

QUEEN ANNE'S COUNTY STANDARD OPERATING POLICIES

SECTION: 400 – Budget and Finance

POLICY TITLE: Procurement Policy

POLICY NUMBER: 400-010

APPROVAL: Board of County Commissioners

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FORMS: Table 1 – Procurement Thresholds and Procedures
Table 2 – Bonding Requirements
Table 3 – Insurance Requirements
Local Vendor Bid Affidavit
Conflict of Interest Disclosure, Employment of Aliens
Statement and Political Contributions Reporting Form

1. **PURPOSE:** This policy is established as a procedural guide for the procurement of supplies, materials, equipment and services in support of Queen Anne's County Government operations. It is the intent of this policy to permit fair, efficient and economical acquisitions of goods and services for the benefit of County citizens. This policy further provides for a local vendor preference as defined herein.
2. **APPLICABILITY:** This policy should apply to all County departments and agencies of the Queen Anne's County Government that receive appropriations from the County Commissioners, except as exempted herein. Local Vendor Bids may only be submitted for procurements that are funded solely with local funds.
3. **EXEMPTIONS:** The County Administrator, with the consent of the County Commissioners, may waive or modify the procedures of this policy when it is determined to be in the best interest of the County.

The State's Attorney's Office, the County Sheriff's Department, all County Attorneys and other contractual employees are not subject to the provisions of this policy.

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4. DEFINITIONS:

Agency – Any of the departments, boards, commissions and other organizational units that provide services under the authority of County Government.

Agent – Any department director or other organizational unit chief or their designee.

Bid Review Committee – A committee appointed by the County Commissioners for the purpose of developing selection criteria and making bid award recommendations on quality based or other procurements when low bid prices is not the sole condition of contract award.

Competitive Negotiation – A process that includes the submission of written technical and/or price proposals from two or more sources and an evaluation of those proposals in accordance with evaluation criteria. The informal or formal Invitation To Bid process shown in Table 1 shall be followed for solicitation of a competitive negotiation based on the estimated cost of the product or service.

Contractual Services – Any and all telephone, gas, water, electric power, cleaning service, liability insurance and fidelity bonds, leases for all grounds, buildings, offices or other space required by the using agencies, the rental, repair or maintenance of equipment, machinery and other personal property owned or operated by the County, and all other types of contractual services, including contracts for labor.

Formal Bid – A vendor response to a written and advertised Invitation to Bid. Formal bids are required to be delivered sealed (to ensure confidentiality), generally in a prescribed standardized format and they are opened and read aloud during a public meeting at a specified date and time.

Informal Bid – A vendor response to any unwritten or written Invitation to Bid that is not required to be delivered sealed. Informal bids may be obtained (1) verbally, (2) via electronic mail, (3) via facsimile, or (4) via written response. These informal bid types are listed in order of level of informality (from most informal to least informal). Informal bids shall be kept confidential by the agent until all bids are received.

Invitations to Bid (ITB) – A process generally used for seeking competition on purchases of products or services. Invitations to bid may include product quantity, make/model number, batch number, industry specification, or other specifications required for obtaining competitive prices. Invitations to bid may be either formal or informal.

Local Vendor - includes each participant in a single response to a solicitation, (whether a prime contractor, a subcontractor, or a joint venture), who has designated with the State Department of Assessments & Taxation a principal

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place of business in Queen Anne's County or who, in the case of a sole proprietor, has identified Queen Anne's County as the county of residence on the most recent Maryland individual income tax return.

"Local Vendor Bid" - is a response to a solicitation for which a Certified Local Vendor will be executing at least 50 percent of the awarded contract value.

Non-Competitive Negotiation – A process generally used for negotiating purchase for product or services that are known to be available by very few or only one source.

Personal Property – Any property that is not real property, including: vehicles, equipment, office furniture, computers, etc.

Piggyback Contracts – See "Pre-established Contracts"

Pre-established Contracts (Piggyback) – Purchase of a product or service by means of attachment to a competitively bid contract established by a governmental body or an entity sanctioned by a governmental body. This also includes institutions of higher learning and private entities that are supported by the National Association of Counties.

Pre-Qualified Vendor – A vendor that has successfully completed a formal Request for Qualification (RFQ) process (in response to a specific project or time period) and placed on a qualified bidders list by an Agent.

Professional Services – The services of attorneys, physicians, architects, engineers, software programmers, consultants or other individuals possessing a professional license or a high degree of technical skill.

