

Hamilton County Purchasing Policy Manual

Hamilton County Purchasing Department

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Section 1 – INTRODUCTION

I. PURPOSE AND SCOPE

This Hamilton County Purchasing Manual (the “Manual”) describes the applicable laws, policies, guidelines, and procedures relating to the purchasing functions of Hamilton County boards, departments and agencies (“County Entities”). The purpose of the Manual is to provide current, accurate guidance to those personnel who are responsible for or who participate in purchasing functions. The Manual sets forth the procedures which County Entities are expected to follow to achieve a uniform and consistent approach to the purchasing function for Hamilton County.

II. GENERAL STATEMENT

Purchasing is a support service function, which directly affects all County Entities, their operating budgets, equipment inventories, and costs. Purchasing is an important component in accomplishing various Hamilton County goals and objectives in a cost-effective manner. The Manual outlines the current management practices, philosophy and guidelines in the routine exercise of purchasing functions by County Entities.

The policies outlined in the Manual generally apply to all County Entities involved with the procurement of goods and services for Hamilton County. However, not all requirements apply to all County Entities, especially those which fall outside the control of the Board of County Commissioners (“BOCC”).

The responsibility for the contracting function rests with the appropriate contracting authority, and another County Entity or County employee cannot determine the appropriateness of a contract. “Contracting authority” means “any board, department, commission, authority, trustee, official, administrator, agent, or individual which has authority to contract for or on behalf of the county or any agency, department, authority, commission, office, or board thereof.”¹

While authority to contract on behalf of Hamilton County for departments and county agencies under the Board’s control and supervision rests with the BOCC or its designee,² other County Entities have contracting authority in general or for specific purchases as dictated by law. Unless specified otherwise, the terms “County” or “County Entities” as used in this Manual include the BOCC and other Hamilton County contracting authorities.

The policies and procedures contained in the Manual are subject to revision based upon the passage of new legislation and the implementation of new methods and systems.

¹ O.R.C. 307.92.

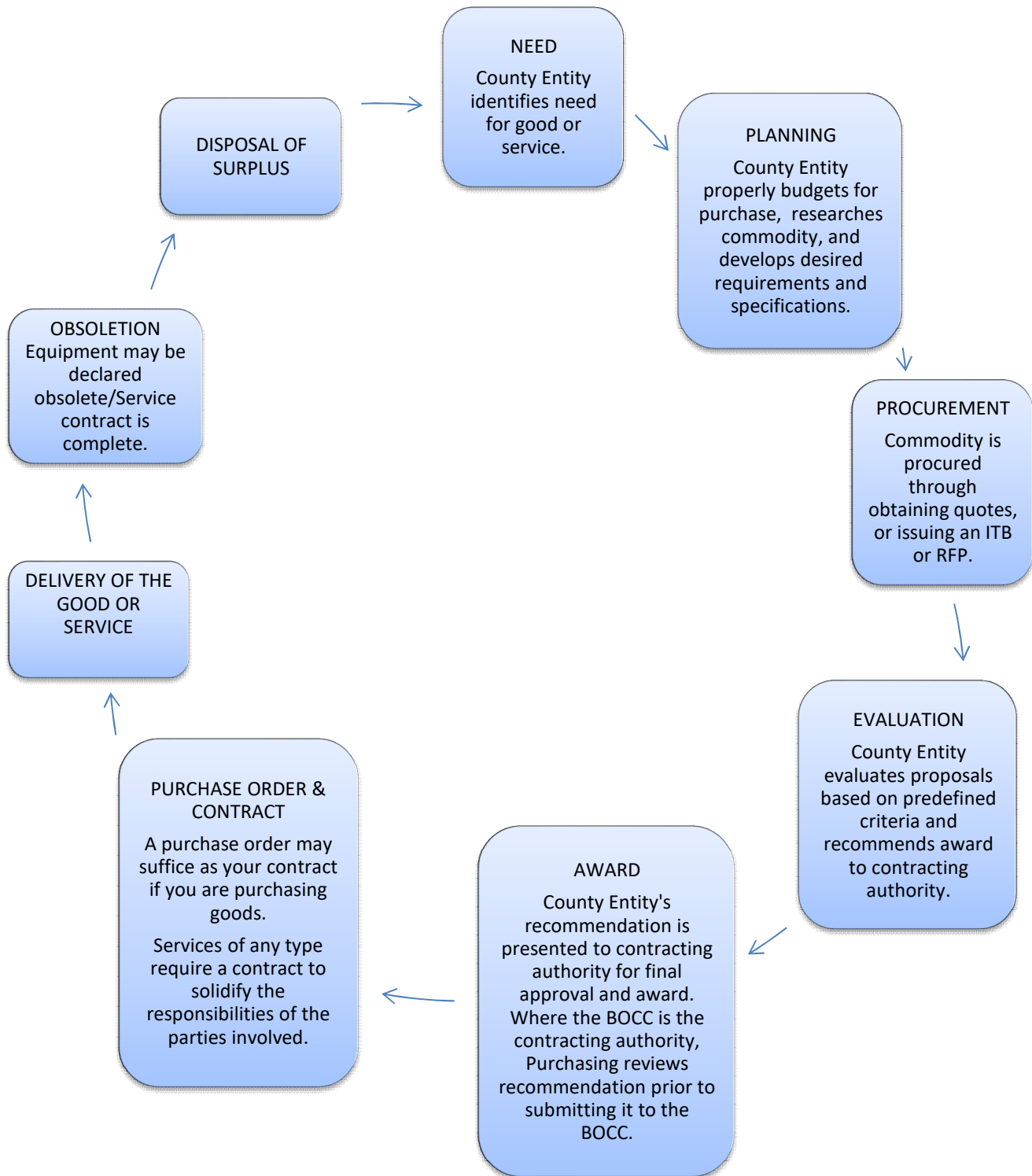
² O.R.C. 305.30(G) (BOCC may direct a county administrator to enter into contracts on its behalf).

Wherever possible, County Entities governed by this Manual will be properly notified of any such revision.

The Manual predominately applies to the procurement of goods and services with state and local funds. While some direction is given regarding federal funds, if the project or purchase is being funded with federal funds, differing substantive rules and requirements may apply, and the County Entity should consult the Hamilton County Purchasing Department (“Purchasing”) for guidance on how to proceed early in the process.

References to state and federal law as well as local resolutions are provided in footnotes throughout the Manual.

Section 2 – PURCHASING CYCLE OVERVIEW



Section 3 – ETHICS

Ethics is defined as a principle of right or good conduct; a system of moral principles or values; and, the rules or standards governing the conduct of members of a profession.

Ethical is defined as being in accordance with the accepted principles of right and wrong that govern the conduct of a profession.

I. HAMILTON COUNTY STATEMENT ON ETHICS

The BOCC recognizes that a high standard for ethical behavior of employees is essential for good government and a successful purchasing program. Ethical employee behavior builds the public's trust, ensures the integrity of government, and results in the provision of services in a fair, just, effective manner. The County and its Purchasing Department follow ethical practices set forth by the County Human Resources Department, which can be found at:

<http://www.hamiltoncountyohio.gov/hr/Ethics/Ethics.asp>.

II. ETHICS IN PURCHASING

Ethical conduct means that all potential vendors are given a fair and equal opportunity to offer their supplies and services to the County. Some particular ethical requirements relating to the purchasing function are outlined below.

A. PERSONAL GAIN

1. GRATUITIES

A gratuity is an item or special consideration a vendor extends in appreciation of past, future, or continued business with a company. **It is unacceptable for County employees associated with the purchasing function to accept gifts that have any monetary value.**³ All individuals responsible for the purchasing function must remain above reproach. The mere appearance of impropriety can be damaging to the integrity of the public purchasing process.

2. IMPROPER INTEREST IN CONTRACT

County officials and employees are prohibited from having a financial or fiduciary interest in a County contract. A fiduciary interest can arise if there is a contract between the County and another agency and the County official or employee serves as

³ O.R.C. 2921.43.

a board member or executive officer of that agency. Exceptions to this rule may exist in very limited circumstances.⁴

B. IMPROPER INFLUENCE OF DECISIONS

County officials and employees may not authorize or otherwise attempt to influence the award of a County contract in which they personally, their relatives, business associates, neighbors, or acquaintances have an interest.⁵

C. CONFIDENTIALITY

County officials and employees shall not disclose confidential information or documentation that is protected from public disclosure and concerns the property or affairs of the County, to which they have access through their employment with the County, unless given proper authorization to do so.⁶

III. QUESTIONS ABOUT ETHICS

If you have concerns about ethics, you are encouraged to speak to any of the following people:

- Your supervisor or your supervisor's manager (or further up the chain of command)
- County Human Resources (See Attachment A – Helpful Contacts)
 - Ask for the HR Manager or the HR Director.
- Hamilton County Ethics Commission
 - Call County Human Resources and ask the HR Director to provide contact information for the current Hamilton County Ethics Commission Chair.

⁴ O.R.C. 2921.42(A)(4).

⁵ O.R.C. 2921.42(A)(1); BOCC Policy Section 6.0: Ethics of Public Employment, E.

Section 4 – PROCUREMENT METHODS

To determine the proper procurement method, County Entities must first determine what exactly is to be purchased, an estimated cost of the purchase, and the source of funding for the purchase. For all levels of purchases, each County Entity should seek competition to the maximum extent possible. Without competition, there is no certainty that the price and deliverable obtained are the best available.

I. FEDERAL FUNDS

A. OVERVIEW

The federal Office of Management and Budget created uniform administrative requirements which govern awards of federal money to local governments. These regulations are known as the Super Circular and are codified in the Code of Federal Regulations (“CFR”) at 2 CFR Part 200 (Subparts A – F). Procurement standards and permitted methods of procurement are contained in Sections 200.317 through 200.326. Specific items that must be included within contracts resulting from federal awards are listed in Appendix II to Part 200.

When procuring property and services under a federal award, the same policies and procedures that County Entities uses for procurements for its non-federal funds must be followed. The procedures used must reflect applicable state and local regulations, so long as the procurements conform to applicable federal law and the standards. Consequently, County Entities must also comply with state competitive provisions and Purchasing policies and procedures. For example, if federal procurement does not requires quotes but Purchasing does – then quotes must be received.

When making purchases with federal funds, County Entities must ensure that it follows federally required general procurement standards, which include, but are not limited to: oversight of contractors, maintenance of written standards of conduct covering conflicts of interest and actions of its employees involved in purchasing; avoidance of unnecessary or duplicative items; consideration of state and local intergovernmental agreements for the procurement of common or shared goods and services; and the maintenance of records sufficient to detail the history of procurement (records will include but are not limited to, rationale for the method of procurement, selection of contract type, contractor selection or rejection, and the basis for the contract price).

All procurement transactions must be conducted in a manner that provides for full and open competition. In order to avoid unfair competition, contractors that develop or draft specifications, requirements, statement of work, invitations to bid and requests for proposal must not be permitted to compete for such procurements. Care should be taken to conduct procurements in a manner that prohibits the use of geographical preferences. County Entities must be certain to utilize the written procedures for procurement set forth herein related to clear and accurate description of technical requirements and identification of all requirements that an offeror must fulfil and all other factors used in evaluating bids or proposals.

B. METHODS OF PROCUREMENT TO BE FOLLOWED

The following describe the available methods of procurement for local governments purchasing with federal funds:

1. MICRO PURCHASES

The acquisition of supplies or services, the aggregate dollar amount of which does not exceed the micro-purchase threshold currently set at \$10,000. Micro-purchases may be awarded without soliciting competition proposals if the non-federal entity considers the price to be reasonable. 2 C.F.R. 200.320(a).

2. SMALL PURCHASES (Simplified Acquisition Threshold)

Purchase by small purchase procedures. Small purchase procedures are those relatively simple and informal procurement methods for securing services, supplies, or other property that do not cost more than the Simplified Acquisition Threshold, currently set at \$250,000. If small purchase procedures are used, price or rate quotations must be obtained from an adequate number of qualified sources. 2 C.F.R. 200.320(b).

3. SEALED BIDS (Formal Advertising)

For purchases more than \$250,000, sealed bids are publically solicited and a firm fixed price contract (lump sum or unit price) is awarded to the responsible bidder whose, bid, conforming with all the material terms and conditions of the invitations, is lowest in price. Other detailed requirements are set forth in 2 C.F.R. 300.320(c).

4. COMPETITIVE PROPOSALS

Competitive proposals result in either a fixed price or cost-reimbursement type contract awarded to the bidder whose proposal is most advantageous to the program with price and other factors considered. Other detailed requirements are set forth in 2 C.F.R. 300.320(d).

5. NONCOMPETITIVE PROPOSALS

Purchases for any amount by soliciting a proposal from only one source when one of the following applies:

- a. The item is only available from a single source;
- b. The public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation;
- c. Written pre-approval from the Federal awarding agency received; or
- d. Competition is deemed inadequate, after solicitation attempts through one of the other methods.

Other detailed requirements are set forth in 2 C.F.R. 300.320(e).

C. CONTRACT COST AND PRICE

A cost or price analysis must be performed in connection with every procurement action in excess of the Small Purchase Threshold, including contract modifications. The method and degree of analysis depends on the facts surrounding the particular procurement. At a minimum, the County Entity must make independent estimates before receiving bids or proposals.

