

RESOLUTION

PURCHASING POLICY

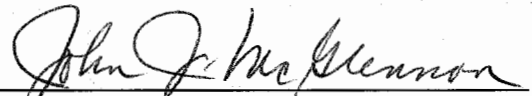
WHEREAS, the Board of Supervisors is dedicated to providing taxpayers with maximum value for their dollars; securing high quality goods and services at reasonable cost; guaranteeing that all purchasing actions be conducted in a fair and impartial manner with no impropriety or appearance thereof; ensuring that transactions are competitive, efficient, and economical; and allowing all qualified vendors to have access to County business without arbitrary or capricious exclusion; and

WHEREAS, Code of Virginia §§ 11-35 through 11-80 known as the Virginia Public Procurement Act (VPPA), contains the public policies pertaining to governmental procurement from nongovernmental sources; and

WHEREAS, Code of Virginia § 15.2-1236 requires all purchases of and contracts for supplies, materials, equipment, and contractual services to be in accordance with Chapter 7, Title 11, of the Code of Virginia; and


WHEREAS, Code of Virginia § 11-35 allows implementation of the Virginia Public Procurement Act by ordinances, resolutions, or regulations consistent with the Act by a public body empowered by law to undertake the activities described by the Act.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby adopts the James City County Purchasing Policy dated January 9, 2001, attached hereto and made part of this resolution. The Policy shall take effect immediately upon passage.



John J. McGlennon
Chairman, Board of Supervisors

ATTEST:


Sanford B. Wanner
Clerk to the Board

<u>SUPERVISOR</u>	<u>VOTE</u>
HARRISON	AYE
KENNEDY	AYE
NERVITT	AYE
GOODSON	AYE
MCGLENNON	AYE

Adopted by the Board of Supervisors of James City County, Virginia, this 9th day of January, 2001.

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CHAPTER 1 - GENERAL PROVISIONS

Section 1 - Title

This document shall be known as the James City County Purchasing Policy.

Section 2 - Organization

The James City County Purchasing Office is part of the Department of Financial and Management Services. It operates under the supervision of the Assistant Manager of the Department of Financial and Management Services. The Purchasing Director supervises all Purchasing Office operations.

Section 3 - Responsibility

The Purchasing Office, through the Purchasing Director, is responsible for managing all County procurement activity and implementing this Purchasing Policy. The Office shall utilize modern purchasing and supply management techniques and ensure all procurement activity complies with applicable laws and generally accepted professional standards. The Purchasing Director provides methods to handle delegated purchasing authority.

Section 4 - Duties

The Purchasing Director shall prepare and maintain a Purchasing Manual containing detailed rules and regulations consistent with this Policy and the laws of the Commonwealth of Virginia governing the operations of County purchasing. The Purchasing Director shall propose amendments to the James City County Purchasing Manual for approval by the Assistant Manager of the Department of Financial and Management Services.

The Purchasing Director shall coordinate purchasing procedures among departments by becoming acquainted with the needs of each, assisting in the preparation of specifications, locating the sources of needed products or services and providing follow-up after delivery. Purchasing shall review the quality, quantity, and kind of goods and services requested and recommend alternatives, if appropriate.

The Purchasing Director shall act as the County's representative on matters pertaining to purchasing as defined within this Policy and the James City County Purchasing Manual.

The Purchasing Director shall ensure procurement actions are properly documented and maintain all related records.

The Purchasing Director shall pursue the implementation of a fully automated and integrated purchasing system including use of electronic media for vendor communications, solicitation, distribution, and e-commerce activities.

Section 5 - Cooperative Procurement

The County may participate in, sponsor, conduct, or administer a cooperative procurement agreement with one or more public bodies or agencies of the United States for the purpose of combining requirements to increase efficiency or reduce administrative expenses. Nothing herein shall prohibit the assessment or payment by direct or indirect means of any administrative fee that shall allow for participation in any such arrangement.

