

Dutchess County Manual of Policies and Procedures	Procurement Policies and Procedures
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Policy Statement:

Pursuant to subsection 1 of Section 103 of the General Municipal Law, as separately amended by Chapters 453 and 454 of the laws of 2009, wherein amended by section 104-b, requires that procedures be established for purchasing goods and services that fall below the monetary bid limits and said procedures be reviewed by the governing board. GML 103 requires a formal bid for all purchases in excess of \$20,000 and public work contracts in excess of \$35,000.

References:

1. New York State GML § 103
2. GML 104
3. State Finance Law § 163
4. Article 23 of the Labor Law
5. Uniform Guidance (2 CFR Part 200, Subparts A through F)

Definitions:

1. “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.
2. Local Business: Any operating, commercial entity located physically within the geographic borders of the County of Dutchess that employs at least one full-time employee.
3. “Construction” shall mean the process of building, altering, improving, renovating or demolishing a public structure, public building or other real property, including highway, drainage, dredging, excavating, grading and/or similar work. It may also include construction related services whereas a request for proposal is issued.

Standards:

1. GOODS AND SERVICES

Goods and services which are not required by law to be procured pursuant to competitive bidding must be procured in a manner so as to assure the prudent and economical use of public monies in the best interest of the taxpayers of Dutchess County, 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. To this end the following policies and procedures have been developed.

Formal competitive bidding will be utilized whenever required by law or when determined to be in the best interest of the County. All formal bids and quotes, outside of construction, shall be the responsibility of the Dutchess County Office of Central and Information Services, Division of Central Services. Formal Bids shall be awarded to the "Lowest Responsible and Responsive Vendor" meeting the terms and conditions of the bid. In all cases where the award is made

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to other than the lowest offerer, justification and documentation must be substantive and approved by the Director of Central Services. All documentation shall be kept as part of the bid file and available for public view.

When the Director of Central Services determines that a variety of complex responses could be anticipated, multiple solutions are available, and/or factors other than cost are of substantial significance for the service, a Request for Proposal format may be used. In instances where competitive bidding is not required, the Quotation Procedure, as outlined below, shall determine the authorized procurement process for the acquisition of all goods and services for the County of Dutchess. The Director of Central Services shall determine the appropriate procurement method. As such, the responsibility for the procurement for supplies, equipment, goods and services, as defined in Article XXVII, section 28.01 of the County Charter and Code, by and for said County rests with the County Executive or his/her designee. Through the adoption of this policy, the County Executive hereby identifies the Director of Central Services as his designee to administer the Procurement Program for Dutchess County.

The Director of Central Services shall make available to other municipalities and contract agencies, within New York State, the opportunity to participate in the County's contracts or competitive bids when applicable.

Any and all procedures not specifically covered in this policy and detailed in either GML 103 and 104-b shall be adhered to.

Procedures:

1. BEST VALUE

A. New York State GML § 103 now provides that “purchase contracts (including contracts for service work, but excluding any purchase contracts necessary for the completion of a public work contract pursuant to article eight of the labor law) may be awarded on the basis of best value,” defined in State Finance Law § 163, “to a responsive and responsible offeror”.

B. Additionally, New York State GML § 103 allows “any officer, board or agency of a political subdivision or of any district therein authorized to make purchases of apparatus, materials, equipment or supplies...through the use of a contract let by the United States of America or any agency thereof, any state or any other political subdivision or district therein if such contract was let to the lowest responsible bidder or on the basis of best value...”

C. In assessing best value, non-price factors can be considered when awarding the purchase contract. Purchase contracts can include service work but excludes any purchase contract necessary for the completion of a public work contract. Awarding a contract based on best value (“competitive offering”) is an alternate to awarding contracts to the “lowest responsible bidder.” For purposes of best value, a responsive offeror is an offeror meeting the minimum specifications.