D. OTHER CONSIDERATIONS

In addition to the factors set forth above, County Entities must take steps to comply with all applicable federal provisions. The following is a list provisions set forth in 2 CFR 200 - Uniform Administrative Requirements, Cost Principles, and Award Requirements for Federal Awards which are intended to serve as guidance to County Entities in relation to federal procurements. It is not expected to serve as a as recitation of all possible laws that may be applicable to a certain transaction or procurement.

1. Subpart A – Acronym and Definitions;
2. Subpart B – General Provisions;
3. Subpart C – Federal Award Requirements and Contents of Federal Awards;
4. Subpart D – Post Federal Award Requirements;
5. Subpart E – Cost Principles;
6. Subpart F – Audit Responsibilities; and
7. Appendices I-XII.

E. CONSULT WITH PURCHASING

Due to the specific requirements of federal purchasing, purchases funded either entirely or partially with federal funds require the use of additional or differing purchasing procedures from those used for purchases made with local or state funds. County Entities must consult with Purchasing any time federal funds are being used to purchase goods or services to ensure that all requirements are being considered.

II. LOCAL FUNDS

A. PURCHASES ESTIMATED TO COST \$1.00 TO \$2,499.99

County Entities may purchase goods or services estimated to cost \$1.00 to \$2,499.99 without obtaining three quotes from vendors or otherwise seeking competitive pricing. However, County Entities may find it beneficial to obtain quotes for purchases under \$2,499.99, and they are permitted to do so.

For purchases by the BOCC, see Section 4(V)(G) – Small Contract Enhancement Program.

B. PURCHASES ESTIMATED TO COST \$2,500.00 TO \$49,999.99

County Entities are required to obtain a minimum of three price quotes for goods or services not otherwise exempted from competitive procurement by O.R.C. 307.86, which are estimated to cost \$2,500.00 to \$49,999.99.

Utilization of the Demandstar/Onvia electronic quote solicitation tool can also be used. This tool allows County Entities to electronically solicit requests for quotes which eliminates the need for calling vendors and maintaining paper files. If you are not using this tool and would like to, or if you would like additional training please contact Purchasing (See Attachment A – Helpful Contacts). Purchasing can also obtain quotes for County Entities by using Bid Sync or B2Gnow, an electronic quote solicitation tool. County Entities can contact Purchasing or email the quote request to Purchasing@hamilton-co.org.

If not utilizing Demandstar/Onvia, BidSync or B2Gnow, as an electronic quote solicitation tool, it is the responsibility of each County Entity to maintain paper copies of the quotes for audit purposes pursuant to the entities' general records retention policy.

C. PURCHASES ESTIMATED TO COST \$50,000.00 AND ABOVE

Absent an exception listed in Section 4(III) – Exceptions to Competitive Bid Requirements for Local Funds below, County Entities are required to competitively bid goods or services estimated to cost \$50,000.00 or more. Depending on the type of goods or services needed, County Entities may seek Competitive Bids through issuing an Invitation to Bid (“ITB”) or Competitive Proposals through issuing a Request for Proposals (“RFP”).

An ITB and a RFP are collectively referred to as a “Bid Document.” Responses to an ITB or a RFP are collectively referred to as a “Bid Response.” A person submitting a Bid Response is referred to as a “Respondent.”

NOTE: A single purchase otherwise subject to competitive bidding may not be split into separate contracts or orders for the purpose of evading a requirement that the purchase

be competitively bid.⁷ DO NOT BREAK UP PURCHASES INTO SMALLER PURCHASES TO KEEP THEM UNDER THE \$50,000.00 THRESHOLD! With the implementation of the new financial system came the ability to monitor transactions for their appropriateness.

Purchases by the BOCC are subject to Section 4(V) – Hamilton County MBE/WBE/SBE Policies.

1. COMPETITIVE BIDS

A Competitive Bid is an offer to enter into a public contract with the contracting authority at the specific price and terms stated in the Competitive Bid.

An ITB normally results in firm and fixed price contracts and generally is awarded to the “lowest and best” bidder.⁸ An ITB should be utilized for goods and services where defined specifications and quantifiable requirements can be written; therefore, County Entities seeking issuance of an ITB must have a good idea of what they want.

Generally, County Entities do not have the authority to negotiate the terms, conditions, or specifications of an ITB after the opening of the Bid Document. However, a County Entity may seek clarification of any statement made by a Respondent. Absent a written exception to the ITB’s terms and conditions or specifications taken by a Respondent, contracts resulting from ITBs are generally not negotiable.

A description of the procedure for procuring goods or services through issuing an ITB is provided in Section 5 – Competitive Procurement Procedure.

2. COMPETITIVE PROPOSALS

A Competitive Proposal is an offer to enter into discussions and negotiations with the contracting authority for a public contract.

A RFP is used when the criterion for selection is, by necessity, more subjective, when no detailed specifications are available, or when a clear price cannot be affixed or detailed statement of work finalized except through negotiations. Through use of a RFP, the Respondent proposes its solution, and the contracting authority awards the contract to the Respondent whose proposal is determined to be the “most advantageous to the county, taking into consideration the evaluation factors and criteria developed and specified in the RFP.”⁹ Note: A RFP can only be issued when the contracting authority determines that the use of Competitive Proposals would be

⁷ 1997 Op. Att’y. Gen. No 97-006; 1993 Op. Att’y Gen. No. 93-024.

⁸ There are instances where other standards apply to the award of certain contracts. For example, contracts for printing ballots for county boards of elections are to be awarded to the “lowest responsible bidder in the state”.

⁹ O.R.C. 307. 862(E).

advantageous to the County and the procedural requirements for issuing a RFP are complied with.¹⁰

The BOCC has adopted the use of RFPs for the following purchases:¹¹

- The treatment of human beings for any physical, mental, or social condition;
- Technical solutions which are not readily available in the market or which must be specifically designed to meet the needs of the County Entity making the purchase;
- Commodities or products which are unpredictable as to price and quantity;
- Security related services; and
- Such other goods and services where the BOCC determines by resolution from time to time that the use of competitive sealed proposals would be advantageous to the County and the BOCC complies with R.C. § 307.862 in the procurement of such goods and services.

County Entities may NOT use RFPs for contracts for construction, design, demolition, alteration, repair, or reconstruction of a building, highway, drainage system, water system, road, street, alley, sewer, ditch, sewage disposal plant, waterworks, and all other structures or works of any nature.¹²

One of the key differences between an ITB and a RFP is that negotiations are allowed with a RFP. The RFP process allows Respondents and contracting officials to bargain over details before a contract is awarded. Depending on the size and complexity of the purchase, negotiations may include discussion of price, schedule, technical requirements, and the type of contract to be used.

A description of the procedure for procuring goods or services through issuing a RFP is provided in Section 5 – Competitive Procurement Procedure.

D. PURCHASES OF CERTAIN GOODS AND SERVICES

While not exempt from competitive bidding requirements, purchases of the following goods or services have different procurement procedures than the general procedure described in Section 5 – Competitive Procurement Procedure.

¹⁰ O.R.C. 307.86(M); O.R.C. 307.862.

¹¹ Resolution P054-15 dated July 1, 2015, Image #81-82.

¹² O.R.C. 307.862(G).

1. LEASE OR RENTAL OF CERTAIN SPACE AND FACILITIES¹³

County Entities seeking to lease property, including land, buildings, and other real property should follow the procedure provided in Attachment B – Lease or Rental of Space and Facilities.

2. GROUP INSURANCE PROGRAMS¹⁴

County Entities seeking to purchase insurance policies/ contracts or health care contracts/ plans should contact Purchasing for assistance.

3. CONSTRUCTION PROJECTS AND PREVAILING WAGE

County Entities seeking new construction or the repair or reconstruction of current buildings including trade work (HVAC, Electrical, Plumbing, and Carpentry), must consider if their project is subject to prevailing wage requirements.

Prevailing wage projects are determined based on the nature of the project and the estimated cost.

A purchase is a prevailing wage project, if it involves:

- New Construction of any non-road public improvement valued at \$250,000.00 or more;¹⁵
- New Construction of a public improvement that involves roads, streets, alleys, sewers, ditches, and other works connected to road or bridge construction valued at \$96,091.00 or more;¹⁶
- Reconstructions, enlargement, alteration, repair, remodeling, renovation, or painting of any non-road public improvement valued at \$75,000.00 or more;¹⁷ or
- Reconstruction, enlargement, alteration, repair, remodeling, renovation, or painting of a public improvement that involves roads, streets, alleys, sewers, ditches, and other works connected to road or bridge construction valued at \$28,789.00.¹⁸

¹³ O.R.C. 307.86(I).

¹⁴ O.R.C. 307.86(F).

¹⁵ O.R.C. 4115.03(B)(1).

¹⁶ O.R.C. 4115.03(B)(3); The minimum dollar amount that qualifies a purchase under this category is adjusted biannually by the director of commerce on even numbered years. See 4115.034. For updates please call Planning and Development or County Facilities.

¹⁷ O.R.C. 4115.03(B)(2).

¹⁸ O.R.C. 4115.03(B)(4); The minimum dollar amount that qualifies a purchase under this category is adjusted biannually by the director of commerce on even numbered years. See 4115.034. For updates please call Planning and Development or County Facilities.

Public improvements are defined to include all buildings, roads, streets, alleys, sewers, ditches, sewage disposal plants, water works, and all other structures or works constructed by the County or pursuant to a contract with the County.¹⁹ Public improvements also include any new structure rented or leased by the County within six months of completion of construction.²⁰

Further, in order to qualify as a public improvement, the project must be constructed by the County with public funds and must benefit the County.²¹

Prevailing wage bids can be time consuming and require constant monitoring. If the need for a prevailing wage bid is identified, please **do not** attempt to take care of it yourself. The professional staffs in County Facilities and Planning + Development are trained to handle construction and prevailing wage work.

Use the guideline below to help determine who should handle the project. See Attachment A – Helpful Contacts for contact information.

Type of Work	Department Responsible
New Construction	Planning + Development
Renovation involving one trade	County Facilities
Capital improvement projects from \$1.00 to \$250,000	County Facilities
Capital improvement projects from \$250,000.00 to \$500,000.00	Planning + Development and County Facilities will discuss to determine assignment
Projects costing \$500,000 and above	Planning + Development

III. EXCEPTIONS TO COMPETITIVE BIDDING REQUIREMENTS FOR LOCAL FUNDS

There are a number of exceptions to the general requirement that purchases of \$50,000.00 or more be competitively bid.²² Such exceptions include:

A. CERTAIN PROFESSIONAL SERVICES

Competitive bidding is not required when purchasing the services of an accountant, architect, attorney at law, physician, professional engineer, construction project manager, consultant, surveyor, or appraiser.²³

¹⁹ O.R.C. 4115.03(C).

²⁰ O.R.C. 4115.03(C).

²¹ Nw. Ohio Bldg. & Constr. Trades Council v. Ottawa Cty. Improvement Corp., 122 Ohio St. 3d 283, 288 (2009).

²² O.R.C. 307.86.

²³ O.R.C. 307.86.

B. EMERGENCY PURCHASES

Competitive bidding is not required when an emergency exists as voted unanimously by the BOCC, and (1) the cost of the repair is less than \$100,000; or (2) there is actual physical damage to structures, radio communication, or computers.²⁴ This exception only applies to situations that meet this definition. It does not apply to situations arising because goods and services were not procured in a timely manner.

- When an emergency purchase is exempt because it is under \$100,000.00, the requesting County Entity is still required to solicit three informal price quotes for the items or services needed and to maintain the quotes for at least one year.²⁵
- For further instruction on making emergency purchases, including how to obtain an emergency resolution and purchase order, see Section 6(I)(B)(3) – Emergencies.

C. SINGLE SOURCE

Competitive bidding is not required when Single Source is determined. Single Source includes the following:

1. The purchase of supplies or parts for County-owned products and equipment, when the only source of the supplies or parts is a single supplier; or
2. The purchase of services related to information technology, such as programming services, that are proprietary or limited to a single supplier.²⁶

If you believe one of the two types of single source exceptions are applicable to your purchase, contact Purchasing for a Single Source Justification Form, fill it out, and submit it to Purchasing for approval.

D. PURCHASES FROM GOVERNMENT ENTITIES

Competitive bidding is not required for purchases from other government entities including the federal government, the State of Ohio, other counties, townships, municipal corporations, boards of education, and educational service centers.²⁷

²⁴ O.R.C. 307.86(A).

²⁵ O.R.C. 307.86(A).

²⁶ O.R.C. 307.86(B).

²⁷ O.R.C. 307.86(C); See also O.R.C. 5119.44 for bidding exception for purchases from Department of Mental Health and Addiction Services.

E. PARTICIPATION IN COMPETITIVE PURCHASING OPPORTUNITIES

Competitive bidding is not required for purchases made through the County's participation in certain contracts or joint purchasing programs with the federal government, the State of Ohio, and other political subdivisions.²⁸ For further information on cooperative purchasing opportunities, see Section 4(IV) – Cooperative Purchasing Opportunities, below.