Section 6 - Definitions

Best Value means the overall combination of quality, price, and various elements of required goods and services that in total are optimal relative to the County's needs. Purchasing shall use best value bid evaluation when procuring certain goods and nonprofessional services when it is in the best interests of the County to allow factors other than price to be considered in making an award. The factors to be used in making the award and the numerical weighting for each factor are predetermined in a solicitation. Best value bid evaluation factors may include any of the following:

- Quality of the good or service;
- Operational costs incurred by the County if the bid is accepted;
- Life-cycle costing;
- Reliability of delivery and implementation schedules;
- Maximum facilitation of data exchange and systems integration; Warranties, guarantees, and return policy;
- Vendor financial stability;
- Consistency of proposed solution with County's planning documents and strategic direction; Quality and effectiveness of the business solution and approach;
- Industry and program experience;
- Prior record of vendor performance;
- Vendor expertise with projects of similar scope and complexity;
- Consideration of potential product acceptance by all user groups;
- Proven development methodologies and tools; and
- Innovative use of current technologies and quality results.

Competitive Sealed Bidding is a formal method of selecting the lowest responsive and responsible bidder. It includes the issuance of a written Invitation for Bid (IFB), public notice, a public bid opening, and evaluation based on the requirements set forth in the IFB. The Purchasing Director may elect for prequalification of bidders or include a statement of any requisite qualifications of potential contractors in the IFB. Multiple awards may be made when so specified in the IFB. An IFB may be issued to vendors electronically. Bids may be submitted electronically if specifically authorized in the IFB.

Competitive Negotiation is a formal method of selecting the top rated offeror. It includes the issuance of a Request for Proposals (RFP), public notice, evaluation based on the criteria set forth in the RFP and allows negotiation with the top rated offeror. Any unique

capabilities or qualifications required of the contractor shall be set forth in the RFP. An RFP may be issued to vendors electronically. Offers may be submitted electronically if specifically authorized in the RFP.

Construction shall mean building, altering, repairing, improving, or demolishing any structure, building, road, drainage or sanitary facility, and any draining, dredging, excavation, grading, or similar work upon real property.

Emergency shall be deemed to exist when a breakdown in machinery and/or a threatened termination of essential services or a dangerous condition develops, or when any unforeseen circumstances arise causing curtailment or diminution of essential services.

Firm shall mean any individual, partnership, corporation, association, or other legal entity permitted by law to practice in the Commonwealth of Virginia; or any other individual, firm partnership, corporation, association, or other legal entity qualified to perform professional services.

Fixed asset shall mean a tangible item which has an expected useful life of at least one year and a dollar value in excess of \$1,000.

Goods shall mean all material, equipment, supplies, printing, and automated data processing hardware and software.

Informality shall mean a minor defect or variation of a bid or proposal from the exact requirements of the IFB or RFP which does not affect the price, quality, quantity, or delivery schedule for the goods, services, or construction being procured.

Nonprofessional services shall mean any service not specifically identified below as a professional or consultant service.

Procurement transaction shall mean all functions that pertain to the obtaining of any goods, services, or construction, including description of requirements, selection and solicitation of sources, preparation and award of contracts, and all phases of contract administration.

Professional or consultant services shall mean work performed by an independent contractor within the practice of accounting, actuarial services, architecture, land surveying, landscape architecture, law, dentistry, medicine, optometry, pharmacy, or professional engineering. Professional services shall be procured by competitive negotiation.

Public body shall mean any legislative, executive, or judicial body, agency, office, department, authority, post, commission, committee, institution, board, or political subdivision created by law to exercise some sovereign power or to perform some governmental duty and empowered by law to undertake the activities described in this policy.

Public contract shall mean an agreement between a public body and a nongovernmental source that is enforceable in a court of law.

Public or County employee shall mean any person employed by the County, including elected officials or appointed members of governing bodies.

Responsible bidder shall mean an individual, company, firm, corporation, partnership, or other organization who has the capability in all respects to perform fully the contract requirements and the moral and business integrity and reliability which will assure good faith performance and who has been prequalified if required.

