

CHAPTER 50  
COUNTY PURCHASING PROCEDURES

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50.01 DEFINITIONS. As used in this Chapter:

- (1) "*County Committee*" means the Committee of the County Board which has, by its rules or other action, been assigned as the liaison or operational committee for the office or department making the expenditure.
- (2) "*Public work*" means a construction project which is for the use of the public for which tax-levied funds are expended and for which no statutory exclusions from such term exists (such as turn-key projects financed with industrial revenue bonds).
- (3) "*Materials*" means something that enters into or forms part of a finished structure or is capable of such use.
- (4) "*Service*" means acts to assist or perform specific duties or work for others.
- (5) "*Supplies*" means something that is used or consumed or which is capable of such use.
- (6) "*Equipment*" means things used to do other things, such as supplies, furnishings, etc., and includes items such as office machines, motor vehicles, construction machinery, etc.

50.02 WHEN PUBLIC BIDDING REQUIRED. Except as herein specifically provided, public bids shall be sought prior to entry into a contract for the following:

- (1) Public works construction projects, including construction, repair, remodeling, or improving any structure or road when the estimated cost thereof shall exceed Twenty-five Thousand Dollars (\$25,000.00) and as required by Wis. Stat. §§ 59.52(29) and 66.0901.
- (2) Purchase of equipment, materials, and supplies when the estimated cost thereof shall exceed Fifty Thousand Dollars (\$50,000.00), except when purchasing unique one-of-a-kind items or when compatibility with existing equipment is a required condition.
- (3) When entering into a group purchasing service contract (that is, where the group is an entity which obtains prices from multiple vendors and passes the best price on to its members for "supplies" [as defined above]) and the quarterly expenditures thereunder shall exceed Fifty Thousand Dollars (\$50,000.00), then compliance with this section shall be had by advertising for bids or quotes for such service from any vendor or group service provider.

- (4) Whenever state or federal group purchase contracts exist under which the County is eligible to participate, then the public bidding requirements of this Chapter need not be followed.
  - (5) Notwithstanding any statute or County procedure for public purchases, any County unit may make purchases from another unit of government, including the state or federal government, without the intervention of bids.
  - (6) The County Board declares that whenever it is in the best interests of the County, as determined by the County Administrator, any class of public work or any part thereof may be done directly by the County without submitting the same for bids.
  - (7) Public bidding is not required for highway contracts which the County Transportation Committee or the County Transportation Director is authorized by law to let or make.
- 50.03 WHEN PUBLIC BIDDING OPTIONAL. Any contracts or purchases not included under Section 50.02, above, or unique one-of-a-kind items may be accomplished either through public bids or solicited quotations, requests for proposals or negotiated price, or any other procedure as the County Committee shall deem appropriate, all subject to Section 50.11 of this Code.
- 50.04 CONTRACTS FOR SERVICES. Contracts for services shall be let in the manner approved by the Committee signing them, subject to Section 50.11, below. Every effort shall be made to ensure competitive pricing and fair and open dealing with regard to such contracts.
- 50.05 BIDDING PROCEDURE. Where public bidding is required, the procedure set forth in Wis. Stat. § 66.0901 shall be followed and the following requirements shall also be met:
- (1) ADVERTISEMENT. A display advertisement shall be published in the official County newspaper, and an additional publication if deemed appropriate by the County Committee. The advertisement shall be published as directed by the Committee.
  - (2) ALTERNATIVE BIDS. Where no specifications are available or are referenced to a particular manufacturer as the standard, interested vendors shall be authorized to submit more than one (1) setting forth their own specifications of each particular material or supply submitted by the vendor.
  - (3) PUBLIC OPENINGS. All bids shall be submitted in sealed envelopes upon which it is clearly designated that it is a bid for the item or project involved and such bid shall be opened at a public opening, and the time of said opening shall be published in the advertisement for bids, and in no event shall a bid be received any time after the time scheduled for the receipt of bids. The power to reject any or all bids shall exist unless expressly waived.
- 50.06 RESPONSIBLE BIDDERS. In purchase situations where state law does not require bidders' proof of financial responsibility, the County may nevertheless require bidders to submit proof of their financial ability, equipment, and experience for the anticipated expenditures proposed for the public contract. The Committee may consider past workmanship, business dealings, and performance of the bidder in addition to financial aspects when determining the bidder's responsibility. Whenever the Committee is not satisfied with the bidder's responsibility, it may reject said bid or disregard the same, but whenever practical, if the County intends to reject a bid under this Chapter, it should be done prior to opening the bid.
- 50.07 WITHDRAWAL OF BIDS. Bids may be withdrawn any time prior to the opening upon written request of the bidder. If a bidder withdraws the bid, that bidder shall be prohibited from rebidding on the same project unless the project is advertised and re-bid by the County. Negligence on the part of the bidder in preparing the bid shall not constitute a right to withdraw the bid subsequent to opening.
- 50.08 EXTREME EMERGENCY. The County Board is empowered to declare, by ordinance or resolution, adopted in formal session by 2/3 vote, an emergency existing within the County which shall eliminate the required bidding procedure set forth above.

