

SECTION XXI - ADMINISTRATIVE POLICIES

PURCHASING POLICY FOR MILLARD COUNTY

ARTICLE 1 GENERAL PROVISIONS

A. The underlying purposes of this policy are:

1. To ensure fair and equitable treatment of all persons who wish to, or do conduct business with Millard County, hereafter referred to as "County".
2. To provide for the greatest possible economy and long-term value in County purchasing activities.
3. To foster effective broad-based competition within the free enterprise system to ensure that County will receive the best possible service and/or product at the lowest possible price while, at the same time, attempting to attain the greatest long-term value in procurements or purchases.
4. In County=s attempt to attain the greatest long-term value, County may show preference to local vendors even though their bid may not be the lowest bid. In showing such preference, County shall justify this by determining that such decision will result in equal to or greater long-term value of such procurement for certain reasons such as better and/or more convenient service, maintenance, warranty, etc.

B. Compliance - Exemptions from this policy.

1. This policy shall not prevent County from complying with the terms and conditions of any grant, gift, or bequest that is otherwise consistent with law.
2. When a procurement or purchase involves the expenditure of federal assistance funds, County shall comply with applicable federal law and regulations.

C. Definitions.

1. "Business" means any corporation, partnership, individual, sole proprietorship, joint stock company, joint venture, or any other private legal entity.
2. "Change order" means a written order signed by the purchasing agent, directing the contractor to suspend work or make changes, which the appropriate clauses of the contract authorize the purchasing agent to order without the consent of the contractor or any written alteration in specifications, delivery point, rate of delivery, period of performance, price, quantity, or other provisions of any contract accomplished by

mutual action of the parties to the contract.

3. "Contract" means any County agreement for the procurement or disposal of supplies, services, or construction.
4. "Invitation for bids" means all documents, whether attached or incorporated by reference, used for soliciting bids.
5. "Person" means any business, individual, union, committee, club, other organization, or group of individuals.
6. "Purchase" means buying, procuring, renting, leasing, leasing with an option to purchase, or otherwise acquiring any supplies, services, or construction.
7. "Purchasing agent" means the person duly authorized by the governing body of County to enter into and administer contracts and make written determinations with respect thereto.
8. "Purchase description" means the words used in a solicitation to describe the supplies, services, or construction to be purchased, and includes specifications attached to or made a part of the solicitation.
9. ARequest for information@ (RFI) means to solicit information and/or to determine the level of vendor interest and availability to provide a service or product to County.
10. ARequest for proposals" (RFP) means all documents, whether attached or incorporated by reference, used for soliciting proposals. Normally used when other factors in addition to price and delivery are important in the procurement.
11. ARequest for quotation@ (RFQ) means to solicit low dollar bids with no other considerations.

ARTICLE 2

OFFICE OF THE PURCHASING AGENT - APPROVAL OF PURCHASE

The Millard County Auditor shall be the official Purchasing Agent of County. However, each other elected row official or department heads appointed and supervised by such elected row officials or the County Commission shall be responsible to make procurements, solicit bids and proposals, enter into and administer contracts, and make written determinations for County, with each of said actions to be approved in advance by the elected row official whose department is involved or by the County Commission when the department involved is under the direct supervision of the County Commission.

ARTICLE 3

GENERAL PROVISIONS - PURCHASING PROCEDURE

A. Purchases not requiring sealed bids.

1. Purchases costing less than \$5,000.00 in total, shall not require bids of any type. (Purchases shall not be artificially divided so as to constitute a small purchase under this section.)
2. Purchases costing more than \$5,000.00 but less than \$25,000.00

in total, shall require three (3) telephone bids, which shall be documented and submitted to Auditor=s Office prior to payment to vendor.

3. Purchases made through the cooperative purchasing contracts administered by the Utah State Division of Purchasing or direct comparison thereto, which shall be documented.
4. Purchases made from a single-source provider, which shall be documented.
5. Purchases required during an emergency, i.e., an eminent threat to the public's health, welfare, or safety. However, as much competition as practical should be obtained, and, such purchases should be limited to amounts necessary to the resolution of the emergency.
6. This policy does not preclude following the sealed bid process for purchases under \$25,000.

B. Purchases requiring sealed bids.

1. All purchases or procurements in excess of \$25,000 shall be made pursuant to sealed bidding requirements provided hereafter.
2. An invitation for bids shall be issued when a purchase is to be made by competitive sealed bidding. The invitation shall include a detailed description of specifications and all contractual terms and conditions applicable to the procurement. Notice of the invitation for bids shall be given at least ten (10) days prior to the date set forth therein for the opening of bids. The notice may include publication in a newspaper of general circulation. The bids shall be mailed to the office of the Millard County Auditor, 50 South Main, Fillmore, Utah 84631.
3. Any purchase in excess of \$25,000.00 shall require at least three (3) invitations for bid in writing or by telephone, being properly documented, or one (1) advertisement in a local newspaper of general circulation. However, if the procurement is for the repair, alteration, or construction of a public building, the bid shall be let to the lowest responsive and responsible bidder after publication of notice at least once a week for three (3) consecutive weeks in a newspaper of general circulation published in County.
4. Bids shall be opened publicly in a regularly scheduled meeting of the governing body of County and in the presence of one or more witnesses at the time and place designated in the invitation for bids. The amount of each bid and any other relevant information, together with the name of each bidder, shall be recorded. The record and each bid shall be open to public inspection.
5. Bids shall be unconditionally accepted without alteration or correction, except as authorized in this policy. Bids shall be evaluated based on the requirements set forth in the invitation for bids.
6. Correction or withdrawal of inadvertently erroneous bids before

or after award, or cancellation of awards or contracts based on such bid mistakes, shall be permitted. After bid opening no changes in bid prices or other provisions of bids prejudicial to the interest of County or fair competition shall be permitted. All decisions to permit the correction or withdrawal of bids or to cancel awards or contracts based on bid mistakes shall be supported by a written determination made by the purchasing agent.

