

# UNION COUNTY PROCUREMENT POLICY

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## I. INTRODUCTION

The purpose of this Policy is to establish guidelines for the procurement of goods and services by County officials and employees (collectively, “Employees” or “Employee” when used in the singular) for any County office, service area, department, division, board, commission or other organizational unit of Union County (collectively, the “County Departments”). Union County’s procurement operations are governed by North Carolina General Statutes (“N.C.G.S.”) Chapter 143 (State Departments, Institutions and Commissions), Chapter 153A (Counties), Chapter 159 (Local Government Finance), ordinances approved by the Union County Board of Commissioners, and all other applicable laws, rules, regulations, codes, standards, and orders of governmental bodies, agencies, authorities, and courts having jurisdiction (“Applicable Law”). The procurement of goods and services by Employees shall be in strict accordance with Applicable Law and with the requirements of this Policy. It is the intent of this Policy, where appropriate, to prescribe procurement requirements beyond Applicable Law and to confer on County staff the authority to make certain discretionary decisions, when authorized by Applicable Law. Where there is no prescribed policy for the procurement of goods or services, such as when in an amount for which these policies are not cost effective or administratively feasible, Employees are expected to seek competitive proposals, when practicable, and to utilize such practices as necessary to ensure that County business is not concentrated among a few vendors or service providers.

Union County’s procurement practices are based on the principle of open competition in support of the dual goals of securing value and promoting fairness. All Employees involved in the procurement process have a responsibility to provide fiscal stewardship when expending County funds. The taxpayers entrust County government to expend money in the most efficient and effective manner possible. The integrity of the procurement process must be maintained at all times.

## II. PURCHASE OF GOODS

The following provisions apply to the purchase of apparatus, supplies, materials, and equipment valued greater than or equal to \$5,000.

### A. Purchases Greater Than or Equal To \$90,000

Such purchases shall be subject to formal bidding pursuant to N.C.G.S. §143-129. The contract for any such purchase, if awarded, must be awarded to the lowest responsible, responsive bidder, taking into consideration quality, performance, and the time specified in the bids for the performance of the contract.

B. Purchases Greater Than or Equal To \$30,000 but Less Than \$90,000

Such purchases shall be subject to informal bidding pursuant to N.C.G.S. §143-131. The contract for any such purchase, if awarded, must be awarded to the lowest responsible, responsive bidder, taking into consideration quality, performance, and the time specified in the bids for the performance of the contract.

C. Purchases Greater Than or Equal To \$5,000 but Less Than \$30,000

Such purchases may be made without soliciting either formal or informal bids; provided, however, that Division Directors shall solicit three verbal quotations, and document such quotations in writing, in order to ensure that such purchases are made at the lowest available price. If in the judgment of a Division Director an item is available for purchase from fewer than three vendors or the solicitation of three verbal quotations is otherwise impractical and not in the interest of Union County, then the Division Director may purchase the item after securing the highest number of quotations reasonably practicable and recording the justification for securing fewer than three.

The Procurement Division Director (the “Procurement Director”) may exempt a purchase from formal or informal bidding if such exemption is (i) justifiable from a technical perspective (e.g. a bona fide sole source), (ii) expressly authorized by statute, and (iii) delegable by the Board of Commissioners and not expressly reserved by statute to action by the governing body. Examples of exemptions from formal and informal bidding include, but are not limited to: (a) purchases from other units of government, (b) group purchasing programs, (c) sole-source purchases, (d) State contract purchases, and (e) “piggybacking” purchase by another governmental entity.

**III. PROCUREMENT OF CONSTRUCTION OR REPAIR SERVICES**

The following provisions apply to contracts for construction or repair services when greater than or equal to \$10,000.

A. Contracts for Construction or Repair Services Greater Than or Equal To \$500,000

Such services shall be subject to formal bidding pursuant to N.C.G.S. §143-129. The contract for any such service, if awarded, must be awarded to the lowest responsible, responsive bidder, taking into consideration quality, performance, and the time specified in the bids for the performance of the contract.

