



04.002: PURCHASING POLICY

Effective: 06/12/2024 – RES-2024-582

POLICY

Genesee County (the County) Purchasing Department, A division of the Office of Fiscal Services, is responsible for procuring goods and services in an efficient manner for the County. The objective is to foster fair competition to the vendor community in order to obtain the lowest overall cost and best value for the departments served. It is the intent to ensure that our open market procedures obtain the required goods and services without regards to race, color, religion, national origin, age, sex or disability.

PRINCIPLES

1. **Statutory References:** Genesee County Board of Commissioners (the Board) may establish rules and regulations to manage the interest and business of the County under Public Act 156 of 1851 [MCL 46.11 (M)]. The Office of Fiscal Services is responsible for the purchase of goods and services that are required by the County, or its officers and agents.
2. **Policy Conflicts and Approval Authority:** This Policy and the procedures promulgated under it supersede all other County policies or regulations concerning Purchasing, which were authorized by the Board as part of the County's annual budget.
3. **Authority:** The Purchasing Department, a division of the Office of Fiscal Services, is responsible for the procurement of all goods and services as requested from all departments in accordance with these policies. The Purchasing Administrator will be the administrative head of the Purchasing Department. The County's Chief Financial Officer (CFO) shall be the only person authorized to sign purchase orders for the acquisition of goods or services for the County absent official delegation of such authority to another person in their absence. Except as specifically stated within these policies for transactions utilizing purchase orders below the monetary thresholds for procurement procedures set forth by the Board policies, the Board Chair shall be the only person to sign contracts for said goods or services when required.
 - a) **Duties:** In accordance with these policies, and subject to the supervision of the CFO, the Purchasing Administrator shall:
 - i. Procure or supervise the procurement of all supplies, services, and construction needed by the County;
 - ii. Sell, trade, or otherwise dispose of surplus equipment and supplies belonging to the County; and



GENESEE COUNTY

— M I C H I G A N —

- iii. Establish and maintain programs for specification development, contract administration and inspection in cooperation with departments using the supplies, services, and construction.
- b) **Approval of Award:** The Office of Fiscal Services shall make no award of any contract other than as authorized by these Purchasing Policies, unless approved by the County Board of Commissioners.
- c) **Operational Procedures:** Consistent with these Policies, and with approval of the Genesee County Board of Commissioners, the Office of Fiscal Services may adopt operational procedures relating to the execution of their duties.

4. Operational Guidelines

- a) **Compliance with Laws and Grant Regulations:** All purchasing activities and open market procedures shall comply with all federal, state, and local laws as well as any applicable funding regulations.
- b) **Failure to Follow Policy:** The County shall not be responsible for the costs of goods and services ordered or purchased by a County Using Agency (including Departments and/or employees) that are not obtained in accordance with this Policy. Purchases for goods or services negotiated outside of this Policy will be considered invalid and non-binding.
- c) **Ethics:** The Board will hold the staff of the Purchasing Department to the highest level of moral and ethical standards. The Purchasing Department shall adhere to the ethical standards as passed by the National Institute of Governmental Purchasing (NIGP) and the Michigan Public Purchasing Officers Association.
- d) **Approval Authority:** All goods and services procured will be authorized with the issuance of a purchase order and/or contract. The authorization to approve department's request will be determine in the following manner:
 - i. For goods or services with a vendor with an aggregate spend of *\$1,000.00 - \$10,000.00, within the fiscal year, may be approved by the Purchasing Administrator or designee, with signature for any items that require a signature by the Board's Director of Administration.
 - ii. For goods or services with a vendor with an aggregate spend of \$10,000.01 - \$30,000.00, within the fiscal year, review and approval through the County's established document review process with review by the relevant Using Agency, with final approval and signature by the Board's Director of Administration.



GENESEE COUNTY

— M I C H I G A N —

- iii. For goods or services with a vendor with an aggregate spend of *\$30,000.01 or more, within the fiscal year, must be presented to the Using Agency's Parent Committee for its consideration with final approval from the Board of Commissioners.

*Dollar thresholds will be in accordance with adopted Genesee County Board of County Commissioners Rules and Procedures.

- e) **Surplus Asset Management:** The Purchasing Department shall be responsible for the disposal of surplus County assets.
- f) **Joint Bid Method:** Genesee County may participate in cooperative purchasing arrangements with other units of governments and/or cooperative purchase agreements.
- g) **Bidders List:** Interested vendors are requested to register through the Michigan Inter-governmental Trade Network (MITN) system. MITN (aka Bid Net) is a group of agencies that joined forces to create a Regional Bid Notification System to notify companies (vendors) of new bid opportunities.
- h) **Bid Security (Bond):** Bid security will be required for all bids/proposals for construction contracts when the cost of the project is \$50,000.00 or more. Bonds required are: bid bond, maintenance bond, performance bond, and payment bond.
- i) **Surety Bonds:** The Purchasing Department will require performance, payment, and maintenance bonds whenever the cost of a construction project is \$50,000.00 or more. These bonds will be secured in an amount representing 100% of the contract price.
- j) **Tie Bids:** Bids that are equal in all aspects shall be awarded to the vendor whose headquarters is closest to Genesee County. To determine the location of a vendor, Genesee County will use the address on file with the State of Michigan as the vendor's Registered Office Address as of the day the solicitation request was first issued by Genesee County. If a vendor does not have a Registered Office Address with the State of Michigan, that vendor will be deemed to be the vendor at the greatest distance from Genesee County. If multiple vendors are not registered with the State of Michigan, the state or County of Incorporation will be used to determine the vendor's location. The aforementioned does not apply if the incumbent vendor is one of the tied bidders and is satisfactorily providing the goods/or services. The award may be given to the incumbent vendor regardless of headquarters location.



- k) **Protest of Bid/RFP Awards:** Any vendor may protest the award of a bid/RFP by established Standards and Procedures guidelines. All protests are to be addressed to the Purchasing Administrator in writing and shall clearly state the reasons for protest. The Purchasing Administrator, whose decision shall be final, will evaluate the merits of the protests and response in writing to the vendor for all bid/RFPs that originated from the Purchasing Department.
5. **Exceptions:** The requirements set forth in this Policy will not apply to any of the following if the Office of Fiscal Services determines the exception is in the best interest of the County:
- a) Banking Services
 - b) Emergency Purchases
 - c) Insurance
 - d) Investment Banking
 - e) Genesee County Drain Commissioner – Public Act 40
 - f) Legal Services
 - g) Procurement Cards
 - h) Pre-paid Postage
 - i) Real Estate
 - j) Services that are Court Ordered
 - k) Sole Source
 - l) Subscriptions
 - m) Temporary Employment Services
 - n) Utilities (water, electric, natural gas, phone services, and internet)
 - o) Juror or witness payments
 - p) Magazine and periodical subscriptions



- q) Dues and fees to professional organizations
 - r) Registration fees for conferences, seminars, classes
 - s) Employee benefit items
 - t) Employment agency payments
 - u) Purchases funded with Delinquent Tax Revolving Fund
6. **Implementation Authority:** Upon adoption of this Policy, Genesee County Board of Commissioners authorizes the Office of Fiscal Services Chief Financial Officer to establish procedures which may be necessary for implementation and to delegate the implementation of said procedures to the County Purchasing Department.
7. **Public Access to Procurement Information:** Procurement information shall be a public record to the extent provided in Act 442 of the Public Acts of 1976 (Michigan Compiled Laws (MCL) 15.231 et seq.), as amended, and shall be available to the public as provided in said statute.
8. **Distribution:** Upon adoption, this Policy will be distributed by the Office of Fiscal Services to all County Using Agencies.
9. **Periodic Review:** The Office of Fiscal Services will review this Policy at least every two (2) years and make any recommendations for changes to the Finance Committee. Upon approval from said Committee, these recommendations will be presented to the Board of Commissioners for final approval.



