



INTRODUCTION

Title 2.2, Chapter 43 of the 1950 Code of Virginia, the *Virginia Public Procurement Act*, regulates governmental procurement from nongovernmental sources. The General Assembly of the Commonwealth of Virginia desires to have public bodies in the Commonwealth obtain high quality goods and services at a reasonable cost, that all procurement procedures be conducted in a fair and impartial manner with avoidance of any impropriety or appearance of impropriety, that all qualified vendors have access to public business, and that no offeror be arbitrarily or capriciously excluded. It is their intent that competition be sought to the maximum feasible degree, that procurement procedures involve openness and administrative efficiency, that individual public bodies enjoy broad flexibility in fashioning details of such competition, that the rules governing contract awards be made clear in advance of the competition, that specifications reflect the procurement needs of the purchasing body rather than being drawn to favor a particular vendor, and that the purchaser and vendor freely exchange information concerning what is sought to be procured and what is offered.

Chapter 46 of the Code of the County of Washington Virginia (2002, as amended), entitled *Procurement*, is intended to supplement the provisions of the Virginia Public Procurement Act. In accordance with Sec. 46-6(b)5 of the County Code, the Director of Budget and Finance shall keep current a written County procurement procedures manual. One of the primary duties of the Director of Budget and Finance, as it relates to procurement, is to ensure that the principles of purchasing are carried out in accordance with applicable laws and regulations and with generally accepted professional standards in such a manner as to ensure the maximum efficiency of governmental operation and to give the County taxpayers the benefits in savings that such accepted competitive procurement practices are known to produce.

The following Purchasing Procedures Manual has been prepared to give general guidance to the Department of Budget and Finance staff as well as other County departments and agencies when purchasing goods and services. Many statements contained within this manual have been taken directly from the Commonwealth of Virginia's Agency Procurement and Surplus Property Manual (September 1998, updated by memoranda through November 1, 2022). The Budget and Finance Department is committed to providing assistance to all departments within the County by securing the best goods and services at the lowest possible cost consistent with the quality needed. To have a good purchasing program, all County employees, directly or indirectly associated with the purchasing function, must work as a team to promote the County's best interests in obtaining the maximum value for each dollar of expenditure.

Tammy Sturgill
Director of Budget & Finance

April 1, 2023

REVIEWED AND APPROVED:

Jason N. Berry

County Administrator



SECTION 01-01

Effective Date: January 1, 2023

DEFINITIONS

It is important for the user of this manual to understand the meanings of the following words, terms and phrases:

2.0.1. Competitive Negotiation - It is a method of contractor selection that includes the following elements:

1. Issuance of a written Request for Proposal
2. Public notice of the Request for Proposal
3. Evaluation of proposals
4. Selection of offeror or offerors
5. Negotiations
6. Award to offeror with the best proposal

2.0.2. Competitive Sealed Bidding - It is a method of contractor selection, other than for professional services, which includes the following elements:

1. Issuance of a written Invitation to Bid
2. Public notice of the Invitation to Bid
3. Public opening and announcement of all bids received
4. Evaluation of bids
5. Award to the lowest responsive and responsible bidder

2.0.3. Construction - It means building, altering, repairing, improving or demolishing any structure, building or highway, and any drainage, dredging, excavation, grading or similar work upon real property.

2.0.4. Goods - It means all material, equipment, supplies, printing and automated data processing hardware and software.

2.0.5. Nonprofessional Services - Any services not specifically identified as Professional Services in the definition below.

2.0.6. Procurement - The word procurement is just a fancy way to say "*Purchase*". It means to obtain goods or services for a price in money or its equivalent.

2.0.7. Professional Services - The work performed by an independent contractor within the scope of the practice of accounting, actuarial services, architecture, land surveying, landscape architecture, law, dentistry, medicine, optometry, pharmacy and professional engineering.

2.0.8. Responsible Bidder or Offeror - It means a person or firm who has the capability, in all respects, to perform fully the contract requirements and the moral and business integrity and reliability that will assure good faith performance.



2.0.9. Responsive Bidder - It means a person or firm who has submitted a bid that conforms in all material respects to the Invitation for Bid.

2.0.10. Services - It means any work performed by an independent contractor wherein the service rendered does not consist primarily of acquisition of equipment or materials, or the rental of equipment, materials and supplies.

2.0.11. Small Purchase Procedures - It is the method of contractor selection that does not require the use of competitive negotiation or competitive sealed bidding. Section 3 of this manual details the required procedures to be followed when making small purchases. Over 95 % of all purchases will be made using the Small Purchase Procedures.