B. Contracts for Construction or Repair Services Greater Than or Equal To \$30,000 but Less Than \$500,000

Such services shall be subject to informal bidding pursuant to N.C.G.S. §143-131. The contract for any such service, if awarded, must be awarded to the lowest responsible,

responsive bidder, taking into consideration quality, performance, and the time specified in the bids for the performance of the contract. Exempted from informal bidding are construction projects when the work is performed by Employees using force account qualified labor on the permanent payroll of the County, provided that the value of such work does not exceed the limits prescribed by statute.

C. Contracts for Construction or Repair Services Greater Than or Equal To \$10,000 but Less Than \$30,000

Such construction or repair services may be procured without soliciting either formal or informal bids; provided, however, that Division Directors shall solicit three verbal quotations, and document such quotations in writing, in order to ensure that such services are procured at the lowest available price. If in the judgment of a Division Director a construction or repair service is available from fewer than three contractors or the solicitation of three verbal quotations is otherwise impractical and not in the interest of Union County, then the Division Director may procure the service after securing the highest number of quotations reasonably practicable and recording the justification for securing fewer than three. Exempted from verbal quotations are construction projects when the work is performed by Employees using force account qualified labor on the permanent payroll of the County, provided that the value of such work does not exceed the limits prescribed by statute.

**IV. PROCUREMENT OF OTHER SERVICES**

The following provisions apply to contracts for services when greater than or equal to \$10,000, except for architectural, engineering, and surveying services which are addressed separately in Subsection IV(C) below.

A. Contracts for Services Greater Than or Equal To \$30,000

Unless governed by other County policy, contract, or by State or federal requirements, such services shall be procured by the Procurement Director upon issuance of a Request for Proposal (RFP). The terms of the RFP shall be prepared by the Procurement Director in conjunction with the Division Director requesting the service. The RFP shall include a list of factors to be utilized in evaluating the proposals. The Procurement Director shall secure not fewer than three proposals, when practicable. The award of a service agreement shall be made to the offeror whose proposal is determined to be the most advantageous to the County, taking into consideration the evaluation factors set forth in the RFP. Because there are no statutory requirements applicable to the procurement of such services, the County Manager may exempt a service from the RFP process for good cause and when in the best interests of Union County. The exemption of any such service exceeding \$50,000 shall be reported to the Board of Commissioners at its next regular meeting and shall include the justification for exemption.

B. Contracts for Services Greater Than or Equal To \$10,000 but Less Than \$30,000

Such services may be procured without utilizing an RFP; provided, however, that Division Directors shall solicit three verbal quotations, and document such quotations in writing, in order to ensure that such services are procured at the lowest available price. If in the judgment of a Division Director a service is available from fewer than three contractors or the solicitation of three verbal quotations is otherwise impractical and not in the interest of Union County, then the Division Director may procure the service after securing the highest number of quotations reasonably practicable and recording the justification for securing fewer than three.

C. Architectural, Engineering and Surveying Services

Such services shall be procured using the Request for Qualifications (RFQ) process established pursuant to N.C.G.S. §143-64.31. In accordance with N.C.G.S. §143-64.32, the County Manager, for good cause and when in the interests of Union County, may exempt particular projects in writing from the RFQ process in the case of proposed projects where an estimated professional fee is in an amount less than \$50,000.

V. EMERGENCY PURCHASES

The County Manager may exempt the procurement of any goods or service from the requirements of this Policy in cases of special emergency involving the health and safety of the people or their property pursuant to N.C.G.S. §143-129(e)(2). In order to exercise this emergency exemption, the emergency must be present, immediate, and existing. It cannot be a condition that is merely anticipated and may never actually occur. If the condition can be foreseen in time to take action to prevent harm to the public (or if the required procurement method can be completed before any harm would occur), the emergency exception cannot be invoked. Further, if harm to the public can be averted through temporary measures while the proper procurement method is being conducted, the emergency exception cannot be used. The failure to take proper precautions to prevent the need for an emergency procurement will not be accepted as a justification for exemption from the requirements of this Policy.