Responsive bidder shall mean shall mean an individual, company, firm, corporation, partnership, or other organization who has submitted a bid which conforms in all material respects to the Invitation for Bids.

Services shall mean any work performed by an independent contractor wherein the services rendered does not consist primarily of acquisition of equipment or materials or the rental of equipment, materials, and supplies.

Surplus property shall mean any property that exceeds the requirements of the entire County.

Targeted business shall mean businesses that are small, locally-owned, locally-operated, or owned by a woman or minority.

Value Engineering shall mean review of a project's architectural and engineering drawings and specifications by an independent team of engineers and/or architects. The independent team makes recommendations that focus on achieving like-performance at reduced costs. Value engineering must be applied as early in the design cycle as feasible to achieve maximum benefits. For large construction projects, value engineering studies are performed during the schematic stage and then at approximately the 30-40 percent design stage.

CHAPTER 2 - PURCHASING POLICIES

Section 1 - Compliance

All James City County procurement transactions shall comply with the Code of Virginia, the James City County Purchasing Policy, and the James City County Purchasing Manual. Fiscal partners of the County, organizations that utilize the County as their fiscal agent, and County Departments/Constitutional Officers exempt from regular purchasing requirements through special provisions of the Virginia Public Procurement Act, Section 11-45 and/or other sections of the Code of Virginia will be subject to this compliance policy if the procurement is handled through the James City County Purchasing Office. The James City County Purchasing Office encourages the adoption of this Policy by the governing bodies/individuals of the aforementioned entities.

Section 2 - Purchasing Methods

Use of Competitive Sealed Bidding or Competitive Negotiation

Unless otherwise authorized by law or provided for in this Policy or the James City County Purchasing Manual, all County contracts with nongovernmental contractors for the purchase or lease of goods, or for the purchases of services, insurance or construction shall be awarded after competitive sealed bidding or competitive negotiation.

Competitive Sealed Bidding and Competitive Negotiation

Whenever the County seeks to procure a good or service estimated to cost more than \$30,000, an Invitation to Bid or a Request for Proposals shall be issued. Best value concepts may not be considered when procuring construction or professional services. Purchases shall not be split to avoid the \$30,000 limit. An Invitation to Bid shall either be advertised in a newspaper of general circulation or posted in a designated public area at least ten days prior to the date bids are due. A Request for Proposals shall be advertised once in a newspaper of general circulation in James City County at least ten days prior to the date proposals are due. Responses to Formal Sealed Bids and Proposals are secured unopened until the date and time specified in the advertisement.

The Purchasing Director shall have the authority to waive informalities in bids/proposals, reject all bids/proposals, parts of all bids/proposals, or all bids/proposals for any one or more good or service included in a solicitation when in the Director's judgment the public interest may thereby be served. The Purchasing Director shall determine the responsibility and responsiveness of a bid.

Sole Source

Sole source procurement is authorized when there is only one source practicably available for the required goods or services. Competition is not available in a sole source situation;

thus distinguishing it from a situation where the product required is restricted to the manufacturer(s) stipulated, but is sold through distributors and competition between them can be obtained. Sole source justification based solely on a single vendor's capability to deliver in the least amount of time is not appropriate since availability alone is not a valid basis for determining a sole source procurement. All sole source procurements require Purchasing Director approval.

Emergency

In case of an emergency, as defined herein, a contract may be awarded without competitive sealed bidding or competitive negotiation; however, such procurement shall be made with such competition as is practical under the circumstances. The Purchasing Director shall approve all emergency purchases. If an emergency occurs at a time other than regular County business hours, the Department Manager may purchase the required goods or services in an amount not to exceed \$50,000. Emergency procurements over \$50,000 shall be approved by the County Administrator or designee. The Department Manager shall, not later than the next business day, submit a requisition, tabulation of bids received (if any), delivery record, and a brief explanation of the emergency.

Small Purchases

Any procurement not expected to exceed \$30,000 in expenditure of public funds, from any source, may be made in accordance with the following small purchase limits as approved by the James City County Board of Supervisors on August 8, 2000. Procurements up to \$1,000 may be made upon receipt of one written or verbal quote.

