

ENROLLED

COUNTY COUNCIL OF WICOMICO COUNTY, MARYLAND

2023 LEGISLATIVE SESSION

LEGISLATIVE DAY NO. 03

LEGISLATIVE BILL 2023-01

INTRODUCED BY: The President of the Council at the request of the County Executive.

AN ACT TO AMEND THE PURCHASING MANUAL, SECTION IV(A)(2), PURCHASING PROCEDURES, SMALL PURCHASES TO INCREASE THE AMOUNT OF PURCHASES NOT REQUIRED TO BE COMPETITIVELY BID FROM UNDER \$1,000 TO UNDER \$5,000.

WHEREAS, in accordance with the Wicomico County Charter, Article VIII, titled Purchasing,” Sections 801, 802, and 803, the Wicomico County Purchasing Agent is authorized to provide for all purchases and contracting for supplies, materials and equipment for any county department or agency and to provide for the sale of surplus, old and waste supplies, materials and equipment of the County, and to provide for formal competitive bidding purchases; and

WHEREAS, the Wicomico County Executive and the Purchasing Department are requesting an amendment to the Purchasing Manual, Section IV(A)(2), Purchasing Procedures, Small Purchases and has recommended increasing the amount where purchases are not required to be competitively bid from under \$1,000 to under \$5,000.

NOW, THEREFORE, UPON THE RECOMMENDATION OF THE COUNTY EXECUTIVE AND THE PURCHASING DEPARTMENT;

SECTION I: BE IT ENACTED AND ORDAINED BY THE COUNTY COUNCIL OF WICOMICO COUNTY, MARYLAND, IN LEGISLATIVE SESSION, that the Purchasing Manual, Section IV(A)(2), Purchasing Procedures, Small Purchases is hereby amended to increase the amount of purchases not required to be competitively bid from under \$1,000 to under \$5,000, is hereby approved and adopted.

SECTION II: BE IT FURTHER ENACTED THAT THIS BILL WILL NOT BE CODIFIED IN THE WICOMICO COUNTY CODE AND CAN BE AMENDED BY RESOLUTION, BILL AMENDMENT OR BUDGET BILL AMENDMENT.

SECTION III: BE IT FURTHER ENACTED AND ORDAINED BY THE COUNTY COUNCIL OF WICOMICO COUNTY, MARYLAND, IN LEGISLATIVE SESSION THAT this bill shall be known as Legislative Bill No. 2023-01 of Wicomico County, Maryland, and shall take effect sixty (60) days after its final passage, unless a proper Petition for Referendum thereof shall be filed prior to said date; in which event, the Bill shall not take effect until the expiration of thirty (30) days following the approval of this Bill by a majority of the qualified voters of the County voting in any such referendum.

Certified correct as passed and adopted by the County Council of Wicomico County, Maryland this 7th day of March, 2023.

ATTEST:

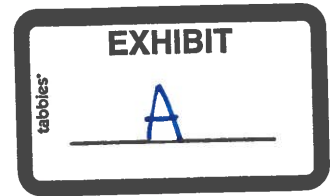
COUNTY COUNCIL OF
WICOMICO COUNTY, MARYLAND

Laura Hurley
Laura Hurley, Council Administrator

John T. Cannon (SEAL)
John T. Cannon, Council President

I HEREBY CERTIFY that copies of the above Bill are available to the public, the press and other news media at the time of its introduction.

Laura Hurley (SEAL)
By: Laura Hurley, Council Administrator



WICOMICO COUNTY

PURCHASING MANUAL

Approved by County Council on
this 4th day of April, 2017
Effective Date: June 5, 2017

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PURPOSE

This manual has been prepared as a guide for implementing the centralized purchasing function as required by Article VIII of the Charter for Wicomico County, Maryland. The purchasing procedures outlined will be applicable in all cases where County funds are used to purchase goods or services and where said funds have been authorized by the Wicomico County Council. Further, the Wicomico County Council may adopt any policies or rules which it deems necessary to meet the Charter requirements, and to maintain the high standards of professional governmental purchasing.

The primary purpose of this manual is to outline policies and procedures designed to generate an orderly system for the procurement of materials, equipment, supplies, and services that are needed to operate the various departments and agencies that make up the County government. Furthermore, a manual will provide a written record which will serve as a reference for users of the goods and services as well as those individuals charged with the responsibility of procuring those goods and services.

A fundamental function of the purchasing manual is to provide a more detailed description of the purchasing function than the general authority provided by the charter. It presents a series of written rules and policies that all components of the procurement triangle (vendor, user and procurer) can use to guide them in their efforts, and to achieve the goal of the Purchasing Department. The goal of the Purchasing Department is an orderly and timely procurement of goods and services at the lowest possible cost consistent with the quality requirements for such goods and services, while at the same time, maintain the County's reputation for fairness and integrity in its dealings with the business community.

SECTION I – RELEVANT AUTHORITY FOR CENTRALIZED PURCHASING

WICOMICO COUNTY CHARTER -- ARTICLE VIII

Section 801. Purchasing

- A. Duties of purchasing agent. The purchasing agent of the county, subject to the public general and local laws, shall have the following functions:
1. The making of all purchases and contracting for supplies, materials, and equipment for any County department or agency to be paid for out of County funds.
 2. The sale of surplus, old, and waste supplies, materials and equipment of the County.
 3. The establishment after consultation with appropriate officials, of suitable specifications and standards for all supplies, materials and equipment to be purchased and the inspection of deliveries to determine compliance with such specifications and standards.
 4. The receiving, custody and distribution of all supplies, materials and equipment to the proper department or agency of the government.
 5. The establishment and maintenance of a system of requisitions and receipts covering the furnishing of supplies, materials and equipment to the departments and agencies of the County.
 6. The establishment, maintenance and modification of rules, regulations and standards for the pre-qualification of bidders in contracting for public work on the purchase of supplies, materials and services if the County Executive deems such pre-qualification necessary, subject to the approval of the County Council.