SECTION 02-01

Effective Date: January 1, 2023

METHODS OF PROCUREMENT

A. General. Approximately 95% of all purchases made by the County will fall into the category of small purchases. The remaining 5% will require formal competitive sealed bidding or competitive negotiation. This section will briefly discuss the above methods of procurement, as well as, some methods of procurement that are used in special circumstances.

B. Small Purchase Procedures. All of the departments and agencies utilizing this manual will spend most of their time referring to **Part 3: Small Purchase Procedures**. The title is misleading since the actual amount of a purchase can range from \$1.00 to \$100,000.

Virginia Code Section 2.2-4303(G) gives authority to the Washington County Board of Supervisors to adopt written purchase procedures not requiring competitive sealed bids or competitive negotiation for single or term contracts for certain purchases, which are commonly known as "Small Purchases". Purchases that qualify for the Small Purchase procedures include (1) non-professional services, non-transportation-related construction, and goods, if the aggregate or sum of all phases is not expected to exceed \$100,000; (2) transportation-related construction if the aggregate or sum of all phases is not expected to exceed \$25,000; and (3) professional services if the aggregate or sum of all phases is not expected to exceed \$80,000.

C. Competitive Sealed Bidding. Competitive sealed bidding is the preferred method for acquiring goods, printing, and nonprofessional services for public use when the estimated cost is over \$100,000. The goods or service to be procured when using this method must be capable of being described so that bids submitted by potential contractors can be evaluated against the description in the Invitation for Bids (IFB). Competitive sealed bidding includes the issuance of a written IFB, the posting of public notice of the IFB, public opening of all bids received, evaluation of bids received, and award to the lowest responsive and responsible bidder.

D. Competitive Negotiation-Professional Services. Competitive negotiation must be used for the procurement of professional services from non-government sources when the estimated cost is over \$80,000. Professional services mean work performed by an independent contractor within the scope of the practice of accounting, actuarial services, architecture, land surveying, landscape architecture, law, dentistry, medicine, optometry, pharmacy, and professional engineering. Competitive negotiation includes the issuance of a written Request for Proposal (RFP), the posting of public notice of the RFP, selection of offeror or offerors, negotiations, and award to offeror with the best proposal.

E. Competitive Negotiation-Non-Professional Goods and Services. Competitive negotiation may sometimes be used for the procurement of goods and nonprofessional services when the estimated cost is over \$100,000. Competitive negotiation has the advantage of flexibility for describing in general terms what is being sought and the factors to be used in evaluating responses. The Washington County Board of Supervisors must, however, make a determination set forth by Board action that competitive sealed bidding is either not practicable or not fiscally advantageous to the County. The Board action of approval of the Request for Proposal (RFP) shall document the basis for this determination.



F. Sole Source Procurement. On a rare occasion, a sole source procurement may be authorized when there is only one source practicably available for the goods or services needed. This method of procurement may be authorized for any level of estimated cost. A written determination must be made explaining why this is the only product or service that can meet the County's needs, why this vendor is the only practicably available source, why the price is considered reasonable, and what efforts were made to conduct a noncompetitive negotiation to get the best possible price. The Director of Budget and Finance has authority to approve a sole source procurement when the estimated cost falls within the small purchase procedures; otherwise, approval must be made by the Board of Supervisors.

G. Emergency Procurement. Emergency procedures may be used to purchase only that which is necessary to cover the requirements of the emergency. An emergency is an occurrence of a serious and urgent nature that demands immediate action. The nature of the emergency will determine what pre-award action may be taken. A written determination indicating the nature of the emergency, the reason for selection of the particular contractor and any practicable competition procedures used must be submitted to document the emergency procurement.

H. Cooperative Procurement. The provisions of Section 2.2-4304 of the Code of Virginia state that a public body may purchase from another public body's contract even if it did not participate in the request for proposal or invitation for bid for the contract if the solicitation specified that the procurement was being conducted on behalf of other public bodies with the exception of contracts for architectural and engineering services and most construction contracts. A copy of the contract must be submitted to the Director of Budget & Finance for review. The Director of Budget & Finance has authority to approve a cooperative procurement when the estimated cost falls within the small purchase procedures; otherwise, approval must be made by the Board of Supervisors.



SECTION 3-01

Effective Date: January 1, 2023

SMALL PURCHASE PROCEDURES

The *Virginia Public Procurement Act* permits the County to establish small purchase procedures not requiring the use of competitive sealed bidding or competitive negotiation for single or term contracts if the aggregate or sum of all phases is not expected to exceed:

- \$100,000 for Goods and Nonprofessional Services
- \$ 80,000 for Professional Services

Procurements made pursuant to the following small purchase procedures do not require public bid openings or newspaper advertising. These procedures, however, do provide for competition wherever practicable.

