

ESSEX COUNTY PURCHASING POLICY

2015



INTRODUCTION

Goods and services must be procured in a manner so as to assure prudent and economical use of public monies in the best interests of the taxpayers of the political subdivision or district, to facilitate the acquisition of goods and services of maximum quality at the lowest possible cost under the circumstances, and to guard against favoritism, improvidence, extravagance, fraud and corruption.

This Purchasing Policy governs all procurement of goods and services required to be made pursuant to the competitive bidding requirements of General Municipal Law §103, including Best Value Procurement as provided for in Essex County Local Law No. 4 for 2014, and those goods and services which are not required by law to be procured by political subdivisions or any districts therein pursuant to competitive bidding as per General Municipal Law §104-b.

The County of Essex is hereby authorized to make all purchases necessary of goods and services by any means legal within the State of New York and in compliance with all applicable laws, rules and regulations.

The responsibility and authority for purchasing is assigned by Essex County only to Linda Wolf, Purchasing Agent. Any questions with respect to this Purchasing Policy shall be directed to Ms. Wolf or to the Essex County Attorney. Under NO circumstances is any department to purchase goods or services without notifying the Purchasing Agent as departments have no authority to procure goods or services nor do they have authority to sign contracts.

The keynote of any successful purchasing system is cooperation; cooperation between department heads and the Purchasing Agent, cooperation between the Purchasing Agent and the fiscal officer, and cooperation between the governing board and all officers and employees of the County.

EVERYONE'S COOPERATION IS ESSENTIAL AND A POSITIVE APPROACH IS NEEDED.

This Purchasing Policy must be consulted by Department Heads for ANY AND ALL purchases and Public Works projects including, but not limited to equipment, materials, supplies, services, labor and construction and any hybrid thereof.

YOU CANNOT PURCHASE ANYTHING OR HAVE ANY WORK DONE WITHOUT ADHERING TO THIS POLICY.

Once a bid or solicitation has been awarded and approved, you still may not proceed without being assured that a valid CONTRACT has been executed by all parties and there is sufficient INSURANCE in place. This is the responsibility of the Department Head.

Only the County Chairman or County Manager may execute a contract. Department Heads cannot execute contracts.

ESSEX COUNTY PROCUREMENT POLICY

Section 1. Purpose

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

Section 2. Definitions

The following terms shall apply to all purchases governed by this policy:

1. "Best Value Procurement" shall mean the basis for awarding contracts for services to the offerer which optimizes quality, cost and efficiency, among responsive and responsible offerers. Such basis shall reflect, wherever possible, objective and quantifiable analysis. Such basis may also identify a quantitative factor for offerers that are small businesses or certified minority- or women-owned business enterprises as defined in subdivisions one, seven, fifteen and twenty of section three hundred ten of the executive law to be used in evaluation of offers for awarding of contracts for services. Best Value Procurement has been established by the County of Essex pursuant to Local Law No. 4 for 2014, and the requirements thereof are contained in said local law and in this Procurement Policy. **Best Value Methodology shall not be used with respect to Public Works contracts.**
2. "Blanket Purchase Order" shall mean a purchase order which is issued to one vendor for a specific period of time for items frequently purchased (maximum period of time is 12 months).
3. "Board" shall mean the Essex County Board of Supervisors.
4. "Change Order" shall mean a written order signed and issued by the County Chairman and/or County Manager, directing the contractor to make changes in relation to a specific purchase order or County contract.
5. "Competitive Bid" shall mean a formal written statement by a potential vendor,

submitted in response to an invitation for sealed bids, setting forth the vendor's terms under which it will furnish materials, goods and/or services.

6. "Contract" shall mean all types of County agreements, regardless of what they may be called, for the procurement of supplies, services or construction.

7. "Contractor" shall mean any person having a contract with the County or using agency thereof.

8. "Invoice" shall mean a formal statement or billing submitted by a vendor, showing the amount due and terms of payment for supplies delivered or for services rendered.

9. "Notice to Bidders" shall mean the solicitation process used for competitive, sealed bidding. The response to a sealed bid is an offering which must be accepted or rejected without change.

10. "Piggybacking" shall mean the purchasing of commodities and/or services by utilizing a contract let by another public entity. This can only be done when certain criteria are met. Contact the Purchasing Agent for more information.

11. "Proposal" shall mean a written statement by a potential provider of goods and/or services, submitted in response to a request for proposals or Notice to Bidders, setting forth the terms under which such provider will furnish materials, goods and/or services.

12. "Purchase Order" shall mean a written form to be used by the Purchasing Agent for placing orders with vendors approved by the Purchasing Agent for materials, goods and/or services requisitioned by County Departments, as well as by other governmental agencies within the County.

13. "Purchasing Agent" shall mean the person designated to solicit and award contract for necessary supplies, equipment and services. The Purchasing Agent shall also be responsible for implementation of this policy and, together with the County Attorney, for interpretation of this policy or any ambiguities contained herein.

14. "Quotation" shall mean an informal offer (usually written) by a potential vendor setting forth the terms under which the vendor shall furnish materials, goods and/or

services, and setting forth the following minimum information.

- (a) complete description of the item or services to be furnished,
- (b) a complete description of the cost, including but not limited to unit price, hourly rate and other similar information, as applicable,
- (c) special conditions or charges/credits (i.e., delivery, installation, trade-ins, discounts, shipping fees, etc.), and
- (d) total cost.

15. "Request for Competitive Offers" shall mean a formal written invitation to potential providers of materials, goods and/or services (not for public works), the procurement of which is/are not subject to competitive bidding requirements of General Municipal Law §103. The RCO should include a work statement or performance specification detailing what is required, the time frames in which the work is to be competed and evaluated and objective evaluation criteria by which an offeror will be judged. Additional criteria, such as ability to perform, reliability of product, efficiency of operation, difficulty/ease of maintenance, useful lifespan, ability to meet specific needs regarding timeliness and performance, experience of provider with similar contracts and other objective criteria may be used in the evaluation. Price is not the sole factor in determining the award of proposal although it will be weighted more heavily than other objective criteria. RCOs shall be developed and fashioned by the Purchasing Agent on a case by case basis.

16. "Request for Proposals" shall mean a formal written invitation to potential providers of materials, goods and/or services, the procurement of which is/are not subject to competitive bidding requirements of General Municipal Law §103. This shall be a more complicated and detailed form of quote used when competitive bidding is not required, and often used when acquiring a professional service. The RFP should include a work statement or performance specification detailing what is required, the time frames within which the work is to be completed and evaluation criteria by which a proposer will be judged. The firm's experience and ability to perform the specified work, the firm's personnel and past performance may be evaluated. Price is not the sole

factor in determining the award of the proposal. Requests for Proposals shall be developed and fashioned by the Purchasing Agent on a case by case basis.

17. “Responsible Bidder” or “Offerer” shall mean 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.

18. “Responsive Bidder” shall mean a person who has submitted a bid that conforms in all material respects to the requirements set forth in the Notice to Bidders.

19. “Specifications” shall mean a written description of needed supplies, equipment or services setting forth in a clear and concise manner the characteristics of the items and/or services to be purchased and the circumstances under which the purchase will be made.

20. “Vendor” shall mean a supplier of good or services to the County.

Section 3. Procurement Guidelines

The procurement, acquisition and purchase of all materials, goods and services by any department of Essex County shall be in conformance with the following guidelines:

1. Every prospective purchase of goods or services to be made must be initially reviewed to determine whether it is a purchase contract or a public works contract. Once that determination is made, a good faith effort will be made to determine whether it is known or whether it can be reasonably expected that the aggregate amount to be spent on the item of supply or service is not competitive bidding pursuant to General Municipal Law §103, taking into account past purchases and the aggregate amount to be spent in a year. Additional consideration will be given whether to use best value procurement.
2. The decision that the purchase is not subject to competitive bidding will be documented in writing. This document may include written or verbal quotes from vendors, a memo from the purchaser indicating how the decision was arrived at, a copy of the contract indicating the source which makes the item or service exempt, a memo from Purchasing detailing the circumstances which led to an emergency purchase or any other written documentation.
3. All goods and services not subject to **competitive bidding** will be secured by use of **written requests for proposals (RFP)**, **Best Value Procurement (RCO - Request for Competitive Offers)**, written quotations, verbal quotations or any other method herein below set forth in this policy that assures that goods and services will be purchased in the best interest of the taxpayers to facilitate the acquisition of the same for maximum quality at the lowest possible cost under the circumstances.