ARTICLE 1 - GENERAL PROCEDURES - PG. 6

ARTICLE 2 - OFFICE OF THE PURCHASING ADMINISTRATOR - PG. 13

ARTICLE 3 - SOURCE SELECTION & CONTRACT INFORMATION - PG 14

ARTICLE 4 - SPECIFICATIONS - PG 27

ARTICLE 5 - CONTRACT ADMINISTRATION - PG 29

ARTICLE 6 - DEBARMENT OR SUSPENSION - PG 31

ARTICLE 7 - APPEALS AND REMEDIES - PG 33

ARTICLE 8 - ETHICS IN PUBLIC CONTRACTING - PG 36

ARTICLE 9 - GENESEE COUNTY CREDIT CARD POLICY - PG 40

ARTICLE 10 - DISPOSAL OF SURPLUS PROPERTY - PG 42



ARTICLE 1 - GENERAL Procedures

Part A - Purpose and Application

1-101 Purpose

The purpose of these Procedures is to provide for the fair and equitable treatment of all persons involved in public purchasing by Genesee County, to maximize the purchasing value of public funds in procurement, and to provide safeguards for maintaining a procurement system of quality and integrity.

1-102 Application

These Procedures apply to the procurement of supplies, services, and construction, entered into by Genesee County after the effective date of these Procedures. They shall apply to every expenditure of public funds by Genesee County irrespective of the source of the funds. When the procurement involves the expenditure of federal or state assistance or contract funds, the procurement shall be conducted in accordance with any mandatory applicable federal or state law and regulations. Nothing in these Regulations shall prevent any public agency from complying with the terms and conditions of any grant, gift, or bequest that is otherwise consistent with law.

Part B - Public Access to Procurement Information

1-201 Public Access to Procurement Information

Procurement information shall be a public record to the extent provided in Act 442 of the Public Acts of 1976 (Michigan Compiled Laws (MCL) 15.231 et seq.), as amended, and shall be available to the public as provided in said statute.

Part C – Interpretation

1-301 Definitions

- (1) *The Board* means the Genesee County Board of Commissioners.
- (2) *Brand Name or Equal Specification.* A specification limited to one or more items by manufacturer's names or catalogue numbers to describe the standard of quality, performance, and other salient characteristics needed to meet County requirements, and which provides for the submission of equivalent products.



- (3) *Brand Name Specifications.* A specification limited to one or more items by manufacturers' names or catalogue numbers.
- (4) *Business.* Any corporation, partnership, individual, sole proprietorship, joint stock company, joint venture, or any other private legal entity offering or providing a product or service to the County.
- (5) *Capital Equipment.* An article costing more than \$1,000.00, with a useful life of more than one year, but excluding Information Technology.
- (6) *Change Order.* A written order issued by the Contract Administrator or the Purchasing Administrator directing the contractor to make changes which the "changes" clause of the contract authorizes the Contract Administrator or Purchasing Administrator to order without the consent of the contractor.
- (7) *Contract Modification (bilateral change).* Any written alteration in specifications, delivery point, rate of delivery, period of performance, price, quantity, or other provisions of any contract accomplished by mutual action of the parties to the contract.
- (8) *Confidential Information.* Any information which is available to any employee only because of the employee's status as an employee of the County and is not a matter of public knowledge or available to the public on request.
- (9) *Construction.* The process of building, altering, repairing, improving, or demolishing any public structure or building, or other public improvements of any kind to any public real property. It does not include the routine operation, or routine maintenance of existing structures, buildings, or real property.
- (10) *Contract.* All types of County agreements, regardless of what they may be called, for the procurement of supplies, services, or construction.
- (11) *Contractor.* Any person or entity having a contract with the County.
- (12) *Cost Analysis.* The evaluation of cost data for the purpose of arriving at costs actually incurred or estimates of costs to be incurred, prices to be paid, and costs to be reimbursed.
- (13) *Cost Data.* Factual information concerning the cost of labor, material, overhead, and other cost elements which are expected to be incurred or which have been actually incurred by the contractor in performing the contract.



- (14) *Cost-Reimbursement Contract.* A contract under which a contractor is reimbursed for costs which are allowable and allocable in accordance with the contract terms and the provisions of these Regulations, and a fee or profit, if any.
- (15) *Department.* Any department or other governmental unit designated as a “department” within the budget system of Genesee County, irrespective of whether that unit in any other respect, sense or designation is a unit of County government.
- (16) *Direct or Indirect Participation.* Involvement through decision, approval, disapproval, recommendation, preparation of any part of a purchase or request, influencing the content of any specification or procurement standard, or rendering of advice, investigation, auditing, or any other advisory service.
- (17) *Employee.* An individual drawing a salary or wages from the County, whether elected or not. For the purposes of these Purchasing Regulations, the definition of *Employee* also includes any non-compensated individual performing personal services for the County or any department, agency, commission, council, board, or any other entity established by the executive or legislative branch of the County, and any non-compensated individual serving as an elected official of the County.
- (18) *Financial Interest.*
 - (a) Ownership of an interest or involvement in any relationship from which, or as a result of which, a person within the past year has received, or is presently or in the future entitled to receive, more than \$100 per year, or its equivalent;
 - (b) Ownership of any property or business; or
 - (c) Holding a position in a business such as officer, Purchasing Administrator, trustee, partner, employee, or the like, or holding any position of management.
 - (d) Ownership of stock in a corporation and receipt of dividends or other benefits by virtue of that ownership. However, ownership of stock in a corporation does not constitute a financial interest within the meaning of these Regulations if the stock owned is not listed on a stock exchange and does not exceed 1% of the total outstanding stock of any class, or, if the stock is listed on a stock exchange, if the stock does not have a present market value in excess of \$25,000.
- (19) *Genesee County Business.* A sole proprietorship, partnership, limited partnership, limited liability company, or corporation whose primary place of business is located within Genesee County, Michigan, and who has made a personal property tax filing with a city or township treasurer within Genesee County within the last 12 months, or



GENESEE COUNTY

— M I C H I G A N —

who has paid a real property tax assessment to a city or township treasurer within Genesee County within the last 12 months.

- (20) *Gratuity.* A payment, loan, subscription, advance, deposit of money, service, or anything of more than nominal value, present or promised, unless consideration of substantially equal or greater value is received.
- (21) *Immediate Family.* A spouse, children, parents, brothers, and sisters.
- (22) *Information Technology.* Department of Information Technology equipment such as computers, servers, monitors, printers, scanners, input devices, networking equipment, and software, and telecommunications equipment such as telephones, fax machines, modems, routers, switches, and network devices. In addition, this definition includes support and service contracts for all types of computer equipment.
- (23) *Invitation for Bids.* All documents, whether attached or incorporated by reference, utilized for soliciting sealed bids.
- (24) *Chief Information Officer ("CIO").* The Director of the Genesee County Department of Information Technology.
- (25) *Minority Business Enterprise (MBE).* At least 51 percent owned, controlled and operated (defined as being actively involved in the day-to-day management) by a minority group member(s) and /or certified by the Michigan Minority Business Development Council (MMBDC). In publicly held businesses, minority group members must own at least 51 percent of the stock.
- (26) *Person.* Any business, individual, union, committee, club, other organization, or group of individuals.
- (27) *Preferred Business.* A Genesee County Business, or a Veteran-Owned Business.
- (28) *Procurement.* The buying, purchasing, renting, leasing, or otherwise acquiring of any supplies, services, or construction. It also includes all functions that pertain to obtaining of, or seeking to obtain, any supply, service, or construction, including description of requirements, selection and solicitation of sources, preparation and award of contract, and all phases of contract administration.
- (29) *Public Agency.* A public entity subject to or created by the County.
- (30) *Public Entity.* A governmental entity such as the Federal Government, the State of Michigan, or any municipality, and any agency or political subdivision of the Federal Government, any of the United States, or a municipality.