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D. Statutory Requirements:

i. Dutchess County is permitted to utilize Best Value bids pursuant to its adoption of Dutchess County Local Law 2 of 2016, Resolution No. 2016182.

ii. Dutchess County is required to comply with public advertising and bid/offer opening requirements as required by General Municipal Law when utilizing best value.

iii. The Director of Central Services shall determine when the basis of an award shall be upon Best Value. A determination in writing by the Director of Central Services detailing the reasons why a Best Value award is appropriate: the reasons it will benefit the County; and specifying the evaluation criteria to be included in the solicitation shall be included in the procurement record prior to the issuance of the Request for Competitive Offers.

iv. Where the basis for award is the best-value offer, Central Services shall document, in the procurement record and in advance of initial receipt of offers, the determination of the evaluation criteria, which, shall be objective and 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.

v. Upon Approval by the Director of Central Services, a Request for Competitive Offers shall be issued and shall include specifications and all contractual terms and conditions applicable to the procurement. The best value specification shall describe the general manner in which the evaluation and award of offers will be conducted and identify the relative importance or weighting of price and non-price factors.

vi. Offers shall be evaluated based on the requirements set forth in the invitation for offers, which may include criteria as provided herein. Those criteria that will affect the bid price and be considered in evaluation for award shall be objectively and quantifiably measurable. The invitation for offers shall set forth the evaluation criteria to be used. Only criteria set forth in the invitation for offers may be used in the evaluation process.

vii. The decision to award a contract on the basis of best value must be based on objective and quantifiable analysis, such as a cost-benefit analysis, whenever possible. In evaluating and determining to accept a higher priced offer, Central Services shall use a cost-benefit analysis to show quantifiable value or savings from non-price factors that offset the price differential of the lower price offers.

viii. Should Central Services elect to award a purchase contract on the basis of best value, the Purchasing Division and County Department must be prepared to show that: (1) the offeror is responsive and responsible; and (2) Central Services applied objective and quantifiable standards to determine that the offer optimizes quality, cost and efficiency.

ix. The Director of Central Services has the sole authority to purchase goods and services through the use of contracts let by the United States or any agency thereof, any state or any other political subdivision or district therein that utilized Best Value. A cost benefit analysis may be required to determine if the contract will result in cost savings.

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x. Best Value Evaluation Criteria shall be limited to those criteria detailed below. Specific evaluation criteria are selected based on the requirements described in the invitation for offers.

<u>Evaluation Criteria</u>	<u>Weighting Range</u>
Cost	51%-90% - (provides that cost continues to be the most heavily weighted criteria)
NYS MWBE and Small Business Certification or Participation (Required by many grants)	10% -40%
Veteran Owned Business (Required by many grants)	10% -40%
Non-Profit Status of Bidder	10% -40%
Buy America Provision	10% -40%
Product Warranty	10% -40%
Product Energy Usage (includes water if applicable)	10% -40%
Product or Service Satisfaction of performance requirements	10% -40%
Product or Service environmental considerations	10% -40%
Proposed Schedule/Delivery timeframe	10% -40%
Additional Training costs to be incurred by the County	10% -40%
Compatibility of proposed equipment and current equipment operational issues related to necessary retrofitting and costs(if any) of spare parts inventory necessary	10% -40%
Contractor experience with similar projects	10% -40%
Contractor's record of completion on schedule or on-time delivery	10% -40%
Contractor's record of compliance with material and workmanship requirements	10% -40%
Contractor's record of timely and accurate submittals	10% -40%
Contractor's record of safety	10% -40%
Contractor's hours of operation for obtaining technical assistance	10% -40%

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2. QUOTATION

Estimated Annual Acquisition Cost

Procedure

Goods and Services:

\$ 1 - \$ 4,999

No formal quotation required. The purchase method shall be at the discretion of the Director of Central Services who may determine that a formal quote could reduce costs and increase competition. The purchase shall be based upon reliable market information such as catalogues, phone quotes or previous quotations. Acquisition shall be initiated through the submission of an authorized requisition or the county procurement card system. Departments shall make reasonable efforts to obtain the best price.

