

Walton County Purchasing Ordinance

PART 1

GENERAL PROVISIONS

SECTION 1: SCOPE

This Ordinance shall govern all acquisitions by Walton County of commodities, equipment and services and all related contracts. This Ordinance supersedes and repeals all previously existing purchasing ordinances, policies and procedures.

SECTION 2: PURPOSE

This Ordinance shall be construed and applied to promote its underlying purposes and policies, which are:

- To obtain the best value in terms of quality, service and price when expending public funds;
- To foster effective, fair and broad-based competition for public procurement within the free enterprise system; and
- To provide safeguards for the maintenance of quality, integrity and equity in the purchase of County property.

SECTION 3: DEFINITIONS

For purposes of this Ordinance, the following terms shall have the following definitions:

“Ordinance” means Walton County Purchasing Ordinance.

“Professional services” are services consisting in material part of advice, evaluation, planning, design or other effort involving the exercise of judgment, discretion and knowledge, including without limitation, a service provided by a person whose profession is licensed or regulated by the state or federal government.

“Purchasing Department” means the Purchasing Department of Walton County, Georgia.

“Purchasing Director” means the Director of the Purchasing Department of Walton County, Georgia.

SECTION 4: APPLICATION OF FEDERAL AND STATE LAW

It is intended that this Ordinance shall conform to all applicable provisions of the laws of the United States and of the State of Georgia, and the provisions hereof shall be so construed wherever possible. In the event any portion of this Ordinance shall be declared invalid for its failure to conform to state or federal law, such invalidity shall not affect the remaining portions hereof. Notwithstanding any other provision of this Ordinance to the contrary, the County may enter into any contract, follow any procedure, or take any action that is necessary or convenient for receiving funds from the government of the United States or the State of Georgia.

SECTION 5: ETHICAL CONSIDERATIONS

It is the policy of Walton County to seek the best overall value when procuring goods and services. Toward this end, the County finds and declares that its objectives will best be achieved generally through an open, competitive process with a broad range of responsible vendors wishing to furnish products and services to the County.

Walton County declares that County employees and officials, along with those wishing to do business with the County, have the shared responsibility for avoiding biased, anticompetitive or unethical practices.

Walton County employees, officials and their family members are generally prohibited from seeking, requesting, or receiving any material payment, gift or promise of future benefit or any other thing of value when such receipt has the potential to influence a procurement decision or to gain undue advantage in a procurement competition.

Walton County employees, officers and appointees shall not sell personal or real property to the County or any of its agencies, unless said sale amounts to less than \$800.00 per calendar quarter (O.C.G.A 16-10-6) or unless such sale is made pursuant to sealed competitive bids made by the employee either individually or on behalf of a business entity. Furthermore, County employees should not perform services for the County in addition to their regular paid position unless it is done by contract and placed on the minutes of the Board of Commissioners.

It is unethical for any County employee or official to purchase commodities or services from a County contract for personal use.

Individuals, firms and businesses seeking an award of a contract may not initiate or continue any verbal or written communications regarding a solicitation with any County officer, elected official, employee or other representative other than the Purchasing Department associate named in the solicitation between the date of the issuance of the solicitation and the date of the final contract award by the Board of Commissioners. Any such communication shall be reviewed by the Purchasing Director and, if the Purchasing Director determines in his or her sole discretion that the communication at issue has compromised the competitive process, the offer submitted by the individual, firm or business may be disqualified.

Commodities or services shall not be purchased from a vendor who is delinquent or in default on the payment of any taxes or other monies due Walton County, or any other county, municipality, or state or the federal government. In the event it is discovered that a vendor is delinquent or in default on the payment of any taxes or other monies due Walton County, or any other county, municipality, or state or the federal government, the County may terminate any contract with such vendor and place the vendor on the Ineligible Source List as provided herein.

SECTION 6: APPROPRIATE EXPENDITURES

To ensure that all purchases made are appropriate expenditures, each elected official or department director shall ensure that purchases made for or by his or her agency or department conform to the requirements of this Ordinance and are legitimate expenses for which appropriation has been made by the Board of Commissioners. It is the responsibility of each elected official or department director to ensure all purchases made for or by his or her agency or department are consistent with and support the current approved budget prior to committing funds.

