

**TO:** Board of Commissioners

**FROM:** Administrator/Controller's Office

**DATE:** May 2, 2018

**RE:** Isabella County Financial Management Policy No. 410 - Procurement Policies and Procedures

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**BACKGROUND**

The current policy for procurement of County goods and services as approved in 2002 and amended in 2008, has been found to be outdated and cumbersome. A thorough review and exhaustive rewrite of the policy has occurred by the Administrator/Controller's Office. The recommended Procurement Policies and Procedures are attached and serve to provide for more efficient, documented, and beneficial purchasing procedures.

As presented here, the recommended Procurement Policies and Procedures provide for greater efficiency through simplification of the approval process for procurement of goods and services that have been previously approved by the Board of Commissioners within the budget process. The recommended policy would not require subsequent Board approvals and would serve to prevent duplicative efforts spent by Department Heads, Elected Officials, Administration, and the Board itself. Also in the interest of efficiency, the recommended policy provides for more clear direction and specific guidance to the end user. It also establishes increased thresholds for the procurement of goods and services to alleviate excessive efforts now required for very small purchases. While these recommended changes serve to save County time, they also serve to encourage prudent spending within set parameters.

The recommended Procurement Policies and Procedures improve the overall purchasing practices in several ways. Increased accountability on the end user is incorporated, and it requires the end user to obtain and maintain documentation of procurement activities. It also serves to document the County's procurement processes as they are actually occurring, and better aligns actual practices with policy. With the cognizance of taxpayer dollar stewardship, and the

duty to spend money responsibly, the recommended policy also integrates the allowance of negotiation practices to arrive at the best possible pricing for the County. Perhaps most importantly, the recommendations include necessary legal verbiage that was not in effect at the time of the latest amendment.

The recommendations foster standardization and consistency of an otherwise awkward and weighty policy. The addition of a uniform process for letting Requests for Proposals (RFP) and/or Bids (RFB) will ensure common practices are utilized throughout the County when these procurement methods are used. The standardized RFP/RFB process will ensure the inclusion of administrative and legal information necessary to a valid and successful procurement. The recommendations also require utilization of the County website and the Michigan Intergovernmental Trade Network (MITN) to disseminate an RFP or RFB. This practice will ensure that a greatly enhanced vendor network is receiving the procurement information. The recommendations further define the use of the MiDEAL purchasing program as fully satisfying the requirements for procurement activities.

Certainly, the current policy possesses practices that remain highly regarded throughout time and have been retained mostly intact in the attached recommendations. These include the sections regarding code of conduct requirements, open and free competition, the ability of the County to accept and/or reject purchasing options as to its best interests, and the local vendor preference. These past practices, together with the recommendations presented here, provide for outcome based purchasing practices that produce the greatest chance for successful County procurements going forward.

## **ALTERNATIVES**

The County could choose not to adopt the recommended Procurement Policies and Procedures and continue to be guided by an outdated and cumbersome policy. Such action will serve to continue the inconsistencies in interpretation and jeopardize adherence to approved procedures.

## **FINANCIAL IMPACT**

While the attached recommendations should not pose any impact in terms of budgeted amounts for goods and services, they should serve to enhance competition, which could certainly lower the end costs. Also, given the efficiencies represented through several of the attached recommendations, staff time should be freed up and could result in lowered staffing costs.

## **OTHER CONSIDERATIONS**

In 2013 the federal Office of Management and Budget (OMB) updated final guidance to the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (Uniform Guidance). One of the more significant changes was the establishment of guidance on written procurement standards. These new standards are a substantial change to previous procurement standards that our current procurement policy was modeled after. In order to be in compliance with Uniform Guidance a wholesale rewrite of the procurement policy was needed. Due to the magnitude of these changes (as detailed in 2 CFR 200), the OMB extended the adoption period twice and the final extension pushed adoption to no later than October 1, 2018 for the County. In order to be in compliance with Uniform Guidance, and continue to receive federal funding, the policy has been updated with all the necessary requirements. This will allow us to be in compliance with Uniform Guidance and prevent related Federal Single Audit findings in our annual Federal Compliance audit.

## **RECOMMENDATIONS**

Consider adopting the attached Isabella County Financial Management Policy No. 410 - Procurement Policies and Procedures to replace the current policy and take effect immediately upon adoption.

## **ATTACHMENTS**

- Isabella County Financial Management Policy No. 410 - Procurement Policies and Procedures Final Draft with Tracking
- Isabella County Financial Management Policy No. 410 - Procurement Policies and Procedures Final Draft Narrative

**Isabella County, Michigan  
Procurement Policies and Procedures**

**1. Purpose of Procurement Standards.** The purpose of these standards is to establish procedures for the County for the procurement of goods and services. These policies and procedures establish levels of authorization within the budget approved by the County Board of Commissioners. The County Administrator/Controller, as directed by the County Board of Commissioners, must maintain oversight of all applicable transactions to ensure that contractors perform in accordance with the terms, conditions, and specifications of their contracts or agreements.

This policy applies to all ~~of~~ the departments and agencies under the budgetary control of the Board of Commissioners, including all departments for which Elected Officials are responsible.

The purchase of items (including capital outlay) that comply with the procurement policy and purchased with funds that were awarded during the budget process or added as a budget amendment (that has been approved by the Board of Commissioners) will be authorized ~~at either the department or by the~~ Administrator/Controller-level once it is approved in the budget and does not need to come back to the Board for subsequent approval.

~~The road commission, transit system, medical care facility, and health department are not obligated by this policy.~~

**2. Definitions.**

Budget Administrator

The Elected Official, Department Head, or other appointed person who is responsible for the management of that department's budget.

Capital Outlay

These are items with an initial original individual unit cost of \$5,000 or more (\$25,000 for drain infrastructure) and an estimated useful life of more than one (1) year. Examples include but are not limited to vehicles, computer systems, buildings, land, building improvements and land improvements.

Consumable Goods

These are products that are used in the course of daily business. Examples include: office supplies, janitorial supplies, food used at Animal Control, and food and supplies used to prepare meals at the Commission on Aging or Jail, ~~ete.~~

Cost Analysis

Cost analysis is the review and evaluation of each element of cost to determine reasonableness, allocability and allowability and should be conducted by the Department Head or Elected Official doing the purchasing as noted previously in this policy.

Cost-Plus-Percentage of Cost or Percentage of Construction Cost Contracts

A type of contract that requires the buyer to reimburse all legitimate project costs to the seller plus the buyer is also required to pay a percentage of costs as stipulated and agreed upon in the contract. This type of contract is not allowed under Uniform Guidance and the expending of Federal funds.

Cost-Reimbursement Contract

A contract where the contractor is paid for all of its allowed expenses to a set limit, plus an additional amount to allow for a profit for the contractor.

Emergency Purchase

Purchases made during a declared state of emergency. For the purposes of this policy, emergencies may be declared by the Governor of the State of Michigan in response to a disaster or may be declared by the Chairperson of the Board of Commissioners, or in the event of a law enforcement action or response, may be declared by the Sheriff or Undersheriff.

Fixed Price Contract

A contract where the payment amount does not depend on resources used or time expended and the price is fixed.

