

**BOARD OF COUNTY ROAD COMMISSIONERS**

**COUNTY OF BAY, MICHIGAN**

**PURCHASING POLICY**

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## **PURCHASING OBJECTIVE**

### **I. OBJECTIVE:**

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

### **II. IMPLEMENTATION:**

Implementation will consist of three basic steps:

- A. The establishment of procedures for producing quote sheets, requisition forms and purchase orders.
- B. The establishment of internal procedures to control the input of necessary purchasing information required to effectively carry on a centralized type of purchasing.
- C. The establishment of basic bid specifications and buying practices as necessary.

### **III. LEGAL ASPECTS OF PURCHASING:**

As required by Section 10(3) of Public Act 283 of 1909, as amended, in cases involving the expenditure of an amount greater than \$50,000 for the purchase of machines, tools, appliances, and materials, the Board of County Road Commissioners of the County of Bay ("Board" or "Road Commission") shall advertise for sealed proposals for the machines, tools, appliances, and materials proposed to be purchased, except under emergency conditions, in which case the limit shall not exceed \$50,000. All purchases made under this section shall be compiled separately for purposes of Board approval.

As also required by Section 19(5) of Public Act 283 of 1909, as amended, when the Board decides to build or rebuild a road or bridge by a method other than by employment of day labor and purchase of necessary materials, the Board shall advertise for sealed bids for the work, if the work involves an expenditure of an amount greater than \$20,000. The Board may reject any and all bids and may do the work by day labor, purchasing the necessary materials and employing the necessary labor. If the Board decides to do the work by day labor, the plans and specifications together with all bids received on the plans and specifications, and the reason, in writing, for not letting the job by contract, shall be filed in the office of the Clerk for Bay County, Michigan.

**WAGE RATES & FRINGE BENEFITS:** When a construction contract with a total value exceeding \$100,000 is awarded by the Road Commission to any Contractor whose employees are members of a Union, all craftsmen, mechanics and laborers employed directly on the site of work shall be classified and paid in accordance with the locally negotiated total package rate between the appropriate Union and the recognized Contractor Association. The Contractor shall pay into fringe benefits funds to the employees (such as pension, health and welfare, training, vacation, annuity, etc.) and adopt and agree to be bound by the written terms of legally established local trust agreements specifying the detailed basis on which payments are to be made into, and benefits paid out of, such as trust funds. The Contractor shall further agree to accept as its Representatives in administration of such funds the Contractor Trustees servicing such

funds. Appropriate language in each Union's national or local agreement pertaining to fringe benefit contribution procedures will be incorporated by reference. The Contractor shall provide copies of certified payrolls when requested by the Road Commission to assure compliance with locally negotiated total package rates for various union personnel. Wage rate interviews may be conducted in the field to verify payroll information.

When a construction contract with a total value exceeding \$100,000 is awarded by the Road Commission to any Contractor whose employees are not members of a Union, all craftsmen, mechanics and laborers employed directly on the site of work shall receive at least the commercial prevailing wage rates and fringe benefits as established for the Bay County area by the Michigan Department of Labor pursuant to Section 4 of Public Act No. 166 of 1965, as amended, or, if such prevailing wage and fringe benefit rates are not available from the Michigan Department of Labor, then from the United States Secretary of Labor pursuant to the federal Davis-Bacon Act (United States Code, Title 40, Section 276a et seq.). All construction subcontracts entered into by any Contractor for work performed directly on site shall contain the provisions for prevailing wages and fringe benefits as set forth above. The Contractor and all subcontractors shall, at the request of the Engineer-Manager, provide proof satisfactory to the Road Commission that the Contractor and subcontractors are in compliance with this policy.

On all construction contracts involving federal or state projects which require other specific prevailing wage rates or fringe benefits, such rates or fringe benefits shall supersede the Road Commission rates established above. All purchase orders issued and/or contracts awarded by the Road Commission shall comply fully with all applicable federal and state laws and regulations.

