer in the procurement file.

**Section 3. Application.**

(a) This policy shall apply to every procurement by the County of goods and services commenced on or after the date of adoption of this policy, except the following:

- i. procurements made pursuant to General Municipal Law §103, General Municipal Law §104, General Municipal Law 120-w, State Finance Law §175-b, Correction Law §186 or Chapter 836 of the Laws of Westchester County;
- ii. procurements made for the services of a licensed architect, professional engineer or land surveyor licensed and registered and in the State of New York pursuant to the Westchester County Administrative Code §277.81 - §277.121;
- iii. transactions or contracts with the United States of America, any State, and any political subdivision, agency or instrumentality thereof;
- iv. contracts for advertising-including public notices;

- v. procurements of insurance or surety bonds;
- vi. procurements of title insurance or rifle examination services;
- vii. contracts for the services of expert witnesses for use in, or in anticipation of, an adjudicatory proceeding or litigation;
- viii. contracts for medical or health-related services and contracts with healthcare workers, or agencies engaging in healthcare workers, including dentists, home health and personal care aides, occupational, speech and physical therapists, nurses, nurses' assistants, medical and laboratory technicians, diagnosticians, social workers, psychiatric workers and veterinarians;
- ix. contracts with teachers, lecturers and other educational professionals or experts;
- x. procurements for the services of lawyers, other than those specified in (xv.) below, accountants, auditors, financial advisors, and, except for those specified in (ii) above, licensed architects, professional engineers or land surveyors licensed and registered in the State of New York, provided that the County complies with the procedures specified in Section 7;
- xi. any procurement made pursuant to procurement procedures provided for under any other federal or state law applicable to such procurement;
- xii. procurements which involve the expenditure of federal or state assistance where and to the extent that federal or state law, rules or regulations conflict with the provisions of this policy;
- xiii. Any procurement for the purpose of entering into a contract or contracts with not for profit organizations for the support, enhancement, or preservation of cultural resources and the arts;
- xiv. Any procurement for the purpose of entering into a contract or contracts with not for profit organizations for the purposes of providing aid, care and support to persons in need of public assistance; and
- xv. Contracts for the engagement of attorneys for representation in Civil litigation which are approved by an Act of the County Board in accordance with §297.31 of the Laws of Westchester County;
- xvi. Contracts with Recipients for the disbursements of grants or loans under the Community Development Block Grant Program;
- xvii. Any procurement for the purpose of entering into a contract or contracts with persons to provide care, treatment, counseling, referral or rehabilitative or preventative services to the mentally ill, mentally retarded, developmentally disabled and those suffering from the disease of alcoholism or substance abuse;

xviii. Any procurement for the purpose of entering into a contract or contracts with persons for the creation and support of recreation projects, youth service projects and other appropriate programs and services for the prevention of delinquency and youth crime and the advancement of the moral, physical, mental and social well being of the youth of Westchester County;

xix. Any procurement for the purpose of entering into a contract with persons to provide direct services to senior citizens including care, counseling, referral, case management, social and nutritional support, and other essential outreach services;

xx. Contracts with banks and financial institutions licensed or chartered to do business in the State of New York for the deposit of funds, including Trust Fund Agreements, Escrow Agreements and other fiduciary services provided that such agreements shall be consistent with (i) the requirements of applicable law; and (ii) any policies now or hereafter established by the Board of Legislators relating to such Agreements;

xxi. Any procurement for which the Board of Acquisition and Contract determines, by resolution passed prior to commencing such procurement, that compliance with this policy would not be in the best interests of the County.

(b) This policy shall not apply to real property leases, licenses and concessions.

#### **Section 4. Definitions.**

(a) The “Bureau” means the Bureau of Purchase and Supply.

(b) “Person” shall mean any natural person, business, partnership, corporation, association or other organization, entity or group of individuals.

(c) “Procuring officer” shall mean the head of the department or the individual or individuals authorized by the head(s) of the department(s) undertaking the procurement and with respect to those matters delegated to the Bureau of Purchase Supply pursuant to Section 161.11(a) of the Laws of Westchester County, the Purchasing Agent.

#### **Section 5. Procurements Below \$75,000.**

(a) For a procurement of goods or services reasonably expected to cost less than \$20,000, the procuring officer shall exercise sound business judgment and shall endeavor, to the extent time permits, to solicit written or oral quotations from no fewer than three persons customarily providing such goods or services and, if deemed appropriate, to inquire as to the qualifications and experience of such persons. If oral quotations are obtained, the procuring officer shall record the names and addresses of all persons from whom quotations were sought, the names of the individuals submitting quotations, and the date and amount of each quotation.