MONETARY THRESHOLDS FOR THE PURCHASE OF COMMODITIES, EQUIPMENT OR GOODS

A. Purchases of Goods, Materials, Commodities and Equipment

Estimated Amount

Method

\$0 to \$5,000.00

At the discretion of the Purchasing Agent provided the same is within the budget or a Board resolution is obtained. The purchase/acquisition shall be accomplished based upon reliable market information such as catalogs, vendor price listings and at least one quotation.

\$5,000.01 to \$10,000.00

Documented telephone quotes from at least three separate vendors (if available) or confirming fax or email quotes from at least three separate vendors (if available). The award will be made at the discretion of the Purchasing Agent provided there are appropriations therefore in the budget and, if not, there must be approval of the governing Board. When the lowest quoted items is deemed as not acceptable, documented facts must support the decision and approval must be obtained from the Board of Supervisors before the item

can be purchased. If quotes from three separate vendors cannot be obtained, it must be shown that diligent effort was made to obtain such quotes and, in that event, less than three quotes are acceptable.

\$10,000.01 to \$20,000.00

Formal written, faxed or emailed quotes from at least three separate vendors, if available. When the lowest quoted amount is not deemed acceptable, the Purchasing Agent shall document facts that support the decision and there must be approval must be obtained from the appropriate committee, and a Board of Supervisors resolution adopted before such item may be purchased.

Over \$20,000.01

Formal sealed bids in conformance with GML §103.

- * Departments cannot purchase anything unless the item is specifically provided for in their annual budget or they obtain a resolution for said purchase from the Board of Supervisors.

NOTWITHSTANDING THE ABOVE MONETARY LIMITS AND PROCEDURES, BEST VALUE PROCUREMENT AS SET FORTH IN ESSEX COUNTY LOCAL LAW NO. 4 FOR 2014 AND AS FURTHER PROVIDED BY LAW AND AS PROVIDED HEREIN MAY BE USED IN THE DISCRETION OF THE DEPARTMENT HEAD WITH THE APPROVAL OF THE PURCHASING AGENT AND ESSEX COUNTY BOARD OF SUPERVISORS.

B. Public Works Contracts (other than professional services)

Estimated Amount

Method

\$0 to \$5,000.00

At the discretion of the Purchasing Agent provided the same is within the budget or a Board resolution is obtained. The purchase/acquisition shall be accomplished based upon reliable market information such as catalogs, vendor price listings or quotations, but the Purchasing Agent or Department Head shall not be required to obtain quotations.

\$5,000.01 to \$15,000.00

Formal written, faxed or emailed quotes from at least three separate vendors, if available. The award will be made at the discretion of the Purchasing Agent provided there are appropriations therefore in the budget and, if not, there must be approval of the governing board. When the lowest quoted amount is not deemed acceptable, the Purchasing Agent shall document facts that support the decision and there must be approval from the Board of Supervisors before such item may be purchased.

\$15,000.01 to 35,000.00

Formal written, faxed or emailed quotes from at least four separate vendors, if available. When the lowest quoted

amount is not deemed acceptable, the Purchasing Agent shall document facts that support the decision and there must be approval must be obtained from the appropriate committee, and a Board of Supervisors resolution adopted before such item may be purchased.

Over \$35,000.00

Formal sealed bids in conformance with GML §103.

- * Departments cannot purchase anything unless the item is specifically provided for in their annual budget or they obtain a resolution for said purchase from the Board of Supervisors.

Best Value Procurement as set forth in Essex County Local Law No. for 2014 and as further provided by law and as further set forth herein **CANNOT** be used with respect to Public Works contracts.

c. Professional Services - Request for Proposals

A request for proposal (RFP) will be utilized whenever the County seeks to obtain professional services or consultants, or whenever the County determines it to be in the best interest of the County that a request for proposal be issued notwithstanding any other provision of this policy and in conformance with the General Municipal Law and in particular, §104-b thereof.

Estimated Amount

Method

\$0 to \$5,000.00

Award will be at the discretion of the Purchasing Agent provided there are appropriations therefore in the budget. If not, there must be approval of the governing board.

\$5,000.01 to \$20,000.00

Formal written, faxed or emailed quotes from at least three separate vendors, if available. The award will be made at the discretion of the Purchasing Agent provided there are appropriations therefore in the budget and, if not, there must be approval of the governing board. When the lowest quoted amount is not deemed acceptable, the Purchasing Agents shall document facts that support the decision and there must be approval from the Board of Supervisors before such service may be purchased.

Over \$20,000.01

Requests for Proposals (RFP) from at least three qualified sources, where available. The RFP process shall be as defined in this policy. Proposals shall be solicited via public advertisement. When awarding an RFP, price shall not necessarily be the sole criteria for the award of a contract and the RFP shall provide detailed information concerning the type of service to be provided, including minimum requirements, evaluation criteria that will govern the contract award and any and all other legal and pertinent criteria deemed necessary by the Purchasing Agent. The award will be made at the discretion of the Purchasing Agent provided there are appropriations therefore in the budget and, if not, there must be approval of the governing board.

- * Departments cannot purchase anything unless the item is specifically provided for in their annual budget or they obtain a resolution for said purchase from the Board of Supervisors.

NOTWITHSTANDING THE ABOVE MONETARY LIMITS AND PROCEDURES, BEST VALUE PROCUREMENT AS SET FORTH IN ESSEX COUNTY LOCAL LAW NO. 4 FOR 2014 AND AS FURTHER PROVIDED BY LAW AND AS PROVIDED HEREIN MAY BE USED IN THE DISCRETION OF THE DEPARTMENT HEAD WITH THE APPROVAL OF THE PURCHASING AGENT AND ESSEX COUNTY BOARD OF SUPERVISORS.

In rare and unique circumstances, requests for proposals for professional services over \$20,000.01 will not be required in the best interest of the municipality where the nature of these services are such that the particular professional service provider has special or technical skill, training, experience, accountability, reliability, responsibility, education, judgment and integrity specific to the service required or there exists certain emergency and/or other extreme time constraints which would jeopardize the County's project or its position which require expedited contracting. In this regard, the Essex County Board of Supervisors must carefully document and explain its reasons for not complying with this policy as it relates to professional services and the issuance of an RFP.

D. Best Value

See page 29.

E. Deviation From This Policy

ESSEX COUNTY MAY VARY FROM THIS POLICY WITH COUNTY MANAGER AND ESSEX COUNTY BOARD OF SUPERVISOR'S APPROVAL IN UNUSUAL OR

UNIQUE SITUATIONS THAT MAKE THE APPLICATION OF THE REQUIREMENTS OF THIS PROCUREMENT POLICY CONTRARY TO THE PUBLIC INTEREST, PROVIDED THAT SUCH SPECIAL PROCUREMENT UNDER THIS SECTION SHALL BE MADE WITH SUCH COMPETITION AS IS PRACTICABLE UNDER THE CIRCUMSTANCES AND THERE IS WRITTEN LEGITIMATE DOCUMENTATION DETERMINING THE BASIS FOR PROCUREMENT AND FOR THE SELECTION OF A PARTICULAR CONTRACT PLACED IN THE CONTRACT FILE AND FURTHER PROVIDED THAT THE PRECEPTS OF PRUDENT AND ECONOMICAL USE OF PUBLIC MONIES AND FAIRNESS IN THE BIDDING PROCESS TO VENDORS AND CONTRACTORS HAS BEEN ADHERED TO AND UPHELD. WITH RESPECT TO THE PURCHASE OF GOODS, MATERIALS AND COMMODITIES, THE MONETARY THRESHOLD OF \$20,000.00 AND THE MONETARY THRESHOLD FOR PUBLIC WORKS CONTRACTS OF \$35,000.00 AS SET FORTH IN GENERAL MUNICIPAL LAW SECTION 103 AND ITS DECISIONAL LAW CANNOT BE DISREGARDED UNLESS THESE PURCHASES FALL WITHIN EXCEPTIONS TO COMPETITIVE BIDDING. THIS PARAGRAPH SHALL NOT APPLY IN THESE SITUATIONS.