Request for Information (RFI) – A Request for Information (RFI) is the process generally used for seeking informal, uncompetitive solicitation of information, data, comments, or reactions from vendors regarding a product or service. The vendors' expertise may be used to assist in determining a scope of work or specifications for the work. The informal or formal ITB process shown in Table 1 shall be followed for solicitation of an RFI.

Request for Proposal (RFP) – A Request for Proposal (RFP) is a formal invitation issued by an agency requesting vendors to submit written proposals meeting specific requirements. If interested in bidding for the project, vendors respond with a description of the techniques they would employ to meet the requirements, a plan of work, and a detailed budget for the project, along with supporting information. The responses may be subject to negotiation. The formal ITB process shown in Table 1 shall be followed for solicitation of an RFP.

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Request for Qualifications (RFQ) – A Request for Qualifications (RFQ) is an advertised formal solicitation process utilized by an agency to determine and produce a list of bidders who possess the necessary knowledge, skills and abilities to accomplish a particular service or provide a particular deliverable for the agency. The formal ITB process shown in Table 1 shall be followed for solicitation of an RFQ.

Responsible Bid – A timely, accurate and responsive offer compliant with the terms in the bid documents, submitted by a responsible bidder, to furnish supplies, materials, equipment, or contractual services in conformity with the specifications, delivery terms and conditions and other requirements included in the invitation to bid.

Responsible Bidder – A bidder who submits a responsible bid, who has furnished, when requested, information and data to prove that the bidder's financial resources, production or service reputation and experience are adequate to make satisfactory delivery of the supplies, materials, equipment or contractual services in the timeframe specified on which the bidder bids and who has not violated or attempted to violate any provisions of this policy.

Sole-Source – A procurement that is made for products and services that are generally known to be available from only one vendor or for specific "in-kind" equipment replacements that are necessary to maintain consistency with existing mechanical and electrical systems and inventories.

5. GENERAL PROCUREMENTS:

- 5.1 The County Administrator may adopt additional rules and regulations for the implementation of this policy, subject to approval by the Board of County Commissioners. County agents shall be subject to such rules.
- 5.2 An agency shall not split its requirements for supplies, materials, equipment and contractual services in order to avoid the requirements of this policy or deviate from this policy without the approval of the County Administrator.
- 5.3 Public Notice
 - 5.3.1 Distribution – Invitations to bid or notices of an RFI, RFQ or RFP shall be provided to a sufficient number of bidders for the purpose of securing competition. A minimum of three (3) responses is recommended for any solicitation over \$10,000. Notices of availability shall indicate where, when, and for how long invitations may be obtained, generally describe the supply, service, or construction desired, and may contain other appropriate information. A fee may be charged for the bid documents.

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- 5.3.2 Publication – Minimum requirements for providing Advertisement is shown in Table 1. Public Notice may also include any of the following additional means: Internet announcement on County website, submission to standard contract announcement periodicals, newspaper advertisements, or any other means deemed appropriate to obtain the competitive participation. For requirements under \$25,000, telephone, e-mail, and/or facsimile solicitations are permitted. Public notice requirements for any federal or state funded contracts shall be in addition to County requirements.
- 5.4 Extension of Existing Contracts – A contract for services may contain a “roll-over” provision that will allow the contract to be extended if the performance of the vendor has been satisfactory over the previous contract period. The agent may approve a contract extension, including any annualized cost increases specified in the contract, for periods of time up to, but not exceeding five years.
- 5.5 Professional or contractual service contracts shall not be awarded for a period to exceed five (5) years unless the County Commissioners determine that a contract exceeding five (5) years is most advantageous to the County.
- 5.6 All computer hardware and software specifications shall be reviewed and approved by the Information and Communication Technology (ICT) Department for all such “network-based” purchases (which excludes specialized equipment within the Department of Emergency Services that is not connected to the main County-owned wide-area network). This includes any software-as-a-service (SaaS) subscriptions or leases.
- 5.7 All Professional Service Procurements shall ensure that the County or the specific grant funding Agency retains ownership of all data and information collected or used in the consulting effort.
- 5.8 Procurements may be awarded to pre-qualified vendors after a formal RFQ process has been completed. If the first vendor on the list cannot provide the product or service in the required timeframe, quantity, or quality, the agent may authorize solicitations from the second, third, etc. vendor on the list.
- 5.9 An agency may purchase products or services utilizing a pre-established contract of another governmental body by “piggybacking” on such contracts if the current cost is most advantageous to the County.
- 5.10 All contracts shall be reviewed and approved by the County Attorney as to form and legal sufficiency prior to execution.