VI. ADDITIONAL AUTHORIZATION

In order to facilitate the orderly and timely administration of the County's procurement program, the following authorization is hereby given by the Board of Commissioners: (i) the County Manager is authorized to reject formal and informal bids received for the purchase of apparatus, supplies, materials, or equipment, and to re-advertise to receive bids; (ii) the Procurement Director is authorized to advertise bids by publication in a newspaper having general circulation in Union County, or by solely electronic means, or both, in the Director's discretion; (iii) the Procurement Director, pursuant to N.C.G.S. §133-33, may keep confidential the County's estimate of any public contract prior to bidding and the identity of contractors who have obtained proposals for bid purposes; (iv) the County Manager may delegate contract signature authority

for only those repetitive standard agreements for which the terms are fixed and not subject to change (e.g. Parks & Recreation camp site leases, subscriber agreements for electronic filing in the Register of Deeds' office, license agreements for use of the Agricultural Services Center ...); (v) the County Manager is authorized to delegate on a temporary basis to an assistant county manager or other member of the executive leadership team the ability to exercise such authority as granted to the County Manager pursuant to this Policy when the County Manager will be out of the office or otherwise unable to take such action; (vi) the County Manager is authorized to adopt such processes and procedures as may be necessary and expedient for implementation of this Policy; and (vii) the County Manager, in addition to such other authority granted herein, may exempt from this Policy the procurement of goods and services valued at less than \$30,000 and may otherwise vary the application of these guidelines upon good cause shown and when in the interests of Union County, provided that such exemption or variance does not violate Applicable Law.

## **VII. DISPOSITION OF PERSONAL PROPERTY**

When apparatus, supplies, materials, or equipment purchased for use by a County Department are no longer suitable for use by that department, such property shall be provided to the Procurement Director for distribution to another department or for disposition as surplus. The Procurement Director shall apprise all County Departments of such property in order to maximize its benefit to Union County. If after a reasonable period of time the Procurement Director determines that such property is not suitable for use by another County Department, the Procurement Director may dispose of such surplus property as outlined below:

### **A. Property Valued Greater Than or Equal To \$30,000**

Upon authorization by the Board of Commissioners, such property may be disposed of by public auction, sealed bid, negotiated offer and upset bid, or exchange.

### **B. Property Valued Greater Than or Equal To \$5,000 but Less Than \$30,000**

Upon authorization by the Board of Commissioners, such property may be disposed of by any of the methods described in Subsection VII(A) or by private negotiation.

### **C. Property Valued at Less Than \$5,000, Excluding Vehicles**

Without authorization by the Board of Commissioners, such property may be disposed of by any of the methods described in Subsection VII(A) or as set out below. Such property may be declared surplus and disposed of by the Procurement Director for fair market value at public or private sale, provided that such sale shall be reported to the County Manager at least biannually. The Procurement Director shall have authority to convey title to any property disposed of pursuant to this Subsection. The Procurement Director's estimate of value for any one item or group of items disposed of pursuant to this Subsection shall be verified by the Chief Financial Officer, or his designee, prior to sale.

In an effort to obtain market value, a current listing of all surplus property shall be posted, and regularly updated, on the Union County web page for the purpose of inviting offers to purchase. The Procurement Director shall keep a record of all property sold under this Subsection, and the record shall generally describe the property sold or exchanged, to whom it was sold, or with whom exchanged, and the amount of money or other consideration received for each sale or exchange.

Regarding the disposition of personal property, the Procurement Director is authorized to use existing private or public electronic auction services and to publish notice of all auctions solely by electronic means. The Procurement Director is authorized to discard any personal property that: (i) is determined to have no value; (ii) remains unsold or unclaimed after the County has exhausted efforts to sell the property using any applicable procedure under this Policy; or (iii) poses a potential threat to the public health or safety.