Section 802. Competitive Bidding

- A. General. Any single purchase or contract involving an expenditure of more than five thousand dollars (\$5,000.00) or such amount as may be set by legislative act of the county enacted by affirmative vote of five (5) members of the County Council, shall be made from or let by sealed bids or proposals, after public notice for such period and in such manner as the County Executive shall determine. Contracts for the purchase shall be awarded to the lowest responsible bidder who has complied with the specifications and standards as set forth in the request for bids, and the successful bidder shall give security or bond for the performance of his contract, if so required by the County Executive. No contract nor purchase hereunder shall be broken down into parts so as to circumvent or evade the dollar limitation hereinbefore set forth.

- B. Exceptions. Upon request by the County Executive, stating fully the reasons why any single purchase or contract requiring sealed bids or proposals after due notice is impractical, considering the costs of operation, maintenance, downtime and service, if any, submitted to the County Council, then upon the vote of five (5) members, said Council may direct the County Executive to make said purchase or contract without compliance with the terms and conditions of this section. Nothing in this section shall be applicable to the engaging of an independent auditor or the awarding of contracts for professional services.

Section 803. Conformity to Budget Limitations

- A. No delivery of supplies, materials or equipment shall be made to any department or agency at a cost in excess of the available appropriation therefor.

SECTION II -- ORGANIZATION AND RESPONSIBILITY

A. PURCHASING AGENT

1. Purchasing Agent is designated by the County Executive.

B. SCOPE OF AUTHORITY AND RESPONSIBILITY

The Purchasing Agent shall:

1. Be responsible for all purchases and contracts for supplies, materials, equipment and services, regardless of the amount, which are paid for out of County funds, unless an exemption or exclusion is hereby granted by action of the County Council. The County Council may exempt the following categories from the provisions of the Purchasing regulations as follows:
 - a. Departments or agencies which function autonomously although their major source of funding is from the County.
 - b. Specific budget categories
 - c. Specific commodities or services
 - d. Emergency purchases.
2. Be responsible for the establishment of appropriate specifications and standards for all supplies, materials, and equipment to be purchased under Section I above, and the inspection of all deliveries to determine compliance with such specifications and standards, except that this function may be delegated to the using department or agency subject to approval by the Purchasing Agent. The County Council, at the request of the Purchasing Agent, may appoint a Standards Committee to assist and review proposed specifications and/or standards for goods and services to be purchased by the County.
3. Be responsible for the disposal of surplus, old and waste supplies, materials and equipment of the County, or the transfer of the same between offices, departments or other agencies of the County government. The Purchasing Agent, with advice from Department heads and/or the Director of Administration shall make the determination whether to transfer the property within the County system, or to otherwise dispose of it. The manner of disposal shall be determined by the Purchasing Agent taking into consideration what is in the best interest of the County.
4. Establish and maintain a system of requisitions and receipts covering the furnishing of supplies, materials and equipment to the various offices, departments, institutions, boards, commissions and other agencies of the County.
5. Shall establish, maintain, and modify rules, regulations, and standards for the pre-qualification of bidders in contracting for public work on the purchase of supplies,

materials, and services if the Purchasing Agent deems such pre-qualification necessary.

6. Shall be responsible for promulgating a system of rules, policies, practices, and procedures, subject to review by the Director of Administration, and approval of the County Council which will be the Purchasing Policy and Procedure Manual. This manual will provide the detailed instructions to be used on a daily basis in order to implement the intent of the Charter.
7. Shall be responsible for preparing an annual expense budget covering the cost of operating the Purchasing Department to be submitted to the Director of Administration for his review and approval by the County Council.

C. STRUCTURE OF PURCHASING DEPARTMENT

1. Purchasing Agent shall be a department level position directly responsible to the County Executive.
2. Purchasing Specialist shall be a classified position that assists the Purchasing Agent in administrative activities relating to purchasing and perform other duties as assigned.
3. Technical Procurement Specialist shall be a classified position performing various technical duties in carrying out the provisions of centralized purchasing under the direction of the Purchasing Agent.

SECTION III -- PURCHASING PRINCIPLES AND POLICIES

A. PURCHASING PRINCIPLES

Personnel associated with the Purchasing function are to comply with the following principles:

1. To consider the interest of the County first in all transactions.
2. To believe and carry out the established policies of the County.
3. To be receptive to competent counsel from colleagues and to be guided by such counsel without impairing the dignity and responsibility of the office.
4. To buy without prejudice, seeking to obtain the maximum value for each dollar of expenditure.
5. To strive consistently for knowledge of the materials and processes of manufacture.
6. To establish practical methods for the conduct of the office.
7. To subscribe to and work for honesty and truth in buying and selling and to denounce all forms and manifestations of commercial bribery.
8. To accord a prompt and courteous reception, as far as conditions will permit, to all who call on a legitimate business mission.
9. To respect the obligations of the vendors and require relationship to be respected and consistent with good business practices.
10. To counsel and assist fellow purchasing agents in the performance of their duties.
11. To cooperate with all organizations and individuals engaged in activities designed to enhance the development and standards of purchasing.

B. ETHICS AND PROFESSIONAL CONDUCT

1. All employees of Wicomico County are prohibited from accepting any gifts, samples, entertainment, special price considerations, fees, commissions or other gratuities from vendors or bidders except items of negligible value as a matter of principle; but further are bound by the provisions of the Wicomico County Ethics Law in matters relating to gifts and conflict of interest.

2. Vendors or bidders who offer gifts, entertainment, etc. may be declared irresponsible bidders and may be debarred from future bidding after an appropriate warning.