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- 5.11 Solicitations for formal Invitations to Bid, competitive sealed proposals, and noncompetitive negotiations are required to be posted on eMaryland Marketplace when the contract is expected to exceed \$25,000. All such solicitations shall be forwarded to the Office of Budget and Finance, who shall be responsible for the postings.
- 5.12 The Agent responsible for solicitation of any procurement shall be responsible for recording the information and/or bids received and maintaining the information consistent with the County's Record Retention Plan.
- 5.13 Table 1 is a summary chart of spending thresholds, advertising requirements, solicitation procedures and awarding authority for general procurements.

6. **SPECIAL PROCUREMENTS:**

6.1 Sole Source Procurements

- 6.1.1 When the County requires products or equipment that are produced by only one manufacturer, the Agent shall specify such manufacturer's make or brand in the solicitation and obtain competitive bids from authorized distributors as may be available. In the event of a single bid response, the Agent is authorized to negotiate terms most advantageous to the County.
- 6.1.2 When the County requires services that are offered by only one vendor, the Agent is authorized to negotiate a contract and award procurement up to \$50,000.
- 6.1.3 When the County requires products or equipment that are essential components of existing systems and/or infrastructure which must be replaced by like or "in kind" components to ensure consistent and/or uninterrupted performance, the Agent may solicit, negotiate and authorize a procurement in an amount up to \$50,000.

6.2 Emergency Procurements

- 6.2.1 An emergency shall be deemed to exist when a breakdown in equipment or in an essential service occurs or when unforeseen circumstances arise.
- 6.2.2 In an emergency, the agent may immediately approve a purchase for the required product or service. However, if time permits, the Agent shall secure informal competitive bids consistent with this policy. The Agent shall submit a summary of the emergency circumstances and details of the emergency procurement to the County Administrator within 72 hours.

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6.3 Auction and Used Equipment Procurements

6.3.1 The Agent shall receive permission from the County Administrator to purchase any item at an auction when the cost is estimated to be over \$25,000. The Agent shall receive permission from the County Commissioners to purchase any item at an auction when the cost is estimated to be over \$100,000.

6.4 Brokered Procurements

6.4.1 The County Commissioners may join cooperative purchasing organizations. Contracts and purchases established via brokered procurements are not subject to the guidelines established by this policy.

6.5 Local Vendor Bids

6.5.1 For a Bid to be considered for a Local Vendor Preference, the bid must be accompanied with a Local Vendor Bid Affidavit along with any other additional documentation demonstrating eligibility as a local vendor as stated in the Definitions section.

6.5.2 Once the bid has been deemed to be responsive in regards the Local Vendor Preference, the 10% or \$50,000 preference (whichever is less) shall be applied to the bid and the bids re-ranked to determine the award.

6.5.3 In the event there are two eligible Local Vendor Preference bids, the award will be based solely on the lowest bid with preference, not on the percentage of local participation of a particular bid (i.e.. Bidder A is 100% local and bids \$2 and Bidder B is 50% local and bids \$1, Bidder B would be awarded the contract.

7. **BID AWARD & APPROVAL:**

7.1 All procurements shall generally be awarded to the lowest responsible bidder unless the Agent has prescribed that an award based on other established criteria is most advantageous to the County. In determining the bid award, the County may take into consideration the quality offered, conformity with the specifications, delivery terms and conditions, and other information required to confirm the responsibility of the bidder.

7.1a After determining that vendors are responsive and responsible, the award shall be made based on the Lowest Responsible and Responsive Local Vendor Bid, so long as such Local Vendor Bid does not exceed the

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Lowest Responsible and Responsive Bid of another vendor by 10% or \$50,000, whichever is less.

- 7.1b The County shall enlist a Bid Review Committee to review and make recommendations on procurements where lowest responsible bid price is not the sole deciding factor for bid award.
- 7.2 The Agent shall have the authority to approve general procurements and purchases up to a value of \$25,000, granted such purchases are within the confines of the approved annual operating or capital budget.
- 7.3 The County Administrator shall have the authority to approve general and special procurements up to a value of \$100,000, granted such purchases are within the confines of the approved annual operating or capital budget.
- 7.4 The Board of County Commissioners shall approve procurements and purchases in excess of \$100,000. Procurement requests submitted for approval by the County Commissioners shall include the following minimum information as appropriate:
- A bid canvass (listed from lowest to highest bid);
 - A statement of adherence to this procurement policy;
 - A statement confirming that the County Attorney has reviewed the contract (if applicable);
 - Verification that Certificates of Insurance are in order (if applicable);
 - A statement that budget authority exists and sufficient funds are available to cover the expenditure;
 - A statement if the County Commissioners will execute the contracts or if they will be authorizing the agent to execute the contract;
 - A copy of the contract.
- 7.4 The County Commissioners, County Administrator, and/or the Agent shall have the authority to approve special procurements as outlined in section 6.
- 7.5 The County Commissioners may reject any or all bids for any or all products or services and may re-solicit bids when in the best interest of the County. If bids result in a tie or if only a single bid is received by the Agent, the County

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Commissioners shall have the authority to award the contract to one of the tie or the single bidder(s).