**RENEWAL OR EXTENSION OF SUCCESSFUL BIDS:** The Bay County Road Commission, upon request of any vendor/supplier and recommendation of the General Superintendent, may renew or extend the Bid(s) under any existing contract for one additional period of 12 months. After any first renewal or extension for one additional period of 12 months, and under circumstances then deemed appropriate in the sole judgment of the Bay County Road Commission, the Bay County Road Commission may allow any successful Bid(s) to be further renewed or extended indefinitely for additional successive periods of time; provided, however, that all such additional periods of renewal or extension shall not exceed 12 months at any one time.

**IV. PRINCIPAL PURCHASING OFFICIALS:**

Except as otherwise provided herein, the General Superintendent and Inventory Supervisor/Account Clerk II shall serve as the principal purchasing officials for the Road Commission, and shall be responsible for the procurement of supplies, services, and materials in accordance with this policy, as well as the management and disposal of supplies.

**V. MULTIPLE SOURCE CONTRACTING:**

A. **GENERAL:** A multiple source award is an award of an indefinite quantity for one or more similar supplies or services to more than one bidder or offeror.

B. **LIMITATIONS ON USE:** A multiple source award may be made when an award to two or more bidders or offerors for similar products is necessary for adequate delivery, service, or compatibility. Multiple source awards shall not be made when a single award will meet the Road Commission's needs without sacrifice of economy or service. 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 the bids. Any such awards shall be limited to the least number of suppliers necessary to meet the valid requirements.

**VI. SANCTIONS:**

The Engineer-Manager of the Road Commission may impose any one or more of the following sanctions on a Road Commission employee for violations of the ethical standards in this policy:

- Step 1. Oral or written warnings or reprimands.
- Step 2. Suspension with or without pay for a specified limited time period.
- Step 3. Discharge

**RELATIONS WITH VENDORS AND SALES REPRESENTATIVES**

**I. ETHICS:**

It is the policy to promote the reputation of the Road Commission for fairness and impartiality, for integrity, for service, for progressiveness, for economy, and for government by law. The responsibility for carrying out this purpose rests with each individual who participates anywhere or in any way in the purchasing process.

**II. COLLUSION:**

Any agreement of collusion among bidders in restraint of freedom of competition by an agreement to bid a fixed price or otherwise, is prohibited. The delivery by a vendor of goods or services is deemed to be an affirmation by the vendor that the vendor has not been a party to any such agreement or collusion, whether it be formal or informal buying.

**III. FINANCIAL INTEREST:**

No member of the Board or any employee of the Bay County Road Commission shall be financially interested, directly or indirectly, in any purchase order or contract coming under the purview of his or her official duties. All Road Commission employees are prohibited from accepting, directly or indirectly, from any person, company, firm or corporation to which any purchase order or contract may be awarded, any rebate, money or employment.

**TYPES OF PURCHASES**

**I. GENERAL PURCHASING GUIDELINES:**

A. In placing an order directly, the authorized employee shall do so according to the following:

1. Purchases from local vendors when it is economically and financially prudent and beneficial to the Road Commission.
2. For purchases from a vendor where the estimated value of the purchase exceeds \$5,000 three telephone quotes are required. However, when it is determined there is only a sole source vendor of the requested products and/or services or when the products have a readily ascertainable fair market value, less than three telephone quotes are sufficient. This determination shall be identified on the quote sheet or purchase requisition form. Telephone quotes must be documented as to the name of the vendor, unit price of the product and/or service requested, quantity required, date of the call and any other pertinent information.
3. Quotes shall be net of freight charges and exclusive of sales tax. When obtaining quotes, the vendor must be questioned concerning any freight or additional charges and these items should be identified separately on the quote sheet or purchase requisition form.
4. The authorized person(s) may obtain a purchase order number from the General Superintendent, Inventory Supervisor/Account Clerk II or Assistant Finance Director and provide it to the selected vendor for inclusion on the vendor's invoice.
5. Verify that the vendor can and will deliver. Some purchase situations may require the Road Commission to pick up or arrange for special delivery of the order.
6. Orders may be communicated to vendors by telephone or by telecopier (fax).
7. The Road Commission shall not be charged or pay sales tax.
8. An exception to this Policy is for purchases made from petty cash funds. Purchases from petty cash funds may be made up to a \$25 value without having to prepare a quote sheet or purchase requisition form or obtain a purchase order number.

