

Warren County
Procurement Policy for the Expenditure of Federal Funding

This Policy establishes standards and guidelines for the procurement of supplies, equipment, construction and services for Federal Assistance Community Development Block Grant Programs and/or any other federal funds received by Warren County. These standards are furnished to ensure such materials and services are obtained efficiently and economically with the provisions of applicable Federal, State and County laws and/or codes.

- **CODE OF CONDUCT**

No Employee, officer or agent of the County shall participate in selection, or in the awards or administration of a contract if a conflict of interest, real or apparent, would be involved. Such a conflict would arise when:

- a. The employee, officer, or agent;
- b. Any member of his immediate family;
- c. His or her partner; or
- d. An organization which employs, or is about to employ, any of the above, has a financial or other interest in the firm selected for award.

The County's officers, employees, or agents shall neither solicit nor accept gratuities, favors or anything of monetary value from contractors, potential contractors, or parties to subagreements.

- **PROCUREMENT PROCEDURES**

The County's procurement procedure provides that proposed procurement actions shall be reviewed by the Director of Finance and Administration, Planning Director, or other designated County policy administrator, to avoid the purchase of unnecessary or duplicate items. Consideration should be given to consolidation or breaking out to obtain a more economical purchase. Where appropriate, an analysis shall be made of lease versus purchase alternatives, and any other appropriate analysis to determine which approach would be the most economical. To foster greater economy and efficiency, departments are encouraged to utilize State and local intergovernmental agreements for procurement or use of common goods and services.

- **CONTRACTING WITH SMALL, MBE, WBE AND LABOR SURPLUS AREA FIRMS**

It is a County policy to award a fair share of contracts to small and minority business firms. Accordingly, affirmative steps must be taken to assure that small and minority businesses are utilized when possible as sources of suppliers, equipment, construction and services. Affirmative steps shall include the following:

- a. Including qualified small and minority businesses on solicitation lists.
- b. Assuring that small and minority businesses are solicited whenever they are potential sources.

- c. When economically feasible, dividing total requirements into smaller tasks or quantities so as to permit maximum small and minority business participation.
- d. Where the requirement permits, establishing delivery schedules which will encourage participation by small and minority businesses.
- e. Using the services and assistance of the Small Business Administration, the Office of Minority Business Enterprises of the Dept of Commerce, the PA Dept of General Services, and Community Services Administration, as required.
- f. If any subcontracts are to be let, requiring the prime contractor to take the affirmative steps in i through v above.

The County shall take similar appropriate affirmative action in support of women's business enterprises.

- SELECTION PROCEDURES

All procurement transactions, regardless of whether by sealed bids or by negotiation and without regard to dollar value, shall be conducted in a manner that provides maximum open and free competition. Procurement procedures shall not restrict or eliminate competition. Example of what is considered to be restrictive competition include, but are not limited to: (1) placing unreasonable requirements on firms in order for them to qualify to do business; (2) noncompetitive practices between firms; (3) organizational conflicts of interests; and (4) unnecessary experience and bonding requirements.

Solicitations of offers, whether by competitive sealed bids or competitive negotiation shall:

- a. Incorporate a clear and accurate description of the technical requirements for the material, products, or service to be procured. Such description shall not, in competitive procurements, contain features which unduly restrict competition. The description may include a statement of the qualitative nature of the material, product or service to be procured, and when necessary, shall set forth those minimum essential characteristics and standards to which it must conform if it is to satisfy its intended use. Detailed product specifications should be avoided if at all possible. When it is impractical or uneconomical to make a clear and accurate description of the technical requirements, a "brand name or equal" description maybe be used as a means to define the performance or other salient requirements of a procurement. The specific features of the named brand which must be met by offerors shall be clearly stated.

The County shall set forth all requirements which offerors must fulfill and all other factors in evaluating bids or proposals.