3 Phone Quotes Required	\$1,001-\$5,000
3 Written Quotes Required	\$5,001-\$30,000

Award shall be made to the lowest responsive and responsible vendor that supplies a quote. If quotes are not obtained, a statement of the reasons why the quotations were not possible shall be recorded by the Purchasing Director. Procurement requirements shall not be artificially divided so as to constitute a small purchase under this policy. Similar items or services may be combined for formal competition at the Purchasing Director's discretion.

Purchasing Card

Selected County personnel may be issued Purchasing Cards to use for small purchases and emergency procurements. The competition requirements for small and emergency purchases shall apply. All Purchasing Card transactions shall conform to the James City County Purchasing Card Policy and Procedures. The Purchasing Card Policy and Procedures are part of the James City County Purchasing Manual.

Section 3 - Prequalification

Prospective contractors may be prequalified for particular types of goods, services, insurance or construction and consideration of bids or proposals limited to prequalified contractors.

Any prequalification procedures shall be established in writing and sufficiently in advance of their implementation to allow potential contractors a fair opportunity to complete the process.

The Purchasing Director may deny prequalification to any contractor only upon finding one of the following:

- a) The contractor does not have sufficient financial ability to perform the contract that would result from such procurement. If a bond is required to ensure performance of a contract, evidence that the contractor can acquire a surety bond from a corporation included on the United States Treasury list of acceptable surety corporations in the amount and type required by the County shall be sufficient to establish the financial ability of such contractor to perform the contract resulting from such procurement.
- b) The contractor does not have appropriate experience to perform the construction project in question.
- c) The contractor has had judgments entered against him for the breach of contracts for construction.
- d) The contractor has been in substantial noncompliance with the terms and conditions of prior construction contracts with the County without good cause. If the County has not contracted with a contractor in any prior construction contracts, the County may deny prequalification if the contractor has been in substantial noncompliance with the terms and conditions of comparable construction contracts with another public body without good cause. In all instances, any such substantial noncompliance shall be documented.
- e) The contractor has been convicted within the past five years of a felony involving moral turpitude regarding any procurement or performance of a construction contract.
- f) The contractor failed to provide to the County in a timely manner any information requested by the County relevant to items a) through e) of this section.

Section 4 - Value Engineering

All projects with an estimated cost exceeding \$1 million shall have an independent Value Engineering review unless it is waived, in writing, by the County Administrator. This requirement also includes projects overseen by another governing body but using County funds.

Section 5 - Contract Approval Authority

The Purchasing Director shall award contracts if the amount is \$50,000 or less. Awards over \$50,000 and up to \$100,000 shall be authorized by the County Administrator. The Board of Supervisors shall authorize the award of all contracts over \$100,000.

Section 6 - Authority to Amend or Terminate a Contract

Any James City County contract that includes provisions for modification of the contract during performance may be amended by the Purchasing Director. Any single or cumulative increase to a fixed price contract that would result in a new contract amount over \$50,000 requires written approval of the County Administrator. Any single or cumulative increase to a fixed-price contract greater than twenty-five percent of the original contract or \$50,000, whichever is greater, requires written approval of the Board of Supervisors.

The Purchasing Director may terminate any contract for convenience, cause, or non-appropriation of funds in accordance with the contract terms and conditions after consultation with the Office of the County Attorney.

Section 7 - Preferences and Tie Bids

In accordance with the Code of Virginia, James City County does not grant preferences or set-asides except in the case of tie bids. If all bids are for the same total amount or unit price (including authorized discounts and delivery times) and if the public interest will not permit the delay of readvertisement for bids, the Purchasing Director shall be authorized to award the contract to the resident James City County tie bidder whose firm has its principal place of business in the County, or if there be none, to the resident Virginia tie bidder, or if there be none, to one of the tie bidders by drawing lots.

Section 8 - Vendor Outreach

The Purchasing Office is the County's main contact point with vendors. As such, the Office will pursue outreach activities that may include developing specialized publications, attending/hosting trade fairs, and encouraging vendor visits with Office staff.