**II. PETTY CASH FUND PURCHASES:**

In circumstances involving purchases of items costing \$75 or less with single event occurrence, such purchases may be paid for out of the petty cash fund maintained by the Account Clerk I, with the prior approval of the Engineer-Manager, General Superintendent, Finance Director, Assistant Finance Director or Inventory Supervisor/Account Clerk II.

**III. SMALL PURCHASES (PURCHASES COSTING LESS THAN \$1,000):**

A. The Engineer-Manager, General Superintendent, Finance Director or Inventory Supervisor/Account Clerk II (or any of them) may authorize the acquisition of goods or services costing less than \$5,000 and may obtain quotes and place the

order directly, in which event the requesting party shall prepare and forward the original of a completed quote sheet or purchase requisition form, together with any supporting documentation, to the General Superintendent or Assistant Finance Director.

Director for processing. The quote sheet or purchase requisition form shall contain the following information:

1. Name of requesting party;
2. Date of requisition;
3. Date the product or service is needed;
4. To whom or where the product or service is to be delivered;
5. Signature of authorizing individual;
6. Product item number, if available;
7. Quantity;
8. Description of products or services, as detailed as possible.

**IV. MEDIUM PURCHASES (PURCHASES COSTING \$5,000 BUT LESS THAN \$50,000):**

The Purchasing Policy provides that purchases not exceeding \$50,000 may be made by the Engineer-Manager or General Superintendent in the open market without a formal written bid, and further provides that these purchases, when practicable, shall utilize competitive oral or written requests for quotes.

The requesting party shall prepare and forward the original of a completed quote sheet or purchase requisition form, together with any supporting documentation, to General Superintendent or Assistant Finance Director for processing. The quote sheet or purchase requisition form shall contain the same information as outlined for Small Purchases - Section A, items (1) through (8).

In utilizing the Medium Purchases Procedures, the following shall apply:

- A. Award shall be made to the vendor providing the greatest value for the cost while meeting the needs of the Road Commission.
- B. Purchase Orders or requisitions shall not be divided artificially so as to constitute small purchases.
- C. If any need is foreseen for products or services of a like or similar nature, costing more than \$50,000 in aggregate within a fiscal year, the Engineer-Manager shall arrange for sealed competitive bidding, even though the products and services individually may be under the \$50,000 bid threshold.
- D. In order to reduce the paperwork associated with numerous medium purchases, blanket purchase orders shall be used whenever practicable. This determination shall be made by the Assistant Finance Director after consulting with the Engineer-Manager, General Superintendent, or Finance Director.

- E. An attempt shall be made to obtain at least three (3) oral or written quotes with the exception only of sole source providers. Quotations received via telecopier (fax) machines shall be accepted as written quotes required by this procedure. The Purchase Order shall be placed after receipt of the quotes.
- F. On occasion, good business judgment or common sense may require deviations from the requirements outlined in Item (E) of this Section. In this instance, the reason(s) for the deviation shall be documented by the requesting party on the quote sheet or purchase requisition form and any such deviation shall not violate any other requirement of the Purchasing Policy.
- G. Emergency purchases shall be exempt from some of the provisions of this policy. A request and explanation of the reasons for the declaration of an emergency shall be documented by the requesting party and forwarded to the Engineer-Manager. The Engineer-Manager or General Superintendent shall decide whether or not the request is justified and instruct the requesting party to act accordingly. The request and explanation shall be retained in the quote file.
- H. The Engineer-Manager, assisted by the General Superintendent, shall have the responsibility for selection of the vendor.
- I. Information regarding quotes can be found attached to the back of the subject purchase orders in the purchase order purchasing file.