\$ 5,000 - \$ 19,999

At least three formal written or automated (Empire State Municipal Purchasing Group) quotations, from responsible vendors (if available). The method of quotation used will be at the discretion of the Director of Central Services. When applicable, the local business consideration policy shall apply. Acquisition shall be initiated through the submission of an authorized requisition or a bid request form.

Exception to Quoting:

Up to \$19,999

In lieu of obtaining formal written quotations for purchases of commodities under \$20,000, the Director of Central Services is authorized to make such purchases using established government cooperative purchasing contracts including, but not limited to, the General Services Administration (GSA) Schedule 70 Information Technology contracts and Schedule 84 Law Enforcement, Fire and Security, the Minnesota Multi-State Contracting Alliance (MMCAP) contracts, the U.S. Communities Cooperative Contracts, the Western States Contracting Alliance (WSCA) contracts, the National Joint Powers Alliance (NJPA) contracts, the HGACBuy or other similar Government Cooperative Contracts.

Quotations shall be awarded to the "Lowest Responsible and Responsive Vendor" whenever possible and in conformance with the local business consideration policy. Justification and documentation of any award to other than the lowest responsible dollar offerer, setting forth the reasons for such award must be approved by the Director of Central Services prior to notification of the successful vendor. All documentation shall be kept as part of the quotation file and available for public view.

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3. LOCAL BUSINESS CONSIDERATION POLICY FOR QUOTATION

a. This consideration applies to formal written quotations, where the annual acquisition costs are estimated between \$5,000 and \$19,999. Formal written quotations are used pursuant to the Dutchess County Procurement Policies and Procedures.

b. When a formal written or automated quotation is used, and the lowest responsible and responsive bidder is not a local business, the lowest responsible and responsive local business bidder (if applicable or available), who is within 10% of the lowest responsible and responsive bidder, shall be provided with notice and an opportunity to reduce its bid to match that of the lowest responsible and responsive bidder. Notice shall be by telephone and either facsimile or electronic mail. The local business shall have three business days after the date of such notice to match the lowest bid in writing. Should the local business so match, it will be deemed the lowest responsible and responsive bidder and receive the award. Should the lowest responsible and responsive local business bidder decline to match, the next lowest responsible and responsive local bidder who is within 10% of the lowest responsible and responsive bidder will be given the same notice and opportunity to match the bid of the lowest responsible and responsive bidder as outlined above. This process shall continue as necessary until an award is made either to a responsible and responsive local business bidder whose original quotation is within 10% of the lowest responsible and responsive bidder, or the lowest responsible and responsive bidder itself.

c. In instances where a local business and a non-local business submit equivalent lowest responsible and responsive bids, the Director of Central Services shall give preference to the local business.

d. In the event the only bidders are local, the quote will be awarded to the lowest responsible and responsive bidder.

e. In the event there are two or more local businesses within 10% of the lowest quote and whose quote is tied, the award shall be determined by a lottery.

f. The lowest responsible and responsive bidder shall meet the requirements as set forth in the formal quotation and as determined by the Director of Central Services.

4. BID NOTIFICATION

An opportunity shall be afforded to all responsible suppliers to do business with the County. To this end Central Services shall provide instructions for all potential suppliers regarding access to the web-based bid notification system. Vendor lists shall be maintained within the bid registration system and shared with all Empire State Municipal Purchasing Group members allowing for a wider distribution and greater opportunity for County vendors. Any registered supplier, so requesting, shall be included on the list for each commodity they select for automatic notification of solicitation. All requests for RFQ's, RFB's and RFP's shall be transmitted through the web-based bid notification process. The Director of Central Services must authorize any deviation to this process.

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5. EXCEPTIONS TO THE POLICY

Purchases from State Contract:

There is an exception to bidding for State Contracted items. All acquisitions must follow policy for ordering and authorization.