PART 2

PROCUREMENT ORGANIZATION

SECTION 1: AUTHORITY AND RESPONSIBILITY OF PURCHASING DEPARTMENT AND PURCHASING DIRECTOR

The Purchasing Department shall serve all departments and agencies of Walton County by obtaining required commodities and services in accordance with state law and this Ordinance. The Purchasing Director shall, except as otherwise specified herein, be responsible for the administration of all transactions governed by the provisions of this Ordinance and shall serve as the principal procurement officer of the County. Unless otherwise provided, any duties and powers of the Purchasing Director may be delegated by him or her to subordinate Purchasing Department employees or other individuals within county departments and agencies that have demonstrated adequate knowledge and understanding of this Ordinance. In the event the Purchasing Director delegates any of his or her duties or powers to an individual outside the Purchasing Department pursuant to the provisions hereof, that County department or agency with whom that individual is affiliated shall be responsible for maintaining all documentation related to purchases made pursuant to such delegated authority.

SECTION 2: PROCUREMENT PROCEDURES

The Purchasing Director is authorized to establish, implement and enforce written operational procedures relating to acquisitions subject to this Ordinance. Such procedures shall, to the extent

consistent with applicable law and this Ordinance, be based upon generally accepted public purchasing principles and practices.

SECTION 3: DISCLAIMER OF REPSONSIBLITY FOR IMPROPER PURCHASING

The Board of Commissioners may disclaim responsibility and liability for any purchase, expenditure, or agreement for expenditure arising from a procurement made in its name, or in the name of any department or agency under its authority, by an unauthorized person or any person acting in violation of this Ordinance or outside of the scope of authorization or delegation as provided in this Ordinance. The expense of any such disclaimed transaction shall be the personal liability of the person who made such purchase or expenditure.

SECTION 4: PURCHASING POLICY REVIEW AND COMPLIANCE

The Purchasing Department is authorized to perform compliance reviews of all County purchases, resolve problems regarding the purchasing process, and review other problems or requirements related to purchasing. In addition, the Purchasing Department shall periodically review County purchasing procedures and make recommendations for changes, including recommendations to place vendors with performance problems on the Ineligible Source List as provided herein.

PART 3

PROCUREMENT METHODS

SECTION 1: GENERAL PROCUREMENT PROCEDURES

A. PURCHASES GREATER THAN \$75,000

I. COMPETITIVE SEALED BIDDING

Except as otherwise provided herein, for purchases where either (i) the costs of materials, supplies, equipment, services or project is expected to be greater than \$75,000 or (ii) revenue is expected to be greater than \$75,000, competitive sealed bidding is the preferred method of procurement and should be used whenever possible, as it allows qualified, responsive bidders to compete on the basis of price. Generally, the following conditions are required for competitive sealed bidding:

1. Clear and adequate specifications are available; and
2. Two or more responsible bidders are willing to participate in the process.

A. DISSEMINATION OF INVITATION TO BID

Public notice of an Invitation to Bid shall be advertised as required by Georgia law to the extent applicable. The public notice shall contain a general description of the purchase, shall state the location where documents may be obtained and the date, time and place of bid opening. Notice of any required bonding and insurance shall be included in the public notice. A copy of such notice shall be advertised online and by the front door of the Walton County Courthouse. Any other methods of advertisement identified as likely to result in additional competition may be used in addition to the required advertisement, at the discretion of the Purchasing Manager.

B. RECEIPT OF BID

No written bid shall be eligible for consideration by the County unless it is placed in a sealed envelope or package and actually received by the Purchasing Department by the date and time specified in the Invitation to Bid. All bids shall be stamped or annotated with the date and time of receipt and secured until the designated opening time. A bid delivered late shall not be considered by the County.

C. BID OPENING

Bids shall be opened publicly in the presence of one or more witnesses on the date and at the time and place designated in the Invitation to Bid. The name of each bidder, the purchase price contained in each bid and such other information as the Purchasing Director deems appropriate shall be announced as the bids are opened. A record of bid information shall be recorded and available for public inspection.

D. MODIFICATION OF BID

Any clerical mistake that is patently obvious on the face of a bid, subject to the limitations described below may be corrected if the Purchasing Director determines the correction to be in the County's best interest. Omissions affecting or relating to price information or any required bonding shall be deemed material and may not be corrected after bid opening.

E. WITHDRAWAL OF BID

Bids may be withdrawn at any time prior to the bid opening. After bids have been publicly opened, a bid may be withdrawn only in accordance with the following procedures:

- The bidder shall give notice in writing of his or her intent to withdraw his or her bid due to an error within two business days after the conclusion of the bid opening procedure.

- A bid may be withdrawn from consideration if the price was substantially lower than the other bids due solely to a mistake therein, provided the bid was submitted in good faith, and the mistake was a clerical mistake as opposed to a judgment mistake, and was actually due to an unintentional arithmetic error or an unintentional omission of a quantity of work, labor or material made directly in the compilation of the bid, which unintentional arithmetic error or unintentional omission can be clearly shown by objective evidence drawn from inspection of the original work papers, documents and materials used in the preparation of the bid sought to be withdrawn.
- The bidder's original work papers shall be the sole acceptable evidence of error and mistake if a request is made to withdraw the bid.
- If a bid is withdrawn under the authority of this provision, the lowest remaining responsive bid shall be deemed to be the low bid.

