

PROCUREMENT

I. PURPOSE

The purpose of this chapter is to provide for the equitable treatment of all persons or entities involved in public purchasing by the County of Waushara. This is to insure the most efficient and responsible use of public funds in procurement and provide safeguards for insuring and maintaining public confidence in County government and procurement.

II. APPLICATION

This chapter applies to contracts for the procurement of goods, supplies, services, and construction of infrastructure or buildings entered into by the County of Waushara after June 1, 2018. It shall apply to every expenditure of public funds by any County department regardless of the source of funds used. With regard to expenditures for the purchase of equipment, materials, or services used for highway construction or maintenance, the prior knowledge and input of the Highway Commissioner will be required. When the procurement involves the use of funds provided by the government of the United States of America or the State of Wisconsin, said procurement will be carried out in accordance with any applicable State or Federal laws or regulations. Nothing in this chapter shall prohibit the County or its departments from accepting or complying with the terms of any gift, grant, or bequest not inconsistent with applicable law.

III. DEFINITIONS

ARCHITECTS

Those persons engaged in the practice of architecture as defined by the State of Wisconsin.

ATTORNEYS

Those persons duly licensed by the State of Wisconsin permitting them to engage in the practice of law.

BOARD

The Waushara County Board of Supervisors.

BRAND NAME OR EQUIVALENT SPECIFICATION

Specification limited to one (1) or more items by a particular manufacturer or product name or designation or the commonly accepted equivalent substitution.

BUSINESS

Any individual, sole proprietorship, partnership, type of corporation, or partnership of such.

CHANGE ORDER

A written order executed and issued by the Procurement Officer directing a contractor to make changes pursuant to the terms of a contract.

CONTRACT MODIFICATION

Any written alteration in the terms of a contract mutually agreed to by the parties to such.

CONFIDENTIAL INFORMATION

Any information related to procurement available to any County employee, agent, or official due to that person's status and is not a matter of public knowledge or subject to public records laws.

CONSTRUCTION

The process of building, altering, repairing, renovating, improving, or demolishing any building, structure, or infrastructure. It does not include the routine operation or maintenance of existing buildings, structures, or infrastructure.

CONTRACT

Any and all types of agreements regardless of what they may be labeled, for the procurement of goods, supplies, services, or construction.

CONTRACTOR

Any person or legal entity having a contact with or doing business with the County or any of the County's agents.

COST ANALYSIS

The evaluation of data for the purpose of determining the projected or actual costs or expenses incurred, saved, or reimbursed.

COST DATA

Factual information to be used in carrying out a cost

analysis.

COST REIMBURSEMENT CONTRACT

A contract under which a contractor is reimbursed for costs permitted by the terms of said contract and the provisions of this Code and a set fee or profit, if any.

COUNTY

The County of Waushara, Wisconsin.

DEPARTMENT

Any organizational division or subset of County government.

DIRECT OR INDIRECT PARTICIPATION

Any direct or indirect involvement influencing any decision, approval, disapproval, recommendation, or the terms of any contract negotiated, approved, or implemented pursuant to this Chapter.

EMPLOYEE

Any individual serving as a compensated or uncompensated employee or official performing services for the County or for or through any of its agencies.

ENGINEERS

Those persons engage in the practice of engineering as defined by the State of Wisconsin.

FINANCIAL INTEREST

Any interest in an entity having a contract with the County pursuant to this Chapter which provides that individual in excess of annual compensation of One Thousand Dollars (\$1,000.00), more than a One Percent (1%) ownership interest in that entity, or holding the position of Officer, Director, Partner, or member of the Board of Directors of that entity.

GOODS

Any tangible item purchased or leased by the County.

GRATUITY

Payment, compensation, loan, or gift of money or anything of more than One Hundred Dollars (\$100.00) in value received from an entity doing business or seeking to do business with the County.

IMMEDIATE FAMILY

Spouses, children, parents, siblings, and in-laws.

INVITATION FOR REQUESTS FOR BIDS, REQUESTS FOR QUALIFICATIONS, OR REQUESTS FOR PROPOSALS

All documents in whatever form included or incorporated by reference utilized for the aforementioned requests.