Incentive Contract

A contract that provides for an initially negotiated fee to be adjusted later by a formula based on the relationship of total allowable costs to total target costs.

MiDEAL

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An extended purchasing program which allows Michigan local units of government to use state contracts to buy goods and services. MiDeal extends purchasing leads to reduced costs, derived from leveraged purchasing power, improved specifications and increased competition.

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*Michigan Inter-Governmental Trade Network (MITN)*

The Michigan Intergovernmental Trade Network allows participating local governments to connect with potential vendors and provides electronic access to upload procurement information for those entities in a central location. The network is a group of nearly 200 Michigan local governments where they can post Request for Proposals (RFP), bids, etc. to the system for all interested vendors to access.

### Professional Service

These are services provided by a vendor who has expertise in a specific discipline by virtue of his or her education, experience, or both. Such expertise typically requires licensing or certification by a state or professional organization. Such services would include but are not limited to: architects, attorneys, engineers, surveyors, accountants, and financial advisors, etc.

### Purchase Order (PO)

While it is not standard operating procedure for the County to issue purchase orders, ~~occasionally in very limited instances~~ vendors require them. When necessary, this is a written or electronic document that delineates a purchase. The Administrator's/Controller's office shall prepare a PO, assign a unique number and track the PO on a manual log to assure accuracy of sequence. It will include: ~~a unique number for tracking purposes,~~ a description and quantity of the items being purchased, the person authorizing the purchase, the shipping address where the goods are to be delivered, how the items are to be shipped and at what cost, the terms of the sale, the unit price of each item, the total cost of all items purchased, the seller's name, address, phone number, contact person, and any other information that is necessary to complete the sale, shipment, and receipt of the items being purchased.

### Request for Bid (RFB), Request for Proposal (RFP), Request for Quote (RFQ)

Request for Bid or Request for Quote is the offering of a price from a potential vendor when the County has a need for which the County knows what the solution to the need is and they want the vendor to provide a price to provide achieve that solution. Request for Proposal is the offering of a solution from a potential vendor when the County has a need for which they want a potential vendor to offer what the vendor feels is the best solution for the County and the related cost.

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### Sealed Bid

A sealed bid is a type of bid submitted to ensure that no bidder knows the bid of any other bidder. This is a response from a potential vendor to a purchase request made by a Department Head that is then approved by the Administrator/Controller that is sealed in an envelope. The process for opening the sealed bid is detailed in the purchase request and is not made public until the end of the bidding process.

### Service Agreement

Service Agreements are contractual obligations for the upkeep, maintenance, or other work to be performed by someone not employed by the County. Examples of this include

but are not limited to updating of software, janitorial work, grounds maintenance, and security services, ~~etc.~~

Sole Source Arrangement

Agreement to purchase a particular good or service ~~for~~from an individual vendor when there are not multiple vendor options to choose from ~~or~~ and that it is in the best interest of the County as determined by the Administrator/Controller to use this arrangement. The County may search for multiple vendors to determine only one vendor is capable of providing the goods or services. In this instance, a sole source arrangement may be needed.

MiDEAL

~~An extended purchasing program which allows Michigan local units of government to use state contracts to buy goods and services.~~

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MITN

~~The Michigan Intergovernmental Trade Network allows participating local governments to invite registered vendors to have exclusive access to bid information for those entities in a central location.~~

**3. Code of conduct / Conflict of Interest.** No ~~employee, Elected O~~official, ~~employee,~~ or agent shall participate in the selection, award, or administration of a contract if a real or apparent conflict of interest would be involved. Such a conflict would arise when the ~~employee, Elected O~~official, ~~employee,~~ or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated herein, has a financial or other interest in or a tangible personal benefit from an organization being considered for a contract within the County. The ~~Elected O~~officials, employees, and agents of the County shall neither solicit nor accept gratuities, favors, or anything of monetary value from contractors, or parties to sub-agreements except for where the financial interest is not substantial or the gift is an unsolicited item of nominal value. Members of the County's Board of Commissioners shall comply with all relevant fiduciary duties, including those governing conflicts of interest, when they vote upon matters related to procurement contracts in which they have a direct or indirect financial or personal interest. Elected ~~O~~officials, employees, and agents of the County shall be subject to disciplinary actions for violations of these standards.

**4. Competition.** All procurement transactions shall be conducted in a manner to provide, to the maximum extent practical, open and free competition. The County shall be alert to organizational conflicts of interest as well as noncompetitive practices among contractors that may restrict or eliminate competition or otherwise restrain trade. In order to ensure objective contractor performance and eliminate unfair competitive advantage, contractors that develop or draft specifications, requirements, statements of work, invitations for bids and/or requests for proposals shall be excluded from competing for such procurements. Awards shall be made to the bidder or offeror whose bid or offer is responsive to the solicitation and is most advantageous to the County, ~~considering~~ price, quality and other factors. ~~considered.~~ Solicitations shall clearly set forth all requirements that the bidder or offeror shall fulfill in order for the bid or offer to be evaluated by the County. Any and all bids or offers may be rejected when it is in the County's interest to do so. In all procurement, the County shall avoid practices that are restrictive of competition. These include but are not limited to:

- ~~(a)~~ Placing unreasonable requirements on firms in order for them to qualify to do business;
- ~~(b)~~ Requiring unnecessary experience and excessive bonding;
- ~~(c)~~ Noncompetitive pricing practices between firms or between affiliated companies;

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• (d) Noncompetitive awards to consultants that are on retainer contracts;

• (e) Organizational conflicts of interest;

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- (f)—Specifying only a brand name product instead of allowing an equal product to be offered and describing the performance of other relevant requirements of the procurement; and
- (g)—Any arbitrary action in the procurement process.

If the preferred vendor can meet/beat the most competitive pricing, then that vendor may be the preferred option for the County.

**5. Methods/Thresholds of Procurement to be followed.**

Following are threshold guidelines to be utilized during the procurement process

The separation of purchases to circumvent the thresholds established below is a violation of the policy and is not permitted. If there is the appearance of this type of inappropriate activity occurring, as determined by the Administrator/Controller, the Elected Official/Department Head will be advised of the applicable requirements and instructed as to what threshold their purchase must follow.

A. Procurement utilizing MiDeal

The advantages of MiDeal are not limited to actual dollar savings on goods. Indirect savings are also realized through elimination of administrative duplication including:

- Writing and updating specifications, and drafting solicitations;
- Maintaining a large, diverse pool of potential bidders;
- Accepting, reviewing, and evaluating bid responses and making award recommendations;
- Testing and researching items; and
- Negotiating contracts.

If MiDeal utilization is determined to be in the best interest of the County, then that would satisfy the procurement component of this policy.

The justification for utilization must be documented fully with all documentation obtained to support the usage of MiDeal (i.e. specifications, and pricing) being retained by the Elected Official/Department Head to support their decision. The Elected Official/Department Head would be able to negotiate with the Vendor from that point to get the last best offer that is in the best interest of the County, assuring the purchase is within the budgetary guidelines.

If MiDeal is used as the basis for the procurement, there is not a need to go further into this procurement policy.