C. PURCHASING POLICIES

1. Personal Purchases for Employees
 - a. In consideration of legal aspects and trade relations with local merchants, the Purchasing Department may not purchase supplies for the private use of employees.
 - b. No County employee, in any of his private purchases, will use his position with the County in an effort to obtain a price consideration better than that offered the general public, unless it is offered as a group discount rate to all County employees sponsored by a County employee association or committee.
2. Relations with Vendors
 - a. No officer or employee of the County shall contract directly with any vendor except with the prior approval of the Purchasing Agent, or his/her designee, in his/her absence.
 - b. The Purchasing Department shall do whatever it can to educate the vendors to discourage uniform bidding. Further, any suspected cases of bid rigging or other collusive activities will be promptly reported to the appropriate authorities for investigation.
3. Relations with Other Departments or Agencies
 - a. The Purchasing Department should strive to familiarize itself with the particular requirements of a using agency or department and be receptive to their counsel.
4. Relations with the Public
 - a. All records except those specifically prohibited by State or Federal law shall be available for inspection by the public upon written request.
 - b. Copies of records are available to the public subject to a copying charge.
 - c. Bid openings are open to the public and all bid information (including notices of letting, summary sheets, and award letters) shall become public information after opened and as such available for public perusal.

5. Cooperative Purchasing
 - a. The Purchasing Department shall maintain a program for joint or cooperative purchasing with the Wicomico County Board of Education and with other public jurisdictions including surrounding cities, counties, the State and the federal government. Such cooperative ventures, where practical, generally result in a lower cost for goods and services for the participants by generating a larger volume of business for the vendor.
6. Local Preference Purchasing
 - a. It is believed that local preference for purchasing is desirable as long as cost, quality, and service is equal. However, the policy of providing local vendors an advantage based purely on that fact, or a policy to exclude competition from outside the local area is counterproductive and not in the best interest of the County.
7. Leasing, Rental and Buy-back Agreements
 - a. The Purchasing Department shall be responsible for equipment rental and lease agreements where the County's equipment requirements may be provided more economically by rental or lease than by outright purchase.
 - b. Equipment may be leased for varying periods of time when in the best interest of the County. Due to the susceptibility of special or technical equipment to obsolescence, it may be to the County's advantage for the vendor to lease the equipment to the County and to provide maintenance to that equipment rather than to acquire ownership of said equipment.
 - c. On major capital equipment, the use of a buy-back agreement with the vendor after a specified period of time is an acceptable procedure. The award under this procedure will be made to the low net bid (Purchase price less guaranteed buyback at the end of a specified time). The use of this procedure does allow for the acquisition of higher quality equipment which has a greater value for resale at the end of a specified time. Even though the initial cost of such equipment is generally higher, the greater resale value will offset that to reflect a lower net cost over several years.
8. Life Cycle Cost Considerations
 - a. The use of the concept of Life Cycle Cost in the acquisition of goods shall be utilized where practical. This concept addresses not only the initial acquisition cost of the goods, but the operating costs associated with the product throughout its expected life cycle and the residual value upon completion of its life expectancy. An evaluation of these components to determine the lowest net cost over the entire life spectrum is used as a basis for awarding the bid.

9. Use of Value Analysis

- a. The use of Value Analysis to determine a quality level required of a product to perform a required task is encouraged and promoted. Essentially value analysis is a systematic evaluation of the functions to be performed by a product with the goal of securing a product that will meet all the functional tests. This process attempts to eliminate those attributes of the product that are excessive or not necessary for its intended use, but tend to increase the cost of it.

10. Purchasing Forms

- a. The Purchasing Department shall develop and prescribe the forms used by the agencies for the Purchasing process. It may amend, modify, or eliminate the use of such forms as the need dictates.

11. Purchasing Files and Records

The Purchasing Department shall maintain complete files consisting of, but not limited to, the following:

- a. Purchase requisitions
- b. Purchase orders
- c. Request for Quotations
- d. Bidders lists
- e. Sealed bids
- f. Requests for Proposals
- g. Price agreements
 - 1. Fixed amount contracts
 - 2. Open end contracts
 - 3. State or Federal G.S.A. contracts which extend pricing to local subdivisions
- h. Vendors catalogs and other descriptive literature
- i. Specifications
- j. General correspondence
- k. Direct Payment Request forms

SECTION IV -- PURCHASING PROCEDURES

A. SMALL PURCHASES

1. The County authorizes Departments to make their own purchases of items where the total amount is \$9,999 or less.
2. Purchases under ~~\$1,000~~ **\$5,000** are not required to be competitively purchased. County credit cards are to be used when accepted by the vendor. When credit cards are not accepted, an electronic requisition shall be entered by the department into MUNIS.
3. Purchases where the total anticipated amount is between ~~\$1,000~~ **\$5,000** and \$9,999 are required to be competitively purchased within the using Department level. These purchases will have been approved in the budget process and are required to have three written quotes; copies of the quotes must be attached to the requisition in MUNIS. These purchases will be awarded by the using Department. Departments will not divide a purchase into more than one purchase in order to avoid the Rules requiring the applicable method for competition. Departments must be sure they do not exceed their authority in handling any type of purchase.
4. Purchases where the total amount is between \$10,000 and \$24,999 are required to be competitively purchased within the Purchasing Department. These purchases will have been approved in the budget process and are required to have three written quotes; copies of the quotes must be attached to the requisition in MUNIS. These purchases will be awarded by the Purchasing Department. Once directed by the Purchasing Department, the using Department will enter a requisition into MUNIS including all the required information.

B. PURCHASES WITH AN ANTICIPATED COST IN EXCESS OF \$25,000

1. Purchases where the total anticipated amount is \$25,000 or greater are required to be competitively purchased within the Purchasing Department. These purchases will have been approved in the budget process and will be formally bid out by soliciting vendors from County bid lists and advertising on the County's website, the bid board in the lobby of the Government Office Building, and on eMaryland Marketplace and/or other advertising method requested by the using Department. These purchases will be awarded by the Purchasing Department. Once directed by the Purchasing Department, the using Department will enter a requisition into MUNIS including all the required information.

C. UNBUDGETED PURCHASES

1. Any unbudgeted purchases are required to be communicated to the Director of Finance, Director of Administration, and the County Executive and will go before County Council for formal approval.
2. Any purchase in excess of budgeted amount requires prior approval of the Director of Finance.