Section 9 - Antidiscrimination

James City County conforms, as applicable, to the provisions of the Federal Civil Rights Act of 1964, as amended; the Virginia Fair Employment Contracting Act of 1975, as amended; the Virginians With Disabilities Act; the Americans With Disabilities Act and Sections 11-44 and 11-51 of the Virginia Public Procurement Act. All bidders/offers who submit bids/proposals to the County are required to certify they conform to these same antidiscrimination requirements.

Section 10 - Assistance To Targeted Businesses

The County shall undertake every reasonable effort to increase the opportunity for participation in the procurement process by targeted businesses. To this end, the Purchasing Office shall:

1. Make targeted businesses aware of the County's procurement policies. Any targeted business seeking assistance in understanding or completing any bids or proposals should seek the assistance of the Purchasing Department.

2. Participate in training seminars for the purpose of informing targeted business bidders of the procurement opportunities and procedures.
3. Participate in local and regional targeted business purchasing fairs.
4. Cooperate with the Department of Minority Business Enterprise, the United States Small Business Administration, and other public or private agencies.

Section 11 - Debarment Or Suspension

Debarment is action by the County to exclude individuals or firms from contracting with the County for a specified period of time. The Purchasing Director may **debar** a person or company from consideration for awards or contracts for a period up to three (3) years upon a finding of cause that the vendor has engaged in the following activities.

1. Unsatisfactory performance on a contract with a public body, including but not limited to, failure to comply with contract terms and conditions or to meet specification/scope of services requirements.
2. Offering any gift, gratuity, favor, or advantage to any County employee who exercises official responsibility for procurement transactions.
3. Failing to disclose a condition constituting a conflict of interest by any officer, director, owner, or partner of the vendor in a contract or purchase order awarded by the County.
4. Conviction of any officer, director, owner, partner, or agent of the vendor of any criminal offense involving public contracting.
5. Court judgment finding a violation of Federal or State antitrust laws.
6. Conviction of any criminal offense, or a judgment in civil litigation, which indicates a lack of moral or business integrity.
7. Any other cause the Purchasing Director determines to be so serious and compelling as to affect responsibility as a contractor, such as debarment by another governmental entity for any cause listed herein, or because of prior reprimands.
8. Contractor has abandoned performance or been terminated for default on any other James City County project.
9. Contractor is in default on any surety bond or written guaranty on which James City County is an obligee.
10. Contractor has filed for bankruptcy or bankruptcy protection.

The Purchasing Director may **suspend** a person or company from consideration for award or contracts for a period up to three months upon a finding of probable cause that might lead to debarment.

Section 12 - Excess and Surplus Property

The Purchasing Director shall be responsible for:

1. Redistribution of serviceable excess personal property.
2. Disposal of surplus County personal property through sealed bid, auction, trade-in, or fixed price sale. Some personal property may also be disposed of by junking, sale as scrap metal, or cannibalization. Sale of surplus personal property shall be based wherever feasible on competitive bids. If the amount of the sale is estimated to exceed \$5,000 for a single item, sealed bids shall, unless the Board of Supervisors shall provide otherwise, be solicited by public notice inserted at least once in a newspaper of countywide circulation and at least five calendar days before the final date of submitting bids.
3. Disposal of unclaimed property in the hands of the Police Department in accordance with the Code of Virginia Sections 15.1-133 and 15.1-133.01.

Surplus County property may be donated to charitable and other non-County activities where appropriate. The Purchasing Director shall evaluate the request for donation and determine the requested item is not needed by any County agency. Other factors to be considered in the evaluation are availability of the requested item, serviceability, compatibility to the intended use and potential benefits to the County. Public relations and goodwill are valid benefits.

Section 13 - Public Purchasing Ethics

All James City County procurement is subject to and will be conducted in accordance with Article 4, Sections 11-72 through 11-80 of the Virginia Public Procurement Act entitled "Ethics in Public Contracting," the State and Local Conflict of Interests Act, and the Governmental Frauds Act.