F. CERTAIN PURCHASES FROM NONPROFIT AND GOVERNMENT FUNDED ENTITIES.

Competitive bidding is not required for purchases by the BOCC for criminal justice services, social services, family services, or workforce development activities if such purchases are from nonprofit corporations or associations under programs funded by the federal government or state grants.²⁹

In addition, competitive bidding is not required for purchases of certain goods and services from qualified nonprofit agencies that employ persons with severe disabilities.³⁰

G. PURCHASES OF CERTAIN SOCIAL SERVICES

Competitive bidding is not required for purchases by a public children services agency for program services or ancillary services that provide case management, prevention, or treatment services for children at risk of being or alleged to be abused, neglected, or dependent.³¹

Competitive bidding is not required for purchases by Hamilton County Job and Family Services for certain family services duties and workforce development activities under O.R.C. 329.04.³²

Competitive bidding is not required for purchases by Hamilton County Development Disability Services for program services, such as direct and ancillary client services, child care, case management services, residential services and family resource services.³³

H. CERTAIN EMERGENCY MEDICAL SERVICES

Competitive bidding is not required for the services of emergency medical service organizations under a contract between the BOCC and a joint emergency medical services district.³⁴

²⁸ O.R.C. 307.86; O.R.C. 9.48; O.R.C. 125.04.

²⁹ O.R.C. 307.86(E).

³⁰ O.R.C. 4115.31 – 4115.35.

³¹ O.R.C. 307.86 (K).

³² O.R.C. 307.86(D).

³³ O.R.C. 307.86(D); O.R.C. 5126.05.

³⁴ O.R.C. 307.86(L); O.R.C. 307.05.

I. SERVICES FOR DELINQUENT YOUTH

Competitive bidding is not required for purchases of services providing case management, treatment, or prevention services to youth under the supervision of the juvenile court under O.R.C. 5139.34 or O.R.C. 5139.41- 46.³⁵

J. CASE MANAGEMENT FOR PROSECUTING ATTORNEYS

Competitive bidding is not required for computer hardware, software, or consulting services necessary to implement a computerized case management automation project administered by the Ohio prosecuting attorneys association and funded by the federal government.³⁶

K. CHILD CARE FOR COUNTY EMPLOYEES

Competitive bidding is not required for child care services for provision to County employees.³⁷

IV. COOPERATIVE PURCHASING OPPORTUNITIES

A. CONTRACTS OF OTHER POLITICAL SUBDIVISIONS

County Entities may purchase goods and services through participation in a contract of another political subdivision either directly or through participation in a joint purchasing program operated by an association of political subdivisions.³⁸ Competitive bidding is not required for these purchases if the contract in which the County Entity is participating was competitively awarded by another public entity.³⁹

No County Entity shall purchase goods or services as described in this Section 4(IV)(A) – Contracts of Other Political Subdivisions if it has received bids for the same goods or services, unless the County Entity can obtain the goods or services under the same terms, conditions, and specifications as contained in its bid, but at a lower price.⁴⁰

County Entities eligible to participate in a joint purchasing program may purchase goods and services from another party, including another political subdivision, if it can purchase the goods and services from the other party at a lower price, but upon

³⁵ O.R.C. 307.86(J).

³⁶ O.R.C. 307.86(G).

³⁷ O.R.C. 307.86(H).

³⁸ O.R.C. 9.48(B)(2); O.R.C. 9.48(C); Under O.R.C. 9.48(A); O.R.C. 2744.01(F) “Political subdivision” means another county, a municipal corporation, township, school district, county hospital, or other political body responsible for governmental activities in a geographic area smaller than a state.

³⁹ Contract must be “awarded pursuant to a publicly solicited request for a proposal or a competitive selection procedure of another political subdivision within this state or in another state.” O.R.C. 9.48(C).

⁴⁰ O.R.C. 9.48(C).

equivalent terms, conditions, and specifications as in the joint purchasing program contract.⁴¹ If a County Entity makes a purchase in this manner, it must maintain sufficient information regarding the purchase to verify it has satisfied the conditions for making the purchase.⁴²

Some of the joint purchasing programs utilized by the County are:

Omnia Partners, which can be found at:
<https://www.omniapartners.com/>

Sourcewell, which can be found at:
<https://www.sourcewell-mn.gov/>

County Entities seeking to make purchases through participation in another political subdivision's contract must (1) perform an initial price comparison and (2) obtain authorization from Purchasing.

1. PRICE COMPARISON

Contracts competitively procured by another political subdivision do not always provide the lowest prices. County Entities must evaluate and compare prices listed in these contracts with information obtained from other sources. If the County Entity can procure the goods or services at a price lower than provided for under the political subdivision's contract, the appropriate County procurement process should be implemented.

2. AUTHORIZATION

County Entities wishing to purchase off of another political subdivision's contract must provide the following documentation to Purchasing before the purchase will be authorized:

- Documentation of price comparison;
- The ITB or RFP (if applicable);
- Any proposals received by the contracting entity (if applicable);
- Any rationale the contracting entity used to support its award; and
- The resulting contract.

B. STATE OF OHIO CONTRACTS

The Cooperative Purchasing Program operated by the Ohio Department of Administrative Services ("DAS") offers County Entities the opportunity to participate in contracts entered into by the State of Ohio for the purchase of goods and services.⁴³ County Entities must enroll in the program and pay an administrative fee. To determine

⁴¹ O.R.C. 9.48(D).

⁴² O.R.C. 9.48(D).

⁴³ O.R.C. 125.04(B)(2).

if a County Entity is already a member, check the State of Ohio's website at: <http://apps.das.ohio.gov/CoopMap/countyMap.aspx>.

A master list of available state contracts can be found on the State of Ohio's website at: <http://procure.ohio.gov/proc/index.asp>.

Purchases made through participation in state contracts are exempt from any competitive selection requirements otherwise required by Ohio law.⁴⁴

No County Entity shall purchase goods or services through a state contract if the County Entity has already received bids for the same purchase, unless such purchase can be made on the same terms, conditions, and specifications provided in the bid, but at a lower price.⁴⁵

County Entities may purchase goods and services from another party, including another political subdivision, if it can purchase the goods and services from the other party at a lower price, but upon equivalent terms, conditions, and specifications as in the state contract.⁴⁶

County Entities seeking to make purchases through participating in a state contract must (1) perform an initial price comparison and (2) obtain authorization from Purchasing.

1. PRICE COMPARISON

Because state contracts do not always provide the lowest prices, County Entities must evaluate and compare the prices listed on the state contract with information obtained from other sources. If the County Entity can procure the goods or services at a price lower than the state contract price, the appropriate County procurement process should be implemented.

2. AUTHORIZATION

County Entities wishing to purchase off of a state contract must provide the following documentation to Purchasing before the purchase will be authorized:

- Documentation of price comparison;
- State contract;
- Any additional terms and conditions; and
- Original bid documents (if available).

⁴⁴ O.R.C. 125.04(B)(3).

⁴⁵ O.R.C. 125.04(B)(3).

⁴⁶ O.R.C. 125.04(C).

Never accept a state contract printed on the vendor's letterhead or literature. Links to the state contract and any additional terms and conditions should be available on the State of Ohio's website provided above.

Remember that in order to purchase off of a state term contract, all of the terms and conditions associated with the contract must be accepted by the County and the vendor. In addition, state contract pricing is only good through the contract's effective date. Please provide the Prosecutor's Office with a copy of the state contract and any terms and conditions when the contract is submitted for approval.

C. FEDERAL GOVERNMENT

County Entities may participate in contract offerings from the federal government including, but not limited to, contracts from the General Services Administration's Cooperative Purchasing Program.⁴⁷ This Cooperative Purchasing Program allows County Entities to purchase from Schedule 70 for information technology and Schedule 84 for law enforcement products, services, and integrated solutions. To learn more about this program and the goods and services available for purchase, visit: www.gsa.gov/cooperativepurchasing.

Purchases made through federal government contracts are exempt from any competitive selection requirements otherwise required by Ohio law.⁴⁸

No County Entity shall purchase goods or services through a federal contract if the County Entity has already received bids for the same purchase, unless such purchase can be made at a lower price under the federal contract, but upon the same terms, conditions, and specifications provided in the bid.⁴⁹

County Entities seeking to make purchases through participating in a federal contract must (1) perform an initial price comparison and (2) obtain authorization from Purchasing.

1. PRICE COMPARISON

Contracts competitively procured by the federal government do not always provide the lowest prices. County Entities must evaluate and compare prices listed in these contracts with information obtained from other sources. If the County Entity can procure the goods or services at a price lower than provided for under the federal contract, the appropriate County procurement process should be implemented.

2. AUTHORIZATION

⁴⁷ O.R.C. 9.48(B)(3).

⁴⁸ O.R.C. 9.48(C).

⁴⁹ O.R.C. 9.48(C).

County Entities wishing to purchase off a federal contract must provide the following documentation to Purchasing before the purchase will be authorized:

- Documentation of price comparison;
- Federal contract;
- Any additional terms and conditions; and
- Original bid documents (if available).

V. HAMILTON COUNTY MBE/WBE/SBE POLICIES

A. MINORITY, WOMEN, AND SMALL BUSINESS ENTERPRISE PROGRAMS PURPOSE

The BOCC finds Minority Business Enterprises (“MBEs”), Women Business Enterprises (“WBEs”), and Small Business Enterprises (“SBEs”) provide employment and economic growth in Hamilton County, Ohio. The BOCC further finds that encouraging the participation of minority businesses, women businesses and small businesses in Hamilton County Construction, Professional Services, and Goods and Services procurement (as those terms are defined in the Hamilton County Minority and Women Business Enterprise Program Policies and Procedures (the “Policies”)) will benefit all residents of Hamilton County, Ohio. Hamilton County is an equal business opportunity governmental entity, and has strived to provide, and will continue to provide, equal business opportunities to diverse groups within our region.

B. NON-DISCRIMINATION POLICY

I. Overview

The BOCC is committed to a policy of non-discrimination. Every contract and subcontract for or on behalf of the BOCC, for Construction, Professional Services, and Goods and Services required to be competitively procured and paid for local funds shall contain provisions by which the contractor agrees to both of the following:

- A) That, in the hiring of employees for the performance of work under the contract or any subcontract, no contractor, subcontractor, or any person acting on a contractor’s or subcontractor’s behalf, by reason of race, creed, sex, disability or military status as defined in section 153.59 of the Ohio Revised Code, or color, shall discriminate against any citizen of the state in the employment of labor or workers who is qualified and available to perform the work to which the employment relates;
- B) That no contractor, subcontractor, or any person on a contractor’s or subcontractor’s behalf, in any manner, shall discriminate against or intimidate any employee hired for the performance of work under the contract on account of race, creed, sex, disability or military status as defined in O.R.C. 153.59, or color.

II. Non-Discrimination Policy for Contracting

No Respondent, vendor, and/or contractor doing business with the County who competes for or is awarded a public contract shall discriminate or retaliate against a MBE/WBE/SBE. If a Respondent, vendor, and/or contractor is found to be in violation of this policy, either in the awarding of the subcontract in connection with an opportunity advertised by the County or in a contract between the County and the Respondent, vendor, or contractor, the County reserves the right to use all remedies legally available under the law to address the policy violations.

A Respondent shall certify in the documents accompanying the Respondent's offer to enter into a public contract that the Respondent has not discriminated or retaliated and will not discriminate or retaliate against any MBE/WBE/SBE in obtaining any required subcontract.

After a Respondent is awarded a public contract, if the Respondent violates the certification provisions this Section or the Policies, the County may regard the violation as a breach of contract that permits one or more actions discussed in Section V(l) hereof.

C. MBE, WBE, AND SBE ANNUAL GOALS

For all competitively bid County-funded contracts of \$50,000.00 or more for Construction, Professional Services, and Goods and Services, The annual goals for MBE/WBE participation are to achieve contract payments to MBEs, and WBEs, through contracting, subcontracting and/or procurement activities of contractors, contracts, and procurements of at least 29% for minority- and woman-owned business enterprises combined across all contract payments in any fiscal year, with a goal of 16% utilization for minority-owned businesses and of 13% utilization for woman-owned businesses.

Attainment of the annual SBE goals will be based on a combination of contract dollars paid and contracts awarded. There are SBE goals for the three major procurement areas: Construction, Professional Services, and Goods and Services for all contract payments for the year. For Construction, the goal is 20%, for Professional Services the goal is 15%, and for Goods and Services the goal is 10%. These annual goals can be reached through direct contracting and subcontracting and will be based on contract dollars paid.

Overall goals are only intended to be benchmarks for evaluating overall performance of the MBE/WBE/SBE Program on an annual basis. These participation goals are not and shall not be quotas.

D. PAYMENTS TO SUBCONTRACTORS/PROMPT PAYMENT

A contractor shall be required to certify electronically or in writing that all of its subcontractors, suppliers, and/or vendors have been paid for work and materials by the

contractor for previous disbursements before additional disbursements of contract and/or procurement payments are made to the contractor by the County. This section requires the BOCC to make every effort to make payments to Contractors within thirty (30) days of receipt of a complete and responsive invoice. All payments to subcontractors and materialmen should be in conformance with O.R.C. 4113.61, if applicable.

E. SUBCONTRACTOR SUBSTITUTION

If a contractor must substitute a subcontractor after the contract has been awarded, the contractor shall request approval for any substitution of a MBE/WBE/SBE subcontractor, supplier, or vendor used or proposed to be used by a contractor, by completing and submitting a copy of the *Prime Contractor Substitution Request* form. The *Prime Contractor Substitution Request* form and instructions for completing the request will be included in the contract at the time of award.

F. CHANGE ORDERS AND AMENDMENTS TO CONTRACTS

This rule applies to contracts valued at \$100,000.00 and greater. Whenever a contract is amended, any single change order is issued, or subsidiary agreement is authorized that increases the total original contract cost by more than ten percent (10%), the MBE/WBE/SBE contract goal regarding the work, services, or supplies to be paid for through such amendment, modification, change order, or subsidiary agreement will remain the same; and, good faith efforts will be made to ensure that the project maintains the same percentage of MBE/WBE/SBE participation in performing the additional work, services, or supplies.