Section 4. Procedures Applicable to All Purchases Regardless of Dollar Amount

Before making any purchase, the following steps must be taken:

1. Confirm that there is not already a County bid for the item(s).
2. **Preferred Source:** If there is no County bid, check Preferred Source Offerings in the following order:
 - a. Corcraft
New York State Department of Correctional Services
Division of Industries
550 Broadway, Menands, NY 12204
Ph: 436-6321
Fax: 472-1614
website: <http://www.corcraft.org>
 - b. Industries for the Blind of New York State, Inc.
296 Washington Avenue Extension
Albany, NY 12203-5346
Ph: 456-8671
Fax: 456-3587
website: <http://www.ibnys.org>

- c. New York State Industries for the Disabled, Inc.
155 Washington Avenue, Suite 400
Albany, NY 12210
Ph: 463-9706
Fax: 463-9708
website: <http://www.nysid.org>
- d. New York State Office of Mental Health
BUY OMH
44 Holland Avenue
Albany, NY 12229
Ph: 474-0121

Items must meet the form, function and utility of the Department. Catalogs and guidelines may be obtained in the Purchasing Department. If the price from a **Preferred Source** is within 15% of the lowest quote and meets the specifications of the Department, the item must be purchased from the **Preferred Source**.

- 3. **State Contract:** If the item/service is not available from a Preferred Source, search the New York State Office of General Services (NYS OGS) website (www.ogs.state.ny.us) for a **State Contract**. Purchases should be made through available State Contracts (OGS), or under County contract pursuant to Section 408-a of the County Law, and Subd 3 of General Municipal Law (hereinafter "GML") §103 revised in 2003 to allow purchases of materials, equipment or supplies, or to contract for services through any county within the state, whenever such purchases are deemed by the Purchasing Agent to be in the best interest of the County.
- 4. If no **State Contract** is available, or you feel the County can obtain better pricing than **State Contract**, the Purchasing will proceed with a County bid or the Department may obtain quotes, depending on the dollar thresholds. (See Section 3 of this policy)
- 5. **Piggyback:** The County is also authorized to purchase apparatus, materials, equipment and supplies, and to contract for services related to the installation, maintenance or repair of those items, as authorized by the addition of Subdivision 16 as an amendment to GML §103, through the use of contracts let by the United States or any agency thereof, any state or any other political subdivision or district therein. The contract must be let in a manner that

constitutes competitive bidding requirements of GML §103. The stated purpose of GML §103(16) is to reduce costs, and increase efficiencies. The prerequisites that must be met are as follows:

- a. The contract must have been let by the United States or any agency thereof, any state or any other political subdivision or district therein. Therefore, there must be an underlying contract let by one of the listed governmental entities. Contracts developed for use by local governments that are let by private parties (e.g. a private company, association or not-for-profit corporation is the party awarding the contract to the vendor), and not by the United States or any agency thereof, any state or any other political subdivision or district therein, would not fall within the exception.
 - b. The contract must have been made available for use by other governmental entities. This means that the other governmental entity has taken steps to make its contract available for New York local governments by including a clause extending the terms and conditions of the contract to other governmental entities. Unilateral offers by vendors to extend contract pricing and other terms and conditions would not fall within this exception.
 - c. The contract must have been let in a manner that constitutes competitive bidding “consistent with state law.” “State law” refers to New York State’s bidding law applicable to its political subdivisions (GML §103, GML §104-b, or Best Value Procurement). Departments exercising the option to purchase under this exemption will be required to obtain background information on the procedures used to let the contract and, as necessary, consult with counsel, to determine whether this prerequisite is met.
6. Vendor number must be requested for each vendor receiving payment from Essex County. All requests for new or changed vendor numbers must be submitted to the Purchasing Department. Vendor numbers are necessary in order to complete a Purchase Order and must contain the following information:
- a. Correct and full name of the individual/organization
 - b. Remittance address for payment
 - c. Federal ID or Social Security Number
 - d. Reason for payment (so that Purchasing can identify 1099 status)

County Departments are responsible for obtaining original W-9 forms from the vendors confirming that payment information provided to the County is valid. A W-9 form must be submitted with each new vendor request in order for a vendor number to be issued.

7. **Prevailing Wages** apply any time a vendor employs laborers, workmen or mechanics. Vendors are required to pay prevailing rates according to Article 8 of the New York State Labor Law, no matter what the dollar amount. Pursuant to Article 9 of the New York State Labor Law, prevailing wages must also be paid for building service contracts such as moving, landscaping, elevator maintenance, etc., for any contract exceeding \$1,500 per year.

Owners/operators, who have no employees, do not need to pay themselves Prevailing Wages. Certified payrolls must be provided by the Contractor to the applicable County Department, prior to submitting an invoice. The Certified Payroll forms are required to be kept on file by the Departments for which the contract applies.

All prevailing wage schedules must be requested through the Purchasing Department prior to obtaining quotes or bids. All vendors must be provided with the New York State Department of Labor PRC number assigned to each individual project so that appropriate labor rates are included in their quotes. If the contract is cancelled at any time, Purchasing must be notified in order to cancel the prevailing wage schedule for the project.

On occasion, the New York State Department of Labor, Bureau of Public Works, upon receiving complaints for non-payment of prevailing wages shall direct the County to withhold monies due to a vendor. The original notice is forwarded to the Superintendent of the Department of Public Works, a copy is kept in Purchasing and a copy forwarded to the Treasurer's Office. These monies are held until notification is received from the Department of Labor on how they are to be disbursed.

Contractors and the applicable County Departments must check prevailing wage schedules for each project of the 1st of each month. The Department of Labor posts corrections to each schedule (when required), and both parties must be

informed of all updates to ensure proper payment to Contractor's employees, and for the purpose of checking certified payrolls.

It is the County's responsibility to confirm that the Prime Contractor has provided all sub-contractors with a copy of the prevailing wage schedule. A verified, signed statement must be obtained from each sub-contractor by the Prime Contractor and provided to the County, certifying that they were provided with a copy of the schedule.

8. **Contracts:** A contract is **always** required when a service is being provided to the County (regardless of amount). Where appropriate, short form contracts are available. When determining the term of a contract, please take into consideration the nature of the commodity/services; What is the likelihood that the original term may be extended? Most contracts are capped at 3 years, with an initial one year term and two additional (optional) one year extensions. More involved contracts with larger investments by the Contractors may have longer terms which will be negotiated as part of the contract process.
9. Each set of Specifications will identify the person to which questions should be directed. This is a control mechanism so that all vendors fairly receive the same information relative to the Specifications. In the event the Purchasing Agent does not know the answer, he/she will contact the appropriate department to obtain the correct response. The appropriate information will then be distributed to the vendors in the form of a written addendum. Written addenda must be issued at least five (5) business days prior to the bid opening. If the five (5) day requirement is not met, the bid opening date will be changed in order to comply.
10. **Standardization:** GML §103 makes it possible for the County to **standardize** on a particular type of material or equipment. A resolution approved by the Department's standing committee and at least two-thirds majority of the Board of Supervisors, shall state that for reasons of efficiency or economy, there is a need for standardization. Such reasons may include, but are not limited to the following:
 - a. Larger quantities of fewer items;

- b. More economical buying;
- c. Flexibility of inventory;
- d. Reduction of purchasing time;
- e. Lower departmental operating costs; and
- f. Reduced inventories

The adoption of such a Resolution does not eliminate the necessity for conformance to the competitive bidding requirements. Standardization restricts the purchase to a specific model or type of equipment or supply, but does not limit the vendors it can be purchased from.