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B. Procurement when not utilizing MiDeal

(1a) Procurement by small purchase procedures. Small purchase procedures are those relatively simple and informal procurement methods for securing services, supplies, or other property that ~~do not cost more~~ less than ~~\$1,000-2,500 per individual item~~ and where procurement by bid is not required. ~~If small purchase procedures are used, price or rate quotations shall be obtained from an adequate number of qualified sources to ensure that the selection process is competitive in accordance with these policies.~~ If the cost is within the department's budget the designated person in that department can incur the cost without prior authorization of the County Administrator/Controller.

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(b2) Procuremetn for Ppurchases between \$1,000 2,500 and less than \$5,000 per individual item. For purchases within this range, a minimum of three ~~bids~~ quotes is required. Each ~~vendor will be given the same information~~ potential purchasing source will use uniform specifications from which a ~~bid~~ quote may be made. This should include a description of the items to be purchased, quantity, price per unit, special terms and/or specifications, and the desired delivery date. This information can be issued in either written or oral form. The response from each ~~vendor~~ source shall be ~~logged~~ maintained by the ~~D~~ department ~~H~~ Head in a readily retrievable format. The written documentation obtained should include a description of the item(s) being purchased, quantity, price per unit, proposed delivery date, and any other information used by the Department Head to make an informed decision that is in the best interest of the County. This documentation should support the justification of the purchase selection.

~~While price may be the predominate consideration in awarding a purchase order, the purchaser may consider other factors which will contribute to the overall value to the County. Things such as availability, warranty, trade in, etc. may be considered and override the reliance on price as the only factor.~~

The authority to make purchases in this range exists at the departmental level with either the ~~D~~ department ~~H~~ Head or ~~E~~ lected ~~O~~ fficial in charge of the department making the purchase.

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(3e) Procurement by sealed bids for purchases greater than of \$5,00000 and greater. ~~These purchases require F~~ ormal advertising on the County website and MITN to be handled through the County Administrator/Controller's Office. ~~Bids~~ These purchases are publicly solicited and a firm-fixed-price contract (lump sum or unit price) for goods is awarded to the responsible ~~bidder~~ vendor whose ~~bid~~ response, conforming with all the material terms and conditions of the request for proposal, is in the best interest of the County, and has the most competitive price for the goods/~~services~~ being offered.

While price may be the predominant consideration in selecting a vendor, the

purchaser may consider other factors which will contribute to the overall value and benefit to the County. Things such as availability, warranty, trade in, etc. may be considered and override the reliance on price as the only factor.

Purchases of this type fall into 2 categories, relating to procurement of goods and procurement of services. There are various methods of procurement as detailed below depending on the particular type of purchase that is being contemplated.

## **6. Methods of Procurement**

Following are options to be utilized based on what is in the best interest of the County:

(A) Procurement by Sealed Bids. ~~(i) The sealed bid method is the preferred method for procuring goods or services-~~

(1) Sealed Bids would be preferred if the following conditions are present:

- (A) A complete, adequate, and realistic specification or purchase description is available;

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- (B) Two or more responsible bidders are willing and able to compete effectively for the business; and
- (C) The procurement lends itself to a firm fixed price contract and the selection of the successful bidder can be made principally on the basis of price.

(2#) If Ssealed Bbids are used, the following requirements apply:

- (A) The ~~Request invitation for bids~~(RFB) will be publicly advertised ~~and bids shall be solicited from an adequate number of known suppliers, on the customary and usual sources such as the County website and MITN, which are readily accessible to a significant number of potential vendors. The posting will provide providing them potential vendors~~ sufficient time to prepare the bid prior to the date set for opening the bids;
- (B) The ~~RFB invitation for bids~~, which will include any specifications and pertinent attachments, shall define the items or services in order for the bidder to properly respond;
- (C) All bids will be ~~publicly~~ opened ~~at the time and place prescribed in the invitation for bids~~and reviewed by the appropriate County personnel with the skills, knowledge and experience to understand and evaluate the bids that were submitted. The bids will be reviewed against the specifications requested to determine which vendor bid is in the best interest of the County to pursue; ÷
- (D) A firm fixed-price contract award will be made in writing to the lowest responsive and responsible bidder, which is in the best interest of the County. Where specified in bidding documents, factors such as discounts, trade-in value, transportation cost, and life cycle costs shall be considered in determining which bid is lowest and the most advantageous to the County. Payment discounts will only be used to determine the low bid when prior experience indicates that such discounts are usually taken advantage of. In discussions with a potential vendor if the opportunity exists to request the potential vendor to give their “last and best” offer, that inquiry should be made of the potential vendor; and
- (E) ~~Any or all bids may be rejected if there is a sound documented reason~~ The County reserves the right to accept

and/or reject any/all bids if it is in the best interest of the County.

(B) Procurement by Competitive Proposals. The technique of competitive proposals for acquiring experienced service providers is normally conducted with more than one source submitting an offer, and either a fixed-price or cost-reimbursement type contract is awarded. ~~It is generally used when conditions are not appropriate for the use of sealed bids or small purchase procedures.~~ If this method is used, the following requirements apply:

- (i) Upon Administrator/Controller approval, Requests for Proposals (RFP) will be publicized and identify all evaluation factors and their relative importance. Any response to publicized requests for proposals shall be ~~honored~~ considered to the maximum extent practical;
- (ii) ~~Proposals will be solicited from an adequate number of qualified sources;~~ Upon approval by the Administrator/Controller, all competitive proposals shall be publicized by posting the appropriate documents on the County's website and MITN by the Administrator/Controller's Office;

(3iii) The County shall evaluate responses to its solicitations and select awardees in accordance with the procedures outlined in section 76 below ("Procurement Procedures");

(4iv) Awards will be made to the responsible firm whose proposal is most advantageous to the County with price and other factors considered; and

(5v) The County may use the competitive proposal procedures for qualifications-based procurement of certain professional services whereby competitors' qualifications are evaluated and the most qualified competitor is selected, subject to negotiation of fair and reasonable compensation. A procurement process where price is not to be used as the only a stated selection factor. It can only be used in procurement of certain professional services as approved by the Board of Commissioners determined in the best interest of the County.

e(e)(C) Procurement by Noncompetitive Proposals or Sole Source Arrangement is procurement through solicitation of a proposal from only one source, or after solicitation of a number of sources, competition is determined inadequate.

(1i) Procurement by noncompetitive proposals may be used only when the award of a contract is infeasible under small purchase procedures, sealed bids or competitive proposals and one of the following circumstances applies:

- (A) The item is available only from a single source;
- (B) The public exigency or emergency for the good/service will not permit a delay resulting from competitive solicitation;
- (C) The funding source specifically authorizes the use of noncompetitive proposals; or
- (D) After public solicitation of a number of sources, competition is determined inadequate.

(2ii) Cost analysis, (i.e., verifying the proposed cost data, the projections of the data, and the evaluation of the specific elements of costs and profits), is required.

(3iii) When using a noncompetitive process, the County normally would be expected to submit the proposed procurement to the relevant funding source for pre-award approval, if applicable.

(D) Professional Services It is the policy of the Board of Commissioners to solicit professional services based on qualifications. A competitive bid selection process may be used at the Board's discretion. This policy recognizes the importance of experience and the ability to work with County employees and the general public equally important as price.