Purchases from contracts let by the United States of America or any agency thereof, any state or any other county:

This is an exception to bidding for contracts as amended in NYS GML §103 (16). The contract must be let in a manner that constitutes competitive bidding consistent with New York State law. The responsibility of this determination rests with the Director of Central Services.

Purchases through Preferred Sources:

New York State Office of General Services posts a list of all commodities and services that are available and being provided by preferred sources (CORCRAFT, Agencies for the Blind, etc.).

Professional Services and Consultants:

Generally, professional services involve specialized skill, training and expertise, the use of professional judgment or discretion, and/or a high degree of creativity. Departments must procure such services in accordance with the procedures below. Requests for deviation from the process must be documented and approved by the Director of Central Services.

\$ 1 - \$ 19,999	No formal quotation required. The purchase method shall be at the discretion of the Department Head with a written justification.
\$ 20,000 - \$ 39,999	Upon approval of the Director of Central Services, at least three formal written quotations, from responsible vendors (if available). The method of quotation used will be at the discretion of the Director of Central Services. If the services are directly related to a construction project, the Department of Public Works will solicit the quotations.
\$ 40,000 and up	A solicitation and review of formal Request for Proposals are the responsibility of Central Services. If the services are directly related to a construction project, the Department of Public Works will solicit the Request for Proposal.

6. EMERGENCIES

An emergency exists wherein the delay caused by soliciting bids or quotes would endanger the health, welfare or property of the County or its citizens. In these instances, the procurement of goods or services will be at the discretion of the proper department head and if possible, in consultation with the Director of Central Services. Documentation as to the nature of the emergency shall be sent to the Director of Central Services within five (5) working days of the procurement.

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7. STANDARDIZATION

Where the County has determined that standardization is required for the health, safety or welfare of the people of the County, or for the effectiveness and efficiency of County operations, then the standardization of supplies or equipment with existing supplies or equipment, or with supplies or equipment needed for regional task forces or partnerships, is permitted and the specifications may limit the purchase to a single brand or trade name. Competitive solicitations are still required even though product pool is limited. The factors that shall be considered in determining to standardize on a single brand or trade name include:

- Repair and maintenance costs would be minimized;
- User personnel training would be facilitated;
- Supplies or spare parts would be significantly reduced;
- Modifications to existing equipment would be minimized or made unnecessary;
- Training requirements for repair and maintenance personnel would be significantly reduced or eliminated;
- Proper operation of a function or program requires single brand or trade name supplies or equipment to be compatible with existing supplies or equipment; and/or
- Overall purchase or operational costs would be eliminated.

Standardization requests must adhere to the Dutchess County Charter and Code Section 28.04 Standardization of Purchases. With respect to the above factors considered for standardization, the resolution shall contain a full explanation of its reason for its adoption. The Director of Central Services shall review and approve any such resolution prior to its submittal to the Legislature.

The following items may be obtained outside of the normal purchase order procedure:

- Employee expenses, reimbursement;
- Petty cash reimbursement;
- Utility bills;
- Subscriptions – magazines or other types of subscription services;
- Inter-departmental expenses; and
- Inter-governmental expenses.

All payments where a contract exists will need to be captured to determine the exact value of the service or contract. Acquisitions made outside the terms and conditions of the contract and determined not to be authorized will provide justification for the Comptroller to deny payment.

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8. SOLE SOURCE

In cases where a reasonably exhaustive and documented search discloses that a good or service is available from only one vendor or in cases where there is common knowledge of the existence of a monopolistic situation for a particular good or service being sought, that good or service may be purchased from a single identified vendor without competitive bidding or solicitation of quotations. The requesting department must complete and submit a Sole Source Justification Form with the Director of Central Services. Determination of sole source status shall be at the discretion of the Director of Central Services.

