

# MONROE COUNTY PROCUREMENT POLICY

## 1. Background

This policy has been developed to ensure that Monroe County is in compliance with New York State General Municipal Law concerning the procurement of goods and services as defined herein.

In accordance with New York State General Municipal Law §103, all purchase contracts involving an expenditure of more than \$20,000<sup>1</sup> and all contracts for public works involving an expenditure of more than \$35,000<sup>2</sup> must be publicly bid. This policy prescribes the manner in which expenditures for purchase contracts and public works contracts not subject to public bidding requirements are awarded, as well as contracts for professional services, which are not subject to public bidding requirements, and which are subject to approval by the County Legislature and/or the County Executive. This policy supersedes any policy previously issued and approved.

Goods and services that are not subject to competitive bidding must be procured in a manner as to assure the prudent and economical use of public funds in the best interest of the taxpayers; to facilitate the acquisition of goods and services of maximum quality at the lowest possible cost under the circumstances; and to guard against favoritism, improvidence, extravagance, fraud and corruption. These internal policies and procedures are updated annually and apply to all procurements of goods and services which are not required to be made pursuant to the competitive bidding requirements of General Municipal Law §103 or of any other general, special or local law.

## 2. Guidelines for Securing Competitive Quotations for Purchase and Public Works Contracts

All County employees involved in the procurement process shall follow this policy for all purchase and public works contracts of \$20,000 or less.

All purchases of twenty-five dollars (\$25) or less may be made directly with petty cash, subject to the Petty Cash Guidelines established by the Monroe County Controller.

Purchases of commodities above twenty-five dollars (\$25) up to and including three thousand dollars (\$3,000) may be made at the discretion of the various departments. The purchase of infrequent and limited services, such as repairs and maintenance, above twenty-five dollars (\$25) up to and including three thousand dollars (\$3,000) may be made at the discretion of the various departments. A written cost quotation shall be obtained before any purchase and shall be maintained by the requesting department. This policy recognizes that the potential cost savings from competition can be quickly outweighed by the costs inherent in seeking multiple quotations.

For all purchase and public works contracts over \$3,000 up to and including \$20,000, the County will seek to secure at least three (3) legitimate and competitive written quotations, and shall make an award based on the lowest responsive and responsible quotation. Any deviation from this policy shall have written justification from the Purchasing Manager and shall be included in the procurement record.

Purchase and public works contracts that exceed \$20,000 shall be procured through sealed public bid. Public works contracts in excess of \$20,000 may be subject to approval by the Monroe County Legislature and/or the Monroe County Purchasing Manager.

Pursuant to Chapter 26 of the Monroe County Code, purchase contracts in excess of \$20,000 and public works contracts in excess of \$60,000 require an approved Minority and Women-Owned Enterprise (M/WBE) Utilization Plan or a partial or total waiver of such requirements issued by the Department of Diversity, Equity, and Inclusion. County participation goals for the total value of such contracts are 12% MBE and 3% WBE. Purchase contracts for

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1 Chapter 56 N.Y. Laws of 2010

2 Chapter 494 N.Y. Laws of 2009

service work shall not include banking relationships, the issuance of insurance policies or contracts, or contracts with the County for the sale of bonds, notes or other securities. The term "contract" shall not include a contract or other agreement with a municipal corporation, school district, district corporation, board of cooperative educational services, utility, not-for-profit corporation, or publicly traded company.

### 3. **When Competitive Bidding May Not Apply**

In accordance with General Municipal Law, there are instances in which public bidding is not required. These instances include:

- purchases through New York State contracts
- commodity and installation/repair purchases through federal, state, county or political subdivision contracts<sup>3</sup>
- purchases made by Monroe Community Hospital (MCH) through group purchasing organizations pursuant to Public Health Law
- items to be purchased from a "sole source"
- items procured through a "true lease"
- surplus supplies, materials or equipment purchased from another governmental or public benefit entity
- supplies, materials or equipment purchased from state correctional institutions or from qualified charitable not-for-profit agencies for the blind or disabled
- purchases or public works required in an emergency, subject to the requirements of the emergency purchase order procedures
- standardization of an item as approved by the County Legislature
- energy performance contracts
- professional services contracts
- purchases of apparatus, materials, equipment or supplies, or contracts for services related to the installation, maintenance or repair of apparatus, materials, equipment, and supplies, through a contract let by the United States of America or any agency thereof, any state or any other political subdivision or district therein if such contract was let to the lowest responsible bidder or on the basis of best value as authorized pursuant to General Municipal Law §103(16).