GENESEE COUNTY

— M I C H I G A N —

- (31) *Purchasing Administrator* means the Purchasing Administrator as described in Article 2 of these Regulations.
- (32) *Qualified Products List.* An approved list of supplies, services, or construction items described by model or catalogue numbers, which, prior to competitive solicitation, the Purchasing Administrator has determined will meet the applicable specification requirements.
- (33) *Request for Proposals (RFP).* All documents, whether attached or incorporated by reference, utilized for soliciting proposals.
- (34) *Request for Qualifications (RFQ).* All documents, whether attached or incorporated by reference, utilized for soliciting offers for the purpose of a qualifications based determination.
- (35) *Responsible Bidder or Offeror.* A person who has the capability in all respects to perform fully the contract requirements, and the tenacity, perseverance, experience, integrity, reliability, capacity, facilities, equipment, and credit which will assure good faith performance.
- (36) *Responsive Bidder.* A person who has submitted a bid which conforms in all material respects to the requirements set forth in the invitation for bids.
- (37) *Services.* The furnishings of labor, time, or effort by a contractor, not involving the delivery of a specific end product other than reports which are merely incidental to the required performance. This term shall not include employment agreements or collective bargaining agreements.
- (38) *Specification.* Any description of the physical or functional characteristics or of the nature of a supply, service, or construction item. It may include a description of any requirement for inspecting, testing, or preparing a supply, service, or construction item for delivery.
- (39) *Supplies.* All property, including but not limited to equipment, materials, printing, insurance, and leases of real property, excluding land or a permanent interest in land.
- (40) *Surplus Property.* Surplus property is all personal property, including equipment, capital equipment, information technology, and supplies, owned by the County that is not currently being utilized by any County Department.
- (41) *Using Agency.* Any county department, commission, board, or public agency requiring supplies, services, or construction procured pursuant to these Regulations.



- (42) *Veteran.* A person who served in the active military forces, during a period of war or who received the armed forces expeditionary or other campaign service medal during an emergency condition, and who was discharged or released therefrom under honorable conditions.
- (43) *Veteran-Owned Business.* A business which is at least 51% owned by veterans.
- (44) *Fiscal year.* A one-year period that governments use for financial reporting and budgeting. The County's fiscal year is October 1 – September 30.



ARTICLE 2 - OFFICE OF THE PURCHASING ADMINISTRATOR

2-101 Establishment, Appointment, and Tenure

- (1) *Establishment of the Position of Purchasing Administrator.* There is hereby created the position of Purchasing Administrator, who shall be the County's principal public purchasing official.
- (2) *Appointment.* The Purchasing Administrator shall be appointed by the Chief Financial Officer ("CFO").

2-102 Authority and Duties

- (1) *Principal Public Purchasing Official.* Except as otherwise provided herein, the Purchasing Administrator shall serve as the principal public purchasing official for the County, and shall be responsible for the procurement of supplies, services, and construction in accordance with these Regulations, as well as the management and disposal of supplies.
- (2) *Duties.* In accordance with these Regulations, and subject to the supervision of the Chief Financial Officer, the Purchasing Administrator shall:
 - (a) procure or supervise the procurement of all supplies, services, and construction needed by the County;
 - (b) sell, trade, or otherwise dispose of surplus equipment and supplies belonging to the County; and
 - (c) establish and maintain programs for specification development, contract administration and inspection and acceptance, in cooperation with the public agencies using the supplies, services, and construction.
- (3) *Approval of Award.* The Purchasing Administrator shall make no bid award of any contract other than as authorized by these Purchasing Regulations, unless approved by the County Board of Commissioners.
- (4) *Operational Procedures.* Consistent with these Regulations, and with the approval of the Genesee County Board of Commissioners, the Purchasing Administrator may adopt operational procedures relating to the execution of his or her duties.



ARTICLE 3 - SOURCE SELECTION AND CONTRACT FORMATION

Part A - Methods of Source Selection

3-101 Competitive Sealed Bidding for Purchases over \$30,000

- (1) *Conditions for Use.* All procurement contracts of the County shall be awarded by the use of competitive sealed bidding except as otherwise provided in Sections 3-102 (Competitive Sealed Proposals), 3-103 Requests for Qualifications, 3-104 (Small Purchases), 3-106 (Public Entity Procurements), 3-107 (Bridge Contracts), 3-108 (Sole Source Procurement), and 3-109 (Emergency Procurements), of these Regulations.
- (2) *Invitation for Bids.* An invitation for bids shall be issued and shall include specifications, and all contractual terms and conditions applicable to the procurement.
- (3) *Public Notice.* Adequate public notice of the invitation for bids shall be given, which notice shall be not less than fourteen (14) calendar days prior to the date set forth therein for the opening of bids. Such notice may include publication in a newspaper of general circulation, County website, and/or other relevant sources within said reasonable time prior to bid opening. The public notice shall state a short description of the request, the place to submit bid, and due date of the bid.
- (4) *Bid Opening.* Bids shall be opened publicly in the presence of one or more witnesses at the time and place designated in the invitation for bids. The amount of each bid, and such other relevant information as the Purchasing Administrator deems appropriate, together with the name of each bidder shall be recorded; the record and each bid shall be open to public inspection in accordance with Section 1-201 (Public Access to Procurement Information).
- (5) *Bid Acceptance and Bid Evaluation.* Bids shall be unconditionally accepted without alteration or correction, except as authorized in these Regulations. Bids shall be evaluated based on the requirements set forth in the invitation for bids, which may include criteria to determine acceptability such as inspection, testing, quality, workmanship, delivery, and suitability for a particular purpose. Those criteria that will affect the bid price and be considered in the evaluation for award shall be objectively measurable, such as discounts, transportation costs, and total or life cycle costs. The invitation for bids shall set forth the evaluation criteria to be used. No criteria may be used in bid evaluation that are not set forth in the invitation for bids.
- (6) *Correction or Withdrawal of Bids; Cancellation of Awards.* Corrections or withdrawal of inadvertently erroneous bids before or after bid opening, or cancellation of awards or



GENESEE COUNTY

— M I C H I G A N —

contracts based on such bid mistakes, may be permitted where appropriate. Mistakes discovered before bid opening may be modified or withdrawn by written or telegraphic notice received in the office designated in the invitation for bids prior to the time set for bid opening. After bid opening, corrections in bids shall be permitted only to the extent that the bidder can show by clear and convincing evidence that a mistake of a nonjudgmental character was made, the nature of the mistake, and the bid price actually intended. After bid opening, no changes in bid prices or other provisions of bids prejudicial to the interest of the County or fair competition shall be permitted. In lieu of bid correction, a low bidder alleging a material mistake of fact may be permitted to withdraw its bid if:

- (a) the mistake is clearly evident on the face of the bid document but the intended correct bid is not similarly evident; or
 - (b) the bidder submits evidence which clearly and convincingly demonstrates that a mistake was made. All decisions to permit the correction or withdrawal of bids, or to cancel awards or contracts based on bid mistakes, shall be supported by a written determination made by the Purchasing Administrator.
- (7) *Second Chance for Preferred Businesses.* Unless the funding source for the contract prohibits such preferences, within 5 business days of bid opening, if the lowest responsive responsible bidder is not a Genesee County Business a Genesee County Business who has submitted a responsive bid that is no more than 5% higher than the lowest responsive bid may submit an amended bid to the Purchasing Administrator. In the event that there are multiple Preferred Businesses that would qualify for an opportunity to submit an amended bid, only the Preferred Business submitting the lowest qualifying bid may submit an amended bid. A Preferred Business who is the lowest responsive responsible bidder may not amend their bid pursuant to this section. Amended bids submitted by Preferred Businesses in this manner shall be considered along with other responsive bids submitted by responsible bidders.
- (8) *Award.* The Using Agency, with the advice and approval of the Purchasing Administrator, shall evaluate the bids and recommend award of the contract to the Board. The Board of Commissioners shall award the contract to the lowest responsible and responsive bidder whose bid meets the requirements and criteria set forth in the invitation for bids. In the event the lowest responsive and responsible bidder submitted a bid for a construction project which exceeds available funds as certified by the Chief Financial Officer, the Purchasing Administrator is authorized, when time or economic considerations preclude re-solicitation of work of a reduced scope, to negotiate an adjustment of the bid price with the low responsive and responsible bidder, in order to bring the bid within the amount of available funds. Any such negotiated adjustment shall be based only upon eliminating independent deductive items specified in the invitation for bids. The Board of Commissioners may award multiple contracts, dividing the goods,



services, or construction called for in the invitation for bids between multiple responsive and responsible bidders, if it is in the best interest of the County.

- (9) *Multi-Step Sealed Bidding.* When it is considered impractical to prepare initially a purchase description to support an award based on price, an invitation for bids may be issued requesting the submission of unpriced offers to be followed by an invitation for bids limited to those bidders whose offers have been determined to be technically acceptable under the criteria set forth in the first solicitation.