9. PROCUREMENT CARD PROGRAM

The Director of Central Services shall be responsible for maintaining a procurement card program for the purpose of streamlining the purchasing process for selected goods and services used by selected County staff and departments. Procurements made through this program may not exceed the requirements or thresholds detailed in this policy and as outlined in the Dutchess County Procurement Card User Guide.

10. SURPLUS PROPERTY

Regarding surplus property, it is the duty of the Director of Central Services to sell, trade, or otherwise dispose of surplus supplies and equipment belonging to the County of Dutchess. The method of disposition of surplus supplies and equipment is within the sound discretion of the Director of Central Services.

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11. STANDARDS: UNIFORM GUIDANCE COMPLIANCE FOR FEDERAL AWARDS – PROCUREMENT, SUSPENSION AND DEBARMENT:

2 CFR Part 200 (Subparts A through F), Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, requires organizations receiving federal awards to establish and maintain effective internal controls over federal awards.

Procedures

- 1 The requirements for procurements using federal awards are contained in the Uniform Guidance (2 CFR Part 200, Subparts A through F), program legislation, federal awarding agency regulations, and the terms and conditions of the award. To comply with 2 CFR Part 200 (Subparts A through F), the County of Dutchess implements policies and procedures, including, but not limited to:
 - a. The County will use its own documented procurement procedures which reflect applicable state, local and tribal laws and regulations; provided that the procurements conform to applicable federal law and Uniform Guidance. As such, County procurements related to federal grants will be subject to New York State General Municipal Law, Dutchess County Procurement Policy and Uniform Guidance requirements.
 - b. Contract files will document the significant history of the procurement, including the rationale for the method of procurement, selection of contract type, contractor selection or rejection, and the basis of contract price.
 - c. The County will utilize one of the five acceptable procurement methodologies detailed in 2 CFR 200.320, which include:
 - o Micro-purchase.
 - o Small purchase procedure.
 - o Sealed bid.
 - o Competitive proposal.
 - o Non-competitive proposal (sole-source).
 - d. Procurements will provide for full and open competition as set forth in the Uniform Guidance, or state and local procurement thresholds, whichever is most restrictive.
 - e. No employee, officer or agent may participate in the selection, award or administration of a contract supported by a federal award if he or she has a real or apparent conflict of interest. Such a conflict of interest would arise when the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated herein has a financial or other interest in or a tangible personal benefit from a firm considered for a contract. The officers, employees, and agents can neither solicit nor accept gratuities, favors, or anything of monetary value from contractors or parties to subcontracts. If the financial interest is not substantial or the gift is an unsolicited item of nominal value, no further action will be taken. However, disciplinary actions will be applied for violations of such standards otherwise.

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- f. The County will avoid acquisition of unnecessary or duplicative items. Consideration will be given to consolidating or breaking out procurements to obtain a more economical purchase. Where appropriate, an analysis will be made of lease versus purchase alternatives, and any other appropriate analysis to determine the most economical procurement approach. The County will also analyze other means, as described in 2 CFR 200.318 of the Uniform Guidance, to ensure appropriate and economical acquisitions.
- g. The County will enter into state and local intergovernmental agreements or inter-entity agreements, where appropriate.
- h. The County will only utilize time-and-materials contracts when it has been determined, in writing, that no other contract type is suitable.
- i. Vendors/contractors that develop or draft specifications, requirements, statements of work, or invitation to bids or requests for proposals must be excluded from competing for such procurements.
- j. The County will make available, upon request of the federal awarding agency or pass-through entity, technical specifications on proposed procurements where the federal awarding agency or pass-through entity believes such review is needed.
- k. County departments are prohibited from contracting with or making subawards under covered transactions to parties that are suspended or debarred or whose principals are suspended or debarred. "Covered transactions" include those procurement contracts for goods and services awarded under a non-procurement transaction (i.e., grant or cooperative agreement) that are expected to equal or exceed \$20,000. All non-procurement transactions (i.e., subawards to recipients), irrespective of award amount, are considered covered transactions.
- l. The County of Dutchess will include a suspension/debarment clause in all written contracts in which the vendor/contractor will certify that it is not suspended or debarred. The contract will also contain language requiring the vendor/contractor to notify the County immediately upon becoming suspended or debarred. This will serve as adequate documentation as long as the contract remains in effect.
- m. County departments will be required to notify the Purchasing Division and Department of Law that federal funding will be used for a certain procurement/contract. When requesting a written contract, the County Department will be responsible for running the vendor's/contractor's name through the System for Award Management (SAM) to determine any exclusions. A copy of the SAM search will be included with the contract request. Prior to issuing a purchase order using federal funds, the Purchasing Division will check the SAM to determine if any exclusions exist for the vendor/contractor. If a vendor/contractor is found to be suspended or debarred, the County will immediately cease to do business with the vendor.
- n. The County will not use statutorily or administratively imposed state, local or tribal geographical preferences in the evaluation of bids or proposals; except in those cases where applicable federal statutes expressly mandate or encourage geographical preference.
- o. The County will take all necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor area surplus area firms are used when possible.
- p. The County will procure recovered materials in compliance with 2 CFR 200.322.