G. SMALL CONTRACT ENHANCEMENT PROGRAM

BOCC departments are required to obtain a minimum of three quotes for purchases between \$2,500 and \$49,999.99. Such departments shall use their best efforts to ensure at least one quote is from a certified MBE/WBE/SBE. It is encouraged that two quotes come from this group, if possible. If the lowest and best quote is from a non-MBE/WBE/SBE, and the next lowest quote is from an MBE/WBE/SBE that is within 10% of the lowest quote, then that MBE/WBE/SBE shall have the opportunity to match the lowest quote and receive the award. If the MBE/WBE/SBE does not agree to match the lowest quote, the non-MBE/WBE/SBE with that quote will receive the award.

H. FALSIFICATION OF MBE AND WBE SUBCONTRACTS

Falsification or misrepresentation of an agreement with a subcontractor as to company name, contract amount and/or actual work performed by subcontractor, submitted on any contracts or forms required or otherwise requested by the County, may result in the County utilizing any and all remedies available under the law to enforce EIED policies.

I. MBE/WBE/SBE PROGRAM NONCOMPLIANCE AND APPEALS PROCESS

Sections 27 and 28 of the Policies detail how to find a contractor in noncompliance of these procedures and the appeal process provided for such contractors in the event they disagree with such determination.

Section 5 – COMPETITIVE PROCUREMENT PROCEDURE

When County Entities need to purchase goods or services with local funds estimated to cost in excess of \$50,000, they are required to competitively procure the good or service by means of an Invitation to Bid (“ITB”) or Request for Proposal (“RFP”) as outlined in Section 4(II)(C) – Purchases Estimated to Cost \$50,000.00 and Above. ITBs and RFPs are documents notifying vendors that the County has specific requirements for materials and supplies and is offering vendors an opportunity to fulfill those requirements.

An ITB and a RFP are collectively referred to as a “Bid Document.” Responses to an ITB or a RFP are collectively referred to as a “Bid Response.” A person submitting a Bid Response is referred to as a “Respondent.”

Unless otherwise noted, the procedure outlined below applies to both ITBs and RFPs. Assistance is available from Purchasing through all phases of this process, including:

- Creation of the Bid Document;
- Advertisement of the Bid Document;
- Opening and Evaluation of Bid Responses; and
- Disposition of Bid Responses.

TIMING. County Entities should plan ahead to ensure timely purchases, as the competitive procurement procedure takes a minimum of 45 days.

I. CREATION OF THE BID DOCUMENT

A. OVERVIEW

While County Entities have the primary responsibility for developing and writing Bid Documents, Purchasing reviews and finalizes the Bid Documents prior to publication.

Many sections of a Bid Document are boilerplate. A copy of the boilerplate language can be obtained from Purchasing. A standard Bid Document contains the following sections:

- General Overview and Instruction to Bidders. This section provides Respondents with the general rules for bidding. It describes preparation of the Bid Responses, the time and location for submission of Bid Responses, the process used in answering Respondent questions, and how Respondents receive announcements regarding the Bid Document (including the issuance of addendums).
- Evaluation and Award. This section explains how the Bid Responses will be evaluated. For RFPs, the evaluation process is more detailed and requires evaluators to rank each proposal.

- Contract Terms and Conditions. This section contains the general legal provisions that will govern the purchase.
- Requirements and Specifications. This section gives a detailed description of what the selected Respondent is required to provide. The specifications should give Respondents a basis on which to bid that attracts as many Respondents as possible and treats them all fairly.
- Cost Summary. This is the section all Respondents must use to clearly identify the manner in which the County expects to pay for the goods or services the Respondent will deliver.
- Additional Attachments. Each Bid Document is unique and may have additional attachments specific to the types of goods and services being purchased. Attachments may include a Questionnaire, Narrative, Executive Summary, Personnel Qualifications, and/or Bidder References.

B. RESEARCH THE GOOD OR SERVICE TO BE PURCHASED

Prior to drafting the specifications for the Bid Document, it may be helpful to understand the current market and industry capabilities through researching the good or service to be purchased. To prepare to write the specifications, consider:

- Calling several potential vendors to ask for general information.
 - However, if a vendor develops the specifications, that vendor should not be permitted to bid.
- Utilizing information found on the Internet. Many manufacturers list their catalogs and product specifications on the Internet. Many states have standard specifications listed on the Internet.
- Checking with Purchasing for previously developed Bid Documents for the same or similar purchase which may have applicable specifications.

Through your research, determine exactly what is needed and what important considerations exist for the specific purchase. This determination will help in writing the specifications.

C. WRITE THE BID DOCUMENT

Writing Bid Documents generally entails the development of detailed specifications reflecting a County Entity's desired purchase. A "specification" is a description of the physical or functional characteristics of the good or service to be procured. Specifications serve as the basis for the eventual purchase order or contract.

Who is responsible for developing specifications? While County Entities should attempt to write the specifications on their own, Purchasing may be consulted throughout the process. In particular, Purchasing can help develop technically specific requirements when County Entities are uncertain as to what descriptive information may be necessary for a purchase. Purchasing's primary role is to review the specifications to assure they are not vague, ambiguous or overly restrictive (i.e. unnecessarily brand specific).

If the purchase is complex or novel, County Entities should request input and advice from the Prosecuting Attorney's Civil Division (See Attachment A – Helpful Contacts).

Why are good specifications important?

- Accurate specifications are essential to control the quality of purchased items. Poorly written specifications are the cause of many challenges and can considerably delay the procurement process.
- Accurate specifications reduce potential confusion between the County and the Respondent by efficiently communicating what is required. Correct understandings result in improved outcomes and vendor relationships.
- Specifications are used to evaluate responsiveness. Because Bid Documents are public records, specifications provide a check on the exercise of official discretion in the evaluation and award of County contracts. When specifications are written in a way that products offered by Respondents cannot be checked as meeting the specifications in the Bid Document, they are of little value and result in confusion.

Specifications should set out the essential characteristics of the item(s) or services being purchased so that all Respondents know exactly what is requested. If an essential requirement is left out of the specifications, an award may be made for a product that does not meet the needs of the County. Situations such as this can be a waste of taxpayers' money. If an omission is discovered in time, the Bid Document should be corrected with an addendum, if appropriate, or cancelled, and the specifications corrected and new Bid Responses solicited.

1. GUIDELINES FOR WRITING EFFECTIVE SPECIFICATIONS

Use clear and simple language.

- Do not use vague terms, uncommon abbreviations, or acronyms.
- Consider using figures, illustrations, graphs, etc. when doing so can describe an item more clearly and accurately than text.
- Shall, May, Should, Will?
 - Use "shall" to express requirements binding on the Respondent.
 - Use "may" or "should" to express a non-mandatory provision.

Create performance specifications by describing the capabilities that the good or service must satisfy.

- If the good or service must do certain things or maintain a certain level of performance, take the time to describe it carefully and make it a requirement.
- Consider including a description of the functions to be performed; any warranty requirements (standard factory or other, length of time, limited/unlimited); the level of performance or production capacity; conformance to published standards; and/or the required availability of maintenance or replacement parts throughout the useful life of the product.
- Where applicable, reference quality standards describing the type, grade, or class characteristics of the requested good.

Create design specifications by describing the physical and other characteristics that the good or service must have and a description of its intended functionality.

- Consider including a description of the necessary color, size or dimensions, as well as the type of material (i.e. weight, gauge, thickness, finishes, etc.), and any necessary accessories.
- Specify if samples are required.
- Specify whether a product is required to function in concert with existing products in use and/or as a part of an overall system.

Consider creating specifications regarding:

- Respondent qualifications (i.e. ownership of vehicles, licensures, sufficient inventory to service County).
- Respondent experience (i.e. Respondent references and summary of performance experience with County).
- Payment terms (i.e. frequency of invoices and payment schedules).
- Packaging, labeling, and delivery (i.e. lead time).

While detail is necessary, avoid over specifying.

- Avoid nonessential quality restrictions that add to cost and difficulty in procurement without adding to utility and value.
- Overly restrictive specifications (i.e. brand names or model numbers) can defeat competition and increase product cost.
 - A specification that confines bidding to a single vendor is not acceptable. If there is truly only one source as described in RC 307.86(B), bidding is unnecessary.
 - If specific brand names or model numbers are appropriately included in specifications as examples of acceptable products, the statement “or equivalent, considering quality, workmanship, economy of operation, and suitability for the purpose intended” must be included.

Pre-bid Conferences. Complex bid projects involving detailed specifications and highly technical requirements may be communicated to potential Respondents by means of a pre-bid conference. A pre-bid conference gives the County Entity the

chance to explain the project's scope in detail and permits the Respondents to ask questions prior to submission of a Bid Response.

2. SPECIAL CONSIDERATIONS FOR DRAFTING RFPs

RFPs are quite different from ITBs. In addition to the above requirements, RFPs must include language consistent with the following:

- A description of the factors and criteria that will be used to evaluate the proposals, as well as any additional information considered necessary for determining to whom to award the contract.⁵⁰ These factors and criteria will be developed through the creation of the evaluation sheet described in Section 5(l)(E) – Write the Questionnaire and/or Evaluation Sheet.
- A description of the evaluation procedures the contracting authority shall follow when awarding a contract.⁵¹ This will include rating the competitive proposals through utilizing the evaluation sheet described in Section 5(l)(E) – Write the Questionnaire and/or Evaluation Sheet.
- The name and address of the purchasing County Entity;⁵²
- Instructions for Respondents to follow when submitting proposals, including where and when proposals must be submitted to be considered;⁵³
- Instructions governing communications between a Respondent and the contracting authority, including, the name, title, and telephone number of the person to whom questions concerning the RFP should be directed;⁵⁴
- Any terms and conditions that the contracting authority is required by law to include in the contract, including any requirement for a bond and the amount required for that bond;⁵⁵
- A description of any performance criteria a Respondent is required to satisfy, including, if applicable, the quantity, delivery schedule, and inspection/acceptance requirements for the good or service being purchased;⁵⁶
- Information concerning any potential partial or multiple party awards that may be included in the contract;⁵⁷

⁵⁰ O.R.C. 307.862(B)(6); O.R.C. 307.862(B)(12).

⁵¹ O.R.C. 307.862(A)(1).

⁵² O.R.C. 307.862(B)(1).

⁵³ O.R.C. 307.862(B)(2); O.R.C. 307.862(B)(8).

⁵⁴ O.R.C. 307.862(B)(3).

⁵⁵ O.R.C. 307.862(B)(7).

⁵⁶ O.R.C. 307.862(B)(5).

⁵⁷ O.R.C. 307.862(B)(11).

- A list of any documents incorporated by reference in the RFP, as well as language indicating the documents are readily available to all Respondents and the location where the documents may be obtained.⁵⁸
- A statement that includes the following information:⁵⁹
 - (1) The contracting authority reserves the right to reject any proposal in which the Respondent takes exception to the terms and conditions of the RFP; fails to meet the terms and conditions of the RFP, including but not limited to, the standards, specifications, and requirements specified in the RFP; or submits pricing that the contracting authority considers to be excessive, compared to existing market conditions, or determines exceeds the available funds of the contracting authority;
 - (2) The contracting authority reserves the right to reject, in whole or in part, any proposal that it has determined, using the factors and criteria it developed to evaluate the responses, would not be in the best interest of the County;
 - (3) The contracting authority may conduct discussions with Respondents who submit proposals for the purpose of clarifications or corrections regarding a proposal to ensure full understanding of, and responsiveness to, the requirements specified in the RFP.

D. REVIEW TERMS AND CONDITIONS

Review the standard Terms and Conditions which appear in the Bid Document template to ensure they are applicable to the purchase. Obligations of the County and the Respondent should be dealt with clearly in the Bid Document. Spelling out the terms and conditions will give both the County and prospective Respondents a fuller understanding of their rights and responsibilities, which will help minimize controversies and inefficiencies in the performance of the contract.

Consider adding warranty requirements to the Bid Document.

Note that some language is required by statute for RFPs which differs significantly from an ITB as discussed in Section 5(1)(C)(2) – Special Considerations for Drafting RFPs.

E. WRITE THE QUESTIONNAIRE AND/OR EVALUATION SHEET

County Entities may find that development of a questionnaire and/or internal evaluation sheet facilitates the procurement process. **For RFPs, development of an internal evaluation sheet is required.**

⁵⁸ O.R.C. 307.862(B)(9).

⁵⁹ O.R.C. 307.862(B)(10).

1. QUESTIONNAIRE

Why? Unclear statements in the Bid Document become more apparent through developing questions. Therefore, the County Entity can reinforce that the Bid Document reflects its desired purchase through developing the questionnaire.

A questionnaire can also help in comparing Bid Responses and may increase objectivity.

How? After the specifications are written, review them and determine which statements require answers from Respondents. Turn those statements into questions to ensure the desired information is obtained from Respondents. Consider instructing Respondents regarding what is an appropriate answer to a question. Attach the questionnaire to your Bid Document and require Respondents to complete it.