PHYSICIANS

Those persons duly licensed by the State of Wisconsin to engage in the practice of medicine.

PROCUREMENT

The process of soliciting, purchasing, leasing, or otherwise acquiring any goods, supplies, services, or construction by or for the County.

PROCUREMENT OFFICER

The County employee or official responsible for overseeing procurement.

PROFESSIONALS

Persons engaging in an occupation requiring licensure by the State of Wisconsin.

QUALIFIED PRODUCTS LIST

A list of products delineated by name, model, or number that the County has determined are acceptable or required to be used in bidding for or carrying out procurement pursuant to this Chapter.

RESPONSIBLE PARTY

The person or entity who has the authority, capability and responsibility to complete, adhere to, and carry out the terms of any contract or potential contract with the County.

SUPPLIES

Any tangible good regularly used on a regular basis which needs to be periodically replaced.

IV. PUBLIC ACCESS TO INFORMATION

Any information created or maintained pursuant to this Chapter is public to the extent permitted but not excepted by Chapter 19, Subchapter II, §§19.21-19.39 of the Wisconsin Statutes.

V. PROCUREMENT OFFICER

There is hereby created the position of Procurement Officer. That position shall be held by the County Administrator or whomever he or she designates.

VI. COMPETITIVE SEALED BIDS

All procurement contracts entered into by the County for Twenty-Five Thousand Dollars (\$25,000.00) or more shall be awarded through competitive sealed bidding except as otherwise provided in §VIII (Small Purchase); §X (Professional Services); §XI (Emergency Procurement); and §XII (Sole Source Procurement).

A. INVITATION FOR BIDS

An invitation for bids shall be issued and shall include all specifications, contractual terms, and conditions applicable to the procurement. Invitations for bids shall also require a statement mandating compliance with fair labor standards as set forth in Chapter 103 of the Wisconsin Statutes.

B. PUBLIC NOTICE

Adequate public notice of the invitation for bids shall not be less than seven (7) days prior to the date set for the opening of bids. Such notice shall include publication in a newspaper of general circulation in the County and posting on the County's website. Such notice shall include the date, time, and place of the bid opening.

C. BID OPENING

Bids shall be opened publicly in the presence of one (1) or more witnesses at the date, time, and place advertised in the invitation for bids. The amount of each bid, the name and address of the bidder, and any other information the Procurement Officer deems appropriate shall be recorded and shall be considered public to the extent permitted but not excepted by Chapter 19, Subchapter II, §§19.21-19.39 of the Wisconsin Statutes.

D. BID EVALUATION AND ACCEPTANCE

Bids shall be evaluated based on the criteria set forth in the invitation for bids. Those criteria that affect the bid price shall be objectively measurable such as discounts, transportation, installation, and maintenance costs. No criteria may be used to evaluate a bid not set forth in the invitation for bids. Bids shall be unconditionally accepted as set forth without alteration or correction.

E. CORRECTION OR WITHDRAWAL OF BIDS

Mistakes in bids discovered prior to the bid opening may be corrected, modified, or withdrawn by written notice if such notice is received by the Procurement Officer prior to the date and time advertised for bid opening. This provision shall not be applicable in bids for public works projects in which case the terms contained in Chapter 66, Subchapter IX, §66.0901(5) shall be controlling.

F. AWARD OF CONTRACT

The contract shall be awarded with reasonable promptness by written notice to the lowest, responsible bidder whose bid meets the criteria set forth in the invitation for bids.

G. NEGOTIATION OF CONTRACT

When the lowest, responsible bid for a contract exceeds the available funds for such by no more than five percent (5%), the Procurement Officer is authorized to negotiate with the lowest, responsible bidder to bring the bid within the scope of available funds for the contract.