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**76. Procurement Procedures.**

(A) All procurement by the County shall comply, at a minimum, with the requirements of subsections (i), (ii), and (iii) below:

(1) The County shall avoid purchasing unnecessary or duplicative items. Consideration should be given to consolidating or breaking out procurements to obtain a more economical purchase as long as it does not violate other sections of this procurement policy.

(2) Where appropriate, and in the best procedural and economic interest of the County, an analysis should be made of lease versus purchase alternatives to determine which would be the most economical and practical procurement.

(3) Solicitations for goods and services provide for all of the following:

(A) A clear and accurate description of the technical requirements for the material, product or service to be procured. In competitive procurements, such a description shall not contain features which unduly restrict competition:-

(B) Requirements which must be fulfilled and all other factors to be used in evaluating proposals submitted in response to solicitations:-

(C) A description, whenever practicable, of technical requirements in terms of functions to be performed or performance required, including the range of acceptable characteristics or minimum acceptable standards:-

(D) When relevant, the specific features of "brand name or equal" descriptions that are to be included in responses submitted to the solicitation; and-

(E) Preference, to the extent it is logical, practicable, and economically feasible, for products and services that conserve natural resources and protect the environment and are energy efficient.

(B) Positive efforts shall be made by the County to utilize small businesses, minority-owned firms, and women's business enterprises, whenever possible. The County may take all of the following steps to further this goal.

(1) Ensure that small businesses, minority-owned firms, and women's

|

business enterprises are used to the fullest extent practicable.

- (2ii) Post/publicize opportunities that are available to conduct business with the County, when appropriate, on the County's website, MITN, etc. Make information on forthcoming opportunities available and arrange time frames for purchases and contracts to encourage and facilitate participation by small businesses, minority-owned firms, and women's business enterprises:-
- (3iii) To the extent possible and if it is practical and in the best interest of the County, Consider in the contract process whether firms potential vendors competing for larger contracts intend to subcontract with small businesses, minority-owned firms, and women's business enterprises:-
- (4iv) Encourage, to the extent possible and when practical and in the best interest of the County, contracting with consortiums of small businesses, minority-owned firms and women's business enterprises when a contract is too large for one of these firms to handle individually; and -
- (5v) Use the services and assistance to the extent possible, and as appropriate, and practical, and in the best interest of the County, of such organizations as the Small Business Administration and the Department of Commerce's Minority Business Development Agency in the solicitation and utilization of small businesses, minority-owned firms and women's business enterprises but with the primary focus on MITN and MiDeal arrangements.

(Ce) The type of procuring instruments used (e.g., fixed price contracts, cost reimbursable contracts, sole source arrangements, and incentive contracts) shall be determined by the County but shall be appropriate for the particular procurement and for promoting the best interest of the program or project involved. The "cost-plus-a-percentage-of- cost" or "percentage of construction cost" methods of contracting shall not be used.

(Dd) Contracts shall be made only with responsible contractors who possess the potential ability to perform successfully under the terms and conditions of the proposed procurement. Consideration shall be given to such matters as contractor integrity, record of past performance, financial and technical resources or accessibility to other necessary resources.

(Ee) Debarment and Suspension - No contract shall be made to parties listed on the General Services Administration's List of Parties Excluded from Federal Procurement or Nonprocurement Programs in accordance with Executive Orders (E.O.s) 12549 and 12689, "Debarment and Suspension-". Contractors with awards that exceed the small purchase threshold shall provide the required certification

regarding its exclusion status and that of its principal employees.

**87. Cost and price analysis.** Some form of cost or price analysis shall ~~be made and documented in the procurement files occur~~ in connection with every procurement action above ~~\$1,000~~2,500 in value. Price analysis may be accomplished in various ways, including the comparison of price quotations submitted, market prices and similar indications, together with discounts. ~~Cost analysis is the review and evaluation of each element of cost to determine reasonableness, allocability and allowability.~~

**98. Additional items for analysis.** The Isabella County Board of Commissioners or authorized agent, reserves the right to accept or reject any or all bids, quotes, or proposals, with or without cause. Bids, Quotes, and Proposals will be evaluated based on the following criteria:

- ~~(a)~~ Comparison of unit price and total price;:-
- ~~(b)~~ Delivery date promised and adherence to delivery schedule;:-
- ~~(c)~~ Reputation regarding quality of product or service;:-
- ~~(d)~~ Evaluation of whether minimum requirements have been met; and:-
- ~~(e)~~ Location of prospective vendor with a local preference of 5% price variance between in-county and out-county vendors.

**109. Procurement records.** Procurement records and files for purchases in excess of ~~\$1,000~~ 5,000 shall include the following at a minimum:

- ~~(a)~~ Basis for contractor selection;:-
- ~~(b)~~ Justification for lack of competition when competitive bids or offers are not obtained;:- and
- ~~(c)~~ Basis for award cost or price.

**110. Contract administration.** A system for contract administration shall be maintained to ensure contractor conformance with the terms, conditions and specifications of the contract and to ensure adequate and timely follow up of all purchases. The County shall evaluate contractor performance and document, as appropriate, whether contractors have met the terms, conditions and specifications of the contract.

**121. Contract provisions.** The County shall include, in addition to provisions to define a sound and complete agreement, the following provisions in all contracts and:- ~~The following provisions shall also be applied to~~ subcontracts.

~~(A)~~ (A) Contracts in excess of \$5,000 shall contain contractual provisions or conditions that allow for administrative, contractual, or legal remedies in instances in which a contractor violates or breaches the contract terms, and provide for such remedial actions as may be appropriate;:-

~~(B)~~ (B) All contracts in excess of \$5,000 shall contain suitable provisions for termination by the County, with or without cause, including the manner by which termination shall be ~~effected~~ 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

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circumstances beyond the control of the contractor;

(C)e For contracts dealing with specific acquisitions of certain goods and services such as construction, facility improvements, or other situations, the County shall comply with all requirements imposed by its funding sources. This includes any ~~(and the governmental~~ regulations applicable to those funding sources) such as, but not limited to, bond documents, ~~etc. with regard to construction~~ bid guarantees, performance bonds, and payment bonds. ~~, etc.~~

~~(Dd)~~ All negotiated contracts (except those for less than \$~~15~~,000) awarded by the County shall include a provision to the effect that the County shall have access to any books, documents, papers and records of the contractor which are directly pertinent to a specific program for the purpose of making audits, examinations, excerpts and transcriptions.

~~(Ee)~~ All contracts, including small purchases, awarded by the County and their contractors where the source of the funds, directly or indirectly, is the federal government, shall contain the following procurement provisions as applicable:

~~(i1)~~. Equal Employment Opportunity - All contracts, when funded in whole or part by monies derived from the Federal government (either directly or indirectly), shall contain a provision requiring compliance with E.O. 11246, "Equal Employment Opportunity," as amended by E.O. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and as supplemented by regulations at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor."