8. INSPECTIONS AND TESTING:

- 8.1 The agent shall inspect or otherwise ensure the inspection of deliveries of supplies, materials and equipment, or the furnishing of contractual services and the construction of capital improvement projects to determine their conformance with the specifications set forth in the order or contract.
- 8.2 The agent shall have the authority to require chemical and physical tests of samples submitted with bids and of samples of deliveries to the extent necessary to determine their quality and conformance with the specifications. For such tests, the agent shall have authority to engage the services of any laboratory facility.

9. VENDOR RESPONSIBILITIES:

- 9.1 Bidder's Lists – Queen Anne's County does not maintain general bidder's lists for the procurement of goods and services unless a specific request for qualifications (RFQ) is issued by an Agent for a product or service.

Local vendors may submit a prequalification application for inclusion in the County's local vendor resource database. This does not void the requirement to submit a Local Vendor Bid Affidavit as specified in 6.5.1.
- 9.2 Surety/Bonds – The successful bidder may be required to furnish surety(s) in the form of a certified check, cashiers' check, bond, letter of credit or other accepted surety for the faithful performance of the contract in the amount specified in the contract bid form or specifications. Refer to Table 2 for these requirements.
- 9.3 Insurance Requirements – The successful bidder may be required to maintain and provide insurance certificates and policies to the Agent as a contract or procurement pre-requisite. These may include General Liability Insurance, Automobile Liability Insurance, Workers Compensation Insurance, Professional Liability Insurance and/or Builders Risk Insurance. Table 3 outlines the specifications for these requirements. The bidder shall name the County as an Additional Insured on one or more of these policies.
- 9.4 License required for contractors – All bidders will be required to have any federal, state or local licenses required for work specified.

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- 9.5 Vendor Application Required – All vendors are required to have a vendor application and W-9 form on file in the County Finance office.
- 9.6 Conflict of Interest Disclosure, Employment of Aliens Statement, and Political Contributions Reporting Requirements Form Required – All vendors doing business with the County shall provide a signed “Conflict of Interest Disclosure, Employment of Aliens Statement and Political Contributions Reporting Requirements” form.
- 9.7 Business Associate Agreement – Vendors that engage with and provide services for the Queen Anne’s County Department of Emergency Services may be required to follow that Department’s internal Standard Operating Guideline “Contracting with Business Associates”.
- 9.8 Local Vendor Requirements – A bid or proposal shall be deemed to be a Local Vendor Bid if the initial bid or proposal submission includes an affidavit (**See Attached LOCAL VENDOR BID AFFIDAVIT**) by the person executing the bid or proposal including the definition of “Local Vendor” and certifying that “50 percent or more of the bid or contract will be executed by one or more Certified Local Vendors having a principal place of business in Queen Anne’s County.”
- 9.9 Bid Protests – Any bidder that is concerned about the final award of any procurement may submit a bid protest to the Agent that made the solicitation. Bid protests must be submitted in writing within five (5) working days following the official public announcement of the contract award.

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Table 1. Procurement Thresholds & Procedures

Estimated Purchase Range	Applicable Procurement Procedures	Minimum Advertising Requirements	Approval Authority ¹
Under \$10,000	Departmental-approved methods of charge	None	Agent
	Pre-Qualified Vendor (via RFQ Process)	QAC Website (min. 1 wks)	Agent
	Pre-Existing Approved Government Contract	N/A	Agent
	Informal ITB	None	Agent
\$10,000 to \$25,000	Pre-Qualified Vendor (via RFQ Process)	QAC Website (min. 1 wks)	Agent
	Pre-Existing Approved Government Contract	N/A	Agent
	Informal ITB	N/A	Agent
	Formal ITB	QAC Website (min. 1 wks)	Agent
\$25,000 to \$100,000	Pre-Qualified Vendor (via RFQ Process)	QAC Website (min. 2 wks)	County Administrator
	Pre-Existing Approved Government Contract	N/A	County Administrator
	Informal ITB	N/A	County Administrator
	Formal ITB	QAC Website & eMD Marketplace (min. 2 wks)	County Administrator
Over \$100,000	Pre-Qualified Vendor (via RFQ Process)	QAC Website (min. 2 wks)	Co. Commissioners’ Approval

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	Pre-Existing Approved Government Contract	N/A	Co. Commissioners' Approval
	Formal ITB	QAC Website & eMD Marketplace (min. 2 wks)	Co. Commissioners' Approval

Notes:

- (1) Agent has responsibility to solicit procurements only when adequate budget authority exists.