3-102 Competitive Sealed Proposals

- (1) *Conditions for Use.* When the Purchasing Administrator determines that the use of competitive sealed bidding is either not practicable or not advantageous to the County, a contract may be entered into by use of the competitive sealed proposals method.
- (2) *Request for Proposals.* Proposals shall be solicited through a request for proposals.
- (3) *Public Notice.* Adequate public notice of the request for proposals shall be given in the same manner as provided in Section 3-101(3) (Competitive Sealed Bidding, Public Notice).
- (4) *Receipt of Proposals.* A register of proposals, or a bid tab, shall be prepared containing the name of each offeror, the number of modifications received, if any, and a description sufficient to identify the item offered. The register of proposals shall be open for public inspection only after contract award.
- (5) *Disclosure of Offerors, Contents.* The identity of any offeror or the contents of any proposal shall not be disclosed to competing offerors prior to award of the contract.
- (6) *Evaluation Factors.* The request for proposals shall state the relative importance of price and other evaluation factors.
- (7) *Discussion with Responsible Offerors and Revisions to Proposals.* As provided in the request for proposals, discussions may be conducted with responsible offerors who submit proposals determined to be reasonably susceptible of being selected for award for the purpose of clarification to assure full understanding of, and conformance to, the solicitation requirements. Offerors who submitted proposals determined to be reasonably susceptible of being selected for award shall be accorded fair and equal treatment with respect to any opportunity for discussion and revision of proposals and such revisions may be permitted after submissions and prior to award for the purpose of obtaining best and final offers.



- (8) *Preference for Genesee County Businesses.* Unless the funding source for the contract prohibits such preferences, in the case of requests for proposals where a quantitative based evaluation criteria is used for evaluating responsive proposals, Preferred Businesses shall be afforded an additional five (5) percent of the total evaluation points up to a maximum of five (5) points.
- (9) *Award.* The Using Agency, with the advice and approval of the Purchasing Administrator, shall evaluate the proposals and recommend award of the contract to the Board. The Board of Commissioners shall award the contract to the responsible offeror whose proposal is determined to be the most advantageous to the County, taking into consideration price and the evaluation factors set forth in the request for proposals. The bid file shall contain the basis on which the award is made. The Board of Commissioners may award multiple contracts, dividing the goods, services, or construction called for in the request for proposals between multiple responsive responsible offerors, if it is in the best interest of the County.

3-103 Qualifications Based Selection

- (1) *Conditions for Use.* When professional services are required by the County and using a qualifications based selection criteria is determined by the Purchasing Administrator to be the most appropriate procurement process to be used, a contract may be entered into by use of the request for qualifications method.
- (2) *Request for Qualifications.* As determined by the Purchasing Administrator, qualifications shall be solicited through a request for qualifications. The request may specify the services needed and the price the County may pay for those services. Further, qualifications may be solicited for the purpose of pre-qualifying firms for the issuance of an invitation for bids or request for proposals. In issuing a request for qualifications where the scope of work/services and price to be paid for the services are not clearly specified, the County may engage in negotiating a specific scope of work/services and price with the most qualified offeror. In the event the most qualified offeror and the County cannot reach an agreement through the negotiation process, negotiations may be undertaken with the next most qualified offeror until an agreement is approved by the Board of Commissioners.
- (3) *Public Notice.* Adequate public notice of the request for qualifications shall be given in the same manner as provided in Section 3-101(3) (Competitive Sealed Bidding, Public Notice).
- (4) *Receipt of Qualifications.* A register, or bid tab, of qualifications shall be prepared containing the name of each offeror and the qualifications of each offeror. The register of qualifications shall be open for public inspection only after contract award.



- (5) *Evaluation Factors.* The request for qualifications shall state the evaluation factors to be used in selecting the successful offeror.
- (6) *No Modification of Services or Price.* There shall be no change to the services or the price set in the request for qualifications without the approval of the Purchasing Administrator.
- (7) *Preference for Genesee County Businesses.* Unless the funding source for the contract prohibits such preferences, in the case of requests for qualifications where a quantitative based evaluation criteria is used for evaluating responsive submissions, Preferred Businesses shall be afforded an additional five (5) percent of the total evaluation points up to a maximum of five (5) points.
- (8) *Award.* The Using Agency, with the advice and approval of the Purchasing Administrator, shall evaluate the qualifications and recommend award of the contract to the Board. The Board of Commissioners shall award the contract to the responsible offeror whose qualifications are determined to be the most advantageous to the County, taking into consideration the evaluation factors set forth in the request for qualifications. The bid file shall contain the basis on which the award is made.

3-104 Small Purchases

- (1) *General.* Except as provided in 3-105 below, any contract not exceeding \$30,000 per cumulative total may be made in accordance with the small purchase procedure authorized in this Section. Contract requirements shall not be artificially divided so as to constitute a small purchase under this Section.
- (2) *Small Purchases under \$1000.* Purchases of \$1000 or less do not require a purchase order and can be processed through the Accounts Payable financial software system. The Office of Fiscal Services will track these purchases to ensure that they are not artificially divided or do not exceed a small purchase as denoted under this Section during a fiscal year.
- (3) *Small Purchases between \$1000.01 - \$10,000.* For small purchases between \$1000.01 - \$10,000, the Using Agency shall solicit no less than two businesses to submit quotations to provide the good or service sought. Quotations may be either verbal, written, or electronic. Such businesses to be solicited shall include, but not necessarily be limited to, local businesses, if qualified local businesses exist, in order to ensure that there will be full participation of all segments of the local business and contracting community. The Purchasing Administrator shall award the contract to the business offering the lowest acceptable quotation. Relative qualifications may be considered as well as quoted fees, however, in awarding contracts for services. The names of the businesses submitting quotations, and the date and amount of each quotation, shall be



recorded and maintained as a public record. Unless the funding source for the contract prohibits such preferences, if the most favorable quotation is submitted by a business other than a Genesee County Business or Veteran-Owned Business, the Purchasing Administrator shall afford the Preferred Business who submitted the lowest quotation that is within 5% of the most favorable quotation an opportunity to amend their quotation, and the amended quotation shall be considered.

- (4) *Small Purchases between \$10,001 - \$30,000.* For small purchases between \$10,001 - \$30,000, the Using Agency shall solicit no less than three businesses to submit quotations to provide the good or service sought. Quotations must be either written or electronically obtained. Such businesses to be solicited shall include, but not necessarily be limited to, local businesses, if qualified local businesses exist, in order to ensure that there will be full participation of all segments of the local business and contracting community. The Purchasing Administrator shall award the contract to the business offering the lowest acceptable quotation. Relative qualifications may be considered as well as quoted fees, however, in awarding contracts for services. The names of the businesses submitting quotations, and the date and amount of each quotation, shall be recorded and maintained as a public record. Unless the funding source for the contract prohibits such preferences, if the most favorable quotation is submitted by a business other than a Genesee County Business or Veteran-Owned Business, the Purchasing Administrator shall afford the Preferred Business who submitted the lowest quotation that is within 5% of the most favorable quotation an opportunity to amend their quotation, and the amended quotation shall be considered. If the Using Agency cannot obtain the requested three (3) quotes, Using Agency must consult with the Purchasing Department for further review.

3-105 Category-Specific Small Purchase Procedures

- (1) *Capital Equipment.* The Purchasing Administrator is authorized to award a contract for the purchase of Capital Equipment, which is defined under Resolution #13-456 (adopted on 09/25/2013), provided that the requesting Agency's budget contains sufficient funds in the appropriate line item(s) to fund the purchase, and the purchase is otherwise consistent with the Purchasing Regulations. If the purchase price of Capital Equipment exceeds \$30,000.00, the Board of Commissioners must approve the purchase.
- (2) *Information Technology.* The CIO and Purchasing Administrator is authorized to award a contract for the purchase of Information Technology without the approval of the Board if the purchase price of the Information Technology does not exceed \$30,000.00, provided that the requesting Using Agency's budget contains sufficient funds in the appropriate line item(s) to fund the purchase, and the purchase is otherwise consistent with the Purchasing Regulations. If the purchase price of the Information Technology exceeds \$30,000.00, the Board of Commissioners must approve the purchase.



- (3) Procurements made pursuant to this Section must not be artificially divided so as to avoid Board approval.

3-106 Public Entity Procurements

If the Purchasing Administrator determines that it is in the best interest of the County to obtain goods, services, or construction from those available within the public sector, the Board may award a contract to a public entity without competition. Among the factors to be considered in determining whether a public entity procurement is in the best interest of the County is the cost effectiveness of the proposed procurement.