(b) For a procurement of goods or services reasonably expected to cost less than \$75,000, but at least \$20,000, the procuring officer shall solicit written quotations from no fewer than three persons customarily providing such goods or services and, if deemed appropriate, shall inquire as to the qualifications and experience of such persons. The procuring officer shall record the names and address of all persons from which such written quotations were sought and shall keep copies of all such written quotations received.

(c) The procuring officer shall consider the quotations offered, if applicable, evaluate each offeror's qualifications and experience, and determine the most advantageous offer. Except as otherwise provided in Section 8, the procuring officer shall then recommend in writing to the Board of Acquisition and Contract approval of a contract with the offeror making the most advantageous offer. If the procuring officer recommends an offeror who did not offer the lowest net cost or, if a net revenue is projected, the greatest net revenue, the procuring officer shall, in such recommendation, explain why the proposed contract award furthers the purposes of this policy.

### **Section 6. Competitive Proposal Procedures.**

(a) A procurement of goods or services reasonably expected to cost \$75,000 or more shall conform to the procedures set forth in this section.

(b) The procuring officer shall solicit proposals through a request for proposals. The request for proposals shall include:

1) The time and date for receipt of proposals, the address to which the proposals are to be delivered, the maximum time for proposal acceptance by the County; and

2) The description of the required goods or services.

3) The basis on which the selection will be made, which may be either A) that the proposer meets specified qualification criteria and has proposed the lowest net cost or, if a net revenue is projected, the greatest net revenue, or in the alternative B) that the proposer has offered the most advantageous proposal, based on specified evaluation criteria.

(c) The procuring officer shall open proposals and distribute copies thereof to other persons, if any, designated to assist in the evaluation of the proposals.

(d) The procuring officer shall reject any proposal which does not conform in all material respects to the request for proposals and any proposal from a proposer which does not meet minimum evaluation criteria, if any, established.

(e) After evaluation of all proposals (except those rejected under (d) above), the procuring officer shall rank, in order of preference, all proposers based on either (i) lowest net cost or, if a net revenue is projected, the greatest net revenue or (ii) on the evaluation criteria specified in the request for proposals, whichever method shall have been specified in the request

for proposals. The procuring officer shall summarize and record in writing the evaluation of such proposals.

(f) The procuring officer, with the assistance of the Law Department and such other County Departments as may be appropriate, shall negotiate the essential terms and conditions of a contract with the first ranked proposer (i) at compensation (or, if applicable, with revenue to the County) as set forth in the proposer's response to the Request for Proposals, or (ii) if such ranking is based on qualification criteria specified in the Request for Proposals, at compensation which the procuring officer determines is fair and reasonable to the County. In making such determination, the procuring officer shall take into account all relevant factors, including, but not limited to the estimated value of the goods or services to be rendered, the scope, complexity, and nature thereof.

(g) Should the procuring officer be unable to negotiate a satisfactory contract with the first ranked proposer, negotiations with that proposer should be formally terminated. The procuring officer should then undertake negotiations with the second ranked proposer. Failing accord with the second ranked proposer, the procuring officer should terminate negotiations, and then undertake negotiations with the third ranked proposer.

(h) Should the procuring officer be unable to negotiate a satisfactory agreement with the first ranked proposer, s/he shall (i) continue negotiations with additional proposers in rank order until an agreement is reached, or (ii) terminate the procurement process.

(i) After reaching agreement with a proposer, and except as otherwise provided in Section 7, the procuring officer shall then recommend in writing to the Board of Acquisition and Contract approval of a contract with the selected proposer. In such recommendation, the procuring officer shall state the top-ranked proposals in order of preference and shall, if the recommendation is for a proposer who did not offer the lowest net cost or, if a net revenue is projected, the greatest net revenue, explain why the proposed contract award is a prudent and economic use of public moneys in the best interests of the County.

## **Section 7. Professional Service Procurements.**

(a) For any procurement specified in Section 2(a)(x), the procuring officer shall solicit quotations, statements or other information regarding their experience, qualifications and capability to perform the proposed services from no fewer than three persons customarily performing such services. If the procurement is expected to cost \$20,000 or more, such quotations, statements or information shall be in writing, and if more than \$75,000, a request for qualifications or a request for proposals shall be issued and qualification statements or proposals shall be received. The procuring officer shall recommend in writing to the Board of Acquisition and Contract approval of a contract with the person whose quotation or proposal is determined by the procuring officer to be the most advantageous to the County.