2. EVALUATION SHEET

Developing an evaluation sheet may be helpful for evaluating both ITBs and RFPs; however, County Entities issuing an **RFP are required to have a structured evaluation process for that purchase developed prior to opening the proposals.**⁶⁰

While all specifications are important, in order to develop the evaluation sheet, determine the most important factors or categories of criteria upon which the ratings will be based. Specify the relative importance of each factor or criteria in writing.⁶¹ For purchases required to be competitively procured and paid for with local funds, ensure compliance with MBE/WBE/SBE Policies and Procedures, which may specify evaluation weight attributable to that program.

Relative importance can be illustrated through assigning points or percentages to each item or category. Subcategories can be utilized.

Example breakdown of factors and criteria:

- Cost 30% and Technical Requirements 70%.
 - Technical Requirements could be further broken own to include: Experience 40%, Ability to Meet Qualifications 15% References 10%, Invoicing 5%.

Note: Evaluation sheets should refer to the evaluators as Team Member #1, Team Member #2 etc. and not by the evaluator's name.

F. BID DOCUMENT PROCESSING

⁶⁰ O.R.C. 307.862(A)(1).

⁶¹ O.R.C. 307.862(A)(1).

The County Entity should contact Purchasing to process the Bid Document, and should provide Purchasing with the following:

- The written specifications and any other evaluation criteria;
- Any terms and conditions specific to the purchase (i.e. warranties, number of years);
- Any documents the County Entity wants attached to the Bid Document (i.e. questionnaire);
- The estimated cost, if known; and
- If available, a list of suggested vendors. Note that the County Entity should not personally contact any vendor to notify them of the pending solicitation.⁶²

At this point, Purchasing reviews the specifications, assembles the Bid Document including any required forms which must accompany the bid package. The Bid Document advertisement dates, pre-bid/pre-proposal conference dates, Question and Answer deadlines and Bid Response opening date are set. Purchasing sends the Bid Document back to the County Entity for a final review.

II. ADVERTISEMENT OF THE BID DOCUMENT

Once finalized, the Bid Document is advertised, posted to Bid Sync or B2Gnow, and any suggested vendors are notified.

The following discusses the minimum requirements for bid advertisements. The number of Bid Responses received may be increased with a longer period of advertising or by advertising in trade papers or other print or electronic publications.

A. REQUIRED LANGUAGE

All advertisements for Bid Documents, regardless of the medium used, must state the following:

- A general description of the subject of the proposed contract and the time and place where the plans and specifications or itemized list of supplies, facilities, or equipment and estimated quantities can be obtained or examined;
- The terms of the proposed purchase;
- The conditions under which Bid Responses will be received;
- The time and place for filing Bid Responses; and
- The time and place where Bid Responses will be opened.

⁶² O.A.G. 2005-029.

B. PUBLICATION⁶³

Bid Documents must be advertised through a two part publication consisting of: (1) a bulletin board notice and (2) a print (and Internet) publication.⁶⁴

Bulletin Board Notice. The contracting authority must maintain in a public place in its office or other suitable public place a bulletin board upon which it shall post and maintain a copy of the advertisement of the Bid Document for at least two (2) weeks preceding the day of the opening of the Bid Responses.⁶⁵

Print (and Internet) Publication. In addition to the bulletin board notice, the contracting authority must publish the advertisement of the Bid Document at least once a week for two (2) consecutive weeks in a newspaper of general circulation within the County.⁶⁶ If the County chooses to post the notice on the Internet, it may eliminate the second week of newspaper publication provided that the first week of newspaper publication is published two (2) weeks before the Bid Responses are opened and it includes instructions describing where and how the Internet notice may be accessed.⁶⁷

All Bid Documents processed through Purchasing will be published electronically using Bid Sync or B2Gnow.

Addendums. During the advertisement period, prospective Respondents may contact Purchasing for inquiries and clarifications as described in the Bid Document. On occasion these inquiries may require the Bid Document to be modified. If so, Purchasing will work with the County Entity to issue an addendum that details the changes. Addendums are posted through Bid Sync or B2Gnow and emailed to Respondents who are registered. It is the responsibility of prospective Respondents to keep current on any addendums and consider these changes when submitting their Bid Response.

Some bids include a **pre-bid conference or site visit**. Such events will be specified in the Bid Document.

III. OPENING AND EVALUATION OF BID RESPONSES

The contracting authority holds statutory authority for awarding contracts. If the purchasing County Entity is not the contracting authority for a certain purchase, they are still responsible for making reliable evaluations in order to recommend a Bid Response to the contracting authority for award.

⁶³ O.R.C. 307.87(B); O.R.C. 307.862(4).

⁶⁴ O.R.C. 307.87(A); O.R.C. 307.87(C); O.R.C. 307.862(4).

⁶⁵ O.R.C. 307.87(C); O.R.C. 307.862(4).

⁶⁶ O.R.C. 307.87(A); O.R.C. 307.862(4).

⁶⁷ O.R.C. 307.87(A); O.R.C. 307.862(4).

A. OPENING THE BID RESPONSES

1. TIMING AND MANNER OF OPENING

Bid Responses are opened and tabulated at the time stated in the advertisement of the Bid Document.⁶⁸

2. PUBLIC NATURE OF BID RESPONSES

Competitive bids become a public record immediately after the bid is opened.⁶⁹ Competitive proposals, however, do not become public record until after the contract is awarded.⁷⁰ In order to facilitate the negotiation process, competitive proposals must be opened in a manner that prevents disclosure of competing offers.⁷¹

3. TABULATION

After the opening of the Bid Responses is complete, Purchasing compiles a bid tabulation sheet, copies of each Bid Response, and a signature responsibility form for the County Entity's review and ultimate recommendation.

B. EVALUATION OF THE BID RESPONSES

1. GENERAL CONSIDERATIONS FOR THE EVALUATION OF ALL BID RESPONSES

Certain Requirements.

- Each Bid Response must contain the full name of the Respondent.⁷²
- A bond may be required for a Bid Response to be valid. See Section 6(II)(D)(3)– Bid Guaranties and Performance Bonds for information on when a bond is required.

Certain Limitations.

- No contact. During the evaluation period, Respondents may not initiate contact with the issuing County Entity or its evaluators. Respondents may contact Purchasing as provided in the Bid Document.
- Systems of Preference. The County cannot adopt systems of preference beyond those permitted by law. The following list is not exhaustive, but merely gives examples of perhaps the most common preferences which are prohibited.

⁶⁸ O.R.C. 307.88.

⁶⁹ 2012 Ohio Op. Atty. Gen. No. 2012-036(2012); See also O.R.C. 149.43.

⁷⁰ O.R.C. 307.862(C); 2012 Ohio Op. Atty. Gen. No. 2012-036(2012); See also 149.43.

⁷¹ O.R.C. 307.862(A)(5).

⁷² O.R.C. 307.88.

- Classification Based Preferences. The County does not discriminate on the basis of suspect classifications. The BOCC has adopted policies to encourage contracting with MBE's, WBE's and SBE's which is described in Section 4(V) – Hamilton County MBE/WBE/SBE Policies.
- Geographic Based Preferences.⁷³ The County does not award contracts based upon the Respondent's location or the location of the Respondent's employees, agents, subcontractors, etc. No preference shall be given to Respondents located in the County or those who employ County residents.
 - If a local preference is desired for valid, articulable reasons (such as public safety or proximity of repair and service facilities), the Bid Document should include specifications and evaluation criteria that relate to the concern. For example, response or completion time for service repairs may, by virtue of project requirements, eliminate out-of-state or out-of-county Respondents. However, if non-local Respondents can respond or complete projects on par with the local Respondents, their Bid Response might be chosen considering the other parts of their Bid Response.
- References. Respondents can be evaluated with references only if the same questions are asked of all references. Additionally, each reference spoken to and the reference's responses must be documented.
- Past Performance. A Respondent's past performance with the County can be used as evaluation criteria only if the Bid Document states that past performance with the County will be evaluated, for example:

“Past performance with Hamilton County will be one of the criteria rated when proposals/bids are evaluated. Respondents must list references for all work completed for Hamilton County in the last three (3) years. Respondents must supply the following information in order for their proposal to be considered: (1) County Department; (2) Name of Project Coordinator and their contact information; (3) Dollar Value and brief description of project (4) Whether the project was completed in the required time frame.”

2. CONSIDERATIONS FOR EVALUATION OF COMPETITIVE BIDS

Upon receipt of the bid tabulation sheet, the County Entity must review the bids and evaluate them based on the measurable requirements and specifications listed in the ITB, including the Respondent's price. For competitive bids, the award is ultimately to the “lowest and best” bidder.⁷⁴

⁷³ 2005 Op. Att'y. Gen. No 05-029.

⁷⁴ O.R.C. 307.90.

THIS DOES NOT MEAN THE *LOWEST* BIDDER IS ALWAYS SELECTED! “Lowest” is determined by cost and “best” is determined by how well the bid meets the particular needs of the County Entity as articulated in the bid specifications. Overall responsiveness is an important consideration. A successful bid must conform to the bid specifications in all *material* respects; otherwise, it is not a bid but a new proposition that should be rejected.

A Respondent who has deviated from the specifications may still be awarded the contract if the deviation was minor (although the contracting authority should likely be made aware of the deviation). However, a deviation that gives a Respondent an advantage by, for example, allowing the Respondent to bid lower than other Respondents, is a material deviation. Material deviations should result in the Respondent’s disqualification.

The focus on compliance with bid specifications is why it is helpful to create an ITB that either requires clear cut responses or contains a weighted point rated system that establishes higher point values for the most important criteria.

In determining “lowest and best,” the County Entity may consider not only the lowest price offered and responsiveness to bid specifications, but also the actual capability of a given Respondent to perform the proposed contract, including any exceptions the Respondent may have taken to proposed terms and conditions.

It is important to note that the evaluation of which bid is “best” will be different for each particular Bid Document. Courts are reluctant to disturb the discretion exercised in evaluating which bid is the “best.” While there is discretion in making this evaluation, it is important that the county officials making the evaluation can articulate valid reasons why a particular bid was selected and do not rely on criteria outside of the Bid Document.

3. CONSIDERATIONS FOR EVALUATION OF COMPETITIVE PROPOSALS

Upon receipt of the bid tabulation sheet, the County Entity must review the competitive proposals and evaluate them to determine which proposal is most advantageous to the County, taking into consideration the evaluation factors and criteria developed and specified in the RFP.⁷⁵

1. ADDITIONAL INFORMATION GATHERING

- Clarifications. While the Respondent may not initiate discussions with the County Entity, the County Entity may initiate discussions with Respondents in order to further assess their responsiveness to the RFP’s specifications.⁷⁶

⁷⁵ O.R.C. 307.862(A)(9).

⁷⁶ O.R.C. 307.862(A)(7).

- In conducting such discussions, the County Entity must accord fair and equal treatment to all Respondents in seeking and accepting clarification, correction, or revision of proposals.⁷⁷ Remember, it is important that County Entities do not disclose any information derived from proposals submitted by competing Respondents during such discussions.⁷⁸
- Interviews. County Entities may conduct interviews with Respondents to gather additional information.

2. RANKING PROPOSALS

The evaluation team must use both the evaluation criteria and evaluation process set forth in the RFP to rank each proposal.⁷⁹

Proposals are evaluated to determine compliance with all specifications and the ability of Respondents to perform the contract. Price alone is not the determining factor; a Respondent's expertise, experience, ability to grasp the problem and propose a clear solution, as well as the level of commitment to the project may be considered.

Each evaluator reviews and scores the proposals on an individual basis. After all proposals have been scored, the evaluators meet to discuss the reasoning for their evaluations.

After the evaluators have completed ranking the proposals (including any adjustment to the rankings following discussions with Respondents which result in changes to the proposals), the contracting authority will then negotiate with the Respondent who submitted the proposal that was determined to be the most advantageous to the County, taking into consideration the evaluation factors and criteria developed and specified in the RFP.⁸⁰

3. NEGOTIATIONS

Once the proposals are evaluated, the phase begins that truly sets RFPs apart from ITBs: the negotiations for the final form of the proposal. With ITBs, the County is limited to what was requested in the specifications. If needs are not satisfied, all bids must be rejected, the specifications must be re-drafted and the process must start all over again. Moreover, if not satisfied with the prices, the County must either accept the lowest bid or reject all bids and start over. With RFPs, the County can negotiate with individual Respondents for exactly what it needs.

⁷⁷ O.R.C. 307.862(A)(7).

⁷⁸ O.R.C. 307.862(A)(8).

⁷⁹ O.R.C. 307.862(A)(6).

⁸⁰ O.R.C. 307.862(A)(9).

Considerations for negotiations:

- All aspects of the proposal are negotiable.
- Respondents may withdraw their proposals at any time prior to the award of a contract.⁸¹
- Likewise, the County has the right to cease negotiations if at any time during the negotiation process the Respondent fails to provide timely information or negotiate in good faith.⁸²
- If negotiations are terminated, the County may negotiate with the next highest ranked Respondent⁸³ or cancel and reissue the RFP if doing so would be in the best interest of the County.⁸⁴
- While the contracting authority may award a contract in whole or in part to one or more Respondents,⁸⁵ negotiations must only be conducted with one Respondent at a time.⁸⁶

Tips for negotiations:

- Have goals firmly in mind. Conceptually develop the ideal system you seek to purchase, and use it as a guide in negotiations. Try to negotiate toward the ideal.
- Maintain flexibility. Although the County may have conceptualized an ideal system, improvements are possible or even likely. Keep an open mind to improved concepts offered by the Respondents. As improvements are noted and accepted as desirable, incorporate them into the desired system.
- Have a lead negotiator. While it is essential to have a free exchange of ideas, and to be able to disagree within the negotiating team, the place to do so is not at the negotiating table. Present a united front. Negotiators might develop internal signals, for example, to say, “Do not make any agreement here until we discuss it,” or develop ways to pass other non-spoken messages.
- Meet more than once. The first meeting is to establish common ground, and to explore the Respondent’s willingness to compromise. Do not plan to make firm decisions here. Be prepared to move as far as possible without making a commitment. After meeting with your team and determining what you can and

⁸¹ O.R.C. 307.862(D).