3-107 Bridge Contracts

The Board may award a contract for large purchases and the Purchasing Administrator may award a contract for small purchases to a person who has an existing contract with another public entity for goods, services, or construction that the County would like to procure if at a minimum:

- (1) The contract is for the same goods, services, or construction and at the same price, terms, and conditions as are in the contract with the other public entity;
- (2) The contract between the person and the other public entity was awarded as a result of adequate competition as determined by the Purchasing Administrator; and
- (3) The bridge contract is in the best interest of the County.

3-108 Sole Source Procurement

A contract may be awarded without competition when the Purchasing Administrator determines, after conducting a good faith review, which may include a sole source solicitation, of available sources and existing equipment, that:

- (1) there is only one source for the required supply, service, or construction item; or
- (2) the chosen source is the best choice in the interests of equipment standardization and efficient operations.

Purchases less than \$10,000 that do not require a signature, may be awarded by the Purchasing Administrator. When a contract or purchase order requires a signature, it must go through the County document review process and may only be signed by the Chair of the Board of Commissioners or, if the amount does not exceed \$30,000, the Director of



Administration. All purchases that exceed \$30,000 must be ratified by the Board of Commissioners and may only be signed by the Chairperson of the Board.

The Purchasing Administrator shall conduct negotiations, as appropriate, as to price, delivery, and terms. A record of sole source procurements shall be maintained as a public record and shall list each contractor's name, the amount and type of each contract, and a listing of the item(s) procured under each contract.

3-109 Emergency Procurements

Notwithstanding any other provisions of these Regulations, the Purchasing Administrator may make or authorize others to make emergency procurements of supplies, services, or construction items when there exists a threat to public health, welfare, or safety; provided that such emergency procurements shall be made with such competition as is practicable under the circumstances. A written determination of the basis for the emergency and for the selection of the particular contractor shall be included in the file. As soon as practicable, a record of each emergency procurement shall be made and shall set forth the contractor's name, the amount and type of the contract, and a listing of the item(s) procured under the contract. This information will be submitted to the Board of Commissioners to be placed on file.

3-110 Cancellation of Invitations for Bids or Requests for Proposals

When it is in the best interests of the County, the Purchasing Administrator may cancel an invitation for bids, a request for proposals, or other solicitation, or may reject, in whole or in part, any or all bids, proposals, or other submissions as may be specified in the solicitation. The reasons therefore shall be made part of the bid file. Each solicitation issued by the County shall state that the solicitation may be canceled and that any bid or proposal may be rejected in whole or in part for good cause when in the best interests of the County. Notice of cancellation shall be sent to all businesses solicited. The notice shall identify the solicitation, explain the reason for cancellation, and, where appropriate, explain that an opportunity will be given to compete on any re-solicitation or any future procurements of similar items. Reasons for rejection shall be provided upon request by unsuccessful bidders or offerors.

3-111 Existing Contracts, Exclusivity

If there is an existing contract between the County and a Contractor for a particular good or service, a County Using Agency shall not seek to obtain a contract for that same good or service from another Contractor unless that County Using Agency first determines that the alternative contract is more cost-effective and more advantageous for the County. Such justification shall be made in writing, and shall be filed with the Purchasing Administrator prior to the award of the alternative contract.



Part B - Qualifications and Duties

3-201 Responsibility of Bidders and Offerors

Determination of Non-responsibility. If a bidder or offeror who otherwise would have been awarded a contract is found non-responsible, a written determination of non-responsibility, setting forth the basis of the finding, shall be prepared by the Purchasing Administrator. The unreasonable failure of a bidder or offeror to supply promptly information in connection with an inquiry with respect to responsibility may be grounds for a determination of non-responsibility with respect to such bidder or offeror. A copy of the determination shall be sent promptly to the non-responsible bidder or offeror. The final determination shall be made part of the bid file and be made a public record.

3-202 Bid, Payment, Maintenance and Performance Bonds on Supply or Service Contracts

Bid surety, payment bonds, maintenance bonds or performance bonds or other security may be required for supply contracts or service contracts in conformance with State law or as the Purchasing Administrator or head of a Using Agency deems advisable to protect the County's interest. Any such bonding requirements shall be set forth in the solicitation. Bid surety, payment bonds, maintenance bonds or performance bonds shall not be used as a substitute for a determination of a bidder or offeror's responsibility.

Construction contracts not exceeding \$50,000.00 do not require a bid bond.

Part C - Types of Contracts and Contract Administration

3-301 Types of Contracts

- (1) *General Authority.* Subject to the limitations of this Section, any type of contract which is appropriate to the procurement and which will promote the best interests of the County may be used, provided that the use of a cost-plus-a-percentage-of-cost contract is prohibited. A cost reimbursement contract may be used only when one of the following conditions applies:
 - (a) The Purchasing Administrator determines, in writing that such a contract is likely to be less costly to the County than any other type of contract or that it is impracticable to obtain the supply, service, or construction item required except under such a contract.
 - (b) The Using Agency approves the Contractor's line-item budget for the contract and determines that the line items within that budget are consistent with market rates for each line-item.



(2) *Multi-Term Contracts.*

- (a) *Specified Period.* Unless otherwise provided by law, a contract for supplies or services may be entered into for any period of time as deemed by the Purchasing Administrator to be in the best interests of the County, provided the term of the contract and conditions of renewal or extension, if any, are included in the solicitation and funds are available for the first fiscal period at the time of contracting. Payment and performance obligations for succeeding fiscal periods shall be subject to the availability and appropriation of funds therefore.
- (b) *Determination Prior to Use.* Prior to the utilization of a multi-term contract, it shall be determined:
 - (i) that estimated requirements cover the period of the contract and are reasonably firm and continuing; and
 - (ii) that such a contract will serve the best interests of the County by encouraging effective competition or otherwise promoting economies in County procurement.

(3) *Multiple Source Contracting.*

- (a) *General.* A multiple source award is an award of an indefinite quantity contract for one or more similar supplies or services to more than one bidder or offeror. The obligation to order the County's actual requirements is limited by the provision of Uniform Commercial Code Section 2-306(1).
- (b) *Limitations on Use.* A multiple source award may be made when award to two or more bidders or offerors for similar products is necessary for adequate delivery, service, or product compatibility. Any multiple source award shall be made in accordance with the provisions of Section 3-101 (Competitive Sealed Bidding), Section 3-102 (Competitive Sealed Proposals), Section 3-103 (Request for Qualifications 3-104 (Small Purchases), and Section 3-109 (Emergency Procurements), as applicable. Multiple source awards shall not be made when a single award will meet the County's needs without sacrifice of economy or service, or is not in the best interests of the County. Awards shall not be made for the purpose of dividing the business, making available product or supplier selection to allow for user preference unrelated to utility or economy, or avoiding the resolution of tie bids. Any such awards shall be limited to the least number of suppliers necessary to meet the valid requirements.
- (c) *Contract and Solicitation Provisions.* All eligible users of the contract shall be named in the solicitation, and it shall be mandatory that the actual requirements of such users



GENESEE COUNTY

M I C H I G A N

that can be met under the contract be obtained in accordance with the contract, provided that:

- (i) the County shall reserve the right to take bids separately if a particular quantity requirement arises which exceeds its normal requirement or an amount specified in the contract; and
 - (ii) the County shall reserve the right to take bids separately if the Purchasing Administrator approves a finding that the supply or service available under the contract will not meet a nonrecurring special need of the County.
- (d) *Intent to Use.* If a multiple source award is anticipated prior to issuing a solicitation, the County shall reserve the right to make such an award and the criteria for award shall be stated in the solicitation.
- (e) *Determination Required.* The Purchasing Administrator shall make a written determination setting forth the reasons for a multiple source award, which shall be made a part of the bid file.