D. PURCHASE REQUISITION

1. Department heads will establish the authority level within their Department for requesting of goods and services. The requisition request is entered into MUNIS. Once entered it is electronically forwarded through the process for approval.
2. The Approver will review the request for its accuracy in the following areas:
 - a. Correct item
 - b. Correct quantity
 - c. Correct price
 - d. Correct quality
 - e. Sufficient funds to purchase
 - f. Correct budgeting account number
 - g. Competitive quotes, if required
3. After all Department level Approvals, the request is forwarded electronically to the Purchasing Agent who will review for competitive quotes and compliance with this Manual.
4. Once approved a Purchase Order will be issued. Once created the Purchase Order is available electronically or a hard copy can be printed using MUNIS, if needed. The Purchasing Department is the only department in the County authorized to create a purchase order.
5. All approval levels are password protected and all approval levels have the ability and authority to return a requisition to the originator requesting additional information. It is the responsibility of the authorized user to protect his/her password to prevent use by any other person.
 - a. Any purchase that exceeds \$1,000 should be initiated by completing a purchase requisition. The purchase requisition is the document that sets the purchasing process in motion.

E. PROFESSIONAL SERVICES

1. Professional services shall be defined as those occupations which require specialized and theoretical knowledge which is usually acquired through college training or through work experience and other training which provides comparable knowledge. The term "professional" shall include, but not be limited

to, personnel and labor relations workers, social workers, doctors, psychologists, registered nurses, economists, dieticians, lawyers, system analysts, accountants, engineers, employment and vocational rehabilitation counselors, teachers or instructors, physical therapists, occupational therapists, speech therapists, and kindred workers. For the purpose of further identifying professional services, reference may be had to the Civilian Labor Force Availability Data/Job Category List.

SECTION V -- PURCHASING METHODS

The methods used to acquire goods or services will usually fall under one of the categories listed below:

A. COUNTY CREDIT CARD

1. County credit cards are for official use only and will be used in accordance with current Policy.

B. TELEPHONE, FACSIMILE, E-QUOTES, INTERNET PRICING, AND WRITTEN QUOTES

1. The above-referenced methods will be considered acceptable for non-formal solicitations.

C. FORMAL COMPETITIVE SEALED BIDS

1. This method will be used when the amount of the purchase is anticipated to exceed \$25,000.
2. Specifications will normally be furnished by the using department subject to review by the Purchasing Agent. The instructions and bid format will be furnished by the Purchasing Department.
3. Vendors will be solicited from County bid lists and a notice of our request for bids will be posted on the bid board located in the Government Office Building lobby. Additionally a notice of the Invitation for Bid will be advertised on the County's website and on eMaryland Marketplace.
4. Bids will be sealed and opened publicly at the time and place that is listed in the advertisement.
5. Bids will be tabulated and the results made available to all bidders as soon as practical after the bid opening.
6. Bids will be evaluated and the award made to the lowest responsive and responsible bidder. The Purchasing Agent has the authority to determine if a bid meets the specifications of the solicitation. If the bidder fails to meet the minimum standards, the Purchasing Agent will advise the vendor of that fact and outline the deficiencies of their submittal. If the bidder does not agree with the decision, he/she has the right of appeal (See Section VIII of this Manual).

D. FORMAL COMPETITIVE SEALED PROPOSALS

1. This method will be used when the amount of the purchase is anticipated to exceed \$25,000.
2. This method will be used to solicit services of an individual or organization which possess a high degree of technical skill, or other unique attributes. Normally the professional skills categories such as attorneys, physicians, engineers, architects, accountants, veterinary medicine, etc. are exempt from the bid process. However, the methodology shall be used where practical since a more objective review results from such a procedure.
3. The scope of the project is outlined along with the desired results by the using Department and forwarded to the Purchasing Department.
4. Vendors will be solicited from County bid lists and a notice of our request for proposals will be posted on the bid board located in the Government Office Building lobby. Additionally a notice of the Request for Proposal will be advertised on the County's website and on eMaryland Marketplace.
5. Proposals will be submitted in sealed envelopes clearly identified and a closing date for receiving the submittals will be provided. Proposals will be opened at the specified time and place just like the formal bid opening. However, the proposals are not available to the general public until such a time as the evaluations are complete.
6. The proposals will be evaluated using the format indicated in the Proposal Documents and a ranking of the proposals will be assigned.
7. This format differs from the normal bidding procedure as follows:
 - a. Negotiations after the opening of the documents is allowed. Such negotiation assumes the changes will be minor in content and the original scope of the project remains essentially the same.
 - b. The documents do not become available to the public until the evaluation is completed rather than following the bid opening as in normal bidding.
 - c. Since this is a proposal rather than a bid, the requirements for bid bond are not applicable to the submittal. However, the requirement for payment and performance bonds as a condition of award is entirely acceptable if indicated in the RFP.

E. "PIGGY-BACKING" ON OTHER GOVERNMENT CONTRACTS.

1. Most Federal and State open end contracts provide a clause extending the prices secured through their bidding process to the smaller subdivisions.

2. The Federal General Services Administration (GSA) contracts are available to State and local governments and provide substantial price advantages since they reflect a volume bid. Likewise contracts bid by the State Purchasing Departments contain a similar clause. The prices provided to the federal or state governments are extended to the local governments under this provision.
3. The GSA, State or local contract that is “piggybacked” on must be a current contract as determined by the Purchasing Agent and the item the County is buying must be the same item bought and bid by the GSA, State or local contract. Additionally, if the Purchasing Agent determines it is necessary, three best comparisons shall be done on “piggybacked” contract prices to see if the County would benefit from bidding the contract locally. If the County bidding the contract will produce a higher cost savings, the project should go through the regular County bid process.
4. Where the specifications used by the GSA or State bidding authorities meet the needs of the County, the prices established through their bidding process and made available to Wicomico County will satisfy the requirement that our prices be established through the competitive bidding process, as long as their bidding process conforms to the County Charter Section 802. The Purchase Requisition and the subsequent Purchase Order should reflect the Federal GSA Contract or State contract used as a basis for establishing the purchase price of the goods covered in the order.