⁸² O.R.C. 307.862(D).

⁸³ O.R.C. 307.862(D).

⁸⁴ O.R.C. 307.862(F).

⁸⁵ O.R.C. 307.862(E).

⁸⁶ O.R.C. 307.862(A)(10).

cannot accept, meet with the Respondent again to solidify the deal. If you cannot reach agreement, consider moving on to the next highest ranked Respondent.

IV. DISPOSITION OF BID RESPONSES

Once the Bid Responses are evaluated, the County Entity may accept one or more of the Bid Responses in whole or in part or reject all of them. If no Bid Responses are received, the County Entity should cancel and reissue the Bid Document.

The bond or bid guaranty of all unsuccessful Respondents shall be returned to them by the contracting authority immediately upon awarding the contract or rejection of all bids.⁸⁷

A. AWARDING THE CONTRACT

If the County Entity decides to award a contract based on the evaluation of the Bid Responses as described in Section 5(III)(B) – Evaluation of Bid Responses, the County Entity must comply with the following requirements.

- Once the County Entity is prepared to make a recommendation, the County Entity must send to Purchasing the bid tabulation form completed, signed and dated, as well as documentation briefly citing the County Entity's reasons for selection as well as any documentation supporting the recommendation.
- If a Bid Response other than the lowest net bid in price is recommended, the proper County Entity must inform Purchasing in writing of the reason(s). Purchasing will review the County Entity's recommendation and such recommendation will have to be approved by the BOCC or other contracting authority upon the pricing threshold.
- As further described below in Section 6(II) – Formal Contracting The responsibility for the contracting function rests with the appropriate contracting authority, and another County Entity or County employee cannot determine the appropriateness of a contract. While authority to contract on behalf of the County most often rests with the BOCC or its designee,⁸⁸ other County Entities have contracting authority in general or for specific purchases as dictated by law. Purchasing will review what is submitted and determine who must make the award.
 - Where the BOCC is the contracting authority, if the Purchasing Director is not authorized to make the award, the Purchasing Director will make a recommendation to the County Administrator. If the County Administrator is not authorized to make the award, the County Administrator will make the final recommendation to the BOCC.

⁸⁷ O.R.C. 307.90.

⁸⁸ O.R.C. 305.30(G) (BOCC may direct a county administrator to enter into contracts on its behalf).

- When awarding a contract pursuant to a RFP, the contracting authority must include a written statement in the contract file stating the basis on which the award is made.⁸⁹
- A written notice must be sent to the Respondent to whom the contracting authority wishes to award the contract. Such notice must be made available to the public.⁹⁰
- Within a reasonable time period after the award is made, the contracting authority must also notify all other Respondents that the contract has been awarded to another Respondent.⁹¹
 - Purchasing makes these notifications through BidSync or B2Gnow.⁹²
- After a contract award is made, it is the responsibility of the originating County Entity to assure that goods and services delivered match the specifications and that all requirements are met.

B. REJECTING THE BID RESPONSES

The contracting authority has the option to reject all Bid Responses⁹³ and to reissue at a later date. In the situation where the County Entity wishes to have all Bid Responses rejected, the proper County official must inform Purchasing in writing of the reason(s), and indicate when and if reissuance is desired.

“Not liking” the Bid Responses because a preferred vendor was not the low Respondent is not a valid basis to have all Bid Responses rejected and to request a reissuance.

Valid reasons for rejection of Bid Responses include, but are not limited to the following:

- The prices submitted in the Bid Responses are excessive compared to existing market conditions or exceed available appropriation;⁹⁴
- The Bid Responses do not meet all specifications;⁹⁵
- Respondents are unable to meet delivery deadlines; or

⁸⁹ O.R.C. 307.862(E).

⁹⁰ O.R.C. 307.862(E).

⁹¹ O.R.C. 307.862(E).

⁹² O.R.C. 307.862(H).

⁹³ O.R.C. 307.90.

⁹⁴ O.R.C. 307.862(F)(2).

⁹⁵ O.R.C. 307.862(F)(1).

- The contracting authority otherwise determines that award of a contract would not be in the best interest of the County.⁹⁶

Properly drafted specifications and reasonable bid requirements and award criteria will go a long way toward preventing the necessity of having to reject an entire set of Bid Responses.

If the contracting authority rejects all bids, it may either advertise using the original estimate and Bid Document, or amend the estimate or Bid Document and proceed with advertising the Bid Document as described in Section 5(II) – Advertising the Bid Document.⁹⁷

⁹⁶ O.R.C. 307.862(F)(3).

⁹⁷ O.R.C. 307.91.

Section 6 – ORDERING, RECEIPT AND PAYMENT

Upon determining what goods and services are being purchased and from whom, the County Entity must obtain those goods and services in accordance with County procedure and applicable laws. This Section will assist the County Entity in submitting requisitions and obtaining purchase orders, executing formal contracts, and receiving goods and services purchased.

All purchases require a purchase order (“PO”). Some purchases, however, additionally require a more detailed formal contract. For purchases which do not require a detailed formal contract, the PO acts as the contract.

I. PURCHASE ORDERS

The PO is the document authorizing the vendor to ship goods or perform services at a specified price. Therefore, the PO must be issued and certified for available funds before an order is placed with the vendor. POs are issued for one-time purchases or for reoccurring purchases (“Blanket POs”) when the County Entity plans to make period purchases against the PO throughout the fiscal year.

Purchasing goods or services contrary to this section may subject individual County employees to personal liability for the unlawful payment.⁹⁸

In order to obtain a PO, County Entities should follow the procedure described below.

A. THE PURCHASE ORDER PROCESS

Upon completion of the proper procurement method outlined in Section 4 – Procurement Methods, a purchase order must be obtained.

1. COUNTY ENTITY SUBMITS REQUISITION

Requisitions are internal requests submitted by the County Entity to Purchasing through the online system (called “Performance”) to receive approval for a purchase. Purchasing prepares the PO based on the information submitted in the Requisition. To obtain access to Performance, contact Purchasing.

To create a Requisition, log on to Performance and submit the following information:

- Vendor name;
- The total purchase amount, or in the case of a continuing contract to be performed in whole or in part in an ensuing fiscal year, the amount required to meet the obligation in the fiscal year in which the contract is made;
- Quote or Bid Document number or the names of the vendors solicited and the dollar amounts of their quotes/bids/proposals;

⁹⁸ O.R.C. 5705.45.

- Description of commodity being purchased: specifications, quantity.

Requisitions are sent through Performance to each County Entity's set approval path and then to Purchasing.

Direct Voucher Exception for Purchases of \$1000.00 or less. A PO is unnecessary where a Requisition specifies a purchase amount of \$1,000.00 or less that is not recurring.⁹⁹

- Such Requisitions are routed by Performance directly to the Auditor for issuance of a Direct Voucher.
- Once the Direct Voucher is received by the County Entity, payments can be made to the vendor.

2. PURCHASING PROCESSES REQUISITION AND GENERATES PO

If the purchase amount is above \$1000.00, Purchasing turns the Requisition into a PO.

- While not required by law, a County Entity may still enter a Requisition for an amount under \$1000.00 if a PO is desired.

Purchasing verifies that information on the Requisition is correct and complete. An incomplete or improperly prepared Requisition may be canceled or returned to the County Entity by Purchasing.

3. PO IS SENT TO AUDITOR FOR CERTIFICATION OF FUNDS

After Purchasing completes the PO, it is electronically forwarded to the Auditor for approval.

Upon receiving the PO, the Auditor verifies the accounting information and funding sufficiency. Upon approval, the Auditor electronically forwards the PO back to Purchasing with a statement certifying the funds are available. Note that the Auditor's statement on the PO generated through Performance is the statutorily required Auditor's Certification of Availability of Funds, which is the certification provided by the Auditor that unobligated appropriations exist in the amount required to meet the requested obligation in the current fiscal year.¹⁰⁰

- When contracts and leases extend beyond the fiscal year, the Auditor makes a certification for the amounts required to meet the obligation of the contract or lease maturing in the current fiscal year. The remaining unfulfilled portion is included in the annual appropriation measure for the next year as a fixed charge.¹⁰¹

⁹⁹ Expenditures of \$1,000.00 or less do not require Purchase Orders because they may be made without prior certification by the Auditor that the funds are available and have been appropriated for the specific purchase. See O.R.C. 5705.41(D)(2); BOCC Resolution No. P085-11, 12/14/11; BOCC Resolution P082-12, 09/26/12.

¹⁰⁰ O.R.C. 5705.41(D).

¹⁰¹ O.R.C. 5705.41(D)(1).

- Purchases for \$1000.00 or more that are made without the Auditor's Certificate are void as a matter of law and create a "Then and Now" situation. "Then and Now" situations can only be cured if the BOCC approves the purchase by resolution.¹⁰²

4. FINALIZED PO SENT TO COUNTY ENTITY

When a PO is approved, Purchasing will email it to the requesting County Entity. The County Entity will then send the PO to the vendor at which time payments are authorized. A PO is not fully approved until it is emailed to the County Entity. If you have a pending PO in question, contact Purchasing to check the status.

B. EXCEPTIONS TO REGULAR PROCEDURE

1. CHANGE ORDERS

Change orders are used to increase or decrease payment amounts, to change payment terms prior to payment, or to cancel a PO. While increases to prior year POs (depending on funding) are generally not permitted, decreases for prior years can be processed.

Change order requests are sent to Purchasing by the County Entity through email. The County Entity should check the PO status screen to make sure there are not any pending invoices. If pending documents exist, it will be necessary for the County Entity to delete them before the change can be made. Purchasing will review the request and, if appropriate, enter the necessary changes into Performance.

After the change is entered, the revised PO is electronically routed back to the County Entity requesting the change for the County Entity's electronic approval. Once approved by the County Entity, the change will be electronically routed to the Auditor's office for final approval. After the Auditor approves the change, the PO again becomes available for payment.

2. VENDORLESS ENCUMBRANCE

While the law generally requires certification of the availability of funds on a specific basis, it also provides for blanket advance certification under certain circumstances. A vendorless encumbrance ("VE") is a type of PO that does not specify a vendor name because one or more vendors will be used to purchase the goods or services. VEs cannot extend beyond the County's current fiscal year.¹⁰³ To obtain a VE, obtain a Request For a Vendorless Encumbrance form by contacting Purchasing, fill it out, and send it back to Purchasing. Purchasing will review, and if appropriate, sign off on the request and send it to the Auditor. The Auditor will direct the VE back to the County Entity through Performance upon certifying the funds are available.

¹⁰² O.R.C. 5705.41(D)(1).

¹⁰³ O.R.C. 5705.41(D)(3).

VEs should only be used when a normal PO is not already in effect and when a normal PO will not be effective or practical for the purchase.

In preparing for approval at the various administrative levels, it is very important to list or itemize the specific kinds of goods or services which will be purchased. Lack of detail will result in rejection or return of the VE. VEs should not be used to purchase goods or services that do not correspond with the object code listed, or to obtain capital equipment.

Generally, only one VE may be outstanding for a given purpose at any one time. However, if the appropriate approvals have been obtained, there is no limit on the number of VEs allowed to be outstanding at any time for the following transactions¹⁰⁴:

- The services of an accountant, architect, attorney at law, physician, professional engineer, construction project manager, consultant, surveyor, or appraiser by or on behalf of the County;
- Fuel oil, gasoline, food items, roadway materials, and utilities;
- Any purchases exempt from statutory competitive bidding through a contract with the State of Ohio as described in Section 4(IV)(B) – State of Ohio Contracts; and
- Any other specific expenditure that is a recurring and reasonably predictable operating expense.

For example, a VE may be used to purchase materials, supplies, or services that historically have been obtained from several vendors, but do not exceed \$50,000.00 in a single purchase or over the course of a calendar year.

NOTE: VEs are not to be used to avoid the competitive procurement requirements¹⁰⁵ for goods and services that exceed \$50,000 in a single purchase or on an annual basis.

Regardless of the purpose for which a VE is created, the expenditures under such encumbrance shall never exceed the sum of money certified by the Auditor.¹⁰⁶

If you have a VE in question, contact Purchasing to check its status.

3. EMERGENCIES

Emergency situations may require a County Entity to proceed with procurement on an immediate basis and bypass the approved purchasing process. Use of an emergency

¹⁰⁴ O.R.C. 5705.41(D)(3).

¹⁰⁵ O.R.C. 5705.41(D)(3); 1992 Op. Att’y Gen. No 92-050.

¹⁰⁶ O.R.C. 5705.41(D)(3).

PO is restricted by law and only situations falling under the statutory definition of “emergency” qualify for special treatment.

In all cases of emergency, for the County to bypass the statutory purchasing process for goods or services that would otherwise be subject to statutorily required competitive procurement, the following conditions must be met: ¹⁰⁷

- BOCC must unanimously vote that a real and present emergency exists and record in its minutes that determination and the reasons for it; and
- One of the following applies:
 - The estimated cost is less than \$100,000.00; or
 - There is actual physical disaster to structures, radio communications equipment, or computers.