3-302 Contract Clauses and Their Administration

- (1) *Contract Clauses.* All County contracts for supplies, services, and construction shall include provisions necessary to define the responsibilities and rights of the parties to the contract. The Purchasing Administrator, after consultation with Corporation Counsel, may issue clauses appropriate for supply, service, or construction contracts.
- (2) *Standard Clauses and Their Modification.* The Purchasing Administrator, after consultation with Corporation Counsel, may establish standard contract clauses for use in County contracts. If the Purchasing Administrator establishes any standard clauses addressing the subjects set forth in Subsection (1) of this Section, such clauses may be varied, provided that the circumstances justify such variations, and provided that notice of any such material variation be stated in the invitation for bids or request for proposals.
- (3) *Prevailing Wage and Project Labor Agreements.* The County shall insert language into bid construction specifications that requires paying construction laborers prevailing wage. The County will adhere to all State and Federal requirements in administering the necessary nomenclature for prevailing wages.
- (4) *Contractor Sign-In / Sign-Out.* Each contract that requires work on County property with a contract value in excess of \$30,000.00 shall include a requirement that the contractor maintain a worksite sign-in sheet recording the arrival to and departure County property of each of Contractor's employees. The contract shall require that the sign-in sheet shall be



available for review immediately upon the request of the Contract Administrator of the contract. The Contract Administrator for each contract shall be responsible for ensuring that the contractor is keeping and maintaining the required sign-in document.

3-303 Approval of Accounting System

Except with respect to firm fixed price contracts, no contract type shall be used unless it has been determined by the Purchasing Administrator that:

- (1) the proposed contractor's accounting system will permit timely development of all necessary cost data in the form required by the specific contract type contemplated; and
- (2) the proposed contractor's accounting system is adequate to allocate costs in accordance with generally accepted cost accounting principles.

3-304 Right to Inspect Plant

The County may, at reasonable times, inspect the part of the plant, place of business, or worksite of a contractor or subcontractor at any tier which is pertinent to the performance of any contract awarded or to be awarded by the County.

3-305 Right to Audit Records

- (1) *Audit of Cost or Pricing Data.* The County may at reasonable times and places, audit the books and records of any contractor who has submitted cost or pricing data as a part of its bid or proposal, to the extent that such books, documents, paper, and records are pertinent to such cost or pricing data for three years from the date of final payment under the contract.
- (2) *Contract Audit.* The County shall be entitled to audit the books and records of a contractor or subcontractor at any tier under any negotiated contract or subcontract other than a firm fixed-price contract to the extent that such books, documents, paper, and records are pertinent to the performance of such contract or subcontract. Such books and records shall be maintained by the contractor for a period of three years from the date of final payment under the prime contract and by the subcontractor for a period of three years from the date of final payment under the subcontract.

3-306 Reporting of Anticompetitive Practices

When for any reason collusion or other anticompetitive practices are suspected among any bidders or offerors, a notice of the relevant facts shall be transmitted to the State Attorney General and the Genesee County Prosecutor.



3-307 County Procurement Records

- (1) *Bid File.* All determinations and other written records pertaining to the solicitation and award of a contract shall be maintained for the County in a bid file by the Purchasing Administrator.
- (2) *Retention of Procurement Records.* All procurement records shall be retained and disposed of by the County in accordance with records retention guidelines and schedules approved by the County Board of Commissioners or State of Michigan.



ARTICLE 4 - SPECIFICATIONS

4-101 Maximum Practicable Competition

All specifications shall be drafted so as to promote overall economy for the purposes intended and encourage competition in satisfying the County's needs, and shall not be unduly restrictive. The policy enunciated in this Section applies to all specifications including but not limited to, those prepared for the County by architects, engineers, designers, and draftsmen.

4-102 Brand Name or Equal Specification

- (1) *Use.* Brand name or equal specifications may be used when the Purchasing Administrator determines that:
 - (a) no other design or performance specification or qualified products list is available;
 - (b) time does not permit the preparation of another form of purchase description, not including a brand name specification;
 - (c) the nature of the product or the nature of the County's requirements makes use of a brand name or equal specification suitable for the procurement; or
 - (d) use of a brand name or equal specification is in the County's best interests.
- (2) *Designation of Several Brand Names.* Brand name or equal specifications may seek to designate three or as many different brands as are practicable, as "or equal" references and shall further state that substantially equivalent products to those designated will be considered for award.
- (3) *Use of Brand Name or Equivalent.* Solicitations may allow for brand name or equivalents to be bid or proposed in response to a competitive sealed bid or proposal. The solicitation shall further allow for substantially equivalent products as "approved alternates" to be considered for award.
- (4) *Required Characteristics.* Unless the Purchasing Administrator determines in writing that the essential characteristics of the brand names included in the specifications are commonly known in the industry or trade, brand name or equal specifications shall include a description of the particular design, functional, or performance characteristics which are required.
- (5) *Nonrestrictive Use of Brand Name or Equal Specifications.* Where a brand name or equal specification is used in a solicitation, the solicitation shall contain explanatory language that the use of a brand name is for the purpose of describing the standard of



quality, performance, and characteristics desired and is not intended to limit or restrict competition.

4-103 Brand Name Specification

- (1) *Use.* Since use of a brand name specification is restrictive of product competition, it may be used only when the Purchasing Administrator makes a determination that only the identified brand name item or items will satisfy the County's needs.
- (2) *Competition.* The purchasing agent shall seek to identify sources from which the designated brand name item or items can be obtained and shall solicit such sources to achieve whatever degree of price competition is practicable. If only one source can supply the requirement, the procurement shall be made under Section 3-108 (Sole Source Procurement).



ARTICLE 5 – CONTRACT ADMINISTRATION

5-101 Contract Modifications

- (1) *No change without consideration.* A Contract may not be modified to the detriment of the County unless the Contractor provides full and fair consideration for the modification.
- (2) *Authority for modification.* A modification of a Contract must be approved in the same manner in which the Contract was approved. All Contract modifications must be in writing.
- (3) *Authority for Termination.* A Using Agency shall not unilaterally terminate a contract. Request for termination of a Contract must be submitted by the Using Agency to the Director of Administration prior to termination. When possible, termination of a Contract should be determined and executed in the same manner in which the Contract was approved. If the Director of Administration, after consultation with the office of Corporation Counsel, determines that immediate Contract termination, pursuant to the terms of the contract, is in the best interest of the County and that the time required to seek Board approval could harm the county, the Director of Administration may terminate the Contract prior to the next regularly scheduled Board meeting. If a contract is terminated pursuant to this provision, the Director of Administration shall immediately notify the parent committee and update the full Board at the next regularly scheduled public meeting.

5-102 Contract Administration

Using Agencies shall establish and maintain a contract administration system designed to insure that a contractor is performing in accordance with the solicitation under which the contract was awarded and the terms and conditions of the contract, and to ensure that the Using Agency complies with the monitoring requirements of any applicable grants. If a Using Agency determines that a contractor is in breach of the agreement, it shall notify the Director of Administration regarding the potential breach.

5-103 Purchasing System

Except as provided herein, the County's purchasing system (BS&A) shall be used by all County Using Agencies for procuring supplies, services and construction. The Purchasing Administrator or his designee shall approve all purchase orders required by County Using Agencies in BS&A.

- (1) The Purchasing Administrator may approve a purchase order outside of the BS&A system if the Purchasing Administrator concludes that the use of the system will not result in the efficient procurement of the goods, services, or construction sought, the



BS&A system will impede the timely payment of invoices, or the use of the BS&A system will promote inefficiencies in the Using Agency's operations. Decisions by the Purchasing Administrator to grant approval to County Using Agencies for nonconformity with the use of the County's purchasing system shall be documented and maintained in the Purchasing Department.

- (2) In compliance with this policy, County Using Agencies may procure and process invoices for payment without the issuance of a purchase order in BS&A for the following non-BS&A purchase order transactions: Utility Payments, Telephone Bills/Payments, Juror Payments, Witness Payments, Attorney Fees (Public Defender), Travel Arrangements, Magazine Credit Card & Periodical Subscriptions, Dues and fees to professional organizations, Registration Fees (conferences, seminars, classes, etc.), Employee benefit items, Petty Cash Reimbursements, Pre-paid Postage (including Federal Express, UPS, etc.), Investments, Employment Agency Payments, Commissioner Youth Programs, Approved Transactions, Purchases of supplies, services and construction for less than \$100.00.