F. SOLE SOURCE PROCUREMENT

1. There are times when it becomes apparent that a needed product is made by a single manufacturer and distributed through a single dealer or vendor. In such cases there is no choice but to purchase the product from the sole source.
2. If the product appears to be a sole source procurement situation, the Purchasing Agent and the head of the using Department shall evaluate the needs of the using Department to insure that the specifications are not overly restrictive and thus place the County in the position that only one vendor can supply the product.
3. If less restrictive specifications can be utilized without materially affecting the overall performance, all efforts should be made to utilize the competitive process to establish the price. If the product is truly sole source, the proper handling is covered below.
4. When the amount of the purchase is anticipated to exceed \$25,000, the Purchasing Agent and head of the using department shall jointly request that the County Council authorize the purchase without benefit of the bid process. Information and documentation should be provided to the Council to allow them to make such a decision. Sole Source purchases must be documented and signed by the head of the using Department. Justification must be provided identifying the specific facts or circumstances that support the waiver of competition.

5. Sole Source purchases must be approved in advance by the Purchasing Agent.

G. SPECIAL SERVICES SOLICITATIONS

1. This method is used for the purchase of supplies and/or services where the nature of the work prevents the establishment of a firm bid price prior to the commencement of work. Examples of special services work include motor or plumbing repairs where the concealed nature of the work precludes a firm bid.
2. The Purchasing Agent will attempt to use a known responsible source capable of handling such services, either
 - a. an original equipment manufacturer authorized repair service agency (the preferred source), or
 - b. a qualified agency based on past performance, reputation, and recommendations.
3. The County and the service agency will agree on a “not to exceed” price. The County will pay no more for the repairs unless additional authorization is given by the Purchasing Agent upon discovering additional damage not anticipated originally.

SECTION VI -- EMERGENCY PURCHASING PROCEDURE

A. DEFINITION

1. This procedure should be used only when an actual emergency exists, i.e.
 - a. A dangerous condition caused by a breakdown in machinery; or
 - b. A dangerous condition caused by a threatened termination of essential services; or
 - c. An unforeseen circumstance causing curtailment or diminution of an essential service.

B. PROCESS DURING BUSINESS HOURS

1. Department head (or authorized representative) determines an emergency purchase is required.
2. He notifies the Purchasing Agent of the need for an emergency purchase.
3. The Purchasing Agent authorizes the Department, if possible, to obtain competitive pricing.
4. A vendor and price is established.
5. A requisition is prepared by the using Department and the purchase order is prepared immediately. If the nature of the emergency precludes the preparation of the Purchase Order at this point, the Purchasing Agent may waive this and allow the Purchase Order to be confirming.

C. PROCESS AFTER BUSINESS HOURS

1. The Department head is authorized to make the purchase using the competitive process if possible.
2. The Department prepares a requisition and the purchase order is done the next business day.

- D. All Emergency Purchases should be fully reviewed by the Purchasing Agent, the Director of Administration, and the County Executive.

SECTION VII -- AUTHORITY TO WAIVE COMPETITIVE BIDDING

- A. There are occasions when it is advantageous, or unavoidable to waive the competitive bidding process although such occasions should be infrequent. The Charter of Wicomico County does provide for such occasions.
- B. The Charter provides “Upon request by the County Executive, stating fully the reasons why any single purchase or contract requiring sealed bids or proposals after due notice is impractical, considering the costs of operation, maintenance, down time and service, if any, submitted to the County Council, then upon the vote of five (5) members, said Council may direct the County Executive to make said purchase or contract without compliance with terms and conditions of this section”.
- C. Waiver of Competition Examples
 - 1. Where a needed product or service is available from only one source of supply.
 - 2. Where emergency action is indicated.
 - 3. Where standardization or compatibility is the overriding consideration.
 - 4. Where a donation predicates the source of supply.
 - 5. Where a particular product or service is desired for educational, training, experimental, or developmental work.
 - a. Example - Architectural, Engineering or other Professional services required for the purpose of conducting studies, evaluations, or establishing Contract Documents, designs, and specifications for County facilities as approved in the Budget.
 - 6. Where legal services are required that have been determined cannot be done by the County Attorney.
 - 7. Where equipment is already installed, connected and in service, and it is determined advantageous to purchase it.
 - 8. The amount of the purchase is too small to justify soliciting competition or where a purchase is being made and the price has not changed from a previous contract/quote (done within the last six months).
 - 9. The requirement is for an authorized cooperative project with another governmental unit(s) or a charitable Non-profit organization(s).
 - 10. Piggyback Purchases for goods and services on any other current Municipal, County, State or Federal Government contract.
 - 11. An item(s) is needed and available on short notice and subject to previous purchase, usually within the last six months, and pricing has not changed.
 - 12. Entertainers, performers, artist, musicians, actors, and other talent providers are needed for scheduled County events and have been approved in the Budget.

SECTION VIII -- AVOIDING AND RESOLVING DISPUTES IN BIDDING

A. METHODS USED TO AVOID BIDDING PROBLEMS

1. The Purchasing Department will attempt to provide good generic specifications stating the County's minimum needs as simply and straightforward as possible. If we are unable to develop quality specifications locally, we will attempt to secure assistance through our professional purchasing associations on both the state and national level.
2. Where obvious undetected errors exist in the bid documents that are brought to our attention, we will attempt to correct them through addendums, delays, or other actions to insure that the best possible bidding climate exists.
3. Pre-bid conferences with potential bidders will be utilized to the maximum to explain the scope of the solicitation prior to the receipt of bids. This hopefully will result in fewer misunderstandings and make for a better working relationship between the County and vendors.

B. RESOLVING DISPUTES IN BIDDING

1. If a Vendor feels he/she has not been treated fairly in his dealings with the County, he/she may seek redress from the County Council. A notice of complaint should be directed to the Purchasing Agent outlining the nature of the complaint. If the Purchasing Agent can address the complaint and advise the complainant satisfactorily, the matter need go no further. If, however, the Purchasing Agent cannot resolve the matter in a satisfactory manner, the complaint is forwarded to the Director of Administration along with a memo of explanation. The Director of Administration may attempt to resolve the matter directly with the complainant, or attempt to get the complainant together with the Purchasing Agent to attempt resolution, or schedule the matter on the first available County Council agenda for their review of the complaint.
2. In all bidding situations the following statement will appear: "The County will have the right to reject any and all Bid Documents, where applicable to accept in whole or in part, to add or delete quantities, to waive any informalities or irregularities in the Bid Document received, to reject a Bid Document not accompanied by required Bid security or other data required by the Bid Documents, and to accept or reject any Bid Document which deviates from specifications when in the best interest of the County." This statement allows the County to weigh its best interests as the controlling factor in any decision regarding the bidding process.