V. **LARGE PURCHASES - SEALED COMPETITIVE BIDS (PURCHASES COSTING \$50,000 OR MORE):**

The following section outlines the process, procedures, elements, and exemptions for sealed competitive bids.

- A. EXEMPTIONS. The Road Commission Purchasing Policy provides that no procurement of goods or services equal to or over \$50,000 shall be made without soliciting sealed competitive bids, except:
  - 1. Under the emergency conditions contemplated by Section 10(3) of Public Act 283 of 1909, as amended, in which case sealed competitive bids shall not be solicited for any machines, tools, appliances or materials proposed to be purchased in an amount greater than \$50,000.
  - 2. When there is only one source for the required goods or services.
  - 3. In the procurement of architectural, engineering, legal, landscape architectural, or land surveying services.
  - 4. In the procurement of services of an independent certified public accountant selected to audit the Road Commission's operation/books.
  - 5. In the procurement of consultant, advisory or other professional services as identified by the Road Commission.

- B. **REQUEST FOR INVITATION TO BID.** The employee requesting the goods or services that require sealed competitive bids be solicited shall present the request to the Engineer-Manager, which request shall include the following:
1. A brief description of the goods and/or services to be bid.
  2. Source of funding for the expenditure (budget, grant, etc.).
  3. The activity and account number to which the expenditure is to be charged.
  4. Specifications for the goods and/or services.
  5. Specific requirements that shall be adhered to by each bidder.
  6. Other pertinent information.
- C. **REVIEW OF BID PRIOR TO PUBLIC RELEASE.** The Engineer-Manager shall request any additional information of the employee requesting the goods and/or services and shall submit a draft of the Request for Proposal to the Road Commission for its review and final approval.
- D. **BID PACKAGE PREPARATION.** After the draft of the Request for Proposal is approved by the Road Commission, a final formal Request for Proposal shall be prepared by the Engineer-Manager or General Superintendent, in conjunction with the requesting employee. The Request for Proposal must include:
1. Invitation to bid.
  2. Specifications.
  3. Requirements to bidders.
  4. ADA assistance.
  5. Applicable bid forms.
- E. **BID PACKAGE DISTRIBUTION AND PUBLIC NOTICE.** The Engineer-Manager or General Superintendent will distribute the Request for Proposal to vendors who are included on the Road Commission's bidders list. The Engineer-Manager shall publish at least one time in any newspaper of general circulation published at least once a week in Bay County, Michigan, and, at his discretion, any other local newspaper or trade journal, a notice inviting sealed competitive bids. There shall be an interval of at least five (5) days between the date of the final notice and the bid opening. The notice shall include the following, when applicable:
1. Brief description of the item(s) to be bid.
  2. Place where bid documents, including specifications are available.
  3. Cost, if any, of bid documents.
  4. Date and time the bids are due.
  5. All walk-through(s) and/or pre-bidders' conference(s), as determined by the Engineer-Manager or General Superintendent.
  6. Telecommunication Devices for the Deaf (TDD) information and an Americans With Disabilities Act (ADA) statement.

7. A statement that the Road Commission reserves the right to reject any or all bids, waive defects and to accept any bid which, in the opinion of the Bay County Road Commission, is the most advantageous to the Road Commission.
8. A statement that the successful bidder shall be subject to the provisions of the Bay County Road Commission Purchasing Policy and that copies of the policy may be obtained at the Road Commission office at 2600 East Beaver Road, Kawkawlin, Michigan.

In addition to the public notice, the Engineer-Manager shall notify all vendors who have indicated an interest in furnishing the requested items and/or services to the Road Commission.

In the event that the original Request for Proposal needs to be amended, an addendum will be mailed and/or sent by tele-copier (fax) to all vendors who previously received a copy of the original Request for Proposal.