(b) If oral quotations or statements are obtained, the procuring officer shall record the names and addresses of all persons from whom quotations or statements were sought, the names of the individuals submitting quotations or statements, and the date and a summary of each quotation or statement.

## **Section 8. Bureau and Medical Center Procurements.**

(a) With respect to procurements for the purchase, rental, maintenance or repair of supplies, materials and equipment and services incidental thereto, other than those for the Department of Hospitals, the Bureau of Purchase and Supply shall be responsible for such procurement as provided in Section 161.11(a) of the Westchester County Charter. Any procurement made by the Bureau of Purchase and Supply which is not required to be competitively bid or procured pursuant to any alternative procedures specified in Chapter 836 of the Laws of Westchester County (Purchasing Act) shall be procured by the Bureau of Purchase and Supply in accordance with the requirements of this policy, except that the award of all such contracts shall be made, if at all, by the Purchasing Agent in accordance with the requirements of applicable law, including Chapter 161 and Chapter 836 of the Laws of Westchester County.

After the procuring officer has made a determination of the most advantageous offer or proposal in accordance with the procedures contained in this policy, the Purchasing Agent may award a contract to the person making such offer or proposal, subject to subsection (c) below.

(b) With respect to procurements for the purchase, rental, maintenance or repair of supplies, materials and equipment and services incidental thereto for the Department of Hospitals, the Commissioner of Hospitals or his duly authorized designee shall be responsible for such procurement as provided in Section 161.11(a) of the Westchester County Charter. After the procuring officer has made a determination of the most advantageous offer or proposal in accordance with the procedures contained in this policy, the Commissioner of Hospitals or his duly authorized designee may award a contract to the person making such offer or proposal, subject to subsection (c) below.

(c) If the procuring officer determines that an award should be made to a person who did not offer the lowest net cost or, if a net revenue is projected, the greatest net revenue, the procuring officer shall make a written determination of why the proposed contract award furthers the purposes of this policy. The procuring officer, in addition to and not in limitation of any other recordkeeping requirements specified in this policy, shall maintain a separate file, available for instruction, containing copies of all such written determinations.

## **Section 9. Sole Source Procurements.**

(a) A procuring officer may recommend to the Board of Acquisition and Contract a contract when, after reasonable investigation, the procuring officer determines in writing that only one practicable source for the required goods or service exists.

(b) The procuring officer shall record all sole source procurements, specifying each contractor's name, the amount and type of each contract, a description of the goods or services procured under each contract, and the basis for the determination that the contractor was the only practicable source for the required supply or service.

## **Section 10. Accelerated Procurements.**

(a) When, due to circumstances which cannot reasonably be avoided, the time required to comply with a requirement of this policy could be construed to affect or endanger the health, safety, or well being of persons or their property, the procuring officer may make an accelerated procurement without following that requirement. The procuring officer in any recommendation for the award of a contract on an accelerated procurement basis, shall first explain the reasons and circumstances requiring such accelerated procurement.

(b) The procuring officer shall keep a record of each accelerated procurement, specifying each contractor's name, the amount and type of each contract, a description of the goods or service procured under each contract, and the basis for determining the need for an accelerated procurement.

### **Section 11. Procurement Records.**

The procuring officer shall maintain a procurement file for each procurement containing, as applicable, a copy of the request for proposals or request for qualifications, copies of responses from all vendors, including proposals, qualification statements or other materials, a copy of any recommendation made, and proposed resolution submitted, to the Board of Acquisition and Contract and any determination or record required in this policy to be made in writing.

### **Section 12. Required Representation.**

The following representation shall be inserted in every contract; or shall accompany any claim or request for payment to be made as a result of a procurement made pursuant to this policy:

“ \_\_\_\_\_ (Name) (hereinafter the “Vendor” “consultant”, etc.) represents and warrants that it has not employed or retained any person other than a bona fide full-time salaried employee working solely for the (“Vendor”, “Consultant”, etc.) to solicit or secure a contract with the County of Westchester for the goods or services specified herein, and that it has not paid or agreed to pay any person (other than payments of fixed salary to a bona fide full time salaried employee working solely for the (“Vendor”, “Consultant”, etc.) any fee, commission, percentage, gift or other consideration, contingent upon or resulting from the award or making of such contract.”