11. Anticipate your needs. Once you have determined what you need, within the limitations of your budget, contact Purchasing to help you develop the specifications for the quote or bid to get the best value possible for the expenditure of tax dollars.

The key is time and preparation. Turn around time is dependent on many factors ranging from the complexity of the specifications, and the need for a pre-bid meeting and addendums to the number of bids and quotes currently in process with Purchasing. **Remember, poor planning does not move the request to the top of the list!**

12. Essex County takes the position, consistent with County Law §369; the State Comptroller's Opinion 81-83 and Opinion 81-90; and good business sense, that prepayments should not be made using County funds.
13. Upon receipt of goods and services, the Department enters the receipt into the system with the exact quantity received. As standard business procedure, all County vendors are entitled to prompt payment. Invoices should be processed as soon after goods/services are obtained and in accordance to batch deadlines established by the County Auditor. **If the Auditor receives any claims for goods or services for which no Purchase Order was issued, the Purchasing Agent, in conjunction with the County Auditor, will have the authority to nullify the payment of such claim.**

14. The Purchasing Department endeavors to aid in getting Departments the right material on time. There will be occasions when inferior goods or services are received or they are not received in a reasonable amount of time. If the problem cannot be resolved by the Department it should be reported to Purchasing as soon as possible. This can be done via email or phone. Remember to include the vendor's name, bid number, the problem you have with the order and your name and extension.
15. When developing bid or Request for Proposal specifications, it is understood that Departments may require the expertise of vendors. When consulting with vendors, it must be clearly stated that their services, in no way, give them an advantage in the bidding or proposal process. Departments must be especially diligent in this situation to ensure that the specifications are not written in such a way that they consulting vendor is given such an advantage (i.e. writing the specifications so narrowly that only their company or firm can respond).
16. All requests for bids or proposals shall contain the following language:
 - **THE CONTRACT, IF AWARDED, WILL BE TO THE LOWEST RESPONSIVE/RESPONSIBLE BIDDER(S) OR RFP AWARD IN PART OR IN WHOLE WHO MEET(S) ALL THE TERMS OF THE SPECIFICATIONS. ESSEX COUNTY GUARANTEES NO MINIMUM OR MAXIMUM PURCHASES OR CONTRACTS AS A RESULT OF AWARD OF THIS BID. ESSEX COUNTY RESERVES THE RIGHT TO ALLOW ALL MUNICIPAL AND NOT-FOR-PROFIT ORGANIZATIONS AUTHORIZED UNDER THE GENERAL MUNICIPAL LAWS OF THE STATE OF NEW YORK TO PURCHASE ANY GOODS AND/OR SERVICES AWARDED BY ESSEX COUNTY AS A RESULT OF THIS BID IN ACCORDANCE WITH THE LATEST AMENDMENTS TO NYS GML 100 THROUGH 104. HOWEVER, IT IS UNDERSTOOD THAT THE EXTENSION OF SUCH CONTRACTS ARE AT THE SOLE DISCRETION OF THE VENDOR AND THE VENDOR IS ONLY BOUND TO ANY CONTRACT BETWEEN ESSEX COUNTY AND THE VENDOR. VENDOR MAY NOT LOOK TO ESSEX COUNTY FOR PAYMENT IN THE EVENT ANOTHER MUNICIPALITY OR AUTHORIZED ENTITY PIGGYBACKS ON AN ESSEX COUNTY AWARDED BID AND ORDERS EQUIPMENT, MATERIALS OR SUPPLIES, BUT FAILS TO PAY FOR THEM. ADDITIONALLY, ESSEX COUNTY**

RESERVES THE RIGHT TO PURCHASE ANY GOODS OR SERVICES INCLUDED AS A PART OF THIS BID FROM ANY MEANS LEGALLY AVAILABLE TO IT AT ANY TIME.

- THIS NOTICE OF BID/RFP AWARD IS SUBJECT TO THE EXECUTION OF A WRITTEN CONTRACT AND, AS A RESULT, THIS NOTICE DOES NOT CONSTITUTE THE FORMATION OF A CONTRACT BETWEEN THE PARTIES. THE VENDOR SHALL NOT HAVE LEGAL OR EQUITABLE RIGHTS UNTIL A CONTRACT THAT IS ACCEPTABLE TO ESSEX COUNTY IS EXECUTED. IF THE APPARENT SUCCESSFUL VENDOR FAILS TO NEGOTIATE AND EXECUTE A CONTRACT WHICH INCLUDES THE TERMS AND CONDITIONS CONTAINED IN THE BID OR RFP OR SUCH ADDITIONAL TERMS AS ARE REASONABLY REQUIRED BY ESSEX COUNTY, ESSEX COUNTY MAY REVOKE THE AWARD AND AWARD THE CONTRACT TO THE NEXT LOWEST/RESPONSIBLE BIDDER OR PROPOSER OR WITHDRAW THE BID/PROPOSAL. ESSEX COUNTY RESERVES THE RIGHT TO CANCEL THE AWARD AT ANY TIME PRIOR TO THE EXECUTION OF A WRITTEN CONTRACT.

17. Pursuant to General Municipal Law §103 and County Law §408-a, any political sub-division or fire company (as both are defined in Section 100 of the GML) or district authorized to make purchases of apparatus, materials, equipment or supplies, or to contract for services related to the installation, maintenance or repair of apparatus, materials, equipment and supplies may make said purchases under any existing Essex County contract (Piggyback) provided, and on condition that this present contract was **LET TO THE LOWEST RESPONSIBLE BIDDER**. Therefore all terms and conditions under this contract are extended to other political sub-divisions and governmental entities.

Purchases under any Essex County contract by any other political sub-division other than Essex County shall be pursuant to the terms and conditions of Resolution No. 207 of 2013 dated July 1, 2013.

18. Upon the approval of the Department Head and Purchasing Agent, Best Value Procurement as defined in Essex County Local Law No. 4 for 2014 and as herein set forth may be utilized.

Section 5. Procedures Specific to Each Type of Purchase¹

1. Commodity/Equipment/Furniture Purchases

These purchases may be made without a resolution of the Board of Supervisors to the

extent your Department budgeted/planned for the same. **If these items are not specifically set forth in your budget, you must obtain a resolution of the Board of Supervisors in order to purchase.**

Most often, purchases made under State Contract do not require quotes, however, there are instances where quotes or a mini-bid process are required. Please read each State Contract carefully to make sure all requirements are being met before making the purchase. Some vendors may offer CSA (federal) pricing to the County. Please note, this does not exempt the County from following State and/or County procurement requirements. The GSA pricing may be used as a quote, but additional pricing is still required in accordance with the guidelines set forth below.

a. Competitive Bidding

Legal notices are published in the official County newspapers, informing the public of the products or services being bid. The advertisements for bids shall contain a statement of the time and place where all bids will be publicly opened and read. All bid openings will be conducted at a public meeting and all interested parties may attend.

Where bids are required, the Department Head will assist the Purchasing Agent in the preparation of specifications and contracts. It is the responsibility of the Department Head to provide an adequate description of items needed so that the Purchasing Agent may be able to prepare the specifications to procure the desired commodity or service. The Purchasing Agent will send specifications to vendors from a list prepared jointly by the Purchasing Agent and the Department Head for all bids. Essex County does NOT accept faxed documents where original (ink) signatures are required, i.e. on proposal pages, Non-Collusive

Certifications, Corporate Resolutions and Iran Divestment Act Certifications.¹ When soliciting bids, a “Statement of General Conditions” will be included with all specifications and contracts provided to vendors. These General Conditions will be incorporated into contracts awarded for the purchase of commodities and the procurement of public works services. Also included shall be Essex County Standard Terms and Conditions and Essex County Insurance Requirements as well as any and all additional requirements deemed necessary by the Purchasing Agent, Department and/or County Attorney.