- F. **BID SUBMISSION AND OPENING.** Sealed bids are to be received and retained by the Assistant Finance Director until the date and time for the bid opening as specified in the Public Notice/Request for Proposal. The sealed bid envelope shall be marked with a date stamp, identifying the day (month/day/year) and time the bid was received at the Road Commission office. Sealed bids also are accepted in person at the location of the bid opening up until the time specified in the Public Notice/Request for Proposal.

Bids received after the date and time specified in the Public Notice/Request for Proposal may be disqualified and placed unopened in the bid file. After receipt in the Road Commission office, bids may be withdrawn up to the scheduled time for opening upon presentation of proper identification, as determined by the Assistant Finance Director, General Superintendent, or Engineer-Manager. A formal written request for withdrawal must be made to the Assistant Finance Director who shall file the request in the Request for Proposal file. Bids shall be opened no earlier than the time designated in the Public Notice/Request for Proposal by the Engineer-Manager, General Superintendent, or other designated employee. The employee shall open and review the bid(s) and read aloud the name of the bidder(s), the amount of the bid(s), and any other pertinent information contained in or omitted from the bid(s). The proceedings are recorded by the Clerk of the Board or some other employee designated by the Engineer-Manager.

Bidders and the public are encouraged to attend bid openings, and may examine the bid documents after all bids have been opened and referred for evaluation.

- G. **EVALUATION OF BIDS AND RECOMMENDATION OF SUCCESSFUL BIDDER.** Following the bid opening, the employee designated by the Board shall present the results of the bid opening to the Engineer-Manager with an analysis identifying the best low/high qualified bidder and a recommendation as to which bidder to award the bid. The term "low/high qualified bidder" means a bidder

whose bid conforms in all material respects to the Request for Proposal, who has the capability in all respects to perform the requirements, and who by its integrity and reliability gives reasonable assurance of good faith performance for the financial benefit of the Road Commission.

In determining the lowest/highest qualified bidder, the designated employee may, after the bid opening, request additional information from the bidder(s) concerning the bidder(s)' ability to perform, and the bidder(s) may voluntarily provide additional or corrective information concerning his/her/its ability, which may be considered in making the bid award.

No bidder is permitted to alter the dollars bid after the opening.

#### H. BID AWARD

1. The bid shall be awarded to the successful bidder by the Board or by the Engineer-Manager with the prior approval of the Board, upon the following criteria being met:
  - a. The product or service for which the Request for Proposal was written is included and funded in the current year adopted/amended budget.
  - b. The lowest/highest qualified bid received by the Road Commission, for which the bid will be awarded, is either equal to or less/greater than the amount budgeted for this procurement in the current year adopted/amended budget.
2. The recommendation from the designated employee is forwarded by the Engineer-Manager to the Road Commission for awarding.

#### I. BID PROTEST PROCEDURE. The following procedure will be used to allow bidders to officially lodge a protest regarding the bid process.

1. Bidders must obtain and complete a Bid Protest form identifying the substance and reason for the protest. The Bid Protest form can be obtained from the Finance Director.
2. The bidder must file the protest within five (5) working days from the date of the bid award by submitting the completed form to the Finance Director.
3. Within seven (7) working days of the filing of the Bid Protest form, the Engineer-Manager, after consultation with the General Superintendent, shall prepare and send, via certified mail through the U. S. Postal Service, a response to the protester.
4. If not satisfied with the decision of the Engineer-Manager, the bidder(s) may address the Board by requesting the Engineer-Manager to place their protest on the agenda of the Board's next scheduled regular meeting. Any such request must be in writing and received by the Finance Director or postmarked

within five (5) working days from the date of response to the protester. The protester must clearly identify on his/her/its envelope "BID PROTEST".

**VI. ROAD COMMISSION RIGHTS:**

The following section outlines the process, road Commission reserves fully the right at any time, and in its sole and absolute discretion, to alter or change all or any part of the purchasing and bidding process or procedure set forth in this Purchasing Policy so as to properly carry out all duties and obligations imposed upon the Road Commission by applicable law.