F. BID CANCELLATION

An Invitation to Bid may be canceled prior to opening date. Thereafter, any or all bids may be rejected in whole or in part when it is in the best interest of the County.

G. BID EVALUATION

Bids shall be evaluated based on the requirements set forth in the Invitation to Bid. No criteria may be used in bid evaluation that is not specifically set forth in the Invitation to Bid.

H. BID AWARD

Subject to approval by the Walton County Board of Commissioners, bid(s) shall be awarded to the responsible bidder(s) who have submitted the lowest cost responsive bid(s), highest revenue responsive bid(s), or whose bid(s) represent the best value to the County.

The Purchasing Director may reject bids or may defer bid awards to allow time for additional evaluation or review, consistent with the best interest of the County.

The following types of bids shall be disqualified for consideration for a bid award: (i) a bid which is incomplete in any material aspect, element or fact; (ii) a bid submitted without required bonds; (iii) a bid submitted by an individual, firm or business on the Ineligible Source List; and (iv) a bid submitted by a person in violation of the ethical requirements of this Ordinance.

In the event two (2) responsive bids are tied for the lowest price and the other terms and conditions of the two are substantially the same, the bid shall be awarded to the local firm if only one of the bidders has its principal place of business in Walton

County. If both or neither of the tied bidders are local firms, then the bid award shall be made to the winner of a coin toss by Purchasing Department staff in a public session where bidders will be invited to attend and one or more witnesses may be present.

Prices received through the bid process shall be in effect for sixty (60) days after the bid opening. If a second purchase is needed within six (6) months of the bid opening, it is not necessary to re-bid for the second purchase provided the bid price does not change.

II. COMPETITIVE SEALED PROPOSAL METHOD

When use of competitive sealed bidding is either impractical or not advantageous to the County for a purchase where either (i) the costs of materials, supplies, equipment, services or project is expected to be greater than \$75,000 or (ii) revenue is expected to be greater than \$75,000, a contract may be entered into by use of the competitive sealed proposal method. The following factors may be considered in determining whether to use the competitive sealed proposal method:

1. Whether quality, availability or capability is overriding in relation to price in procurement of technical supplies or technical or professional services;
2. Whether the initial installation needs to be evaluated together with subsequent maintenance and service capabilities and what priorities should be given these requirements in the County's best interest;
3. Whether fixed price or cost type contract is more advantageous; and
4. Whether the market place will respond better to a solicitation permitting not only a range of alternate proposals, but evaluation and discussion of them before making the award.

A. DISSEMINATION OF REQUEST FOR PROPOSAL

Public notice of a Request for Proposal shall be advertised as required by Georgia law to the extent applicable. The public notice shall contain a general description of the purchase, shall state the location where documents may be obtained and the date, time and place of proposal opening. Notice of any required bonding and insurance shall be included in the public notice. A copy of such notice shall be advertised online and by the front door of the Walton County Courthouse. Any other methods of advertisement identified as likely to result in additional competition may be used in addition to the required advertisement, at the discretion of the Purchasing Director.

B. RECEIPT OF PROPOSAL

No written proposal shall be eligible for consideration by the County unless it is placed in a sealed envelope or package and actually received by the Purchasing Department by the date and time specified in the Request for Proposal. All proposals shall be

stamped or annotated with the date and time of receipt and secured until the designated opening time. A proposal delivered late shall not be considered by the County.

C. PROPOSAL OPENING

Proposals shall be opened publicly in the presence of one or more witnesses on the date and at the time and place designated in the Request for Proposal. Only the name of the person submitting the proposal shall be announced.

D. PROPOSAL CANCELLATION

A Request for Proposal may be canceled prior to opening date. Thereafter, any or all proposals may be rejected in whole or in part when it is in the best interest of the County.

E. PROPRIETARY INFORMATION

Information submitted with a proposal that is specifically marked “proprietary” shall not be disclosed outside of the Purchasing Department without prior notification to the person submitting the proposal. Walton County is required to comply with the Georgia Open Records Act, O.C.G.A. § 50-18-70 and therefore may not be able to protect information submitted with a proposal. Entire proposals may not be deemed “Proprietary”.