H. BIDDER PREFERENCE

In the event of equal or tied low bids, preference shall be given to bidders in the following order:

1. Those bidders who have permanent facilities or offices within Waushara County;
2. Those bidders who have permanent facilities or

offices within the State of Wisconsin;

3. Those bidders who have permanent facilities or offices within the United States of America;

4. A coin toss or some other agreeable random method of choosing amongst equal or tied bidders.

VII. COMPETITIVE SEALED PROPOSALS

A. CONDITIONS FOR USE

When the Procurement Officer determines the use of competitive sealed bids are either not practicable or not in the best interests of the County, a procurement contract may be entered into through the use of competitive sealed proposals. The reasons for the Procurement Officer's decision must be set forth in writing and shall be considered public to the extent permitted but not excepted by Chapter 19, Subchapter II, §§19.21-19.39 of the Wisconsin Statutes.

B. PUBLIC NOTICE

Public notice shall adhere to the procedure for competitive sealed bids as set forth in §VI of this Chapter with the exception the minimum time for submission of proposals shall be fifteen (15) days.

C. EVALUATION CRITERIA

The public notice for requests for competitive sealed proposals shall set forth the criteria for determining the award of the contract and the relative importance of individual criteria.

D. DISCUSSION WITH OFFERORS AND REVISIONS OF PROPOSALS

The public notice for requests for competitive sealed proposals may set forth the fact discussions between County officials and offerors may take place to assure both the County and offerors have a full understanding of the criteria, work to be performed, and the price of said work. Offerors shall be accorded fair and equal treatment in such discussions. Revisions of proposals may be permitted prior to an award decision

for the purpose of obtaining best and final offers. Throughout this process there shall be no discussion or disclosure of competing offerors or the terms of competing offers.

E. AWARD DECISION

The person or persons charged with making the decision to award a contract pursuant to this section will be determined by the County Administrator. That decision may include specific criteria to be considered in making a decision. That decision shall be made as to what offer is in the best interests of the County and the reasons for said decision shall be set forth in writing and shall be considered public to the extent permitted but not excepted by Chapter 19, Subchapter II, §§19.21-19.39 of the Wisconsin Statutes.

VIII. SMALL PURCHASES

Any contract more than Five Thousand Dollars (\$5,000.00) but not exceeding Twenty-Five Thousand Dollars (\$25,000.00) in value may be awarded by soliciting quotes from three (3) possible vendors. Information regarding quotes shall be recorded and shall be considered public to the extent permitted but not excepted by Chapter 19, Subchapter II, §§19.21-19.39 of the Wisconsin Statutes. Contracts shall not be artificially divided so as to constitute procurement of small purchases as defined above.

IX. MICRO PURCHASE

Any purchases of Five Thousand Dollars (\$5,000.00) or less may be made with the approval of the appropriate Department Director. Purchases shall not be artificially divided so as to constitute micro purchases as defined above.

X. PROFESSIONAL SERVICES

Any contract retaining the services of professionals will be governed by this section.

A. Professionals are defined as those persons providing services subject to educational and licensing requirements set forth by the State of Wisconsin. physicians.

- B. Public notice shall adhere to the procedure for competitive sealed bids as set forth in §VI of this Chapter with the exception the minimum time for submission of qualifications shall be fifteen (15) days. Public notice for the retention of professional services shall require interested professionals to submit a statement of qualifications and pertinent experience along with a formula for calculating fees for services.
- C. The person or persons charged with making the decision to award professional service contracts will be determined by the County Administrator. That decision may include specific criteria to be considered in making a decision.

XI. EMERGENCY PROCUREMENT

Upon the written authorization of the County Administrator, emergency procurement of supplies, equipment, services, or construction may take place. Such emergency procurement shall not require competitive sealed bids, proposals, statements of qualifications, or quotes. Emergency procurement shall only occur when circumstances exist that delay of procurement or adherence to the process set forth in this Chapter will create a serious threat to public health, welfare, or safety. The reasons for emergency procurement and the particulars of such shall be set forth in writing and shall be considered public to the extent permitted but not excepted by Chapter 19, Subchapter II, §§19.21-19.39 of the Wisconsin Statutes.