~~(2ii)~~. Copeland "Anti-Kickback" Act (18 United States Code (U.S.C.) 874 and 40 U.S.C. 276c) - All contracts in excess of \$2,000 for construction or repair, when funded in whole or part by monies derived from the Federal government (either directly or indirectly) shall include a provision for compliance with the Copeland "Anti-Kickback" Act (18 U.S.C. 874), as supplemented by Department of Labor regulations (29 CFR part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). The Act provides that each contractor or subrecipient 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 recipient shall report all suspected or reported violations to the Federal awarding agency.

~~(3iii)~~. Davis-Bacon Act, as amended (40 U.S.C. 276a to a-7) - ~~When~~ required by Federal program legislation, all construction contracts awarded by the recipients and subrecipients of more than \$2,000 shall include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 276a to a-7) and as supplemented by Department of Labor regulations (29 CFR part 5, "Labor Standards Provisions Applicable to Contracts Governing Federally Financed and Assisted Construction"). 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 than once a week. The recipient shall place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation

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and the award of a contract shall be conditioned upon the acceptance of the wage determination. The recipient shall report all suspected or reported violations to the Federal awarding agency.

(4iv). Contract Work Hours and Safety Standards Act (40 U.S.C. 327-333) - All contracts in excess of \$2,000 for construction contracts and in excess of \$2,500 for other contracts that involve the employment of mechanics or laborers, when funded in whole or part by monies derived from the Federal government (either directly or indirectly), shall include a provision for compliance with Sections 102 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-333), as supplemented by Department of Labor regulations (29 CFR part 5).

(5v). Rights to Inventions Made Under a Contract or Agreement - Contracts or agreements for the performance of experimental, developmental, or research work, when funded in whole or part by monies derived from the Federal government (either directly or indirectly), shall provide for the rights of the Federal Government and the recipient in any resulting invention in accordance with 37 CFR part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.

(6vi). Clean Air Act (42 U.S.C. 7401 et seq.) and the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), as amended - Contracts and subgrants of amounts in excess of \$100,000, when funded in whole or part by monies derived from the Federal government (either directly or indirectly), shall contain a provision that requires the recipient to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401 et seq.) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251 et seq.). Violations shall be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

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(7vii). Byrd Anti-Lobbying Amendment (31 U.S.C. 1352) - Contracts for an amount above \$100,000, when funded in whole or part by monies derived from the Federal government (either directly or indirectly), shall include a certification by the contracting parties that they have not and will not use Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352 and to further require disclosure of any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award.

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(F) Iran Linked Business. The respondent must certify to the County that neither it nor any of its successors, parent companies, subsidiaries, or companies under common ownership or control of the Contractor, are an "Iran Linked Business" engaged in

investment activities of \$20,000,000.00 or more with the energy sector of Iran, within the meaning of the Iran Economic Sanctions Act, Michigan Public Act 517 of 2012 (MCL 129.311 et seq.). The respondent shall not become an “Iran linked business” during the term of the contract.

NOTE: IF A PERSON OR ENTITY FALSELY CERTIFIES THAT IT IS NOT AN IRAN LINKED BUSINESS AS DEFINED BY PUBLIC ACT 517 OF 2012, IT WILL BE RESPONSIBLE FOR CIVIL PENALTIES OF NOT MORE THAN \$250,000.00 OR TWO TIMES THE AMOUNT OF THE CONTRACT FOR WHICH THE FALSE CERTIFICATION WAS MADE, WHICHEVER IS GREATER, PLUS COSTS OF INVESTIGATION AND REASONABLE ATTORNEY FEES INCURRED, AS MORE FULLY SET FORTH IN SECTION 5 OF ACT NO. 517, PUBLIC ACTS OF 2012.

13. The Road Commission, Isabella County Transit Commission, Medical Care Facility, and Central Michigan District Health Department are not obligated by this policy.

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# ISABELLA COUNTY, MICHIGAN

## Procurement Policy

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**Financial Management Policy**  
**No. 410**

**Adopted: xx/xx/xxxx**  
**Revised: xx/xx/xxxx**

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### **1. PURPOSE OF PROCUREMENT STANDARDS.**

The purpose of these standards is to establish procedures for the County for the procurement of goods and services. These policies and procedures establish levels of authorization within the budget approved by the County Board of Commissioners. The County Administrator/Controller, as directed by the County Board of Commissioners, must maintain oversight of all applicable transactions to ensure that contractors perform in accordance with the terms, conditions, and specifications of their contracts or agreements.

This policy applies to all the departments and agencies under the budgetary control of the Board of Commissioners, including all departments for which Elected Officials are responsible.

The purchase of items (including capital outlay) that comply with the procurement policy and purchased with funds that were awarded during the budget process or added as a budget amendment (that has been approved by the Board of Commissioners) will be authorized by the Administrator/Controller once it is approved in the budget and does not need to come back to the Board for subsequent approval.

### **2. DEFINITIONS.**

***Budget Administrator*** - The Elected Official, Department Head, or other appointed person who is responsible for the management of that department's budget.

***Capital Outlay*** - These are items with an initial original individual unit cost of \$5,000 or more (\$25,000 for drain infrastructure) and an estimated useful life of more than one (1) year. Examples include but are not limited to vehicles, computer systems, buildings, land, building improvements and land improvements.

***Consumable Goods*** - These are products that are used in the course of daily business. Examples include office supplies, janitorial supplies, food used at Animal Control, and food and supplies used to prepare meals at the Commission on Aging or Jail.

***Cost Analysis*** - Cost analysis is the review and evaluation of each element of cost to determine reasonableness, allocability and allowability and should be conducted by the Department Head or Elected Official doing the purchasing as noted previously in this policy.

***Cost-Plus-Percentage of Cost or Percentage of Construction Cost Contracts*** - A type of contract that requires the buyer to reimburse all legitimate project costs to the seller plus the buyer is also required to pay a percentage of costs as stipulated and agreed upon in the contract. This type of contract is not allowed under Uniform Guidance and the expending of Federal funds.

**Cost-Reimbursement Contract** - A contract where the contractor is paid for all of its allowed expenses to a set limit, plus an additional amount to allow for a profit for the contractor.

**Emergency Purchase** - Purchases made during a declared state of emergency. For the purposes of this policy, emergencies may be declared by the Governor of the State of Michigan in response to a disaster or may be declared by the Chairperson of the Board of Commissioners, or in the event of a law enforcement action or response, may be declared by the Sheriff or Undersheriff.

**Fixed Price Contract** - A contract where the payment amount does not depend on resources used or time expended and the price is fixed.

**Incentive Contract** - A contract that provides for an initially negotiated fee to be adjusted later by a formula based on the relationship of total allowable costs to total target costs.

**MiDEAL** - An extended purchasing program which allows Michigan local units of government to use state contracts to buy goods and services. MiDeal extends purchasing leads to reduced costs, derived from leveraged purchasing power, improved specifications and increased competition.

**Michigan Inter-Governmental Trade Network (MITN)** - The Michigan Intergovernmental Trade Network allows participating local governments to connect with potential vendors and provides electronic access to upload procurement information for those entities in a central location. The network is a group of nearly 200 Michigan local governments where they can post Request for Proposals (RFP), bids, etc. to the system for all interested vendors to access.

**Professional Service** - These are services provided by a vendor who has expertise in a specific discipline by virtue of his or her education, experience, or both. Such expertise typically requires licensing or certification by a state or professional organization. Such services would include but are not limited to architects, attorneys, engineers, surveyors, accountants and financial advisors.