- a. Awards shall be made only to responsible contractors that possess the potential ability to perform successfully under the terms and conditions of a proposed procurement. Consideration shall be given to such matters as contractor, integrity, compliance with public policy, record of past performance, and financial and technical resources.

- METHOD PROCUREMENT

Procurement shall be made by one of the following methods, as described herein; (a) micro-purchase, (b) small purchase procedures, (c) competitive sealed bids (formal advertising); (d) competitive negotiation; and (e) noncompetitive negotiation (sole source).

- a. Micro-Purchase procedures are for purchases less than \$3,000 for supplies or services, and less than \$2,000 for acquisitions for construction subject to the Davis Bacon Act). These purchases can utilize the "simplified acquisition threshold" if the County considers the costs to be reasonable, the purchase orders may be awarded without soliciting any competitive quotations. No rate competitive quotations are needed for the purchase. A cost or price analysis is also not required. The County must, to the extent practical, distribute these purchases among qualified suppliers.

Small purchase procedures are those relatively simple and informal procurement methods that are sound and appropriate for a procurement of services, supplies or other property, costing in the aggregate more than \$3,000 and less than \$150,000. If small purchase procedures are used for procurement, price or rate quotations shall be obtained from an adequate number of qualified sources (at least one). The methods of obtaining prices may include: in writing, orally, vendor price list on vendor website or generated via an online search engine. A cost or price analysis is not required. See "General Material Purchasing and Payment Procedure" for a detailed list of steps to be followed.

- b. In Sealed Bids or Competitive Proposals procurement (formal advertising), for purchases over \$150,000, sealed bids are publicly solicited and a firm-fixed-price contract (lump sum or unit price) is awarded to the responsible bidder whose bid, conforming with all material terms and conditions of the invitation for bids, is lowest in price. Formal advertising procedures are further explained in the County Code.
 - In order for formal advertising to be feasible, appropriate conditions must be present, including, as a minimum the following:
 - A complete, adequate and realistic specification or purchase description is available.
 - Two or more responsible suppliers are willing and able to compete effectively for the grantee's business.
 - The procurement lends itself to a firm-fixed-price contract, and selection of the successful bidder can appropriately be made principally on the basis of price.
- c. If formal advertising is used for procurement under a grant, the following requirements shall apply:
 - A sufficient time prior to the date set for opening of bids, bids shall be solicited from an adequate number of known suppliers. In addition, the invitation shall be publicly advertised.
 - The invitation for bids, including specifications and pertinent attachments, shall clearly define the items or services needed in order for the bidders to properly respond to the invitation.

- All bids shall be opened publicly at the time and place stated in the invitation to bids.
- A firm-fixed-price contract award shall be made by written notice to that responsible bidder whose bid, conforming to the invitation to bids, is lowest. Where specified in the bidding documents, factors such as discounts, transportation costs and life cycle cost shall be considered in determining which bid is lowest. Payment discounts may only be used to determine low bid when prior experience of grantee indicates that such discounts are generally taken.
- Any or all bids may be rejected when there are sound documented business reasons in the best interest of the County.

In competitive negotiation, proposals are requested from a number of sources and the Request for Proposals is publicized, negotiations are normally conducted with more than one of the sources submitting offers, and either a fixed-price or cost-reimbursable type contract is awarded, as appropriate. Competitive negotiation may be used if conditions are not appropriate for the use of formal advertising. If competitive negotiation is used for procurement under a Federal or State grant, the following requirements shall apply:

1. Proposals shall be solicited from an adequate number of qualified sources to permit reasonable competition consistent with the nature and requirements of the procurement. The Request for Proposal shall be publicized and reasonable requests by other sources to compete shall be honored to the maximum extent practicable.
2. The Request for Proposal shall identify all significant evaluation factors, including price or cost where required and their relative importance.
3. The grantee shall provide mechanisms for technical evaluation of the proposals received, determinations of reasonable offerors for the purpose of written or oral discussions, and selection for contract award.
4. Award may be made to the responsible offeror whose proposal will be most advantageous to the procuring party, price and other factors considered. Unsuccessful offerors should be notified promptly.
5. The County may utilize competitive negotiation procedures for procurement of architectural/engineering professional services, whereby competitors' qualifications are evaluated and the most qualified competitor is selected, subject to negotiation of fair and reasonable compensation.