After the public opening of a sealed bid, a tabulation sheet shall be prepared, recording all pricing as submitted by the responding vendors. The appropriate Department(s) shall evaluate the bid responses and prepare a recommendation letter. When required, the using Department will request a resolution to be presented to their standing committee and then sent to the Board of Supervisors for final award. The using Department shall also handle any renewal resolutions through their standing committee submitted with the proper supporting documentation provided by Purchasing.

Resolutions for multi-department use are handled by the predominant Department and are submitted to the appropriate Committee for approval.

b. Bid Approval Process:

Commodities vs. Public Works

Purchase contracts for materials, equipment and supplies involving an estimated annual expenditure of over \$20,000 .00 and public works contracts involving over \$35,000.00 shall be awarded to the lowest responsible bidder only after public advertising soliciting formal sealed bids (GML §103). The term public works contracts would apply to those projects involving labor or both materials and labor where the labor portion exceeds the material component. Included in this category would be construction, paving, printing and repair contracts.

Although not defined in GML §103, the Office of the State Comptroller has expressed the opinion that the term “contract for public work” encompasses contracts for services, or labor or construction by a “laborer, workman or mechanic service requiring wage rates.” When a contract involves acquisition of both goods and services, such as a commodity where installation is required, the contract should be viewed as a purchase for purposes of the competitive bidding monetary threshold only if the service portion is minor, incidental, or customarily provided by the vendor as a component of the purchase. Conversely, if the services are extensive, substantial, or involve specialized skills, so that the acquisition of the commodity is incidental to the work, the contract should be treated as a contract for public work (1987 Opns St Comp No. 87-46, p. 70). For example, a contract for interior painting of the building involves both material and labor. In most cases, the labor component of the contract will be predominant, making it a contract for public work. In contrast, replacing a boiler or furnace, while involving both labor and equipment will, in most cases, consist primarily of a charge for the equipment, making it a commodity purchase.

In determining the necessity for competitive bidding, the aggregate cost of an item or commodity estimated to be purchased in a fiscal year would have to be considered. As a general guide, items of the same or similar nature which are customarily handled by the same vendor or kind of vendor should be treated as a single item for purposes of determining whether the dollar threshold will be exceeded, i.e. plumbing materials, electrical materials, lumber, hardware, etc. It is the responsibility of the Purchasing Agent and/or County Auditor to note where purchases over the course of a fiscal year are exceeding the bidding thresholds from the purchase orders submitted by the various departments.

Items purchased through Essex County bid or New York State Office of General Services (OGS) on State Contract have already been subject to bidding and are therefore exempt. However, all political subdivisions must purchase from the vendor holding a current State or County contract, even if another vendor’s price is equal or lower, or said political subdivision must go to separate bid. The purchasing exemption made through the NY OGS does not apply to a purchase from the State Contract vendor upon terms and conditions which materially or substantially vary from the State Contract. Used items are not exempt from bidding requirements ex

Bids for commodities will be awarded by the Purchasing Department after the following conditions are met:

- i. Sufficient appropriations are contained within the Department's current budget (or after a budget transfer has been completed).
- ii. The Department Head provides the Purchasing Agent with a written recommendation for award indicating that the lowest bid meets the intent of the specifications.

2. PUBLIC WORKS PROJECTS/CONTRACTS

1. A Board of Supervisors resolution must be adopted to award a Public Works bid and authorize a contract and hence acquisition of services. In some instances, Departments have been provided, by Resolution, with general authority to enter into Public Works contracts within certain parameters. On-call service contracts may be entered into for smaller projects (quotes or bids must be obtained on a per hour basis with a mark-up for materials). However, if a project is expected to exceed the public works threshold of \$35,000.00, then a bid specific to that project, or portions thereof, must be established. The \$35,000.00 threshold includes public works expenditures, as well as materials/ commodities purchased as part of the public works project. However, if a project is undertaken by the County workforce, the commodity needed for that project shall be acquired pursuant to the County Purchasing Policy in accordance with the commodity thresholds. If contract labor or services should be needed for that project, the same will be independently bid or otherwise acquired pursuant to the County Purchasing Policy in accordance with the public works threshold. Regardless of the source of funding, i.e. grant funding or County funding, the County Purchasing Policy must be adhered to. (Please note that a "project" can be 2 or more construction projects lumped together for bidding purposes.)

- a. **Competitive Bidding**
See Paragraph II(B)(1)(a) above.

b. **Bid Approval Process**

- a. Bids for public works projects will be awarded by a Board of Supervisor's Resolution after the following conditions are met:
 - i. Sufficient appropriations are contained within the Department's current budget (or after a budget transfer has been completed).
 - ii. The Department Head provides the Purchasing Agent with a written recommendation for award indicating that the bids received meet the intent of the specifications.
- c. Section 220 of the Labor Law requires public work contractors and subcontractors to pay laborers, workers, etc., employed in the performance of a public work contract not less than the prevailing rate of wage and to provide supplements (fringe benefits) in accordance with the prevailing practices in the locality where the work is performed.
- d. Whenever a project is contemplated where labor is involved, the issue of prevailing wages should be considered. Most think of prevailing wages only on construction projects...not the case. Prevailing wages apply almost wherever there is labor present, regardless of the cost of such project. When embarking on a project that you suspect is covered by the Prevailing Wage Regulation, the Purchasing Agent will contact the NYS Labor Department (**518-457-9000, option 4**). They can advise if prevailing wages apply. The prevailing rate schedule must be included in the specifications for the contract to be awarded and is deemed part of the public work contract.
- e. The Purchasing Agent shall send in a request for a Prevailing Wage Schedule for the particular job in question. The Purchasing Agent will receive a package of current wage schedules, along with forms that must be filled out and returned to the Labor Department. Each job has its own assigned number and name. The Purchasing Agent cannot just use a Prevailing Wage Schedule for carpenters for each carpenter job that comes along. The Purchasing Agent must request a Prevailing Wage Schedule for each particular job.

- f. A statement that prevailing wages apply should be in your bid or quote document **as well as the advertisement for bid**. If the schedule is not available at the time of the mailing, state that prevailing wages apply and will be sent (via certified mail) at a later date. If a municipality fails to request a Prevailing Wage Schedule for a covered project, they could be in jeopardy of a fine and a possible court process from the NYS Labor Department.

Section 6. Best Value Methodology

1. General Municipal Law §103 now provides local governments with greater flexibility in awarding contracts by authorizing the award of purchase contracts, including contracts for service work on the basis of best value. With the increased complexity of the goods and services that the County must obtain in order to serve taxpayers, it is critical to consider selection and evaluation criteria that measure factors other than cost in the strictest sense. Best value procurement links the procurement process directly to the County's performance requirements, including, but not limited to, selection factors such as useful life span, quality and options and incentives for more timely performance and/or additional services. Best value procurement can provide much needed flexibility in obtaining important goods and services at favorable prices, and can reduce the time to procure such goods and services.

"Best value" means the basis for awarding contracts for services to the offerer which optimizes quality, cost and efficiency, among responsive and responsible offerers. Such basis shall reflect, wherever possible, objective and quantifiable analysis. Such basis may also identify a quantitative factor for offerers that are small businesses or certified minority- or women-owned business enterprises as defined in subdivisions one, seven, fifteen and twenty of section three hundred ten of the executive law to be used in evaluation of offers for awarding of contracts for services.

When developing solicitation documents for competitive bids for the award of purchase contracts for goods and contracts for service work, the Purchasing

Agent may, and subject to the requirements herein below set forth and the applicable requirements set forth in the Essex County Purchasing Policy, determine that an award of a purchase contract or applicable service contract shall be based upon best value methodology. In making such determination, the Purchasing Agent shall consider the recommendations, if any, of the department head or designee of the department head the purchase contract is being procured for. The department head or designee shall, in all instances, obtain the approval of the Purchasing Agent to utilize the best value methodology prior to issuance of the competitive bid documents.