XII. SOLE SOURCE PROCUREMENT

Procurement contracts may be awarded without competition when the Board determines there is only one source for particular supplies, equipment, services, or construction. Prior to such a determination the Procurement Officer must provide sufficient evidence to the Board justifying the decision. The Board may rescind its decision for sole source procurement at any time and for any reason.

XIII. CANCELLATION OR REJECTION OF BIDS, PROPOSALS, QUALIFICATIONS

Bids, proposals, or qualifications may be rejected for

good cause by the Board and when it is in the best interests of the County. The reasons for such a decision shall be set forth in writing, communicated to all interested parties and shall be considered public to the extent permitted but not excepted by Chapter 19, Subchapter II, §§19.21-19.39 of the Wisconsin Statutes.

XIV. RIGHT TO AUDIT RECORDS

Upon providing reasonable notice, the County may audit or have a designated agent audit the books and financial records of any contractor with regard to information pertinent to the contract and performance of terms contained therein.

XV. CONTRACT MANAGEMENT

It shall be within the discretion of the Procurement Officer as to how to manage contracts. The Procurement Officer is authorized to delegate management to another person or entity if he or she believes such is in the best interests of the County.

XVI. PERFORMANCE AND PAYMENT BONDS

It shall be within the discretion of the Procurement Officer to negotiate performance or payment bonds for construction contracts when he or she believes doing so is in the best interests of the County. For construction contracts where the contracted amount is in excess of One Hundred Thousand Dollars (\$100,000.00) a performance and payment bond is necessary.

A. PERFORMANCE BOND

In the event a contractor is required to provide a performance bond, such bond shall be issued by a surety company authorized to do business in the State of Wisconsin and in an amount equal to one hundred percent (100%) of the total price of the contract with the County listed as the beneficiary.

B. PAYMENT BOND

In the event a contractor is required to provide a payment bond, such bond shall be issued by a surety

company authorized to do business in the State of Wisconsin and in an amount equal to one hundred percent (100%) of the total price of the contract for the protection of persons and subcontractors providing materials and labor to the contractor.

XVII. CHANGE ORDERS

Any contract modification requested by a contractor resulting in an increase of more than Five Hundred Dollars (\$500.00) or Ten Percent (10%) or more of the total contract price, whichever is the greater monetary amount, must be in writing and specify the amount of the modifications and reasons therefore. That such modification must receive the approval of the Board.

XVIII. BID PROTESTS

A. RIGHT TO PROTEST

Any unsuccessful actual participant in the procurement contract process may protest the award of a contract. Said protest must be in writing and served upon the Procurement Officer within ten (10) days of the formal awarding of the contract or the protester becomes or should become aware of facts giving rise to the protest.

B. DISCRETION TO STAY ACTION

It is within the discretion of the County Administrator to stay any further action regarding the contract while the protest is being reviewed.

C. PROTEST PROCEDURE

1. Upon receipt of a protest the County Administrator shall preside over a hearing on the matter. In the event the position of Procurement Officer and County Administrator are held by the same person the Board shall preside over a hearing on the matter. The hearing shall be scheduled within thirty (30) days of the Procurement Officer's receipt of the protest unless waived by the County and unsuccessful individual or entity. The County's interests shall be represented by the Corporation Counsel and the protester shall have

the right to be represented by legal counsel of their or its choosing.

2. The County Administrator shall render a written decision within ten (10) days of the hearing and serve such upon the protester or entity via Certified United States Mail, return receipt requested. In the event the position of Procurement Officer and County Administrator are held by the same person the Board Chairperson shall render a written decision within ten (10) days of the hearing and serve such upon the protester or entity via Certified United States Mail, return receipt requested.
3. The County Administrator's decision shall be final except for review by a Court with jurisdiction over the matter. In the event the position of Procurement Officer and County Administrator are held by the same person the Board Chairperson's decision shall be final except for review by a Court with jurisdiction over the matter.

XIX. DEBARMENT

The County reserves the right to debar individuals or entities from consideration for the award of contracts.