F. PROPOSAL EVALUATION

Each proposal shall be evaluated to determine whether it is responsive to the specifications and other terms and conditions contained in the Request for Proposal. The evaluating team may communicate with anyone who submitted a proposal in order to clarify a proposal. No information concerning a proposal shall be communicated in any way to anyone other than the person who submitted the proposal. Additional information may be requested from anyone who submitted a proposal.

G. PROPOSAL AWARD

Subject to approval by the Walton County Board of Commissioners, award shall be made to the responsive and responsible person whose proposal is determined to be the most advantageous to the County based upon the evaluation factors set forth in the Request for Proposal.

The Purchasing Director may reject proposals or may defer proposal awards to allow time for additional evaluation or review, consistent with the best interest of the County.

The following types of proposals shall be disqualified for consideration of award: (i) a proposal which is incomplete in any material aspect, element or fact; (ii) a proposal submitted without required bonds; (iii) a proposal submitted by an individual, firm or business on the Ineligible Source List; and (iv) a proposal submitted by a person in violation of ethical requirements of this Ordinance.

B. PURCHASES OF \$75,000 OR LESS

Purchases of \$75,000 or less are considered informal purchases and do not justify the administrative time and expense of competitive sealed bidding or the competitive sealed proposal method; however, the processes used for this type of procurement shall include as much competition as is consistent with the anticipated cost of the procurement and the best interest of the County. The Purchasing Director is authorized to establish the methods and procedures to be used in handling informal purchases. Unless otherwise specifically provided, such purchases shall be obtained competitively through telephone quotations or informal written solicitations. Purchases may not be artificially divided as to constitute an informal purchase, thereby circumventing the dollar limit requirement for competitive sealed bidding or the competitive sealed proposal method.

Each County department is granted the authority, at the discretion of the department director, to handle purchases of commodities and services where the cost does not exceed \$2500. These purchases may be made by use of a Payment Voucher. Such purchases may be reviewed for compliance by the Purchasing Director, and departmental authority may be revoked for misuse and violation of procedures.

Each County department is granted the authority, at the discretion of the department director, to obtain pricing for commodities and services where the cost is more than \$2500 but not more than \$75,000. These purchases may be made by use of a Purchaser Order. For purchases of commodities totaling more than \$2500 but less than \$15,000, the County department must obtain a minimum of three oral quotes, unless adequate source supply is not available, and the approval of the Purchasing Director. For purchases of commodities totaling \$15,000 or more, the County department must obtain a minimum of three written quotes, unless adequate source supply is not available and the approval of the Purchasing Director or the County Manager. All purchases of \$25,000 or more must have final approval by the Walton County Board of Commissioners.

SECTION 2: EXCEPTIONS

The following types of contracts and purchases are not subject to the County's General Procurement Procedures set forth above:

A. PUBLIC WORKS AND PUBLIC ROAD CONSTRUCTION CONTRACTS

All public works construction contracts shall be procured in accordance with the Georgia Local Government Public Works Construction Law (O.C.G.A. § 36-91-1, et seq.).

All road construction contracts shall be procured in accordance with the requirements of O.C.G.A. Title 32, Chapter 4.

B. EXEMPT PURCHASES

Notwithstanding anything herein to the contrary, purchases of the following supplies and services, no matter the amount, may be procured by use of an Authorization for Payment: Works of art for public places, or other creative/artistic endeavors that require a particular and demonstrated skill or talent including, but not limited to, artists, musicians, and writers

- Printed copyright material including published books, maps, periodicals and technical pamphlets (not including software for computer systems), except where a greater savings can be realized by a quantity purchase
- Real property, real estate brokerage and appraising, abstract of titles for real property, title insurance for real property and other related costs of acquisition of real property
- Dues and memberships
- Subscriptions
- Services provided directly to individual citizens and employees including reimbursements and other miscellaneous payments
- Utilities including but not limited to electric, water and telephone
- Licensed health professionals and other professional services
- Litigation and related legal expenses
- Marketing of bonds and other forms of debt or debt management products
- Training, facilitators for meetings, travel, lodging or meal expense covered by other County policies
- Advertisements and legal advertisements
- Antiques and other unique assets of historical value, including restoration of these items
- Materials and services required for confidential and secure investigations, apprehensions and detentions of individuals suspected of or convicted of criminal offenses

Purchases for these supplies and services are not required to be obtained competitively through an Invitation to Bid or Request for Proposal or through telephone quotations or informal written solicitations.

With respect to professional services, it is the policy of Walton County to contract on the basis of demonstrated competence and qualifications at a fair and reasonable price with ultimate selection based on the best interest of the County.