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Table 2. Bonding Requirements

Contract Value	Bid Bond Security	Insurance	Retainage ¹	Performance Bond	Payment Bond	Warranty ²	Maintenance / Latent Defect Bond
\$0 - \$10,000	No	Yes	No	No	No	1 Year	No
\$10,000 - \$100,000	No	Yes	10% until Substantial Completion; 5% until Final Completion	No	No	1 Year	No
>\$100,000	5% of the total bid	Yes	Retention is not released until Final Completion	Yes – 100% of the entire contract amount	Yes – 100% of the entire contract amount	1 Year	Only if required by 3 rd party funding

Notes:

- (1) Retainage at final completion (typically held for construction contracts) may not be legally held in an amount greater than 5% of the Total Contract Amount on a Bonded project.
- (2) Special warranties shall be used for specialized materials (e.g., roofing), processing, mechanical, or electrical equipment.
- (3) Bonding is not required for design service contracts and other professional services or maintenance contracts which do not result with major capital improvements.

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Table 3. Insurance Requirements

CONTRACTOR'S Liability Insurance: The CONTRACTOR shall purchase and maintain insurance during the life of this Contract such Comprehensive General Liability Insurance including product and completed operations liability insurance as will provide protection from the CONTRACTOR'S performance of the Work and the CONTRACTOR'S other obligations under the Contract Documents, whether such performance is by the CONTRACTOR, or by a Subcontractor, by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable. This coverage shall include:

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|----|---------------------------------|--|
| a. | Bodily Injury | \$1,000,000 per occurrence/\$2,000,000 aggregate |
| b. | Property Damage | \$1,000,000 per occurrence/\$2,000,000 aggregate |
| c. | Personal Injury | \$1,000,000 per occurrence/\$2,000,000 aggregate |
| d. | Products & Completed Operations | \$1,000,000 per occurrence/\$2,000,000 aggregate |

Comprehensive Automobile Liability Insurance: The CONTRACTOR shall purchase and maintain during the life of this Contract such Comprehensive Automobile Liability Insurance including Employer's Non-Owned and Hired Car Liability. Minimum combined single limit for bodily injury and property damage shall be \$1,000,000 per occurrence/\$2,000,000 aggregate.

Worker's Compensation Insurance: The CONTRACTOR shall purchase and maintain during the life of this Contract standard Worker's Compensation Insurance as statutorily required by Maryland including employers liability coverage (Coverage B) with limits of at least \$100,000 or as required by law, whichever is greater. A Broad Form All States Endorsement shall be attached.

Builder's Risk Insurance: The CONTRACTOR shall maintain at his own expense and in the name of the CONTRACTOR and the OWNER, Combination Builder's Risk and Installation Floater Insurance in completed value for 100% of the lump sum bid for each structure, including fire and extended coverage, vandalism and malicious mischief on structures, equipment and contents of structures. Such insurance to be kept in force throughout the entire construction period and until such time as the Project is accepted by the OWNER. The proceeds of such insurance shall be payable to the CONTRACTOR and to the OWNER as their interests may appear. The OWNER shall be named as an additional insured.

Insurance Certificates and Policies:

The CONTRACTOR shall file with the OWNER and the ENGINEER, as hereinbefore required, satisfactory proof of acceptable insurance coverage. Such proof shall, unless otherwise required by the OWNER, consist of the following:

Certificates of all insurance policies shall be furnished in a number of copies equal to the number of counter parts of the Contract Documents executed. Which copies shall be clear, readable reproductions, but must be the entire policy including endorsements, exceptions, riders, qualifications and restrictions, exactly as maintained in the records of the insured.

Certificates of insurance on the insurance carrier's standard form indicating all policies required by law and the Contract Documents. Each certificate shall carry the provision that the policy may not be canceled or materially changed except upon thirty (30) days written notice to the OWNER and the ENGINEER. All insurance shall be kept in force throughout the entire construction period and remain in effect until finally complete.

The COUNTY shall be named as an Additional Insured and listed as the Certificate Holder.