ARTICLE 6 - DEBARMENT OR SUSPENSION

6-101 Authority to Debar or Suspend

After reasonable notice to the person involved and reasonable opportunity for that person to be heard, the Purchasing Administrator, after consulting with Corporation Counsel, is authorized to debar a person for cause from consideration for award of contracts. The debarment shall be for a period of not more than three years. After consultation with Corporation Counsel, the Purchasing Administrator is authorized to suspend a person from consideration for award of contracts if there is probable cause to believe that the person has engaged in any activity which might lead to debarment. The suspension shall be for a period not to exceed three months. The causes for debarment include:

- (1) conviction for commission of a criminal offense as an incident to obtaining or attempting to obtain a public or private contract or subcontract, or in the performance of such contract or subcontract;
- (2) conviction under state or federal statutes of embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, or any other offense indicating a lack of business integrity or business honesty which currently, seriously, and directly affects responsibility as a County contractor;
- (3) conviction under state or federal antitrust statutes arising out of the submission of bids or proposals;
- (4) violation of contract provisions, as set forth below, of a character which is regarded by the Purchasing Administrator to be so serious as to justify debarment action:
 - (a) deliberate failure without good cause to perform in accordance with the specifications or within the time limit provided in the contract; or
 - (b) a recent record of failure to perform or of unsatisfactory performance in accordance with the terms of one or more contracts; provided that failure to perform or unsatisfactory performance caused by acts beyond the control of the contractor shall not be considered to be a basis for debarment;
- (5) any other cause the Purchasing Administrator determines to be so serious and compelling as to affect responsibility as a County contractor, including debarment by another governmental entity for any cause listed in these Regulations; and
- (6) for violation of the ethical standards as set forth in Article 8 (Ethics in Public Contracting).



6-102 Decision to Debar or Suspend

The Purchasing Administrator shall issue a written decision to debar or suspend. The decision shall state the reasons for the action taken and inform the debarred or suspended person involved of its rights concerning judicial or administrative review.

6-103 Notice of Decision

A copy of the decision required by Section 6-102 (Decision to Debar or Suspend) shall be mailed or otherwise furnished immediately to the debarred or suspended person.

6-104 Finality of Decision

A decision under Section 6-102 (Decision to Debar or Suspend) shall be final and conclusive, unless fraudulent, or the debarred or suspended person within 10 days after receipt of the decision takes an appeal to the County Board of Commissioners or commences a timely action in court in accordance with applicable law.



ARTICLE 7 - APPEALS AND REMEDIES

7-101 Bid Protests

- (1) *Right to Protest.* Any actual or prospective bidder, offeror, or contractor who is aggrieved in connection with the solicitation or award of a contract may protest to the County Board of Commissioners. Protestors are urged to seek resolution of their complaints initially with the Purchasing Administrator.
- (2) *Process for Filing a Protest.* A protest with respect to an invitation for bids or request for proposals must be submitted in writing to the Purchasing Administrator. The protest must be entitled "Bid Protest" and must clearly identify the solicitation and award under protest, and must state the grounds for the protest. The Purchasing Administrator shall provide a copy of any timely bid protest to the Board of Commissioners within seven (7) calendar days of its submission.
- (3) *Time Limits for Filing.* Protests must be received by the Purchasing Administrator no later than seven (7) calendar days after the aggrieved person knew or should have known of the facts giving rise to the protest, and in no event later than fourteen (14) calendar days after award of the contract. Failure to file a bid protest within these time limits constitutes a waiver of the protest.
- (4) *Stay of Procurements During Protests.* In the event a timely protest is submitted to the Purchasing Administrator under this Section, the Purchasing Administrator shall not proceed further with the solicitation, award, or performance of the contract until the protest is sustained or dismissed, or the County Board of Commissioners makes a determination on the record that the award or performance of a contract without delay is necessary to protect substantial interests of the County.
- (5) *Decision by the Purchasing Administrator.* Within thirty (30) days of the timely filing of a bid protest, the Purchasing Administrator shall issue a written decision sustaining or denying the bid protest. A copy of the Purchasing Administrator's decision must be provided to the protesting bidder or proposer, and to the Board of Commissioners. The Purchasing Administrator shall sustain a bid protest if the facts indicate that, under these Purchasing Regulations and the selection criteria listed in the solicitation, the contract should have been awarded to the protesting bidder or proposer.
- (6) *Appeal to the Board of Commissioners.* A protesting bidder or proposer may appeal the Purchasing Administrator's decision by filing a written appeal with the Chairperson of the Board of Commissioners within fourteen (14) days of the Purchasing Administrator's decision. Such appeal shall state the grounds for the appeal. The Board of Commissioners shall address the appeal in a public meeting and issue a decision within thirty (30) calendar days of the filing of the appeal.



- (7) *Entitlement to Costs.* When a protest is sustained and the protesting bidder or offeror should have been awarded the contract under the solicitation but was not, then the protesting bidder or offeror shall be entitled to the reasonable costs incurred in connection with the solicitation, including bid preparation costs other than attorney's fees.

7-102 Contract Claims

- (1) *Decision of the Purchasing Administrator.* All claims by a contractor against the County relating to a contract, except bid protests, shall be submitted in writing to the Purchasing Administrator for a decision. The submission must identify the grounds for the claim. The contractor may request a conference with the Purchasing Administrator on the claim. Claims include, without limitation, disputes arising under a contract, and those based upon breach or contract, mistake, misrepresentation, or other cause for contract modification or rescission.
- (2) *Notice to the Contractor of the Purchasing Administrator's Decision.* The decision of the Purchasing Administrator shall be issued in writing within thirty (30) days of submission, and shall be immediately mailed or otherwise furnished to the contractor. The decision shall state the reasons for the decision reached, and shall inform the contractor of its appeal rights under Subsection (3) of this Section.
- (3) *Finality of Purchasing Administrator's Decision; Contractor's Right to Appeal.* The Purchasing Administrator's decision shall be final and conclusive unless, within seven (7) calendar days from the date of receipt of the decision, the contractor mails or otherwise delivers a written appeal to the Chairperson of the Board of Commissioners.
- (4) *Failure to Render Timely Decision.* If the Purchasing Administrator does not issue a written decision regarding any contract controversy within thirty (30) days, then the aggrieved party may proceed as if an adverse decision had been received.

7-103 Authority of the Purchasing Administrator to Settle Bid Protests and Contract Claims

The Purchasing Administrator is authorized to settle any protest regarding the solicitation or award of a County contract, or any claim arising out of the performance of a County contract, prior to a decision by the County Board of Commissioners or the commencement of an action in a court of competent jurisdiction.

7-104 Remedies for Solicitations or Awards in Violation of Law

- (1) *Prior to Bid Opening or Closing Date for Receipt of Proposals.* If prior to the bid opening or the closing date for receipt of proposals, the Purchasing Administrator, after



consultation with Corporation Counsel, determines that a solicitation is in violation of federal, state, or municipal law, then the solicitation shall be canceled or revised to comply with applicable law.

- (2) *Prior to Award.* If after bid opening or the closing date for receipt of proposals, the Purchasing Administrator, after consultation with Corporation Counsel, determines that a solicitation or a proposed award of a contract is in violation of federal, state, or municipal law, then the solicitation or proposed award shall be canceled.
- (3) *After Award.* If, after an award, the Purchasing Administrator, after consultation with Corporation Counsel, determines that a solicitation or award of a contract was in violation of applicable law, then:
 - (a) If the person awarded the contract has not acted fraudulently or in bad faith:
 - (i) the contract may be ratified and affirmed, provided it is determined that doing so is in the best interests of the County; or
 - (ii) the contract may be terminated and the person awarded the contract shall be compensated for the actual costs reasonably incurred under the contract, plus a reasonable profit, prior to the termination; or
 - (b) if the person awarded the contract has acted fraudulently or in bad faith the contract may be declared null and void or voidable, if such action is in the best interests of the County.



ARTICLE 8 - ETHICS IN PUBLIC CONTRACTING

8-101 Criminal Penalties

To the extent that violations of the ethical standards of conduct set forth in this Article constitute violations of the Michigan Penal Code they shall be punishable as provided therein. Such penalties shall be in addition to the civil sanctions set forth in this Part. Criminal, civil, and administrative sanctions against employees or nonemployees which are in existence on the effective date of these Regulations shall not be impaired.

8-102 Employee Conflict of Interest

It shall be unethical for any County employee to participate directly or indirectly in a contract or in a procurement in relation to a contemplated contract when the County employee knows that:

- (1) The County employee or any member of the County employee's immediate family has a financial interest pertaining to the contract or contemplated contract; or
- (2) The employee or a member of the employee's immediate family is a current or prospective employee of the contractor, in the case of an existing contract, or of a prospective contractor in the case of a contemplated contract.