Noncompetitive negotiation (sole source) is procurement through solicitation of a proposal from only one source, or after solicitation of a number of sources, competition is determined inadequate. Noncompetitive negotiations may be used when the award of a contract is infeasible under small purchase, competitive bidding (formal advertising) or competitive negotiation procedures. Circumstances under which a contract may be awarded by noncompetitive negotiation are limited to the following:

1. The item is available from only a single source;
2. Public exigency or emergency: County may make emergency procurements when there exists a threat to public health, welfare, or safety under emergency conditions as declared by the County

Commissioners; provided that such emergency procurements shall be made with such competition as is practicable under the circumstances. A written determination of the basis for the emergency and for the selection of the particular contractor shall be included in the contract file;

3. A Federal or State grantor agency authorizes noncompetitive negotiation; or

4. After solicitation of a number of sources, competition is determined inadequate.

- CONTRACT PRICING

The cost plus a percentage of cost and percentage of construction cost method of contracting shall be used. Grantees shall perform some form of cost or price analysis in connection with every procurement action including contract connection with every procurement action including contract modifications. Costs or prices based on estimated costs for contracts under grants shall be allowed only to the extent that costs incurred or cost estimates included in negotiated prices are consistent with Federal or State cost principles.

- GRANTEE PROCUREMENT RECORDS

Grantees shall maintain records sufficient to detail the significant history of a procurement. These records shall include, but are not necessarily limited to information pertinent to the following: rationale for the method of procurement, selection of contract type, contractor selection or rejection, and the basis for the cost or price.

- CONTRACT PROVISION

In addition to provisions defining a sound and complete procurement contract, any recipient of Federal grant funds shall include the following contract provisions or conditions in all procurement contracts and subcontracts as required by the provision, Federal Law or the grantor agency.

- a. Contracts other than small purchases shall contain provisions or conditions which will allow for administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as may be appropriate.
- b. All contracts in excess of \$2,500 shall contain suitable provisions for termination by the County including the manner by which it will be affected and the basis for settlement. In addition, such contracts shall describe conditions under which the contract may be terminated for default as well as conditions where the contract may be terminated because of circumstances beyond the control of the contractor.
- c. All contracts awarded in excess of \$10,000 by the County or subgrantees shall contain a provision requiring compliance with Executive Order 11246, entitled "Equal Employment Opportunity", as amended by Executive Order 11375, and as supplemented in Department of Labor regulations (41 CFR Part 60).
- d. All contracts and subgrants for construction or repair shall include a provision for compliance with the Copeland "Anti-Kickback" Act (18 USC 874) as supplemented in Department of Labor regulations (29 CFR, Part 3). This act provided that each contract or subgrantee shall be prohibited from inducing, by any means, any person employed in the construction, completion,