A. Single Quotation.

- \$-0- to \$10,000 for Goods & Nonprofessional Services
- \$-0- to \$80,000 for Professional Services

Where the estimated cost of goods or nonprofessional services is \$10,000 or less, purchase may be made upon receipt of one oral or written quotation. Notation on the County's requisition form is considered to be an adequate record of the receipt of one quotation. You should get a quotation or a reasonable cost estimate prior to making the actual purchase. If the quotation is in conjunction with a cooperative procurement contract, please follow the instructions under item E, Cooperative Procurement Contracts.

Where the estimated cost of professional services is \$80,000 or less, services may be contracted upon receipt of one written cost estimate from a qualified vendor. The written cost estimate should accompany the requisition form. For professional services contracts expecting to exceed \$10,000, the department or agency securing the professional services must also provide a written determination of the reasonableness of the cost estimate prior to entering into a contract.

B. Two Quotations.

- Over \$10,000 to \$30,000 for Goods & Nonprofessional Services

Where the estimated cost of goods or nonprofessional services is over \$10,000 to \$30,000, purchase may be made upon receipt of at least two oral or written quotations. Notation on the County's requisition form of the contacted vendors and the quoted prices are considered to be the minimum requirement of an adequate record of the receipt of at least two quotations. You must get the quotations prior to making the actual purchase. The award will be made to the lowest responsive and responsible bidder.



C. Unsealed Bidding.

Over \$30,000 to \$100,000 for Goods & Nonprofessional Services

Where the estimated cost of goods or nonprofessional services is over \$30,000 to \$100,000, purchase may be made by unsealed bidding. Unsealed bids may be solicited by an informal Invitation for Bid (IFB). The Department of Budget & Finance will prepare the informal Invitation for Bid. The key elements of obtaining unsealed bids are soliciting at least three (3) sources, responses must be in writing and responses must be received at a stipulated location by a specified time. You must get the bids prior to making the actual purchase. The award will be made to the lowest responsive and responsible bidder.

D. Unsealed Proposals.

Over \$30,000 to \$100,000 for Goods & Nonprofessional Services

Where the estimated cost of goods or nonprofessional services is over \$30,000 to \$100,000, purchase may be made by informal Requests for Proposals (RFP). A written determination for the use of competitive negotiation rather than unsealed bidding is required. The Director of Budget and Finance will give final approval for use of this method. The Department of Budget & Finance will prepare the informal Request for Proposal. The key elements of obtaining informal proposals for goods and nonprofessional services are soliciting at least three (3) sources, use of factors and weights to be used in evaluation, responses must be in writing and responses must be received at a stipulated location by a specified time. The end user may evaluate and rank offers. Upon completion of the evaluation, the end user shall negotiate with the offerors selected and make an award.

E. Cooperative Procurement Contracts

\$-0- to \$100,000 for Goods & Nonprofessional Services

Where the estimated cost of goods or nonprofessional services is \$100,000 or less, purchase may be made using a current Cooperative Procurement Contract except for contracts for architectural or engineering services and construction. A copy of such contract must be submitted along with the purchase requisition and approved by the Director of Budget and Finance.

The following non-exclusive list of cooperative procurement contract agencies meet the County's standards for competition:

- Virginia State Contracts
- Government Services Administration Contracts (GSA)
- Sourcewell (formerly National Joint Powers Alliance (NJPA))
- Metropolitan Washington Council of Governments
- Virginia Sheriff's Association
- National Cooperative Purchasing Alliance (NCPA)
- OMNIA Partners (formerly National IPA)
- Other authorities, departments, agencies, or institutions of the Commonwealth and other localities and agencies that have conducted a cooperative procurement on behalf of other public bodies.



F. Specific Exemptions from Competitive Requirements

Washington County has determined that competition normally is either not practicable or available for purchases of the following goods and services; however at least one quote must be obtained and documented.