- 50.09 INTERNAL PURCHASING PROCEDURES. The provisions of this Section are for internal procedural purposes and vendors may not challenge the procedure, but such matters are reserved to the County Board:
- (1) OPERATIONAL MATERIAL AND SUPPLIES. Under the direction of the County Administrator, each Department Head is authorized to acquire non-capital items for the operation of the involved Department within the limits of the approved budget for that office, Department, or function, subject to the audit of the County Board Committee acting as liaison for that office, Department, or function. Where a County or Committee policy has established a group purchasing procedure, it shall be followed except when the involved Committee shall have in advance authorized the departure from such procedure. Uniform "requisition" or "invoice" forms, where appropriate, shall be provided by the Finance Department for payment and audit purposes.
  - (2) CAPITAL OUTLAY ITEMS. All approved and budgeted capital outlay items shall be deemed as approved by the involved Committee. (Approval of budget requests for such items is not the same as purchase approval.)
  - (3) PURCHASE OF NON-BUDGETED CAPITAL OUTLAY ITEMS. If purchase of an outlay item is required which was not included in the current budget, after having obtained the approval of the County Administrator, the Department Head shall then obtain the approval of the involved Committee. After this approval is obtained, the Finance Committee shall be contacted to provide the funds through substitution if substitute funds are available. If the current request is a substitution for an item already in the budget, the Finance Committee may authorize that the funds provided for the original budget item be used for the requested purpose. If no funds are available in the current budget, the involved Committee may present a Resolution to the Board to appropriate or transfer funds for said purchase but only in the event of compelling urgency. Appropriation of funds through the budgetary process shall be the preferred method.
- 50.10 INTERPRETATION. The herein Ordinance shall be liberally interpreted to permit the County to exercise broad discretion in ensuring that the County obtains the "best" price when spending public funds. It is hereby recognized that the lowest bid may not be the "best" price to the County as maintenance costs, life of the equipment, and other factors may result in the lowest price at the time of purchase becoming the highest price over the life of the product or project. When exercising its discretion as to which bid or quote to accept, the "best" price should be sought, and if such price is not the "lowest," then justification of non-purchase of the low bid shall be set forth in detail in the Committee Minutes. The provisions of this Ordinance are not intended to supersede any requirements of the Wisconsin Statutes.
- 50.11 CONTRACT CLAUSES REGARDING LIABILITY. No contract with any contractor, professional, consultant, supplier, or other vendor to Sheboygan County may include any provision limiting or shifting the vendor's potential liability to Sheboygan County. By way of illustration but not limitation, this Section prohibits contract provisions that:
- (1) limit liability to the amount of the purchase price, or any other amount;
  - (2) disallow claims for indirect, incidental, special or consequential damages;
  - (3) require the County to indemnify the vendor in any circumstance;
  - (4) establish the venue for litigation as any situs other than Sheboygan County Circuit Court or, if applicable, the United States District Court, Eastern District of Wisconsin;
  - (5) define the substantive and procedural law to be applied in any dispute as the law of any jurisdiction other than Wisconsin;
  - (6) shift any vendor's liability to third parties from the vendor to the County;
  - (7) shorten the statute of limitations;
  - (8) disclaim or waive warranties by the vendor;
  - (9) require the County to hold the vendor harmless from third party claims; or
  - (10) place responsibility on the County in any circumstance for any part of the vendor's attorneys' fees or other costs.

Department Heads wishing to enter into such contracts shall first work with the County Purchasing Agent and the Corporation Counsel to negotiate for the elimination of the foregoing language.

If a prospective vendor insists on inclusion of contract language that does not comply with this Section, and if the Department Head still wishes to enter into such contract because of the unavailability of comparable and competitive vendors, the contract may be entered into only if approved by the Corporation Counsel or the Executive Committee.

50.12 PRINTING SERVICES. No expenditure for commercial printing, duplicating, or publishing may be made if the project could be produced internally as economically as by a commercial printer.

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History: Ord. 2 (2017/18);