### 4. **Best Value Procurement**

"Best value" procurement means the basis for awarding contracts for materials, supplies, equipment, apparatus, or services, except public works under Article 8 of the New York Labor Law, to the County, which optimizes quality, cost, and efficiency, among responsive and responsible offerers. Such basis shall reflect, wherever possible, objective and quantifiable analysis. Such basis may also identify quantitative factors to be used for awarding purchase contracts and service, including but not limited to: small businesses; certified minority- or women-owned business enterprises as defined in subdivisions one, seven, fifteen and twenty of section three hundred ten of the Executive Law; a minority- or women-owned business enterprise certified by Monroe County in accordance with Section 26-5 of the Monroe County Code; certified service-disabled veteran-owned business enterprises as defined in subdivision one of section forty of the Veterans' Services Law; and/or or green procurement specifications approved by New York State.<sup>4</sup>

Best value procurement shall be subject to the following requirements:

- a) The County Purchasing Manager shall determine when best value shall be the basis of an award. The Purchasing Manager shall document the criteria used to rate proposals and evaluation results, or if not practicable, such other justification which demonstrates how best value was achieved for the County.

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<sup>3</sup> Chapter 308 N.Y. Laws of 2012

<sup>4</sup> Local Law No. 9 of 2023

- b) Whenever practicable, the evaluation of best value shall be based upon objective and quantifiable factors which optimize quality, cost, and efficiency, but shall not be based solely on cost, in accordance with New York State Finance Law § 163.
- c) The County's solicitation documents shall prescribe the minimum specifications or requirements that must be met in order for bidders and offerors to be considered responsive, and describe the general manner in which the evaluation and selection shall be conducted.
- d) In accordance with Article 8 of the Labor Law, best value may not be used for purchase contracts necessary for the completion of public works contracts.
- e) The Purchasing Manager shall submit reports to the Clerk of the Legislature noting how many public bids were awarded each month, on what basis each public bid was awarded, and, if such basis was best value, what criteria was used to rate proposals and evaluation results.

The evaluation criteria for best value procurement may include:

- a) Initial cost
- b) Total cost of ownership or life cycle costs
- c) Reliability of contractor, product, or service
- d) Contractor's experience with similar projects
- e) Compliance with material, workmanship, and performance requirements
- f) Compatibility with existing equipment or systems
- g) Contractor's record of safety
- h) Certified minority- or women-owned business enterprises
- i) Certified service-disabled veteran-owned business enterprises
- j) Green procurement specifications approved by New York State
- k) Scheduling and delivery timeframes
- l) Product or service warranty
- m) Local economic impact
- n) Small businesses

## 5. **Professional Services**

Professional services are not subject to public bidding requirements but are subject to approval by the Monroe County Legislature and/or the County Executive. Professional Services generally include services rendered by architects and engineers, and certain other services requiring specialized or technical skills, expertise or knowledge, the exercise of professional judgment or a high degree of creativity. Insurance coverage (health, fire, liability and workers' compensation) is considered a professional service. General guidelines for determining professional services are as follows:

- a) Whether the services are subject to State licensing or testing requirements;
- b) Whether substantial formal education or training is a prerequisite to the performance of the services;
- c) Whether the services require a relationship of personal trust and confidence between the contractor and municipal officials.

All RFP/RFQ/EOI must comply with the Department of Finance, Division of Purchasing's current Procedures for Service Contracts. This includes but is not limited to scoring all RFP/ RFQ/ EOI on Minority and Women Owned Business Enterprises (MWBE) Utilization, Disadvantaged Business Enterprise (DBE) Utilization, Veteran-Owned Small Business (VOSB) and Service-Disabled Veteran-Owned Small Business (SDVOSB) and Local Office.

Pursuant to Chapter 26 of the Monroe County Code, professional service contracts in excess of \$20,000 require an approved MWBE Utilization Plan or a partial or total waiver of such requirements issued by the Department of Diversity, Equity, and Inclusion. County participation goals for the total value of professional service contracts are 12% MBE and 3% WBE. Professional service contracts shall not include banking relationships, the issuance of

insurance policies or contracts, or contracts with the County for the sale of bonds, notes or other securities. The term "contract" shall not include a contract or other agreement with a municipal corporation, school district, district corporation, board of cooperative educational services, utility, not-for-profit corporation, or publicly traded company.

All County employees involved in the procurement process shall follow this policy for all professional services agreements.

For all professional services agreements of \$20,000 or less, a Request for Proposals (RFP), Request for Qualifications (RFQ) or Expression of Interest (EOI) is not required but may be used when practical. The requesting department shall obtain a written proposal, quotation or statement of work.