8-103 Gratuities and Kickbacks

- (1) *Gratuities.*
 - (a) It shall be unethical for any person to offer, give, or agree to give to any County employee a gratuity, an offer of employment, or anything else of value in connection with any decision to approve, disapprove, or recommend the award of a contract, or in connection with any decision with regard to a bid protest, or with intent to influence the content of any specifications or procurement standards, or advice, investigation, audit report, or any other advisory communication related to a procurement or contract under these Regulations.
 - (b) It shall be unethical for any County employee to solicit, demand, accept, or agree to accept from another person a gratuity, an offer of employment, or anything else of value in connection with any decision to approve, disapprove, or recommend the award of a contract, or in connection with any decision with regard to a bid protest, or with intent to influence the content of any specifications or procurement standards, or advice, investigation, audit report, or any other advisory communication related to a procurement or contract under these Regulations.



- (2) *Kickbacks.* It shall be unethical for any payment, gratuity, or offer of employment to be made by or on behalf of a subcontractor under a contract to the prime contractor or higher tier subcontractor or any person associated therewith, as an inducement for the award of a subcontract or order.

8-104 Limitations on Contacts with County Officials

While a procurement is pending, bidders and proposers shall not communicate about the solicitation with any County employee, agent, or elected official, other than the Purchasing Administrator or other County personnel identified in the solicitation.

8-105 Prohibition Against Contingent Fees

It shall be unethical for a person to be retained, or to retain a person, to solicit or secure a County contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, except for retention of bona fide employees or bona fide established commercial selling agencies for the purpose of securing business.

8-106 Contemporaneous Employment Prohibited

It shall be unethical for any County employee who is participating directly or indirectly in procurement to become or to be, while a County employee, the employee of any person who, with the employee's knowledge, is a contractor to or is offering to become a contractor. As to a County employee who is not employed within the Purchasing Department, this Section relates only to simultaneous employment with a person who is a contractor, or is offering to become a contractor, under a contract with reference to which the employee is participating or has participated in procurement. This Section does not apply to procurement by a County employee in relation to a contract or contemplated contract in which the County employee's employment relationship with the non-County contractor is established by law or action of the Board of County Commissioners.

8-107 Waivers from Contemporaneous Employment Prohibition and Other Conflicts of Interest

The County Board of Commissioners may grant a waiver from the employee conflict of interest provision (Section 8-102; Employee Conflict of Interest) or the contemporaneous employment provision (Section 8-106; Contemporaneous Employment Prohibited) upon making a written determination that:

- (1) the requirements of Act No. 317 of the Public Acts of 1968, as amended, are complied with;



- (2) the contemporaneous employment or financial interest of the County employee or family member has been publicly disclosed;
- (3) the County employee will be able to perform its procurement functions without actual or apparent bias or favoritism; and
- (4) the contemplated award will be in the best interests of the County.

8-108 Use of Confidential Information

It shall be unethical for any employee or former employee knowingly to use confidential information for actual or anticipated personal gain, or for the actual or anticipated personal gain of any other person.

8-109 Sanctions

- (1) *Employees.* County employees are subject to any one or more of the following sanctions for violations of the ethical standards in this Article:
 - (a) oral or written warnings or reprimands;
 - (b) suspension with or without pay for specified periods of time; or
 - (c) termination of employment.
- (2) *Nonemployees.* Persons who are not county employees are subject to any one or more of the following sanctions for violations of the ethical standards:
 - (a) written warnings or reprimands;
 - (b) termination of contracts; or
 - (c) debarment or suspension as provided in Section 6-101 (Authority to Debar or Suspend).

8-110 Recovery of Value Transferred or Received in Breach of Ethical Standards

- (1) *General Provisions.* The value of anything transferred or received in breach of the ethical standards of these Regulations by a County employee or a nonemployee may be recovered from both the County employee and the nonemployee.
- (2) *Recovery of Kickbacks by the County.* Upon a showing that a subcontractor made a kickback to a prime contractor or a higher tier subcontractor in connection with the award



of a subcontractor or order thereunder, it shall be conclusively presumed that the amount thereof was included in the price of the subcontract or order and ultimately borne by the County and will be recoverable hereunder from the recipient. In addition, that amount may also be recovered from the subcontractor making such kickbacks. Recovery from one offending party shall not preclude recovery from other offending parties.



ARTICLE 9 – GENESEE COUNTY CREDIT CARD POLICY

9-101 Duties of the Purchasing Administrator

- (1) The Purchasing Administrator is responsible for credit card issuance, accounting, monitoring of credit card use, retrieval of cards, and general oversight of compliance with the Credit Card Policy.
- (2) The Purchasing Administrator shall maintain a system of internal accounting controls to monitor the use of County credit cards.
- (3) The Purchasing Administrator shall approve all credit card invoices prior to payment.
- (4) The Purchasing Administrator shall ensure that outstanding balances on County credit cards are paid within 30 days of the statement date.

9-102 Use of Credit Cards; Responsibility for Charges

- (1) Credit cards may only be issued to and used by officers and employees of Genesee County.
- (2) County credit cards may only be used for the purchase of goods or services to be used in the official business of Genesee County in accordance with the Genesee County Purchasing Regulations.
- (3) Any officer or employee using a County credit card for purchases shall submit appropriate and complete documentation to the Purchasing Administrator in such form as the Purchasing Administrator reasonably requires. The documentation shall, at a minimum, detail for each purchase:
 - (i) the method used to select the vendor,
 - (ii) the goods or services purchased,
 - (iii) the cost, and
 - (iv) the official business for which the goods or services were purchased.

All original documentation, such as invoices and purchase orders, must be included. Such documentation must be submitted within 14 days of the date of purchase.



- (4) Any officer or employee issued a County credit card is responsible for its custody and protection, and shall immediately notify the Purchasing Administrator if the card is lost, stolen, or misused in any way.
- (5) Any officer or employee issued a County credit card shall return the credit card to the Purchasing Administrator upon the earlier of (a) the return date specified by the Purchasing Administrator, or (b) the termination date of that officer or employee's employment with the County.

9-103 Officer or Employee of Genesee County, defined

For the purposes of this Credit Card Policy, the term 'officer or employee of Genesee County' includes any elected official or employee of Genesee County or any County department, including officers and employees of the Genesee County Circuit Court, the Genesee County Probate Court, the Sixty-Seventh District Court of Michigan, and agencies and offices of those courts. However, employees and officers of the Circuit Court Probation Office are not 'officers or employees of Genesee County' within the meaning of this Policy.

9-104 Unauthorized Use, Misuse of County Credit Card

In the event an officer or employee uses a County credit card for unauthorized purposes, or otherwise fails to comply with this Policy, the officer or employee may be subjected to any disciplinary measures permitted by law.



ARTICLE 10 – DISPOSAL OF SURPLUS PROPERTY

10-101 Authority to Dispose of Surplus Property

- (1) The Purchasing Administrator is authorized to dispose of individual items of surplus property with a current fair market value of \$30,000.00 or less. The Purchasing Administrator shall consult with the County Using Agency that last used the surplus property before disposing of it.
- (2) The Chairperson of the Public Works Committee is authorized to approve of the disposal of individual items of surplus property with a current fair market value between \$30,001.00 to \$100,000.00. The Purchasing Administrator shall consult with the County Using Agency that last used the surplus property before requesting authority from the Public Works Chairperson to dispose of it.
- (3) Disposal of surplus property with a current fair market value in excess of \$100,000.00 must be approved by the Board of Commissioners.

10-102 Disposal of Surplus Property

- (1) The Purchasing Administrator shall dispose of surplus property in a manner that maximizes the value obtained by the County. Acceptable methods of disposing of surplus property include, but are not limited to:
 - (a) public auction,
 - (b) hiring a broker or auctioneer to market the surplus property; and
 - (c) using online auction and sales platforms.
- (2) The Purchasing Administrator is authorized to dispose of multiple items of surplus property in one transaction or event if such disposition is in the best interests of the County.
- (3) The Purchasing Administrator shall report to the Public Works Committee each disposition of surplus property with a current fair market value in excess of \$30,000.00 within 30 days of the disposition of such surplus property.