Requirements:

Where the basis for award of a purchase contract will be the best value offer, the Purchasing Agent shall in all instances:

- a. Where the basis for the award is the best value offer, the Purchasing Agent shall document, in the procurement record and in advance of the initial receipt of offers, the determination of the evaluation criteria, which whenever possible, shall be quantifiable, and the process to be used in the determination of best value and the manner in which the evaluation process and selection shall be conducted. It is recommended that a scoring or point system/formula be used with respect to cost considerations and non-cost considerations. Standard criteria will be evaluated with respect to cost/price and other criteria will be evaluated with respect to non-price considerations. Non-price considerations shall be from a pre-approved list as to having special criteria such that the criteria is objective and quantifiable.
- b. The Purchasing Agent shall select a formal competitive procurement process in accordance with guidelines established by the state procurement council and the County Procurement Policy and document its determination in the procurement record. The process shall include, but is not limited to, a clear statement of need; a description of the required specifications governing performance and related factors; a reasonable process for ensuring a competitive field; a fair and equal opportunity for

offerers to submit responsive offers; and a balanced and fair method of award. Where the basis for the award is best value, documentation in the procurement record shall, where practicable, include a quantification of the application of the criteria to the rating of proposals and the evaluation results, or, where not practicable, such other justification which demonstrates that best value will be achieved.

- c. The solicitation shall prescribe the minimum specifications or requirements that must be met in order to be considered responsive and shall describe and disclose the general manner in which the evaluation and selection shall be conducted. Where appropriate, the solicitation shall identify the relative importance and/or weight of cost and the overall technical criterion to be considered by the County in its determination of best value.

- d. The Purchasing Agent shall develop procedures with the approval of the County Attorney and Board of Supervisors that will govern the award of contracts on the basis of best value. These procedures, once approved by the County Attorney and Board of Supervisors, will be incorporated in the Essex County Procurement Policy and reviewed annually by the Board of Supervisors in conjunction with its annual review and approval of the County's Procurement Policy.

Pursuant to Local Law No. 4 for the year 2014, dated December 9, 2014, the County of Essex has adopted the Best Value Procurement Methodology and the County shall adhere to all terms and conditions of said Local Law and any and all other pertinent laws and regulations.

- e. Best Value specifications shall describe the general manner in which evaluation and award of offer will be conducted and, as appropriate, identify relative importance or weighing of price and non-price factors. Therefore, in assessing Best Value, non-price factors can be considered when awarding the purchase contract. Non-price factors can include, but are not limited to, reliability of a product, efficiency of operation,

difficulty/ease of maintenance, useful lifespan, ability to meet needs regarding timeliness of performance, and experience of service provider with similar contracts. The basis for a Best Value Award, however, must reflect objective and quantifiable analysis.

- f. The decision to award a contract on the basis of Best Value must be based on an objective and quantifiable analysis, such as a cost-benefits analysis, whenever possible. In evaluating and determining to accept a higher priced offer, the County should use a cost-benefits analysis to show quantifiable value or savings from non-price factors that offset the price differential of the lower priced offer. There must be documentation of this analysis.
- g. **A Request for Competitive Offers** should be used when awarding a contract subject to Best Value.

Section 7. Professional Services

- 1. Professional Services are not subject to competitive sealed bidding requirements, but are subject to the guidelines of GML §104-b for competitive pricing to be obtained for these services. When the Purchasing Agent determines that professional services, except for legal services pursuant to §501 of County Law, are necessary, they must solicit proposals by obtaining written quotes and/or letting RFPs depending upon the anticipated cost for service (see below). Upon receiving responses, the Department Head will then bring proposals before the appropriate committee. Data from other counties or individuals may be used at this time to compare costs. Department questions as to which services require Requests for Proposals should be directed to the Purchasing Department.

Engineers and other professionals may be retained in accordance with any of the following award methods:

- a. The “Lowest Cost for Service” method which allows for awarding to the lowest proposer, **OR** other than the lowest proposer when the lowest

- proposal is deemed as non-responsive. Documented facts must support the decision and approval must be obtained from the appropriate committee. A Board of Supervisors Resolution is required prior to award.
- b. The “Best Value” method, based on weighted average scores from all criteria stated in the RFP specifications and submitted by sealed proposals; or
 - c. The RFP process using the “Two Envelope” method is stated in the RFP specifications and professionals submit two separated sealed envelopes, one with the Proposal, the other with the Price. First, all Proposals are opened and the three “best” are selected. Only the “best” Proposal price envelopes will be opened and the low price will determine the award.

Proposals must be formally opened at a set time. The aforesaid methods must be authorized by the appropriate Board of Supervisors committee or used when required by Federal or State Law, Rule or Regulation.

When the County is seeking professional services to be funded by Community Development Block Grant (“CDBG”) funding, a Notice to Professionals must be advertised in the official County newspapers, as well as the appropriate MWBE publications required by New York State. The Purchasing Department is responsible for placing said ads as part of the procurement process provided an RFP is required.

Proposals for professional services will be awarded by an Essex County Board of Supervisors Resolution after the following conditions are met:

- a. Sufficient appropriations are contained within the Department’s current budget (or after a budget transfer has been completed).
- b. The Department Head provides the Purchasing Agent with a written recommendation for award indicating that the bids received meet the intent of the specifications.

If passed, a service contract shall be prepared by the County Attorney and signed by the Professional before services are rendered. Contracts may contain the option for an extension for a second or third year, or more, before new RFP’s

need to be processed.

A Board of Supervisors Resolution must be adopted before services are ordered and shall be referenced on the Purchase Order together with the appropriate quotes.

REQUEST FOR PROPOSAL GUIDELINES

1. A Request for Proposal (RFP) is a formal invitation to submit an offer. The offer is to provide a solution to a problem or a need that an organization has identified. The RFP is used when the County is not sure what solution would best suite its needs or when it is looking for different solutions. RFP may also be used when procuring professional services which involve a specialized skill, training or expertise (i.e. architects, engineers, consultants, software specialists).
2. All RFPs should contain the following:
 - a. Background information - provide a brief overview of your organization; provide a brief overview of the procurement subject matter; describe the background surrounding this procurement; list key dates/events, including the due date for the RFP and possibly the time frame for selection of proposal by the County; list definitions.
 - b. Objectives and technical requirements - include specific objectives and desired outcomes; include any specific technical requirements for the contract; list any criteria which are required to qualify vendors for this procurement. This may include past experience requirements, financial statements, staffing and personnel biographies and certification/license requirements.
 - c. Cost proposal requirements - describe how you would like the cost proposals submitted (i.e. fixed price, lump sum, cost plus).
 - d. Contractual terms and conditions - list the standard terms and conditions, including a sample contract if available.
 - e. Administrative section - describe how inquiries to the RFP can be handled, pre-proposal conference information, insurance requirements.

- f. Proposal format and content - describe in what format all proposals are to be submitted, indicating the proposal can be rejected if not submitted in the proper format.
- g. Proposal evaluation criteria - describe what criteria will be used to evaluate the RFP.
- h. Proposal evaluation team - list who will be evaluating the RFP.
- i. Attachments - list what attachments (i.e. non-collusion bidding certificates) must be returned with the proposal.

EXEMPTIONS AND EXCEPTIONS TO PURCHASING POLICY

- 1. It will NOT be necessary to comply with this Purchasing Policy for:
 - a. **EMERGENCIES:** GML §103(4) describes an emergency as an urgent need affecting the health and safety of citizens, which requires immediate action, where the occurrence or condition is “unforeseen.” Lack of anticipation or planning cannot be deemed as a cause for declaring an emergency. A true emergency does not exclude the need for securing competitive bidding pricing, only the formal bidding process. An exception to the competitive bidding requirements exists for emergency situations. There are three basic statutory criteria to be met in order to fall within this exception. These are that: (1) the situation arises out of an accident or unforeseen occurrence or condition; (2) public buildings, public property or the life, health, safety or property of the political subdivision’s residents are affected; and (3) the situation requires immediate action which cannot await competitive bidding. When the Board of Supervisors passes a resolution that a public emergency exists, the public interest dictates that purchases are made at the lowest possible costs, seeking competition by informal solicitation of quotes or otherwise, to the extent practicable under the circumstances. The County Attorney and the Chairman of the Board shall be consulted and will make a recommendation as to how to proceed. The Board of Supervisors’ committee chairperson (and committee, if time permits) shall also be advised.
 - b. **EMPLOYMENT AND TRAINING SERVICES** obtained through North County Community College and/or BOCES for educational services.