A. REASONS FOR DEBARMENT

Reasons for debarment include but are not limited to the following:

1. Conviction of a State or Federal criminal offense involving obtaining or attempting to obtain a public or private contract or in the performance of said contract;
2. Conviction of a State or Federal criminal offense involving embezzlement, theft forgery, bribery, falsification or destruction of records, receiving stolen property or any crime of dishonesty;
3. Conviction of a State or Federal criminal offense involving antitrust statutes or collusion;
4. Serious or repeated violations of contractual

terms with the County to include but not limited to the following:

- a. Deliberate failure to adhere to the terms of a contract or complete required action in a timely manner without good cause;
- b. Violations of ethical standards set forth in §XX.

B. DEBARMENT PROCEDURE

1. The decision to debar an individual or entity is within the discretion of the Procurement Officer.
2. Upon deciding to debar, the Procurement Officer shall reduce to writing the reasons for the decision and mail such to the debarred person or entity via Certified United States Mail, return receipt requested.
3. Said notice shall afford the debarred individual or entity the right to object to the decision in writing and serve such objection upon the Procurement Officer within ten (10) days of receipt.
4. Upon receipt of an objection to debarment the County Administrator shall preside over a hearing on the matter. In the event the position of Procurement Officer and County Administrator are held by the same person the Board shall preside over a hearing on the matter. The hearing shall be scheduled within thirty (30) days of the Procurement Officer's receipt of the objection unless waived by the County and debarred individual or entity. The County's interests shall be represented by the Corporation Counsel and the debarred individual shall have the right to be represented by legal counsel of their or its choosing.
5. The County Administrator shall render a written decision within ten (10) days of the hearing and serve such upon the debarred individual or entity via Certified United States Mail, return receipt requested. In the event the position of

Procurement Officer and County Administrator are held by the same person the Board Chairperson shall render a written decision within ten (10) days of the hearing and serve such upon the protester or entity via Certified United States Mail, return receipt requested.

6. Any debarment will be for a period of not less than one (1) nor more than five (5) years from the date of the Procurement Officer's initial decision to debar.
7. The County Administrator's decision shall be final except for review by a Court with jurisdiction over the matter. In the event the position of Procurement Officer and County Administrator are held by the same person the Board Chairperson's decision shall be final except for review by a Court with jurisdiction over the matter.

XX. ETHICAL STANDARDS

A. MEMBERS OF THE COUNTY BOARD OF SUPERVISORS

Board members are prohibited from voting on a contract or executing any related documents when the person awarded the contract is a member of the Board member's immediate family, the Board member owns more than one percent (1%) of a legal entity awarded a contract, or the Board member is an employee of the person or entity to be awarded the contract.

B. COUNTY EMPLOYEES

County employees are prohibited from participating in the procurement contract process if a prospective or actual person or entity awarded a contract is a member of the employee's immediate family, owns more than one percent (1%) of a legal entity awarded a contract, or the employee is also an employee of the person or entity awarded the contract.

C. GRATUITIES

Members of the Board and County employees are prohibited from accepting anything with a value of more than One Hundred Dollars (\$100.00) from a

prospective or actual recipient of a procurement contract. This provision shall not be applicable to items received as part of a random process unrelated to procurement such as door prizes or raffles.

D. PERMITTED WORKPLACE GRATUITIES

Employees may accept gratuities of items having a useful purpose in the workplace if the gifted item is located in the workplace permanently and accessible for the use of all employees. Employees may accept gratuities of food if the food is placed in the workplace and available for consumption by all employees.

E. PROHIBITED WORKPLACE GRATUITIES

Employees may not place gratuities of alcoholic beverages in the workplace nor may such gratuities be consumed by employees in the workplace.

F. CONFIDENTIAL INFORMATION

Members of the Board or County employees are prohibited from revealing confidential information obtained in the procurement process by virtue of their public office or employment unless requested by a law enforcement agency or an Order of a court.