**Purchase Order (PO)** - While it is not standard operating procedure for the County to issue purchase orders, in very limited instances vendors require them. When necessary, this is a written or electronic document that delineates a purchase. The Administrator's/Controller's office shall prepare a PO, assign a unique number and track the PO on a manual log to assure accuracy of sequence. It will include a description and quantity of the items being purchased, the person authorizing the purchase, the shipping address where the goods are to be delivered, how the items are to be shipped and at what cost, the terms of the sale, the unit price of each item, the total cost of all items purchased, the seller's name, address, phone number, contact person, and any other information that is necessary to complete the sale, shipment, and receipt of the items being purchased.

**Request for Bid (RFB), Request for Proposal (RFP), Request for Quote (RFQ)** - Request for Bid or Request for Quote is the offering of a price from a potential vendor when the County has a need for which the County knows what the solution to the need is and they want the vendor to provide a price to achieve that solution. Request for Proposal is the offering of a solution from a potential vendor when the County has a need for which they want a potential vendor to offer what the vendor feels is the best solution for the County and the related cost.

**Sealed Bid** - A sealed bid is a type of bid submitted to ensure that no bidder knows the bid of any other bidder. This is a response from a potential vendor to a purchase request made by a Department Head that is then approved by the Administrator/Controller.

**Service Agreement** - Service Agreements are contractual obligations for the upkeep, maintenance, or other work to be performed by someone not employed by the County. Examples of this include but are not limited to updating of software, janitorial work, grounds maintenance, and security services.

**Sole Source Arrangement** - Agreement to purchase a particular good or service from an individual vendor when there are not multiple vendor options to choose from and that it is in the best interest of the County as determined by the Administrator/Controller to use this arrangement. The County may search for multiple vendors to determine only one vendor is capable of providing the goods or services. In this instance, a sole source arrangement may be needed.

### **3. CODE OF CONDUCT / CONFLICT OF INTEREST.**

No Elected Official, employee, or agent shall participate in the selection, award, or administration of a contract if a real or apparent conflict of interest would be involved. Such a conflict would arise when the Elected Official, employee, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated herein, has a financial or other interest in or a tangible personal benefit from an organization being considered for a contract within the County. The Elected Officials, employees, and agents of the County shall neither solicit nor accept gratuities, favors, or anything of monetary value from contractors, or parties to sub-agreements except for where the financial interest is not substantial or the gift is an unsolicited item of nominal value. Members of the County Board of Commissioners shall comply with all relevant fiduciary duties, including those governing conflicts of interest, when they vote upon matters related to procurement contracts in which they have a direct or indirect financial or personal interest. Elected Officials, employees, and agents of the County shall be subject to disciplinary actions for violations of these standards.

### **4. COMPETITION.**

All procurement transactions shall be conducted in a manner to provide, to the maximum extent practical, open and free competition. The County shall be alert to organizational conflicts of interest as well as noncompetitive practices among contractors that may restrict or eliminate competition or otherwise restrain trade. In order to ensure objective contractor performance and eliminate unfair competitive advantage, contractors that develop or draft specifications, requirements, statements of work, invitations for bids and/or requests for proposals shall be excluded from competing for such procurements. Awards shall be made to the bidder or offeror whose bid or offer is responsive to the solicitation and is most advantageous to the County, considering price, quality and other factors. Solicitations shall clearly set forth all requirements that the bidder or offeror shall fulfill in order for the bid or offer to be evaluated by the County. Any and all bids or offers may be rejected when it is in the County's interest to do so. In all procurement, the County shall avoid practices that are restrictive of competition. These include but are not limited to:

- Placing unreasonable requirements on firms in order for them to qualify to do business;
- Requiring unnecessary experience and excessive bonding;
- Noncompetitive pricing practices between firms or between affiliated companies;
- Noncompetitive awards to consultants that are on retainer contracts;
- Organizational conflicts of interest;
- Specifying only a brand name product instead of allowing an equal product to be offered and describing the performance of other relevant requirements of the procurement; and,
- Any arbitrary action in the procurement process.

If the preferred vendor can meet/beat the most competitive pricing, then that vendor may be the preferred option for the County.

## **5. THRESHOLDS OF PROCUREMENT TO BE FOLLOWED.**

Following are threshold guidelines to be utilized during the procurement process.

The separation of purchases to circumvent the thresholds established below is a violation of the policy and is not permitted. If there is the appearance of this type of inappropriate activity occurring, as determined by the Administrator/Controller, the Elected Official/Department Head will be advised of the applicable requirements and instructed as to what threshold their purchase must follow.

### **A. Procurement utilizing MiDeal**

The advantages of MiDeal are not limited to actual dollar savings on goods. Indirect savings are also realized through elimination of administrative duplication including:

- Writing and updating specifications, and drafting solicitations;
- Maintaining a large, diverse pool of potential bidders;
- Accepting, reviewing, and evaluating bid responses and making award recommendations;
- Testing and researching items; and
- Negotiating contracts.

If MiDeal utilization is determined to be in the best interest of the County, then that would satisfy the procurement component of this policy.

The justification for utilization must be documented fully with all documentation obtained to support the usage of MiDeal (i.e. specifications, and pricing) being retained by the Elected Official/Department Head to support their decision. The Elected Official/Department Head would be able to negotiate with the Vendor from that point to get the last best offer that is in the best interest of the County, assuring the purchase is within the budgetary guidelines.

If MiDeal is used as the basis for the procurement, there is not a need to go further into this procurement policy.

### **B. Procurement when not utilizing MiDeal**

1. Procurement by small purchase procedures. Small purchase procedures are those relatively simple and informal procurement methods for securing services, supplies, or other property that cost less than \$2,500 per individual item and where procurement by bid is not required. If the cost is within the department's budget the designated person in that department can incur the cost without prior authorization of the County Administrator/Controller.
2. Procurement for purchases between \$ 2,500 and less than \$5,000 per individual item. For purchases within this range, a minimum of three quotes is required. Each potential purchasing source will use uniform specifications from which a quote may be made. This should include a description of the items to be purchased, quantity, price per unit, special terms and/or specifications, and the desired delivery date. This information can

be issued in either written or oral form. The response from each source shall be maintained by the Department Head in a readily retrievable format. The written documentation obtained should include a description of the item(s) being purchased, quantity, price per unit, proposed delivery date, and any other information used by the Department Head to make an informed decision that is in the best interest of the County. This documentation should support the justification of the purchase selection.

The authority to make purchases in this range exists at the departmental level with either the Department Head or Elected Official in charge of the department making the purchase.

3. Procurement for purchases of \$5,000 and greater. These purchases require formal advertising on the County website and MITN to be handled through the County Administrator/Controller's Office. These purchases are publicly solicited and a firm-fixed-price contract (lump sum or unit price) for goods is awarded to the responsible vendor whose response, conforming with all the material terms and conditions of the request for proposal, is in the best interest of the County, and has the most competitive price for the goods being offered.

While price may be the predominant consideration in selecting a vendor, the purchaser may consider other factors which will contribute to the overall value and benefit to the County. Things such as availability, warranty, trade in, etc. may be considered and override the reliance on price as the only factor.