- or repair of public work, to give up any part of the compensation to which he is otherwise entitled. The grantee shall report all suspected or reported violations to the grantor agency.
- e. When required by the Federal or State program legislation, all construction contracts in excess of \$2,000 awarded by grantees and subgrantees shall include a provision for compliance with the Davis-Bacon Act (40 USC 276a to a-7) as supplemented by the Department of Labor regulations (29 CFR, Part 5). Under this Act, contractors shall be required to pay wages to laborers and mechanics at a rate not less than the minimum wages specified in a wage determination made by the Secretary of Labor. In addition, contractors shall be required to pay wages not less often than once a week. The grantee shall place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation and award of a contract shall be conditioned upon the acceptance of the wage determination. The grantee shall report all suspected or reported violations to the grantor agency.
 - f. Where applicable, all contracts awarded by grantees and subgrantees in excess of \$2,000 for construction contracts and in excess of \$2,500 for other contracts which involve the employment of mechanics or laborers shall include a provision for compliance with Sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 USC 327-330) as supplemented by Department of Labor regulations (29 CFR, Part 5). Under Section 103 of the Act, each contractor shall be required to compute the wages of every mechanic and laborer on the basis of a standard workday of 8 hours and a standard work week of 40 hours. Work in excess of the standard work day is permissible provided that the worker is compensated at a rate of not less than 1 ½ times the base rate of pay for all hours worked in excess of 40 hours in the work week. Section 107 of the Act is applicable to construction work and provides that no laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous to his health and safety as determined under construction safety and health standards promulgated by the Secretary of Labor. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.
 - g. The contract shall include notice of Federal or State grantor agency requirements and regulations pertaining to reporting and patent rights under any contract involving research, development, experimental or demonstration work with respect to any discovery or invention which arises or is developed in the course of or under such contract, and of grantor agency requirements and regulations pertaining to copyrights and rights in data.
 - h. All negotiated contracts (except those awarded by small purchase procedures) awarded by the County shall include a provision to the effect that the County, the Federal or State agency, the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any books, documents, papers, and records of the contractor which are directly pertinent to that specific contract, for the purpose of making audit, examination, excerpts, and transcriptions. Grantees shall require contractors to maintain all required records for three (3) years after grantees make final payments and all other pending matters are closed.
 - i. Contracts, subcontracts, and subgrants or amount in excess of \$100,000 shall contain a certain provision which required compliance with all applicable standards, orders, or requirements issued under Section 306 of the Clean Air Act (42 USC 1857 (h)), Section 508 of the Clean Water Act (33 USC 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR, Part 15), which prohibits the use under non-exempt Federal contracts, grants or loans of

facilities included on the EPA List of Violating Facilities. The provision shall require reporting of violations to the grantor agency and to the USEPA Assistant Administrator for Enforcement (EN-329).

- j. Contracts shall recognize mandatory standards and policies relating to energy efficiency which are contained in the State energy conservation plan issued in compliance with Energy Policy and Conservation Act (P.L. 94-163).

- **CONTRACT ADMINISTRATION**

The Director of Finance and Administration, Planning Director, or other designated County policy administrator shall maintain a contract administrations system ensuring that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders.

WARREN COUNTY
General Material Purchasing and Payment Procedure

- ITEMS UNDER \$300:

Procurement of any item with a cost up to \$300 must be authorized by the respective department head. The department supervisor will insure that employees follow the procedure set forth below when procuring any supplies, materials, or services with a cost less than \$300.

- a. Any and all purchases must be approved by the department head.
- b. After authorization is obtained, or as directed by the department head, the employee may purchase the needed materials, supplies or equipment.
- c. At the time of purchase, the employee must sign and obtain a copy of the invoice for the items procured. The invoice must contain a description of item(s) purchased, unit price, total item price and grand total of invoice.
- d. The invoice must then be turned in to the department head.
- e. The department head will then sign the invoice. Afterwards it will be forwarded to the County Finance Department.
- f. The County Finance Department will promptly process all original invoices for payment. Duplicate invoices will be filed until original invoice is received from the vendor. At no time will payment be made from a duplicate or a copy of an invoice.
- g. Payments will only be processed from original invoices, which are authorized by the department head's signature.

- ITEMS OVER \$300 BUT LESS THAN \$2,500:

Procurement of any item with a cost of over \$300, but less than \$2,500 must receive prior approval of the Director of Finance and Administration. The department head will attempt to obtain three (3) but not less than two (2) quotes for the item or materials to be purchased. After the quotes are obtained the purchase will be discussed with the Director of Finance and Administration. Upon approval of the purchase, the procurement procedure set forth for items costing less than \$300 will be followed.