XXI. MISCELLANEOUS EXPENDITURES

Expenditures for the following are permitted subject to the following:

A. REGISTRATION EXPENSES FOR CONFERENCES OR SEMINARS

1. For events attended by County employees taking place within the boundaries of the State of Wisconsin, such expenses shall be approved by their Department Director.
2. For events attended by County employees taking place outside the boundaries of the State of Wisconsin, such expenses shall be approved by the County Administrator.
3. For events attended by members of the Board taking place anywhere, such expenses shall be approved by the Board Chairperson.

B. TRAVEL EXPENSES

Travel shall be by the least expensive mode when possible and guided by the following:

1. Automobile travel shall be by County vehicle.
2. Round trip automobile travel of more than three hundred (300) miles or requiring an absence of more than three (3) days shall be by rental vehicle.
3. Travel to a destination more than three hundred (300) miles from Wautoma, Wisconsin shall be by commercial airline.
4. All commercial air travel shall be by coach class.
5. The use of a rental vehicle at a destination reached by commercial air travel is permitted.
6. Rental vehicles shall be no larger than mid-sized vehicle models.
7. Reimbursement for taxi service expenses will only take place upon the submission of receipts.
8. When an overnight stay is necessary, lodging shall be single occupancy in the least expensive category of room in a mid-price hotel. When attending a conference held at a hotel, overnight lodging in the host hotel is authorized.

C. OVERNIGHT TRAVEL

1. For events attended by County employees taking place within the boundaries of the State of Wisconsin, overnight travel shall be authorized by their Department Director.
2. For events attended by County employees taking place outside the boundaries of the State of Wisconsin, overnight travel shall be authorized by the County Administrator.
3. For events attended by members of the Board taking place anywhere, overnight travel shall be

authorized by the Board Chairperson.

4. Authorization of overnight travel shall be guided by the following:
 - a. Whether the event extends over the course of more than one (1) day necessitating an overnight stay and/or
 - b. Whether the start time of the event in combination with necessary travel time makes an overnight stay advisable.
5. Persons staying in hotels on County business are prohibited from charging meals, alcohol, or other expenses to their room. Those expenses shall be incurred and paid for separately by the person traveling and reimbursement will be provided for meals as detailed below.

D. MEALS

1. When round trip travel in excess of four (4) hours takes place during a calendar day, extends over the normally accepted time for a particular meal, and that meal is not provided by the event organizer or host, reimbursement for that meal will be provided as follows:
 - a. Breakfast - No more than Ten Dollars (\$10.00);
 - b. Lunch - No more than Fifteen Dollars (\$15.00);
 - c. Dinner - No more than Twenty-Five Dollars (\$25.00).
2. The meals policy is applicable to members of the Board, County employees, and volunteers traveling and conducting County business.
3. Travel and meals expenses shall not be paid for any spouse, family member, or friend accompanying a County official, ~~or~~ employee, or volunteer.

D. REIMBURSEMENT PROCEDURE

Requests for reimbursement for any expense incurred by employees, Board members, or persons performing services at the request and direction of the County shall be made no later than sixty (60) days from the date the expense was incurred. Requests for exceptions shall be in writing, within the sole discretion of the County Administrator, and only for good cause shown.

E. EMPLOYEE RECOGNITION EXPENSES

The expenditure of public funds shall be authorized for the following:

1. Meals and non-alcoholic beverages for persons performing volunteer labor at the request and direction of the County not to exceed Twenty Dollars (\$20.00) per person, per meal.
2. Employee recognition events to be limited to two (2) such events in each calendar year not to exceed Twenty Dollars (\$20.00) per employee, per event.
3. Plaques recognizing exemplary service and not to exceed Fifty Dollars (\$50.00).
4. Receptions for employees retiring from County employment with more than ten (10) years' service not to exceed Fifty Dollars (\$50.00).
5. All employee recognition events and expenses require the prior approval of the County Administrator.

XXII. COOPERATIVE PURCHASING

- A. The County Administration is to actively pursue cooperative agreements with other governmental entities in order to reduce expenses for the purchase of goods and services.
- B. It is not necessary to adhere to competitive bidding

provisions of this Code when making purchases pursuant to procurement contracts negotiated and approved by the State of Wisconsin Bureau of Procurement.