For all emergency purchases, the County Entity should do the following:

- Obtain three informal estimates of the goods or services prior to making the purchase. The County Entity must maintain a record of such estimates for the statutory approved period of time, including the name of each person from whom an estimate was solicited. ¹⁰⁸
- Enter the Requisition into Performance with a notation in the “Notes” field that an emergency purchase is being made.
- Contact Purchasing as soon as possible so the Requisition can be processed quickly. Once the PO is issued, the County Entity should contact the vendor and place the order.
 - In the event the emergency is after normal business hours, the County Entity should explain to the vendor that a PO will be issued the following business day at which point the necessary information will be relayed to the vendor.
- Obtain BOCC approval. Purchasing will assist the County Entity in preparing an emergency resolution for the approval of the BOCC. If the BOCC is not available, the resolution must be presented at the next available meeting.

In general, if an emergency purchase is necessary, contact Purchasing as soon as possible for assistance.

¹⁰⁷ R.C. 307.86(A).

¹⁰⁸ R.C. 307.86(A).

II. FORMAL CONTRACTING

If the County Entity would like legal assistance for any contract matter, a letter or email requesting assistance should be sent to the Chief Prosecuting Attorney of the Civil Division who will assign the request to an assistant prosecutor. (See Attachment A – Helpful Contacts)

The responsibility for the contracting function rests with the appropriate contracting authority, and another County Entity or County employee cannot determine the appropriateness of a contract. “Contracting authority” for purposes of O.R.C. 307.86-.91 is “any board, department, commission, authority, trustee, official, administrator, agent, or individual which has authority to contract for or on behalf of the county or any agency, department, authority, commission, office, or board thereof.”¹⁰⁹

While authority to contract on behalf of the County most often rests with the BOCC or its designee,¹¹⁰ other County Entities have contracting authority in general or for specific purchases as dictated by law. Unless specified otherwise, the term “County” means the BOCC and other Hamilton County contracting authorities.

A. NECESSITY OF A FORMAL CONTRACT

In the absence of a formal contract, the PO serves as the binding agreement between the County and the vendor. There are frequently circumstances, however, where a formal contract is needed in addition to a PO. The necessity of a formal contract turns on the nature and complexity of goods and services being purchased.

Consider the following guidelines:

- In general, if services or goods *and* services are being purchased, a formal contract is necessary. Examples include intangible items such as exterminating, consulting, health care, social services, maintenance work, and equipment repair. If “routine” *goods* are being purchased, the PO will most likely serve as the contract. Examples include tangible items such as desks, chairs, copiers, pencils, pens and paper.
- A formal contract is generally necessary for purchase of goods when services are also being received. For example, installation services would be required for the purchase of an elevator, computer servers, or products which together with services must function as a system.
- Additionally, a formal contract may be necessary for a purchase of goods based on expense, type of goods, or other considerations. This determination is made on a purchase-by-purchase basis by Purchasing or the County Entity. The

¹⁰⁹ O.R.C. 307.92.

¹¹⁰ O.R.C. 305.30(G) (BOCC may direct a county administrator to enter into contracts on its behalf).

Prosecutor's Office may be consulted for advice on whether a formal contract would be beneficial to the County.

B. THE FORMAL CONTRACTING PROCESS

Upon completion of the proper procurement method outlined in Section 4 – Procurement Methods, submit a Requisition and develop a contract document.

1. SUBMIT REQUISITION

See Section 6(1)(A) – The Purchase Order Process for more information.

2. DEVELOP CONTRACT DOCUMENT

Once a Requisition has been submitted, the County Entity should complete the drafting of a contract document. It is preferable to use a County contract as opposed to a vendor's contract. Contact Purchasing for a contract template if needed.

Read the contract document closely and make adjustments to fit the current purchase. If the purchase was competitively procured, the contract's terms and conditions should match and incorporate the terms and conditions in the Bid Document, and, where appropriate, portions or all of the Bid Response.

If the contract is complex or unique, the County Entity should seek input and advice from the Prosecutor's Office at this early stage.

3. OBTAIN PROSECUTOR REVIEW

Once the contract is prepared, it is good practice to seek review and approval from the Prosecutor's Office.¹¹¹ The contract document should be sent to the Prosecuting Attorney's Civil Division with a request for assistance (See Attachment A – Helpful Contacts). The review will be assigned to an assistant prosecuting attorney. It is recommended that a contract be reviewed by a prosecuting attorney *before* it is sent to the vendor. Upon sharing the contract with the vendor, the County Entity should explain that there may be additional changes recommended by the Prosecutor's Office and that the copy is for discussion purposes only.

Upon review by the Prosecutor's Office, the contract will either be approved as to form or changes will be recommended. If changes are recommended, make the changes and send the document back to the Prosecutor's Office for final review absent other direction from the reviewing attorney. The review process may change on a case-by-case basis.

Note that the Prosecutor's Office should be contacted for assistance in all cases where the vendor is using legal counsel in contract negotiations.

¹¹¹ Prosecutorial approval is not required by law for all contracts. However, County Entities may be required to obtain approval from the Prosecutor's Office pursuant to resolution or internal procedure.

4. OBTAIN VENDOR SIGNATURE

After the Prosecutor's Office has returned the contract approved as to form (signified by a letter and the attorney's signature), have the vendor sign the contract.

5. OBTAIN APPROPRIATE COUNTY SIGNATURE

County Entities whose contracting authority is *not* the BOCC must follow their own procedure to obtain the appropriate County signature. The contract need not be submitted to Purchasing, but a PO must be obtained before purchases are made under the contract.

If you are unsure of the proper contracting authority for a given purchase, please contact the Prosecutor's Office for assistance.

County Entities whose contracting authority *is* the BOCC (generally or for a specific purchase) should do the following upon receiving the signed contract from the vendor:

- (1) Obtain the head of County Entity's signature indicating that individual's approval and recommendation of the contract.
- (2) Provide the following documents to Purchasing in order for Purchasing to obtain the County's signature:
 - Three (3) copies of the contract signed by vendor and (if applicable) the head of the County Entity;
 - Completed Contract Checklist, a copy of which can be obtained by contacting Purchasing;
 - A letter from the Prosecutor's Office approving the contract as to form;
 - Procurement evidence: Signed bid tabulation form or proposal evaluation form if the contract is the result of an ITB or RFP, informal quotes, bid exception justification, and/or state or federal procurement documents;
 - If insurance is required, include an insurance accord form from the vendor or the vendor's certificate of insurance that demonstrates compliance with the insurance requirements, the Additional Insured Certificate, if required, and documentation of a compliance review of the vendor's insurance by the County Risk Manager;
 - A copy of the PO;
 - If the contract is being signed after the begin date, a letter will be needed from the County Entity stating why the contract is late; and

- If a complex contract is being submitted, please submit a written explanation of what is occurring.

Upon receipt of the above listed documents, Purchasing will review the documents and determine what official has authority to sign on behalf of the County.

A contract entered into by the BOCC is not valid unless it has been assented to at a regular or special session of the BOCC, and entered in the minutes of its proceedings by the County Auditor or the BOCC's Clerk.¹¹² Purchasing will prepare a resolution when BOCC approval is necessary. (Purchasing will also assist contracting authorities other than the BOCC with resolution drafting upon request.)

When approved by the BOCC, the BOCC's Clerk will send the signed copies of the contract back to Purchasing who will send two copies back to the County Entity. If a designee of the BOCC will be signing the contract, Purchasing will obtain the designee's signature and two copies will be returned to the County Entity. The County Entity should retain one copy for their file and return the other copy to the vendor. Purchasing will maintain a master file of all contracts processed.

C. PROCESSING ROUTINE CONTRACTS AMENDMENTS AND RENEWALS

The purpose of this procedure is to streamline processing of certain contracts, amendments and renewals.¹¹³

Routine contract amendments are minor changes to a contract which was originally approved by the Prosecutor's Office, such as change of address, hours of operations, or similar items which do not change the nature of what is being purchased, by whom it is being purchased, and for how long it is being purchased.

Routine contract renewals are renewals of contracts originally approved by the Prosecutor's Office that contain no changes other than effective dates and contract costs which were included in the original contract at the time of its approval by the BOCC.

In order to process routine contracts, amendments, or renewals for BOCC signature, the following information must be sent to Purchasing:

- Copy of or reference to the original contract and any amendments or renewals.
- Copy of the letter from the Prosecutor's Office obtained in the prior three years (or five years if the contract was competitively procured and had optional

¹¹² O.R.C. 305.25.

¹¹³ Note that some County Entities may still require prosecutorial approval of all contracts, renewals, and amendments by resolution or internal procedure.

renewals extending for five years) approving the original contract or subsequent renewals as to form.

- The PO.
- Three (3) originals of the contract, amendment, or renewal signed by the vendor.
- Completed Contract Checklist, a copy of which can be obtained by contacting Purchasing.

All contract renewals and amendments should be entered into with the same formalities as the original contract.

D. MISCELLANEOUS CONSIDERATIONS

1. COMMON CONTRACTING PITFALLS

Vendors often wish to negotiate the terms of contracts they enter into with the County. The negotiating County Entity can often work with the vendor in negotiating certain terms that were not a made a requirement in the Bid Document. The County, however, cannot contract in such a manner that its statutory obligations are not met or are otherwise violated. The two most common pitfalls are as follows:

a) CONFIDENTIALITY

The Ohio Public Records Act prohibits parties to a public contract from restricting public access to public records.¹¹⁴ As such, a County Entity cannot enter into a contract with a vendor that makes the contract confidential.

In limited cases a contract may include a confidentiality provision protecting certain qualifying information as a confidential or trade secret exception to the Public Records Act. In all cases involving such clauses the Prosecutor's Office should be consulted concerning the appropriate language to be used.

b) INDEMNIFICATION OR HOLD HARMLESS

Indemnification is the part of a contract that provides for one party to bear the monetary costs, either directly or by reimbursement, for certain losses and related costs incurred by a second party. While indemnification may be something that a vendor typically requests in private contracts, the County is restricted in its ability to indemnify a vendor. Under Ohio law, all County funds must be appropriated and certified available by the Auditor prior to being spent.¹¹⁵ This prevents a County Entity from entering into a contract where the County indemnifies the vendor for an indefinite dollar amount. There are also other policy reasons preventing the County from indemnifying private parties.

¹¹⁴ O.R.C. 149.43.

¹¹⁵ O.R.C. 5705.41(D)(1).

On the other hand, the County regularly requires the vendor to save, defend, indemnify and hold the County harmless against claims, losses or costs associated with the performance of a contract by the vendor. These clauses are routinely included in County contracts, and may be the subject of negotiation by the vendor. In all cases where the vendor seeks to change or modify the County's standard indemnification language the Prosecutor's Office should be consulted.

County Entities should also have the vendor name the County as an additional insured under the vendor's insurance policy and require the vendor to provide a copy of this endorsement as well as any appropriate certificates of insurance for review by the County's risk manager.

2. UNRESOLVED FINDINGS FOR RECOVERY ¹¹⁶

The County cannot award a contract paid for in whole or part with state funds in either of the following two circumstances:

- The contract exceeds \$25,000.00 and the vendor has an unresolved finding for recovery issued by the Auditor of State on and after January 1, 2001.
- The County purchased an excess of \$50,000 worth of goods or services from the vendor in the fiscal year proceeding the fiscal year in which the County is currently entering a contract with the vendor and the vendor has an unresolved finding for recovery issued by the Auditor of State on or after January 1, 2001.

In order to comply with the statute, County Entities must perform a search on the Auditor of State's website for each applicable contract at the time the Requisition is entered. A copy of the certified search from the Auditor of State's website should be kept by the County Entity. Alternatively, County Entities may request that the vendor execute an affidavit stating that it has no unresolved findings for recovery against it.

3. BID GUARANTIES AND PERFORMANCE BONDS

While some guaranties or bonds (typically "bid guaranties or bonds") are specifically required by statute, others ("performance bonds") are sometimes discretionary. The County often chooses to require performance bonds for protection from costs that may result from contractual defaults. Bid bonds are generally required by statute to assure that the successful bidder will enter into a contract with the County on the terms offered in the Bid Response, and are returned to all bidders after contract execution.

Note: References to bid guaranties and performance bonds in this section of the Manual DO NOT APPLY TO CONSTRUCTION AND PREVAILING WAGE PROJECTS. The professional staffs in the Facilities and the Planning + Development Departments are trained to handle such projects. Inquiries regarding bid guaranties and performance bonds for construction and prevailing wage projects should be directed to them.

¹¹⁶ O.R.C. 9.24.

a) **BID GUARANTY**

For competitive bids and competitive proposals in excess of \$50,000.00 and for contracts other than construction/prevaling wage projects, County Entities may require Respondents to submit a form of bid guaranty with their Bid Response.¹¹⁷

A bid guaranty is an assurance provided by a Respondent in good faith that the Respondent would be able to provide the specified goods or services on the terms and conditions stated in the Bid Document.

In the case of ITBs, the bid guaranty promises that the Respondent shall execute a contract in conformity with the ITB. The County may keep the bid guaranty amount if the Respondent does not follow through on the guaranty.

In the case of RFPs, Respondents are permitted to withdraw their proposal at any time prior to award of a contract.¹¹⁸ However, the County may still require submission of a bid guaranty to show the Respondent's financial stability and genuine interest in providing the goods or services requested in the Bid Document.