Purchases of this type fall into 2 categories, relating to procurement of goods and procurement of services. There are various methods of procurement as detailed below depending on the particular type of purchase that is being contemplated.

## **6. METHODS OF PROCUREMENT.**

Following are options to be utilized based on what is in the best interest of the County:

### **A. Procurement by Sealed Bids.**

1. Sealed Bids would be preferred if the following conditions are present:
  - (a) A complete, adequate, and realistic specification or purchase description is available;
  - (b) Two or more responsible bidders are willing and able to compete effectively for the business; and
  - (c) The procurement lends itself to a firm fixed price contract and the selection of the successful bidder can be made principally on the basis of price.
2. If Sealed Bids are used, the following requirements apply:
  - (a) The Request for Bids (RFB) will be publicly advertised on the customary and usual sources such as the County website and MITN, which are readily accessible to a significant number of potential vendors. The posting will provide the potential vendors sufficient time to prepare the bid prior to the

date set for opening the bids;

- (b) The RFB, which will include any specifications and pertinent attachments, shall define the items or services in order for the bidder to properly respond;
- (c) All bids will be opened and reviewed by the appropriate County personnel with the skills, knowledge and experience to understand and evaluate the bids that were submitted. The bids will be reviewed against the specifications requested to determine which vendor bid is in the best interest of the County to pursue;
- (d) A firm fixed-price contract award will be made in writing to the lowest responsive and responsible bidder, which is in the best interest of the County. Where specified in bidding documents, factors such as discounts, trade-in value, transportation cost, and life cycle costs shall be considered in determining which bid is lowest and the most advantageous to the County. Payment discounts will only be used to determine the low bid when prior experience indicates that such discounts are usually taken advantage of. In discussions with a potential vendor if the opportunity exists to request the potential vendor to give their “last and best” offer, that inquiry should be made of the potential vendor; and
- (e) The County reserves the right to accept and/or reject any/all bids if it is in the best interest of the County.

B. Procurement by Competitive Proposals. The technique of competitive proposals for acquiring experienced service providers is normally conducted with more than one source submitting an offer, and either a fixed-price or cost-reimbursement type contract is awarded. If this method is used, the following requirements apply:

1. Upon Administrator/Controller approval, Requests for Proposals (RFP) will be publicized and identify all evaluation factors and their relative importance. Any response to publicized requests for proposals shall be considered to the maximum extent practical;
2. Upon approval by the Administrator/Controller, all competitive proposals shall be publicized by posting the appropriate documents on the County’s website and MITN by the Administrator/Controller’s Office;
3. The County shall evaluate responses to its solicitations and select awardees in accordance with the procedures outlined in section 7 Procurement Procedures;
4. Awards will be made to the responsible firm whose proposal is most advantageous to the County with price and other factors considered; and,
5. The County may use the competitive proposal procedures for qualifications-based procurement of certain professional services whereby competitors’ qualifications are evaluated and the most qualified competitor is selected, subject to negotiation of fair and reasonable compensation. A procurement process where price is not to be used as the only selection factor. It can only be used in procurement of certain professional services as determined in the best interest of the County.

- C. Procurement by Noncompetitive Proposals or Sole Source Arrangement is procurement through solicitation of a proposal from only one source, or after solicitation of a number of sources, competition is determined inadequate.
1. Procurement by noncompetitive proposals may be used only when the award of a contract is infeasible under small purchase procedures, sealed bids or competitive proposals and one of the following circumstances applies:
    - (a) The item is available only from a single source;
    - (b) The public exigency or emergency for the good/service will not permit a delay resulting from competitive solicitation;
    - (c) The funding source specifically authorizes the use of noncompetitive proposals; or
    - (d) After public solicitation, competition is determined inadequate.
  2. Cost analysis (i.e., verifying the proposed cost data, the projections of the data, and the evaluation of the specific elements of costs and profits), is required.
  3. When using a noncompetitive process, the County normally would be expected to submit the proposed procurement to the relevant funding source for pre-award approval, if applicable.
- D. Professional Services. It is the policy of the Board of Commissioners to solicit professional services based on qualifications. A competitive bid selection process may be used at the Board's discretion. This policy recognizes the importance of experience and the ability to work with County employees and the general public equally important as price.

## **7. PROCUREMENT PROCEDURES.**

- A. All procurement by the County shall comply, at a minimum, with the requirements of subsections (1), (2), and (3) below:
1. The County shall avoid purchasing unnecessary or duplicative items. Consideration should be given to consolidating or breaking out procurements to obtain a more economical purchase as long as it does not violate other sections of this procurement policy.
  2. Where appropriate, and in the best procedural and economic interest of the County, an analysis should be made of lease versus purchase alternatives to determine which would be the most economical and practical procurement.
  3. Solicitations for goods and services provide for all of the following:
    - (a) A clear and accurate description of the technical requirements for the material, product or service to be procured. In competitive procurements, such a description shall not contain features which unduly restrict competition;

- (b) Requirements which must be fulfilled and all other factors to be used in evaluating proposals submitted in response to solicitations;
  - (c) A description, whenever practicable, of technical requirements in terms of functions to be performed or performance required, including the range of acceptable characteristics or minimum acceptable standards;
  - (d) When relevant, the specific features of "brand name or equal" descriptions that are to be included in responses submitted to the solicitation; and
  - (e) Preference, to the extent it is logical, practicable, and economically feasible, for products and services that conserve natural resources and protect the environment and are energy efficient.
- B. Positive efforts shall be made by the County to utilize small businesses, minority-owned firms, and women's business enterprises, whenever possible. The County may take all of the following steps to further this goal.
- 1. Ensure that small businesses, minority-owned firms, and women's business enterprises are used to the fullest extent practicable;
  - 2. Post/publicize opportunities that are available to conduct business with the County, when appropriate, on the County's website, MITN, etc. to encourage and facilitate participation by small businesses, minority-owned firms, and women's business enterprises;
  - 3. To the extent possible and if it is practical and in the best interest of the County, consider in the contract process whether potential vendors competing for larger contracts intend to subcontract with small businesses, minority-owned firms, and women's business enterprises;
  - 4. Encourage, to the extent possible and when practical and in the best interest of the County, contracting with consortiums of small businesses, minority-owned firms and women's business enterprises when a contract is too large for one of these firms to handle individually; and
  - 5. Use the services and assistance to the extent possible, and as appropriate, practical, and in the best interest of the County, of such organizations as the Small Business Administration and the Department of Commerce's Minority Business Development Agency in the solicitation and utilization of small businesses, minority-owned firms and women's business enterprises but with the primary focus on MITN and MiDeal arrangements.
- C. The type of procuring instruments used (e.g., fixed price contracts, cost reimbursable contracts, sole source arrangements, and incentive contracts) shall be determined by the County but shall be appropriate for the particular procurement and for promoting the best interest of the program or project involved. The "cost-plus-a-percentage-of- cost" or "percentage of construction cost" methods of contracting shall not be used.
- D. Contracts shall be made only with responsible contractors who possess the potential ability

to perform successfully under the terms and conditions of the proposed procurement. Consideration shall be given to such matters as contractor integrity, record of past performance, financial and technical resources or accessibility to other necessary resources.