C. SOLE SOURCE AND BRAND NAME PURCHASES

Notwithstanding anything herein to the contrary, purchases from a sole source or by brand name are permissible in the following situations:

1. A particular commodity or service may be obtained from only one source and no similar commodity or service available from a different source will adequately meet the County's requirements and specifications;
2. Compatibility with equipment for repair purposes is at issue;
3. Compatibility with existing systems is at issue; or
4. Standardization, which is either established as a result of past procurement(s) or by approval of the Purchasing Director, is at issue.

Based upon evidence and supporting documentation from the requesting department of one of the following situations, the Purchasing Director may authorize that a commodity or service be purchased from a sole source or by brand name.

D. EMERGENCY PURCHASES

The Purchasing Director shall have the authority, after notifying and receiving approval from the Chairman of the Board of Commissioners or County Manager, to purchase commodities and services where there exists an emergency constituting a threat to public health, safety or welfare or to the soundness and integrity of public property or to the delivery of essential services and where the adverse effects of such emergency may worsen materially with the passage of time. Acquisitions made pursuant to this provision shall be made using such competitive procedures as circumstances reasonably permit, and the Board of Commissioners shall be notified of any such acquisitions at their next regularly scheduled meeting.

E. COOPERATIVE PURCHASES

Notwithstanding anything herein to the contrary, the County may participate in a cooperative purchase for commodities, supplies and services when determined that it is in the best interest of the County. The sponsoring entity must have performed a competitive procurement process and entered into a contract that will allow governmental entities to purchase from the supplier at the same price and under the same terms and conditions.

F. GOVERNMENT AND AFFILIATED ENTITY PURCHASES

Notwithstanding anything herein to the contrary, the County may purchase services and incidental commodities from other federal, state or local governments, associations and nonprofit organizations when determined to be in the best interest of the County.

PART 4

CONTRACTING REQUIREMENTS

SECTION 1: CONTRACT REQUIREMENTS

A. BONDING REQUIREMENTS

The Purchasing Director is authorized to require certain bonds or deposits, including but not limited to bid bonds, performance bonds and payment bonds, from vendors when, in his or her judgment, the nature of the goods or services to be purchased warrant such bonds or deposits or whenever such bonds or deposits are required under state law.

B. INSURANCE REQUIREMENTS

The Risk Management Department shall determine what types and amounts of insurance coverage are reasonably necessary for the protection of the County's interests for all acquisitions covered by this Ordinance.

C. IMMIGRATION REQUIREMENTS

It is the policy of Walton County that unauthorized aliens shall not be employed to perform work on County contracts involving the physical performance of services. Therefore, the County shall not enter into a contract for the physical performance of services within the State of Georgia unless the contractor provides evidence on County-provided forms that it and its subcontractors have registered for and are participating in the federal work authorization program as defined by Georgia law.

SECTION 2: VENDOR RESPONSIBILITY

A. VENDOR PERFORMANCE RATING

Vendors who fail to perform or perform unsatisfactorily may be given an unsatisfactory performance rating by the Purchasing Director. Such a rating may be used for evaluation and award purposes.

B. INELIGIBLE SOURCE LIST

The following persons shall be placed on an Ineligible Source List for a reasonable period not to exceed three years, based upon the recommendation of the Purchasing Director or County Manager and approval of the Board of Commissioners:

1. Any person who submits a bid or proposal in bad faith;

2. Any person who willfully or repeatedly breaches a contract with the County;
3. Any person who repeatedly refuses to accept a bid or proposal award;
4. Any person who has established a pattern or practice of unethical or immoral business practices;
5. Any person who has been convicted of a crime involving moral turpitude; and
6. Any person who is delinquent or in default on the payment of any taxes or other monies due Walton County, or any other county, municipality, or state or the federal government.

Any such person shall not be eligible to provide any commodities or services to the County during the period such person remains on the Ineligible Source List.

C. COLLUSIVE OR ANTI-COMPETITIVE PRACTICES

Each vendor shall certify in writing that such vendor has not engaged in any collusive or anticompetitive practices in responding to an Invitation to Bid or Request for Proposal.

SECTION 3: CONTRACT APPROVAL

All contracts totaling \$25,000 or more shall be reviewed and approved as to form by the County Attorney prior to execution on behalf of the County. All contracts totaling \$25,000 or more require approval by the Board of Commissioners and execution by the Chairman on its behalf. The Purchasing Director or County Manager shall have the authority to approve and execute contracts totaling less than \$25,000.

SECTION 4: CHANGE ORDERS AND CONTRACT MODIFICATIONS

All change orders and contract modifications shall be approved by the Walton County Board of Commissioners, except that the Purchasing Director or County Manager shall have the authority to approve a change order if the total change order amount is less than \$25,000.