SECTION IX -- PAYMENTS TO VENDORS

A. DIRECT PAYMENT REQUEST

1. Definition
 - a. A form designed to authorize the disbursement of funds that are not otherwise covered by the Purchase Order procedure or some other method.
2. The following list of payments may use the form:
 - a. Utility bills
 - b. Membership dues
 - c. Seminar and conference fees
 - d. Subscriptions
 - e. Publications
 - f. Advertisements
 - g. Insurance Premiums
 - h. Jury duty payments
 - i. Right-of-Way costs
 - j. Refunds
 - k. Direct appropriations
 - l. Small and routine purchases
 - m. Inter-county transactions
3. Completing the Direct Payment Request
 - a. Dept. – Identify your department.
 - b. Date – Current date.
 - c. Amount of Payment – Total amount of the check to be issued.
 - d. Payee – Name to whom payment is to be made.
 - e. Vendor Number – If available and known.
 - f. Fund – Operating, Capital, etc.
 - g. Appropriate A/C – The numbered account to which the purchase is to be charged.
 - h. Social Security Number – Required if the payee is an individual.
 - i. Approved for Payment – By Department Head
4. Processing the Direct Payment Request
 - a. The person responsible for the payment completes the form and attaches the invoice or other documentation to support the payment.
 - b. The copy is forwarded to Finance.

B. SUBMITTING INVOICES FOR PAYMENT

1. If payment is requested for goods or services secured with a standard purchase order issued by the Purchasing Department, the approved invoice should be attached to a copy of the Purchase Order and sent to the accounts payable section of the Finance Department for payment. If other than a full and final payment is desired, the approving authority should so advise the accounts payable section.
2. Invoices marked for payment should have a minimum of the following information on them:
 - a. Department Head approval signature or initials
 - b. Department
 - c. Account number to be charged
 - d. Whether the payment is a full, partial, or final payment
 - e. Purchase order number

SECTION X -- BOND REQUIREMENTS

A. BID BONDS

1. A Bid Bond or Bid Security shall be mandatory only on construction contracts when the price is estimated to exceed \$100,000. However, bid security may be required on other types of contracts at the discretion of the Purchasing Agent if he/she feels the County could be injured by failure of a bidder to enter into a contract, and the requirement for same is contained in the Invitation for Bid.
2. Bid security is normally a bond provided by a surety company authorized to do business in the State of Maryland; or Cash or Certified Check equal to a percentage of the total amount of the contract. (5% of the total contract price is frequently used, but the amount may be determined by local policy and practice).
3. Failure of a bidder to comply with the bid security requirements in an Invitation for Bid may result in the bid being rejected. The County reserves the right to modify their position, and not reject the bid if it is determined that the bid fails to comply in a non-substantial manner to the bid requirements.
4. Failure of the bidder to enter into a contract with the County in accordance with the IFB shall result in the forfeiture of the Bid Security unless the County shall give written notice of their intention to release the bidder prior to intervene to insure completion of the contract. In the case of a cash bond, the funds would become available to allow the County to make arrangements to complete the contract.

B. PERFORMANCE BONDS

1. Performance Bonds shall be mandatory on construction contracts where the total cost is estimated to be excess of \$100,000. However, the County may require Performance Bonds in other situations if the Purchasing Agent feels the County could be damaged by the failure to a bidder to properly execute the contract; and the requirement for the bond is outlined in the Invitation for Bid.
2. A performance bond is normally a bond executed by a surety company authorized to do business in the State of Maryland; or otherwise in a manner satisfactory to the County in an amount equal to 100% of the price specified in the contract.
3. The bond assures the County that should the contractor default, or become unable to complete the work covered by the contract in a satisfactory manner, the surety company could intervene to insure the successful completion of the contract. In the case of a cash bond, the funds would become available to allow the County to complete the contract.

C. PAYMENT BONDS

1. Payment Bonds are mandatory on construction contracts where the contract amount exceeds \$100,000. However, a payment bond may be required on other contracts where, in the judgment of the Purchasing Agent, the potential for payment problems with the suppliers of labor and materials to the contractor or subcontractors exists.
2. A Payment Bond is a bond executed by a surety company authorized to do business in the State of Maryland; or a cash bond equal to 100% of the contract amount.
3. The bond provides protection to all persons supplying labor and materials to the contractor or its subcontractors for the performance of the work covered in the contract.

SECTION XI -- SURPLUS PROPERTY DISPOSITION

- A. If a Department no longer has use for a piece of equipment, the Department head may declare the item surplus. This is reported to the Purchasing Agent who then has the responsibility to handle the disposition of the property.
- B. The Purchasing Agent will inspect the property to ascertain condition and value.
- C. The first priority is given to assigning the property to other departments or agencies within the County. If there is a need by another Department the Purchasing Agent will assign the property to that location. The Purchasing Agent will take into consideration the value of the property being assigned and where the value is considerable, he/she will keep the Director of Administration advised.
- D. The next consideration will be given to assigning the property to other agencies that are not part of the County umbrella, but are non-profit community service oriented. This option takes into consideration the value of the property and is done with the concurrence of the County Executive who shall submit such a request to the County Council.
- E. If the property is no longer re-assignable or the need does not exist in other areas, the Purchasing Agent will dispose of the property in a manner that he deems proper.
 - 1. Auction Sale – If there is sufficient property, value, and interest, the Purchasing Agent will arrange an auction sale to be properly advertised in a convenient location to dispose of the property.
 - 2. Sealed Bid – If the value of the property is of sufficient value, the sale of the property shall be by sealed bids. In this arrangement a location will be advertised where the property can be inspected and the closing date for receiving bids on the surplus property will be determined and made public. Bids will be received until such time and the award shall go to the highest bidder for the property.
 - 3. Private Sale – If the value of the property is relatively minor, the Purchasing Agent may elect to dispose of the property with a private sale. In this case he would solicit prices from interested parties and sell to the highest bidder.
 - 4. Junk – If there is no relative value, the Purchasing Agent may dispose of the property in the most expeditious manner.
- F. This section does not apply to the surplus of real property. Chapter 22 of the County Code references the surplus of real property.