The following selected categories of goods and services up to and including \$30,000:

- 1) Employee training to include on and off-site training fees – Training is specialized, proprietary, or not typically available to the general public for which competition is generally unavailable.
- 2) Memberships and dues – memberships and dues of professional organizations.
- 3) Advertisements - Advertisements in newspapers, magazines, journals, radio, televisions, etc.
- 4) Utility charges – Utility charges include electricity, water/sewer, natural gas, etc. for which there are limited service providers.
- 5) Used equipment – Used equipment, which has been previously owned and used, offered for sale “where is, as is” and does not include demonstration or factory rebuilt items marketed through distribution outlets, may be negotiated by the County. Complete information describing the item must be provided to the Department of Budget & Finance along with the price being offered by the seller in writing. Prior to preparation of any contract or purchase order, the Department of Budget & Finance must obtain a written statement from a person who is technically knowledgeable of the type of equipment to be purchased, normally the end user, verifying the condition of the equipment, its future usefulness, and that its purchase would be in the best interest of the County. Upon determination in writing that the price is fair and reasonable for used equipment meeting the County’s needs, a contract may be noncompetitively negotiated and awarded up to \$30,000.
- 6) Perpetual software and hardware maintenance - Competitively purchased software and hardware that requires annual maintenance and support including upgrades to keep the product current, is considered both proprietary and perpetual, as maintenance cannot be provided by anyone other than the source code or current holder. For that reason, maintenance does not require the same competitive justification as other purchases so long as the original purchase is competitive and the same company provides the maintenance, until the product is no longer utilized. Using departments must verify that the price is fair and reasonable and that the product is still available through the current provider with each purchase. Software and hardware should be evaluated periodically to determine if the products are meeting the needs of the County.



SECTION 04-01

Effective Date: January 1, 2023

OTHER PROCUREMENT POLICIES

A. Ethics in Public Contracting. The provisions of the Virginia Public Procurement Act, Article 6 (Va. Code §§ 2.2-4367 – 2.2-4377), relating to ethics in public procurement, and the Virginia State and Local Government Conflicts of Interest Act (Va. Code §§ 2.2-3100 – 2.2-3132), shall apply to all Washington County procurements and expenditure of funds regardless of source. County employees having any involvement in a procurement transaction shall practice the highest level of ethical standards and transparency in government, including but not limited to compliance with the Virginia Public Procurement Act, Article 6 (Va. Code §§ 2.2-4367 – 2.2-4377); the State and Local Government Conflict of Interest Act (Va. Code §§ 2.2-3100 – 2.2-3132); and any other applicable Federal, state, and local law.

B. Federal Grant Funded Purchases. In addition to complying with all applicable Commonwealth of Virginia law, County Ordinance, and County Procurement policies, any procurements which involves the expenditure of federal grant funds must comply with the standards set forth in the Code of Federal Regulations, 2 CFR §§ 200.317 through 200.327 as well as any requirements of the grant award. In the case of discrepancies between the Washington County Purchasing Procedures Manual, the Virginia Public Procurement Act of the Code of Virginia, and the Code of Federal Regulations at 2 CFR 200.317 through 2 CFR 200.327, the most restrictive policy will take precedence.

C. Mandatory Use of County Forms, Terms and Conditions, and County Contract. Unless otherwise specified in the Solicitation, all bids and proposals must be submitted on the forms provided by the County. Failure to submit a bid or proposal on the County form provided for that purpose shall be a cause for rejection of the bid or proposal. Modification of or additions to any portion of the Solicitation including the General Terms and Conditions may be cause for rejection of the bid or proposal, however, the County reserves the right to decide, on a case by case basis, in its sole discretion, whether to reject a bid or proposal. The Terms and Conditions are mandatory provisions of all Solicitations and all Contracts of the County. No modification of or addition to the provisions of the contract shall be effective unless reduced to writing and signed by the parties.

The Terms and Conditions and Instructions to Bidders, Offerors, and Contractors shall apply to all purchases and be incorporated into and be a part of each Solicitation and every Contract awarded by the County unless otherwise specified by the County in writing. Bidders, Offerors, and Contractors or their authorized representatives are expected to inform themselves fully as to these Terms and Conditions before submitting bids or proposals to and/or entering into any Contract with the County. Failure to do so will be at the Bidder's, Offeror's, or Contractor's own risk and except as provided by law, relief cannot be secured on the plea of error.

Subject to all Federal, state, and local laws, policies, resolutions, regulations, rules, limitations and regulations, including the County's procurement policies and procedures, bids or proposals on all Solicitations issued by County will bind Bidders or Offerors, as applicable, and Contracts will bind Contractors, to all applicable terms, conditions, instructions, rules, and requirements herein set forth unless otherwise specifically set forth by the County in writing in the Solicitation or Contract. All provisions of the Terms and Conditions are material to any Contract between the County and Contractor.



All Contracts shall be in a form prepared by the County and approved by the County Attorney or his/her designee. All County procurements shall use Standard Contract Forms and Terms and Conditions. Any proposals, quotes, and contracts that contain additional terms and conditions, are on non-standard forms, or make changes to the County's standard contract language shall be reviewed by the County Attorney, or his/her designee to determine if the County's Standard Contract and Terms and Conditions requires modification prior to award of the Contract.