- c. **ALL PHYSICIANS, DENTISTS AND ANY MEDICAL PROVIDERS** for departments including, but not limited to, the Essex County Public Health, Essex County Sheriff's Office, Essex County Office of Emergency Services, and Essex County Department of Public Works. Also included shall be be counseling services for Essex County Mental Health. Data from other counties or individuals may be used to compare costs.
 - d. **ATTORNEYS** needed for a particular or specialized requirement as reviewed and approved by the Finance Committee.
 - e. Situations not required by law such as New York State Executive Law, Article 2B, State and Local Natural and Man-Made Disaster Preparedness Subsection 29A Suspension of Other Laws.
 - f. Public works services where, upon the determination by the Department Head, it is not feasible to determine the amount to be spent for repairs to vehicles, equipment or machinery (outside of standard repairs to be handled by County employees), until the item is inspected and/or dismantled and a cost for inspection or diagnosis has already been incurred and for which it would not be practical to transport the equipment or machinery for multiple quotes.
 - g. Pursuant to GML §103(6), surplus and second hand supplies, material or equipment may be purchased without competitive bidding or competitive offering from the Federal government, State of New York or from any other political subdivision, district or public benefit corporation.
 - h. When procurements for goods or services are funded by State and/or Federal agencies, and procurement policies other than Essex County's are required, by law, to be followed, the Federal and/or State procurement policies shall supercede the County's Purchasing Policy.
2. Quotes or proposals are not required for **Sole Source** and **Single Source** Commodities or Services.

Competitive bidding is not required under GML §103 where the subject of the

contract is controlled by a monopoly, or where there is only one possible (sole) source from which to procure certain patented goods or services, and therefore no possibility of competition exists. Should certain supplies or materials be obtainable only from a specific manufacturer, then a true monopoly would exist and the purchase would not be subject to bidding requirements. The mere likelihood that only one firm will bid, however, is insufficient to justify a sole source procurement. Further, a political subdivision may not artificially create a sole source situation such as by, without proper justification, tailoring bid specifications to limit competition to only one bidder.

In determining whether a sole source item is required in the public interest, the County should show, at a minimum:

- a. The unique benefits to the County of the item or service as compared to other products or services available in the marketplace;
- b. That no other product or service provides substantially equivalent or similar benefits;
- c. And that, considering the benefits received, the cost of the item or service is reasonable in comparison to other products or services in the marketplace.

In addition, the County should document that, as a matter of fact, there is no possibility of competition, as from competing dealers or distributors. The sole source exception may apply, for example, in those instances when:

- d. Services from a regulated public utility are available from only one source;
- e. There is only one source from which to acquire equipment which to acquire equipment which meets state-mandated requirements; or
- f. A political subdivision, which owns equipment uniquely suited to or compatible with a particular make of equipment, has adopted a standardized resolution for that make of equipment and the equipment is only available from one source.

A sole source can be a manufacturer, software developer or service provider that sells direct and there are no other sources offering an "or equal." Prior to a

vendor being considered a sole source, a letter on the vendor's official letterhead must be on file with the Purchasing Department detailing their sole source status.

A single source could be distributor, wholesaler or retailer that has a contractual agreement for a specific territory to the exclusion of others. Should you have a situation involving a single source supplier, a letter on the manufacturer's official letterhead must be on file with the Purchasing Department confirming the single source authorized vendor. **SOLE SOURCE PURCHASES MUST BE APPROVED BY THE ESSEX COUNTY BOARD OF SUPERVISORS.**

Should there be ANY possibility of purchasing the item from two or more vendors, sealed bids should be requested after public advertising.

3. **True leases** are not subject to the previous purchasing rules but rather must comply with the following requirements:

True leases are neither purchases nor contracts for public works, and thus, are not subject to bidding under General Municipal Law. County policy however requires that:

- a. After a Department has been given budget funding and approval to lease equipment, unless the lease is on State Contract, RFPs must be obtained through the Purchasing Department. Where a lease will not exceed a total of \$2,000 annually, no RFP shall be required. Quotes must be obtained and the Purchasing Agent shall sign the lease as indicated in Section II(C)(3)(e) below;
- b. A written explanation must be sent to Purchasing when the lowest lease quotation or response to an RFP is not taken, and a Board of Supervisors resolution must be obtained;
- c. Appropriations must be specifically available for the lease (this will be considered authorization by the Board to enter into the lease);
- d. The lease agreement entered into may be for multiple years but must:
 - i. not contain any automatic buyout or automatic renewal clause;
 - ii. contain a non-appropriation clause; and
 - iii. address the disposition of the equipment at the end of the lease so

that the vendor pays the cost for return of the equipment, etc.

- e. All lease agreements shall be treated as purchases and signed by the Purchasing Agent; and
 - f. While the lease agreement may not contain an automatic renewal clause, at the end of the lease term, departments may extend the lease agreement beyond the original term for a period of up to 18 months without securing additional quotes or engaging in an RFP process provided that:
 - i. the lease payments do not increase;
 - ii. the department has appropriations therefore; and
 - iii. Purchasing Agent approval is received.
- 4. **Documented extraordinary circumstances** - see pages 14 and 15.
 - 5. **Standardization** - see page 20.
 - 6. **Piggybacking** - see page 17.
 - 7. **State Contract** - see pages 16 and 17.
 - 8. **Preferred Source** - see page 16.
 - 9. **Minor Purchases**

In order to reduce unnecessary paperwork, expenditures for the purchase/acquisition of the following items shall be allowed without purchase orders or other compliance with this policy, except to the extent otherwise required by law:

- a. employee expenses, including but not limited to uniform allowances;
- b. reimbursement of petty cash funds;
- c. utility bills;
- d. book, periodical and other subscription renewals, provided that the subscriptions are approved in the budget and a copy of the subscription or its renewal are attached to the voucher;

- e. publication and printing of legal notices;
 - f. service contracts for equipment, cleaning or for fire alarm systems;
 - g. postage;
 - h. medical examinations, inmate medical expenses, and veterinarian fees;
 - i. interdepartmental charges; and
 - j. intergovernmental charges, including but not limited to permit fees;
 - k. membership dues
 - l. notary public licenses and other licenses and renewals thereof when such license is either required for performance of County duties or determined to be either required for performance of County duties or determined to be necessary by the Department Head;
 - m. training expenses and speaker fees/expenses.
10. All other statutory exceptions and those recognized by law.
11. Any extraordinary exceptions approved by the Essex County Board of Supervisors.

PURCHASE ORDERS

1. General

The Purchasing Department is designated to review and approve Purchase Orders. It is the individual Department Head's responsibility ensure that expenditures are within the budgetary appropriations and that the proper Department account is charged.

Should there be insufficient funds available, Departments must do a budget transfer and secure all the necessary approvals before the order can be processed.

The Purchase Order provides a formal document authorizing the purchase of goods and services as well as the necessary authority to pay vendor claims and proof of tax-exempt sales. Purchase orders are prepared by the Purchasing Department with all the necessary documentation such as contracts, quotes and insurance forms (where applicable) on file.

The Purchasing Department verifies the following information when approving a Purchase Order:

1. Vendor/vendor number
2. County contract/resolution/bid number/quotation information/state contract number
3. Comments/special instructions
4. Description of goods and services being ordered
5. Quantity/unit of measure
6. Unit price/extension and total cost
7. Commodity codes/budget codes

The Purchasing Department will determine if the best method of procurement has been followed. If available, a current County bid or NYS contract will be used. If none apply, the formal bid or quotation process may be commenced depending on estimated annual expenditure.