SECTION XII -- GLOSSARY

1. Award of Bid...A notification that the bid submitted by a bidder in response to an Invitation for Bid has been accepted by the County and the County will enter into a contract with the bidder to supply the goods or services requested in the IFB.
2. Bid...The competitive price offer made by an intended seller, usually in response to an Invitation for Bid.
3. Bid Evaluation...A process which compares the bids with the specifications and other conditions outlined in the Invitation to determine the bidder that can provide the requested goods and services for the best price.
4. Bid Opening... The act of publicly opening the bid envelopes at the advertised time and reading the bid contained therein.
5. Bid Security...A requirement for the bidder to include with his bid a bond provided by a properly licensed surety company, the equivalent in cash, or other form agreeable to the County equal to a specified percentage of the total bid which insures the bidder will enter into a contract with the County or risk forfeiture of his bid security.
6. Blanket Order...A purchase order issued to a vendor for a restricted amount and term to allow a using department or agency to make a series of smaller purchases against the blanket amount for the time frame covered by the order.
7. Bulk Buying...The concentration of a total demand for a commodity into one purchase to secure a price advantage over smaller lot purchases.
8. Competitive Sealed Bidding...A listing of specifications are provided to prospective bidders and the bidder indicates the price he will charge to provide the products in accordance with the specifications.
9. Competitive Sealed Proposals...A format used primarily in the solicitation of services wherein some subjective analysis of the overall capabilities of a supplier of the services is utilized. A general statement of needs is provided to the participants and they will then develop how they propose to provide solutions to meet those needs. The Request for Proposal should include a listing of the rating criteria that the County will use to evaluate the proposals that are submitted.
10. Cooperative Bidding...An arrangement whereby several jurisdictions consolidate their needs into a single solicitation to secure the price advantages of bulk buying.
11. F.O.B. Destination...(Free on Board) Freight is paid by the vendor to point of requested delivery.
12. F.O.B. Shipping Point...Freight is paid by the County from the shipping point to the point of requested delivery.

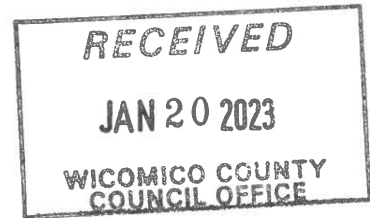
13. Invitation for Bids (IFB)...Solicitation of prospective sellers to submit quotations to provide the goods and services outlined in the invitation.
14. Invoice...Sellers itemized bill, stating prices and quantities of goods and/or services delivered, which is presented to the buyer as a basis for payment.
15. Liquidated Damages Clause...A provision in a contract which specifies a penalty to be assessed against the contractor for failure to provide the goods or services within an agreed period of time. (It is frequently used in construction contracts where the time to completion exceeds the agreed time and is usually expressed in a daily amount.)
16. Open Market...Using a competitive market to obtain the lowest price.
17. Payment Bond...A requirement for the bidder to furnish a bond executed by a licensed surety company; or otherwise furnish security in a manner satisfactory to the County, for the full amount of the price specified in the contract which provides protection to those persons supplying labor and materials to the contractor or its subcontractors.
18. Performance Bond...A requirement for the successful bidder upon execution of the contract to furnish a bond executed by a licensed surety company; or otherwise furnish security in a matter satisfactory to the County, for the full amount of the price specified in the contract which guarantees the contractor will complete the terms of the contract in a manner satisfactory to the County.
19. Pre-bid Conference...A meeting of bidders and the County prior to the opening of the bid to discuss any potential problems or insure that all bidders have the same concept of the scope of the bid.
20. Price Escalation/De-escalation Clause...A provision which allows documented changes in price to be applied to an existing contract. Such price changes are normally allowed in open end contracts and require a review by the contracting officer before the price can be changed.
21. Proposal...An offer by a prospective seller of goods and/or services (but more commonly used in the offer of services) wherein the seller outlines his perception of the procurement need, lists his resources and qualifications to address the need, presents his plan to meet this need, and the cost to the County of this service.
22. Public Notice...A posting of Invitations for Bid/Proposal on a bulletin board in a location that is located in a highly public area wherein all invitations are posted.
23. Purchase Order (P.O.)...A request for goods and/or services to a vendor stating all terms and conditions of a proposed transaction.
24. Purchase Requisition...A request submitted electronically by the using Department which lists goods or services needed by that Department. The request contains budget information and is electronically submitted by an individual that is authorized to order for the using Department.

25. Quotation...A sales proposal outlining amounts, price, terms, and conditions of sale tendered to a buyer by the prospective seller.
26. Request for Proposal (RFP) ...A solicitation of prospective sellers of goods and/or services to offer a solution to a procurement need which is outlined in general terms or performance requirements as opposed to more detailed specifications contained in the Invitation for Bid. The RFP should contain information regarding the methodology to be used by the County to evaluate the proposal.
27. Request for Quotation (RFQ)...County invites the prospective seller or sellers to submit quotations.
28. Responsible Bid...A bid that has met the minimum requirements outlined in the Invitation for Bid, and the bidder has the capability to deliver the goods and/or services required.
29. Service Contract...A contract to primarily provide labor or other such service as contrasted with a contract to provide a product or goods.
30. Specifications...A detailed description of the physical or functional characteristics, or the nature of a supply, service, or construction item. It may include a description of any requirement for inspecting, testing, or preparing a supply, service, or construction item for delivery.
31. Using Department...The department or agency that will use the goods or services requested.
32. Vendor...The seller of merchandise or services.