7. The contract shall be awarded with reasonable promptness, by written notice, to the lowest bid or bid of best long-term value to County, as determined by County, so long as the bid meets the requirements, specifications, and criteria set forth in the invitation for bids and the policies and provisions of this purchasing policy.
8. In procurements for any new construction of any public (County owned) building or facility, all electrical and/or plumbing portions of such construction shall be performed by contractors licensed and certified by the proper regulating agency or agencies.
9. All contracts awarded by the County for the repair, alteration, or construction of any public facility shall only be to contractors licensed and certified by the proper regulating agency or agencies.

C. Cancellation and rejection of bids.

An invitation for bids, a request for proposals, or other solicitation may be canceled, or any or all bids or proposals may be rejected, in whole or in part, as may be specified in the solicitation, when it is in the best interests of County. The reasons shall be made part of the contract file.

D. Use of competitive sealed proposals in lieu of bids.

When the purchasing agent or designee determines in writing that the use of competitive sealed bidding is either not practicable or not advantageous to County, a contract may be entered into by competitive sealed proposals. Competitive sealed proposals are most appropriately used for professional service-type contracts.

1. Proposals shall be solicited through a request for proposals. Public notice of the request for proposals shall be given at least ten (10) days prior to the advertised date of the opening of the proposals.
2. Proposals shall be opened so as to avoid disclosure of contents to competing offerors during the process of negotiation. A register of proposals shall be prepared and shall be open for public inspection after contract award.
3. The request for proposals shall state the relative importance of price and other evaluating factors.
4. Offerors shall be accorded fair and equal treatment with respect

to any opportunity for discussion and revision of proposals, and revisions may be permitted after submissions and prior to award for the purpose of obtaining best and final offers. In conducting discussions, there shall be no disclosure of any information derived from proposals submitted by competing offerors.

5. Award shall be made to the person whose proposal is determined, in writing, to be the most advantageous for County, taking into consideration price and the evaluation factors set forth in the request for proposals. No other factors or criteria shall be used in the evaluation. The contract file shall contain the basis on which the award is made.

E. Architect-Engineer services are qualification-based procurements.

Requests for such services should be publicly announced. Contracts should be negotiated by County based on demonstrated competence at fair and reasonable prices.

F. Determination of non-responsibility of bidder.

Determination of non-responsibility of bidder or offeror shall be made in writing. The unreasonable failure of a bidder or offeror to promptly supply information in connection with an inquiry with respect to responsibility may be grounds for a determination of non-responsibility with respect to the bidder or offeror. Information furnished by a bidder or offeror pursuant to this section shall not be disclosed outside of the purchasing division without prior written consent by the bidder or offeror.

G. Cost-plus-a-percentage-of-cost contracts prohibited.

Subject to the limitations of this section, any type of contract which will promote the best interests of County may be used, provided that the use of a cost-plus-a-percentage-of-cost contract is prohibited. A cost-reimbursement contract may be used only when a determination is made in writing that such contract is likely to be less costly to County than any other type or that it is impracticable to obtain the supplies, services, or construction required except under such a contract.

H. Telemarketing solicitations prohibited.

Procurements shall not be made pursuant to or in response to telephone or telemarketing solicitations to County employees.

I. Required contract clauses.

1. The unilateral right of County to order, in writing, changes in the work within the scope of the contract and changes in the

time of performance of the contract that do not alter the scope of the contract work.

2. Variations occurring between estimated quantities of work in a contract and actual quantities.
3. Suspension of work ordered by County.

ARTICLE 4 SPECIFICATIONS

All specifications shall seek to promote overall economy and best value and use for the purposes intended and encourage competition in satisfying County's needs, and shall not be unduly restrictive. Where practical and reasonable, and within the scope of this article, all Utah and Millard County products and services shall be given preference so long as proper justification is given.

ARTICLE 5 APPEALS

- A. Any actual or prospective bidder, offeror, or contractor who is aggrieved in connection with the solicitation or award of a contract may appeal to the purchasing agent. An appeal shall be submitted in writing within 5 working days after the aggrieved person knows or should have known of the facts.
- B. The purchasing agent shall promptly issue a written decision regarding any appeal, if it is not settled by a mutual agreement. The decision shall state the reasons for the action taken and inform the protestor, contractor, or prospective contractor of the right to appeal to the governing board.
- C. County's governing board shall be the final appeal on County level.
- D. All further appeals shall be handled as provided in Section 63-56-59 and 63-56-61 through 64 of the Utah Code.

ARTICLE 6 ETHICS IN PUBLIC CONTRACTING

- A. No person involved in making procurement decisions may have personal investments in any business entity which will create a substantial conflict between their private interests and their public duties.
- B. Any person involved in making procurement decisions is guilty of a felony if the person asks, receives, or offers to receive any emolument, gratuity, contribution, loan, or reward, or any promise thereof, either for the person's own use or the use or benefit of any other person or organization from any person or organization interested in selling to County.