- E. Debarment and Suspension - No contract shall be made to parties listed on the General Services Administration's List of Parties Excluded from Federal Procurement or Nonprocurement Programs in accordance with Executive Orders (E.O.s) 12549 and 12689, "Debarment and Suspension". Contractors with awards that exceed the small purchase threshold shall provide the required certification regarding its exclusion status and that of its principal employees.

## **8. COST AND PRICE ANALYSIS.**

Some form of cost or price analysis shall occur in connection with every procurement action above \$2,500 in value. Price analysis may be accomplished in various ways, including the comparison of price quotations submitted, market prices and similar indications, together with discounts.

## **9. ADDITIONAL ITEMS FOR ANALYSIS.**

The Isabella County Board of Commissioners or authorized agent, reserves the right to accept or reject any or all bids, quotes, or proposals, with or without cause. Bids, Quotes, and Proposals will be evaluated based on the following criteria:

- Comparison of unit price and total price;
- Delivery date promised and adherence to delivery schedule;
- Reputation regarding quality of product or service;
- Evaluation of whether minimum requirements have been met; and
- Location of prospective vendor with a local preference of 5% price variance between in-county and out-county vendors.

## **10. PROCUREMENT RECORDS.**

Procurement records and files for purchases in excess of \$5,000 shall include the following at a minimum:

- Basis for contractor selection;
- Justification for lack of competition when competitive bids or offers are not obtained; and
- Basis for award cost or price.

## **11. CONTRACT ADMINISTRATION.**

A system for contract administration shall be maintained to ensure contractor conformance with the terms, conditions and specifications of the contract and to ensure adequate and timely follow up of all purchases. The County shall evaluate contractor performance and document, as appropriate, whether contractors have met the terms, conditions and specifications of the contract.

## **12. CONTRACT PROVISIONS.**

The County shall include, in addition to provisions to define a sound and complete agreement, the following provisions in all contracts and subcontracts.

- A. Contracts in excess of \$5,000 shall contain contractual provisions or conditions that allow for administrative, contractual, or legal remedies in instances in which a contractor violates or breaches the contract terms, and provide for such remedial actions as may be appropriate;
- B. All contracts in excess of \$5,000 shall contain suitable provisions for termination by the County, with or without cause, including the manner by which termination shall 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. For contracts dealing with specific acquisitions of certain goods and services such as construction, facility improvements, or other situations, the County shall comply with all requirements imposed by its funding sources. This includes any governmental regulations applicable to those funding sources such as, but not limited to bond documents, bid guarantees, performance bonds, and payment bonds.
- D. All negotiated contracts (except those for less than \$5,000) awarded by the County shall include a provision to the effect that the County shall have access to any books, documents, papers and records of the contractor which are directly pertinent to a specific program for the purpose of making audits, examinations, excerpts and transcriptions;
- E. All contracts, including small purchases, awarded by the County and their contractors where the source of the funds, directly or indirectly, is the federal government, shall contain the following procurement provisions as applicable:
  - 1. Equal Employment Opportunity - All contracts, when funded in whole or part by monies derived from the Federal government (either directly or indirectly), shall contain a provision requiring compliance with E.O. 11246, "Equal Employment Opportunity," as amended by E.O. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and as supplemented by regulations at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor."
  - 2. Copeland "Anti-Kickback" Act (18 United States Code (U.S.C.) 874 and 40 U.S.C. 276c) - All contracts in excess of \$2,000 for construction or repair, when funded in whole or part by monies derived from the Federal government (either directly or indirectly) shall include a provision for compliance with the Copeland "Anti-Kickback" Act (18 U.S.C. 874), as supplemented by Department of Labor regulations (29 CFR part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). The Act provides that each contractor or subrecipient 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 recipient shall report all suspected or reported violations to the Federal awarding agency.
  - 3. Davis-Bacon Act, as amended (40 U.S.C. 276a to a-7) - When required by Federal program legislation, all construction contracts awarded by the recipients and subrecipients of more than \$2,000 shall include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 276a to a-7) and as supplemented by Department of

Labor regulations (29 CFR part 5, "Labor Standards Provisions Applicable to Contracts Governing Federally Financed and Assisted Construction"). 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 than once a week. The recipient shall place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation and the award of a contract shall be conditioned upon the acceptance of the wage determination. The recipient shall report all suspected or reported violations to the Federal awarding agency.

4. Contract Work Hours and Safety Standards Act (40 U.S.C. 327-333) - All contracts in excess of \$2,000 for construction contracts and in excess of \$2,500 for other contracts that involve the employment of mechanics or laborers, when funded in whole or part by monies derived from the Federal government (either directly or indirectly), shall include a provision for compliance with Sections 102 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-333), as supplemented by Department of Labor regulations (29 CFR part 5).
5. Rights to Inventions Made Under a Contract or Agreement - Contracts or agreements for the performance of experimental, developmental, or research work, when funded in whole or part by monies derived from the Federal government (either directly or indirectly), shall provide for the rights of the Federal Government and the recipient in any resulting invention in accordance with 37 CFR part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.
6. Clean Air Act (42 U.S.C. 7401 et seq.) and the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), as amended - Contracts and subgrants of amounts in excess of \$100,000, when funded in whole or part by monies derived from the Federal government (either directly or indirectly), shall contain a provision that requires the recipient to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401 et seq.) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251 et seq.). Violations shall be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).
7. Byrd Anti-Lobbying Amendment (31 U.S.C. 1352) - Contracts for an amount above \$100,000, when funded in whole or part by monies derived from the Federal government (either directly or indirectly), shall include a certification by the contracting parties that they have not and will not use Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352 and to further require disclosure of any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award.

- F. Iran Linked Business. The respondent must certify to the County that neither it nor any of its successors, parent companies, subsidiaries, or companies under common ownership or control of the Contractor, are an “Iran Linked Business” engaged in investment activities of \$20,000,000.00 or more with the energy sector of Iran, within the meaning of the Iran Economic Sanctions Act, Michigan Public Act 517 of 2012 (MCL 129.311 et seq.). The respondent shall not become an “Iran linked business” during the term of the contract.

NOTE: IF A PERSON OR ENTITY FALSELY CERTIFIES THAT IT IS NOT AN IRAN LINKED BUSINESS AS DEFINED BY PUBLIC ACT 517 OF 2012, IT WILL BE RESPONSIBLE FOR CIVIL PENALTIES OF NOT MORE THAN \$250,000.00 OR TWO TIMES THE AMOUNT OF THE CONTRACT FOR WHICH THE FALSE CERTIFICATION WAS MADE, WHICHEVER IS GREATER, PLUS COSTS OF INVESTIGATION AND REASONABLE ATTORNEY FEES INCURRED, AS MORE FULLY SET FORTH IN SECTION 5 OF ACT NO. 517, PUBLIC ACTS OF 2012.

- 13. THE ROAD COMMISSION, ISABELLA COUNTY TRANSIT COMMISSION, MEDICAL CARE FACILITY, AND CENTRAL MICHIGAN DISTRICT HEALTH DEPARTMENT ARE NOT OBLIGATED BY THIS POLICY.**