QUICK REFERENCE GUIDE

Purchasing Thresholds Wicomico County, Maryland

| Threshold | General Procedure |
|--|--|
| Under \$1000 | Authority delegated to department level. No competition required. Purchases can be made on Wicomico County (County) Credit Cards or by Purchase Order when the Vendor does not accept credit cards. |
| \$1,000 \$5,000 - \$9,999 | Authority delegated to department level. Requires three written quotes. Purchases can be made by entering a Requisition for a Purchase Order. Quotes must be attached to the Requisition in MUNIS. Must be approved by the Purchasing Agent. |
| \$10,000 - \$24,999 | Authority delegated to the Purchasing Department. Requires three written quotes. Purchase Order will be issued for order. Awarded by the Purchasing Department in collaboration with the using Department to the lowest Responsive and Responsible Vendor meeting the specifications in the solicitation document. Requisition will be entered by using Department. Quotes must be attached to the Requisition in MUNIS. |
| \$25,000 and over | Authority delegated to the Purchasing Department. Requires formal solicitation and advertisement. Purchase Order will be issued for order. Awarded by the Purchasing Department in collaboration with the using Department to the lowest Responsive and Responsible Vendor meeting the specifications in the solicitation document. Requisition will be entered by using Department. Bidding information must be attached to the Requisition in MUNIS. |
| Exceptions to The Above | |
| Emergency Purchase | Health or safety of the public or operation of equipment is in jeopardy. Competition is not required. During working hours, contact Purchasing prior to purchase. Written justification is required in the comments section of the requisition. See Section VI of the Purchasing Manual. |
| Single Source | Written justification is required in the comments section of the requisition. See Section V, Subsection F of the Purchasing Manual. |
| Sole Source | Written justification is required in the comments section of the requisition. See Section V, Subsection F of the Purchasing Manual. |
| Donation | No competition is required for donations; however information must be entered in the requisition indicating the parameters of the donation. |
| Educational Training, Experimental, or Developmental work; | Architectural, Engineering or other Professional services required for the purpose of conducting studies, evaluations, or establishing Contract Documents, designs, and specifications for County facilities as approved in the Budget. See Section VII of the Purchasing Manual. Comments are required in the requisition indicating waiver of competition and why. |
| Legal Services | No competition is required for legal services or expert witnesses or other services associated with litigation or regulatory proceedings. |
| Piggy Back Contracts | No competition is required on items purchased from a piggy back contract. Contract information must be included in the requisition. |
| Entertainers, Exhibits, Etc. | No competition is required for entertainers, performers, exhibits, etc. as detailed in Sections VII of the Purchasing Manual. Comments are required in the requisition indicating what County event the entertainer, exhibit, etc. is for. |
| Previously Sourced | No competition is required if the item was sourced within the last six months and pricing has not changed. Comments are required in the requisition indicating the Purchase Order the previous item(s) was sourced through to substantiate no pricing variance. |



WICOMICO COUNTY, MARYLAND

OFFICE OF THE COUNTY EXECUTIVE

P.O. BOX 870

SALISBURY, MARYLAND 21803-0870

410-548-4801


FAX: 410-548-4803

Julie M. Giordano
County Executive

Bunky Luffman
Director of Administration

MEMORANDUM

To: Laura Hurley
Council Administrator

From: Bunky Luffman
Director of Administration 

Date: January 20, 2023

Subject: Proposed Agenda Item

Purchasing

The Purchasing Department is requesting an Amendment to the Purchasing Manual, Section IV, Purchasing Procedures, Small Purchases. The amendment would increase the amount where purchases are not required to be competitively bid from under \$1,000 to under \$5,000. This will allow flexibility and timely purchases for our Departments.

COUNTY COUNCIL
OF
WICOMICO COUNTY, MARYLAND

2023 Legislative Session

Legislative Day No. 03

LEGISLATIVE BILL NO. 2023-01

INTRODUCED BY: President of the Council at the request of the County Executive

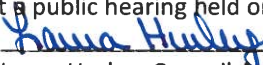
Bill No. 2023-01: AN ACT TO AMEND THE PURCHASING MANUAL, SECTION IV(A)(2), PURCHASING PROCEDURES, SMALL PURCHASES TO INCREASE THE AMOUNT OF PURCHASES NOT REQUIRED TO BE COMPETITIVELY BID FROM UNDER \$1,000 TO UNDER \$5,000.

Introduced and read first time on February 7, 2023. Ordered posted and public hearing scheduled for March 7, 2023 at 6:00 p.m.



Laura Hurley, Council Administrator

PUBLIC HEARING: Having been posted and notice of time and place of hearing and title of Bill having been published according to the Charter, the Bill was read for a second time at a public hearing held on March 7, 2023.



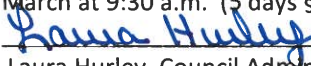
Laura Hurley, Council Administrator

CERTIFICATION: The undersigned hereby certifies that this Bill was Approved and Adopted by the County Council of Wicomico County, Maryland, on the 7th day of March, 2023.



Laura Hurley, Council Administrator

Presented to the County Executive for approval this 8th day of March at 9:30 a.m. (5 days §411)



Laura Hurley, Council Administrator

BY THE COUNTY EXECUTIVE:



County Executive

APPROVED
Date: 3/10/2023
(21 days §411)

VETOED
Date: _____

BY THE COUNCIL:

Option One: This Bill, having been approved by the County Executive and returned to the Council, becomes law on March 10, 2023 and effective on: May 9, 2023.
(60 days §311)

Option Two: This Bill, having received neither the approval nor the disapproval of the County Executive with 21 days of its presentation, stands enacted on _____ and becomes effective on _____.
(60 days §311)

Option Three: This Bill, being exempt from the Executive Veto stands enacted on _____ and becomes effective on _____. (Charter Section 305)

ENROLLMENT: Legislative Bill No. 2023-01 is herewith submitted to the County Council of Wicomico County for enrollment as being the text as finally passed.



Laura Hurley, Council Administrator