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- q. The County will perform a cost or price analysis relating to every procurement more than the simplified acquisition thresholds \$150,000.
- r. The County will require appropriate bonding requirements as per 2 CFR 200.325.
- s. The County will only award contracts to responsible vendors and will document, in writing, such determination.
- t. County contracts will contain the applicable provisions described in Appendix II to Part 200, Contract Provisions for Non-Federal Entity Contracts Under Federal Awards.
- u. The County will maintain oversight to ensure that contractors perform in accordance with the contract's terms, conditions, and specifications.
- v. Copies of executed contracts will be maintained in the OnBase system and purchase orders will be maintained in the New World system.

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Standards:

CONSTRUCTION

Construction shall remain under the auspices of the Commissioner of Public Works. For purposes of clarity “Construction” shall mean the process of building, altering, improving, renovating or demolishing a public structure, public building or other real property, including highway, drainage, dredging, excavating, grading and/or similar work. It may also include construction related services whereas a request for proposal is issued. It does not include sale or lease of real property, basic maintenance and repair or routine operation, building services, minor renovations (where commodity is a substantial component and services are considered minor, incidental or customarily provided as a component of the purchase), interior equipment, furniture or fixture (exception: furnishings provided within a construction project), routine repair or regularly scheduled maintenance of existing public structures, public buildings or other public real property; in such cases the “goods and services” policy shall prevail.

1. PROCEDURES

GML 103 requires a formal bid for all public work contracts in excess of \$35,000.

2. APPRENTICESHIP PROGRAM

The County of Dutchess requires that any contractor or subcontractor have, prior to entering into a contract for the process of building, renovating or demolishing a public building owned, operated and maintained by the County of Dutchess, with a value in excess of \$250,000.00, apprenticeship agreements appropriate for the type and scope of work to be performed and which have been registered with the NYS Department of Labor in accordance with Article 23 of the Labor Law.

3. CONSTRUCTION QUOTATION PROCEDURE

Estimated Annual Acquisition Cost

Procedure

Public Work:
\$ 10,000 - \$ 34,999

Formal written quotations from at least six responsible vendors (if available). A public work project shall be defined as one where labor is a substantial component, 50% or more, of the cost. This type of acquisition generally requires a formal contract and a prevailing wage declaration. In all instances where the component breakdown is uncertain, the most restrictive procedure shall prevail.

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PROCUREMENT RESPONSIBILITY

GML 104-b (2) (f) requires the identification of the individual or individuals responsible for purchasing and their respective titles. As such, the following identifications are made with the areas of responsibility:

Christopher Barclay – Director of Central Services

Procurement of goods and services as detailed in the above-identified areas of responsibility.

Robert Balkind – Commissioner of Public Works

Construction as defined in the section above.