### **VIII. CONFLICTS OF INTEREST; GIFTS AND FAVORS**

This Policy requires that all business shall be transacted in compliance with Applicable Law and shall be conducted in conformance to the highest ethical standards. The proper operation of government requires that Employees be independent, impartial, responsible to the citizens, and that the public positions not be used for personal gain. The following conduct is required in furtherance of these principles.

Employees shall not undertake or make, pursuant to their public authority, any contracts for their own benefit or contracts in which they are in any manner concerned or interested or from which they receive profits. Employees are prohibited from obtaining a direct benefit from any contract in which they are involved on behalf of Union County. They are further prohibited from influencing or attempting to influence award of contracts, soliciting or receiving gifts or rewards for recommending, and influencing or attempting to influence contract awards. These matters are generally governed by N.C.G.S. §14-234.

Pursuant to N.C.G.S. §133-32, no Employee of Union County who is charged with the duty of (i) preparing plans, specifications, or estimates for public contracts; (ii) awarding or administering public contracts; or (iii) inspecting or supervising construction, shall accept any gifts or favors from any vendor or service provider who has a contract with a governmental agency, or has performed under such a contract within the past year, or anticipates bidding on such a contract in the future.

This section is not intended to prevent a gift a public servant would be permitted to accept under N.C.G.S. §138A-32, or the gift and receipt of honorariums for participating in meetings, advertising items or souvenirs of nominal value, or meals furnished at banquets. This section is not intended to prevent any contractor, subcontractor, or supplier from making donations to professional organizations to defray meeting expenses where governmental employees are members of such professional organizations, nor is it intended to prevent governmental employees who are members of professional organizations from participation in all scheduled

meeting functions available to all members of the professional organization attending the meeting. This section is also not intended to prohibit customary gifts or favors between employees or officers and their friends and relatives or the friends and relatives of their spouses, minor children, or members of their household where it is clear that it is that relationship rather than the business of the individual concerned which is the motivating factor for the gift or favor. However, all such gifts knowingly made or received are required to be reported by the donee to their Department Director if the gifts are made by a contractor, subcontractor, or supplier doing business directly or indirectly with the governmental agency employing the recipient of such a gift.

**IX. FEDERALLY AND STATE FUNDED PROJECTS AND PROGRAMS**

In accordance with the provisions of the U.S. Office of Management and Budget (OMB) Circular A-102, entitled “Grants and Cooperative Agreements with State and Local Governments,” and all related provisions and laws, all County Departments shall comply with all federal and state procurement regulations when procuring goods and services funded in whole or in part with any federal or state grant. Further, such regulations shall supersede all local purchasing provisions to the extent of any conflict. Without limiting the generality of the foregoing, purchases made by the Union County Department of Transportation with federal transit funds shall comply with the current version of FTA (Federal Transit Administration) Circular 4220.1. All sub-recipient agencies receiving federal or state funds through the County of Union shall also comply with the federal or state granting agency procurement regulations, which supersede all local purchasing resolution provisions.

**X. GENERAL PROVISIONS**

In the event of any conflict between this Policy and the North Carolina General Statutes, the General Statutes shall control. Whenever any provision of this Policy refers to or cites a section of the North Carolina General Statutes and that section is later amended or superseded, the Policy shall be deemed amended to refer to the amended section or the section that most nearly corresponds to the superseded section. To the extent any provisions of this Policy exceed the requirements of Applicable Law, such provisions shall confer no rights on vendors or service providers. Without limiting the generality of the foregoing, failure to comply with those portions of the Policy which exceed the requirements of Applicable Law shall not be deemed arbitrary and shall confer no right of appeal or resort to the courts. Pursuant to N.C.G.S. 143-133, no contract shall be divided for the purpose of evading the provisions of this Policy. Failure to comply with the requirements of this Policy shall subject such Employee to disciplinary action in accordance with County personnel policies and may subject such Employee to personal liability when authorized by applicable law.

**XI. EFFECTIVE DATE**

This Policy shall become effective upon Adoption and shall supersede such other Procurement Policy as may be in effect at that time.