For all professional services agreements greater than \$20,000, an RFP, RFQ, or EOI is required unless waived by the County Executive or his designee. A waiver may be issued only in the event of a public emergency, as defined under General Municipal Law or the New York State Defense Emergency Act. The County Executive or his designee shall notify the Monroe County Legislature within 90 days of the issuance of any waiver.

Professional services contracts in excess of \$20,000<sup>5</sup> are subject to approval by the Monroe County Legislature.

## **6. Vendor Contacts**

A firm, individual or other entity that reviews and/or aids in the preparation of a document created by or for the County in furtherance of a procurement, including but not limited to design documents, public bid documents, RFPs, RFQs or EOIs, in draft or final form, in whole or in part, prior to issuance of said procurement may not submit a response on such subject matter, nor serve as a subcontractor or consultant to a responding firm, individual or other entity for the first five years of the contract period. Such prohibition includes, but is not limited to:

- Individuals and/or entities that serve as contractors or subcontractors during a project's design phase may not bid as a contractor or subcontractor on the project's construction contracts.
- Individuals and/or entities that draft or receive a copy of specifications (in whole or in part) produced by or for the County prior to the release of a sealed bid may not bid as a contractor or subcontractor on the bid.
- Individuals and/or entities that make recommendations to the County pursuant to a professional services contract may not bid as a contractor or subcontractor on a subsequent procurement to implement such recommendations.

The above prohibition shall not be construed to limit the County's ability to contact a firm, individual or other entity, or a subcontractor or consultant thereto, concerning the subject matter of a public bid, RFP, RFQ or EOI prior to the commencement of the restrictive period (i.e., thirty (30) days prior to the issuance of a public bid, RFP, RFQ or EOI).

A firm, individual or other entity, or a subcontractor or consultant thereto, may not have substantive contact with a County employee or officer, but for the Purchasing Manager or his or her designee, concerning the subject matter of a public bid, RFP, RFQ or EOI during a restrictive period beginning thirty (30) days prior to the issuance of said public bid, RFP, RFQ or EOI and continuing until the selection committee has made a selection or the bid has been opened and the results made public.

No County employee or officer, but for the Purchasing Manager or his or her designee, may have any substantive contact with a responding firm, individual or other entity, or a subcontractor or consultant thereto, concerning the subject matter of a public bid, RFP, RFQ or EOI during a restrictive period beginning thirty (30) days prior to the issuance of a public bid, RFP, RFQ or EOI and continuing until the selection committee has made a selection or the bid has been opened and the results made public.

Prior to serving on any RFP, RFQ or EOI selection committee, all members thereof must affirm in writing that they

have had no substantive contact with any responding firm, individual or other entity, or a known subcontractor or consultant thereto, concerning the subject matter of a procurement, for the thirty (30) days prior to the issuance of a RFP, RFQ or EOI to the present, and that they will continue to have no substantive contact therewith until the selection committee has made a selection.

Violations of this policy must be reported in writing to the Purchasing Manager by any County employee or officer with knowledge of the violation. Any County employee or officer who violates this policy will be subject to disciplinary action, up to and including, termination of employment.

Violations of this policy by a firm, individual or other entity, or a subcontractor or consultant thereto, may result in the exclusion of any response to a public bid, RFP, RFQ or EOI submitted on their behalf and/or debarment from responding to a County-issued procurement process for up to five (5) years. Any contract or agreement entered with a firm, individual or other entity subsequent to a violation of this policy during the procurement process is null and void.

7. **Exceptions**

Contracts for the procurement of all supplies, services, materials, equipment and public works entered into by Monroe County that involve the expenditure of federal or state funds, shall be conducted in accordance with any mandatory applicable regulations of the funder.

Exceptions to this policy shall only be made upon the written approval of the County Attorney.

8. **M/WBE Local Law**

This policy incorporates by reference Chapter 26 of the Monroe County Code (Utilization of Minority and Women-Owned Businesses) and the Monroe County Minority and Women Business Enterprise (M/BE) Certification Program and Utilization Administrative Rules and Regulations, as the same may be amended from time to time.

Chapter 26 is intended to promote and encourage the utilization of minority and women-owned business enterprises in procurement by the County of Monroe and establish clear guidelines for what constitutes a minority and women-owned business enterprise, create a directory of minority and women-owned business enterprises, expand the use of minority and women-owned business enterprises in all areas of County procurement, institute reporting guidelines, conduct training for minority and women-owned business enterprises, and set new goals for the use of minority and women-owned business enterprises in County procurement.

9. **Purchasing Authority**

In accordance with Monroe County Local Law #3 of 1989, the Purchasing Manager is responsible for purchasing in Monroe County.

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