Once the Purchase Order has been approved by the Purchasing Department, it is then posted by the Treasurer's Office and is then available for use.

In all instances, Purchase Orders are to be completed before a purchase is made.

The only exceptions are exempt and emergency purchases as described.

If at any time a Department finds they will exceed the competitive bidding threshold for a particular product or service, they should notify the Purchasing Department to allow time for specifications to be developed and the formal bid process to be completed to meet their anticipated needs.

2. Blanket Purchase Order

A Blanket Purchase Order (BPO) is created for products or services that are purchased on "as needed" basis from a vendor throughout the year where the

dollar value will vary for each purchase. These are issued for a maximum period of twelve (12) months and must be reissued at the beginning of each fiscal year.

For vendors used by all County Departments, the Purchasing Department will issue a BPO for their Department only. There has to be a contract/bid established with the vendor and insurance on file before a BPO can be issued.

Departments are responsible for providing the BPO number to the vendor and verify that the number also appears on the documentation sent to audit the payment processing.

3. **Emergency Purchase Order**

General Municipal Law Section 103(4) defines an emergency as “a public emergency arising out of an accident or other unforeseen occurrence or condition whereby circumstances affecting public buildings, public property or the life, health, safety or property of the inhabitants requires immediate action.”

If an emergency arises, the Department must contact the Purchasing Agent and the County Attorney to obtain approval prior to making any emergency purchases. Purchasing may be contacted for assistance in procuring products or services required to deal with the emergency. If the Purchasing Agent and the County Attorney determine there is a true emergency, the vendor who can immediately provide the required goods or services will be given prime consideration for the purchase.

The Purchasing Department will **not** approve an Emergency Purchase Order when the purchase is not justified, when the purchase is being made to circumvent established procedures, or where there is a lack of proper planning.

4. Large purchase orders involving any form of installation or construction shall have designated thereon that the vendor shall provide insurance pursuant to the County Attorney's specifications.

POLICY NOTES

1. If an emergency exists where the delay caused by soliciting quotes would endanger the health, welfare, or property of the municipality, or more importantly the individual tax payer, then the procurement of goods or services will be at the discretion of the Purchasing Agent, with documentation as to the nature of the emergency, and should be sent to the Purchasing Agent within five (5) working days of such procurement.
2. The Purchasing Agent shall procure supplies and equipment, as needed, at the best possible price and maintain adequate records to show that this was done.
3. Purchase contracts for materials, equipment and supplies involving an estimated annual expenditure of over \$20,000.00 and public works contracts involving over \$35,000.00 shall be awarded only after public advertising and soliciting for formal bids (pursuant to Section 103 of the General Municipal Law).
4. All contracts, which require public advertising and competitive bidding, shall be awarded as provided by law and the rules and regulations of the Board. Recommendations for awarding contracts shall be submitted by the appropriate Department Head and/or employee.
5. Purchases shall be made as required under Section 175 a and b of the State Finance Law and Section 162 of the Procurement Stewardship Act of 1995, through available state contracts of the Office of General Services, Division of Purchasing, the List of Preferred Source offerings from Correctional Industries (Corcraft), Industries for the Blind, Industries for the Disabled (NYSID) and BUY OMFI, or under County contract pursuant to Section 408-a of the County Law, whenever such purchased are in the best interest of the County.

The List of Preferred Source offerings also contain a requirement to notify preferred sources when certain SERVICES are needed. After you have determined a need for a service, you must check with the Purchasing Agent to determine if the service being requested is available from one of the Preferred Sources. If the service is listed, you must contact the Preferred Source and

provide them with your requirements. They have 10 days to let you know if they can fulfill your needs. Purchasers are not allowed under the law to solicit bids or award contracts for listed services until the above procedure has been completed.

Purchases made utilizing New York State Contracts may be done without the requirement of obtaining quotes or bids as New York State has already gone to bid for these items. However, the Department Head may consider obtaining bids or quotes as applicable, even though a State contract may exist for the goods desired as the price obtained may be lower than under the State contract.

6. The Purchasing Agent shall issue purchase orders after first determining that unencumbered balances of budgetary appropriations are adequate to cover such obligations. **The Purchasing Agent and Department Head should be cognizant of the fact that some purchase orders should have detailed on them Essex County insurance requirements as a condition of the purchase order.**
7. Supplies used by various offices and departments shall be uniform whenever consistent with operational goals and in the interest of efficiency or economy. These supplies will be available in Central Stores. The Department Head must justify the need for a special type of item. The Purchasing Agent must evaluate the request for special supplies or services, for which only one vendor may supply.
8. No official or employee shall be interested financially in any contract entered into by the municipality (as defined in Sections 800 and 808 of the General Municipal Law). This also precludes acceptance of gratuities, financial or otherwise, by the above persons, from any supplier of materials or services to the municipality.

NOTE:

1. Pursuant to Resolution the **County Manager** is authorized to approve expenditures of up to \$5,000.00 to purchase goods and/or services **provided there is**

budgeted funds therefore.

2. Change Orders with respect to Public Works contracts may be approved by the unanimous confirmation of the County Manager, Superintendent of Public Works and County Attorney.

PURCHASING AGENT DUTIES

The Purchasing Agent and the Purchasing Department shall be responsible and must be consulted with respect to all purchases under this policy.

The Essex County Purchasing Agent shall be responsible for the administration of this policy, and in so doing shall:

1. Develop and administer a centralized and standardized purchasing system;
2. Procure materials, equipment, supplies, goods and services, as required, at the best possible prices from responsible vendors and suppliers;
3. Maintain appropriate supporting documentation and records;
4. Place all required public advertising;
5. Prepare and issue all competitive bidding documents and requests for proposals, including specifications therefore;
6. Conduct all bid and proposal openings;
7. Secure and document the recommendations from the appropriate official for awarding contracts;
8. Award contracts with the annual appropriations authorized by the Board of Supervisors;
9. Develop and maintain lists of potential vendors, with such lists to be used in the development of a mailing list for distribution of bid solicitations, requests for proposals and solicitation of quotations;
10. Approve all purchase orders after first determining that unencumbered balances of budgetary appropriations are adequate to cover such obligations;
11. Determine the costs to procure materials and/or goods through available (a) state contracts of the New York State Office of General Services,

Division of Purchasing, and/or (b) federal contracts through the General Services Administration pursuant to §1555 of the Federal Acquisition Streamlining Act of 1994, and make purchases through state contract whenever such purchases are in the best interests of the County, all as authorized by General Municipal Law §104.

12. Make available to other municipalities within the County the opportunity to participate, whenever practicable, in the County's contracts for procurement of materials, goods and/or services;
13. Insure that all purchases and procurements of materials, goods and/or services are accomplished in accordance with this policy with all applicable state and local laws and regulations.
14. Notwithstanding any other provision of this policy, pursuant to the provisions of Highway Law §133, no purchases chargeable to the County Road Machinery Fund shall be made except upon authorization and approval of the Superintendent of Public Works or his/her designated deputy.

Compliance

Instances of non-compliance with this policy, as identified by the Purchasing Agent, County Auditor or any other County Official, shall be reported to the Chairman of the Board of Supervisors and to the appropriate judicial or ethical committee of the Board.

Any person or corporation who conspires to prevent competitive bidding on a contract for public work or purchase advertise for bidding shall be guilty of a **MISDEMEANOR** as provided in §103-b of the General Municipal Law.

Interpretation

Any explanation, interpretation or opinion as to any term and condition of this Purchasing Policy shall be made by the County Attorney and the Purchasing Agent.

Contract Award

Funds must be specifically in a department's budget prior to awarding any contract. If appropriation from a Contingent Account, or funds are not specifically contained in the budget, the Board of Supervisors must adopt a resolution before the contract is or can be awarded.

Resolution

Adopted on the 2nd day of June, 2015 by vote of the governing board of Essex County.