The most commonly used form of bid guaranty is a bid bond, though other forms are acceptable. Bid guaranties may be submitted in the following forms¹¹⁹:

- Certified check;
- Cashier's check;
- Actual bond from an insurance company; or
- Money Order.

The amount of the bid guaranty cannot exceed five percent (5%) of the total value of the goods or service to be purchased.¹²⁰ If the goods or services are being procured on a per unit basis and the total contract amount is not readily determinable, contact Purchasing for assistance in formulating a bid bond amount.

When the contract is awarded, a letter is sent to the Respondents notifying them of the award. All bid guaranties are returned to the Respondents who did not receive the award.¹²¹ The selected Respondent's bid guaranty may be retained during contract negotiations, but will be returned to them after he or she has entered into the contract and provides acceptable security.

¹¹⁷ O.R.C. 307.88(A).

¹¹⁸ O.R.C. 307.862(D).

¹¹⁹ O.R.C. 153.34(A); O.R.C. 307.88(A).

¹²⁰ O.R.C. 307.88(A).

¹²¹ O.R.C. 307.90(A).

b) PERFORMANCE BOND

The County must, as a condition to entering a contract with the successful Respondent, require faithful performance of all things to be done under the contract.¹²² Requiring a performance bond at the time of contracting is a way to help satisfy this requirement.

A performance bond is an assurance that, upon award, the vendor will complete the contract according to its terms and conditions through faithfully delivering all goods and performing all services listed in the Bid Document. So long as the performance bond does not exceed one hundred percent (100%) of the purchase amount, the County Entity may determine the amount of the bond and how long the bond is held, which time shall not exceed the satisfactory completion of the contract.¹²³

E. NONPERFORMANCE OF VENDOR

If a vendor does not follow through on their offer or their obligation, the following process should be followed by the County Entity:

- Document details of the complaint.
- Immediately contact Purchasing and the Civil Division of the Prosecutor's Office and forward any written documentation illustrating the vendor's nonperformance.
- Work with Purchasing and the assigned Assistant Prosecutor to contact the vendor to resolve the complaint.

The County may elect to exercise its options with the bid guaranty or performance bond or pursue other legal action. County Entities will work with the Prosecutor's Office in this process.

¹²² O.R.C. 307.89.

¹²³ O.R.C. 307.89.

Section 7 – COUNTY CREDIT CARDS

I. ISSUANCE OF CARD

County credit cards may be held in the name of: (1) the BOCC; (2) the office of a county appointing authority; and (3) authorized officers and employees of the County.

A county appointing authority must obtain BOCC authorization for a County officer or employee to use a credit card held by the office of the appointing authority. The authorization request must state whether the card is to be issued only in the name of the office of the appointing authority or whether the issued card will also include the officer or employee's name.¹²⁴

II. USE OF CARD

Credit cards may only be used for the following work-related expenses ("Work Expenses"):

- Food expenses;
- Transportation expenses;
- Gasoline and oil expenses for vehicles owned or leased by the County;
- Motor vehicle maintenance expenses for vehicles owned or leased by the County;
- Motor vehicle repair expenses for vehicles owned or leased by the County;
- Telephone expenses;
- Lodging expenses;
- Internet service provider expenses;
- Webinar expenses; and
- In the case of a public children services agency, certain expenses for children in the agency's temporary or permanent care.¹²⁵

Late charges or finance charges are not permitted unless authorized by the BOCC.¹²⁶

Credit cards may not be used to avoid the proper procurement of items or services.

It is a violation of Ohio law to use a county credit card for any use other than those permitted in this section.¹²⁷

¹²⁴ O.R.C. 301.27(C).

¹²⁵ O.R.C. 301.27(B)(1); O.R.C. 301.27(A)(3).

¹²⁶ O.R.C. 301.27(B)(2).

¹²⁷ O.R.C. 301.27(G).

III. RESPONSIBILITY OF CARDHOLDER

Debt incurred as a result of credit card use is paid from funds appropriated for that purpose.¹²⁸ In order to set aside such funds, the BOCC must authorize the expenditure of such funds and the Auditor must certify those funds as available and free from other encumbrances. A BOCC resolution authorizing credit card usage can take one of two forms. Most typically, credit card usage will be authorized based on monthly estimates presented to the BOCC. Alternatively, the BOCC may elect to permit an officer or employee to use a credit card without submitting such estimates. These two forms of BOCC resolutions are described in greater detail below.

Cardholders may not use the credit card until the resolution for its usage is approved by the BOCC.

O.R.C. 301.27 provides additional requirements for cardholders in the event a credit card is lost, stolen, misused, or used for more than the authorized amount.¹²⁹ All cardholders must read and be familiar with O.R.C. 301.27 and agree to comply with its requirements.

A. USE OF CARD BY MONTHLY ESTIMATE¹³⁰

On the first day of each month, or on an annual basis, every officer or employee authorized to use a credit card must submit to the BOCC:

- An estimate of their Work Expenses for that month (or each month of the year, if an annual estimate is submitted); and
- The specific appropriation line items from which those expenditures are to be made.

Upon receiving an estimate, the BOCC may revise the estimate and determine the amount it approves to be spent. The approved amount will never exceed the estimate. The BOCC will then certify the approved amount with the Auditor, and after the Auditor certifies the funds available, the BOCC will authorize the officer or employee to incur the expenses as approved.

Estimates should be in the form of a resolution. Sample resolutions for credit card use are available by contacting Purchasing. Estimates may be submitted monthly or annually so long as the cardholder's Work Expenses are detailed by month. If circumstances arise that cause an estimate to be inadequate, a revised form must be filed including the reason for the revision.

¹²⁸ O.R.C. 301.27(D).

¹²⁹ O.R.C. 301.27(F).

¹³⁰ O.R.C. 301.27(E)(1).

B. USE OF SPECIFIED CARD FOR ANY WORK EXPENSES LIMITED BY LINE ITEM APPROPRIATION¹³¹

In lieu of the monthly estimate procedure described above, the BOCC may adopt a resolution authorizing an officer or employee to use a county credit card without submitting a monthly estimate.

The resolution may authorize an officer or employee to use a specific credit card (identified by its number) to pay for any Work Expenses up to a specified amount¹³².

Prior to adopting such a resolution, the BOCC must notify the Auditor.

Any use of a credit card beyond the amount specified in a resolution must follow the monthly estimate procedure set forth above.

¹³¹ O.R.C. 301.27(E)(2).

¹³² Which amount must be appropriated and encumbered in a specific appropriation line item for each Work Expense, but only to the extent the moneys in those specific appropriation line items are not otherwise encumbered.

Section 8 – DISPOSITION OF SURPLUS PROPERTY

The disposition of County-owned personal property that is unneeded for public use, is obsolete, or unfit for the use for which it was acquired (“Surplus Property” or “Surplus”) is governed by statute.¹³³ County Entities seeking to dispose of Surplus Property may do so at the direction of the BOCC and in accordance with this Section 8 – Disposition of Surplus Property.

NOTE: Federally-Funded Property. Surplus Property purchased with federal funds may be subject to additional or different disposition requirements. County Entities seeking to dispose of property purchased with federal funds must consult with Purchasing prior to engaging in the disposal process.

I. PERMISSIBLE DISPOSITIONS

Pursuant to the Ohio Revised Code, Surplus Property may be disposed of in the following manner:

A. SURPLUS PROPERTY WITH FAIR MARKET VALUE IN EXCESS OF \$2,500.00

If the BOCC determines by resolution that the County has Surplus Property and the fair market value of the Surplus Property is in excess of \$2,500.00, it may do either of the following:

- (1) Sell the Surplus Property at a public auction or by sealed bid to the highest bidder after complying with public notification requirements set forth in the statute,¹³⁴ or
- (2) If the Surplus Property is a motor vehicle the value of which does not exceed \$4,500.00, donate it to a nonprofit organization as defined in R.C. 307.12(A)(2) for the purposes and under conditions as set forth in the statute.¹³⁵

B. SURPLUS PROPERTY WITH FAIR MARKET VALUE OF \$2,500.00 OR LESS

If the BOCC determines by resolution that the County has Surplus Property and the fair market value of the Surplus Property is \$2,500.00 or less, it may do either of the following:

¹³³ O.R.C. 307.12.

¹³⁴ O.R.C. 307.12(A)(1).

¹³⁵ O.R.C. 307.12 (A)(2).

- (1) Sell the Surplus Property by private sale, without advertisement or public notification;¹³⁶ or
- (2) Donate the Surplus Property to an eligible not-for-profit organization(s) exempt from federal income taxation and located in Ohio, so long as the various resolutions and procedures detailed in O.R.C. 307.12(B)(2) are followed.¹³⁷

C. SURPLUS PROPERTY WITH NO VALUE

If the BOCC determines that Surplus Property has no value, the Surplus Property may be salvaged or discarded.¹³⁸

D. OTHER PERMISSIBLE DISPOSITIONS

1. SALE, LEASE, DONATION TO OTHER GOVERNMENTAL ENTITIES

Regardless of the Surplus Property's value, the BOCC may sell or donate Surplus Property to the federal government, the state, any political subdivision of the state, or a county land reutilization corporation without advertisement or public notification.¹³⁹

The BOCC may lease Surplus Property to another political subdivision of the state or to a county land utilization corporation in accordance with the requirements of the statute.¹⁴⁰

2. INTERNET AUCTION

Regardless of the Surplus Property's value, the BOCC may sell Surplus Property by internet auction following the adoption and publishing of a resolution to do so and in the manner prescribed in the statute.¹⁴¹ The County's process for disposal by internet auction is described in Section 8(II) – Surplus Asset Program Procedure for County Entities below.

3. TRADE IN

The BOCC may offer to sell Surplus vehicles, equipment or machinery to a person or firm from which the BOCC proposes to buy new property,¹⁴² or where the BOCC is advertising for bids for new vehicles, equipment or machinery, may be willing to accept bids for the purchase of such Surplus vehicles, equipment or machinery and have the amount of such bids subtracted from the selling price of the new products as a means of

¹³⁶ O.R.C. 307.12(B)(1).

¹³⁷ O.R.C. 307.12 (B)(2).

¹³⁸ O.R.C. 307.12(I).

¹³⁹ O.R.C. 307.12(D).

¹⁴⁰ O.R.C. 307.12 (F).

¹⁴¹ O.R.C. 307.12(E).

¹⁴² O.R.C. 307.12(G).

determining the lowest responsible bidder, in which case the BOCC may advertise its willingness to accept such an arrangement in its advertisement for bids.¹⁴³

4. DISPOSAL OF SCRAP CONSTRUCTION MATERIALS

The Hamilton County Engineer, in the proper exercise of the Engineer's discretion, may dispose of "scrap construction materials" (as defined in the statute) on such terms as the Engineer determines reasonable if the total value of the materials does not exceed \$25,000.00. The Engineer must maintain records of such dispositions in accordance with the requirements of the statute.¹⁴⁴

II. SURPLUS ASSET PROGRAM PROCEDURE FOR COUNTY ENTITIES

Purchasing manages the County's "Surplus Asset Program", which assists County Entities in disposing of Surplus Property through internet auction. The Surplus Asset Program Manager ("SAPM") can be contacted at AuctionSurplus@hamilton-co.org or 513-946-4354.

In utilizing the Surplus Asset Program, the following steps should be taken by the County Entity.

A. DETERMINATION OF SUITABILITY FOR AUCTION

Pursuant to current BOCC resolution, Surplus Property may be fit for auction if the Purchasing Director determines one or more of the following criteria apply:¹³

- The Surplus Property is inoperable and is incapable of being repaired, or if the Surplus Property is capable of repair, the cost of such repair is greater than fifty percent (50%) of the current purchase value of the Surplus Property;
- The Surplus Property cannot be utilized by the BOCC or any County Entity;
- The Surplus Property has been replaced by an item that better serves the function for which the Surplus Property was originally purchased;
- The Surplus Property is no longer current in its design or style; or
- The Surplus Property no longer meets industry or generally recognized regulatory standards.

¹⁴³ O.R.C. 307.12(H).

¹⁴⁴ O.R.C. 307.12(J).

¹³ Resolution 004-03 dated June 18, 2003, Image # 7450.

Certain Surplus Property, however, is never fit for auction. Such Surplus Property includes:

- Surplus Property that creates a high level of risk to health or safety within the County, or if used contrary to its intended purpose would create a high level of risk to health or safety within the County;
- Property that contains or has contained classified or sensitive information, including computers, monitors, tablets, phones, and similar electronic devices; and
- Property that is determined unsalable by the Purchasing Director or SAPM.

Any County Entity which is uncertain whether Surplus Property is deemed fit for auction may email a description and/or picture of the Surplus Property to the SAPM and the Purchasing Director will make the determination.

If the Surplus Property is deemed fit for auction by the Purchasing Director, the County Entity shall follow the procedure set forth below. If the Surplus Property is unfit for auction, the County Entity shall work with Purchasing to dispose of the Surplus Property through another permissible disposal method.

B. POSTING TO AUCTION WEBSITE

The Auction Website can be found at www.hamiltoncountyohioauction.com, or remotely through www.hamilton-co.org.

All County Entities must be registered to use the Auction Website and must contact the SAPM for registration instructions.

Wherever possible, County Entities should take pictures of the Surplus Property and upload the pictures to the Auction Website, or arrange for the SAPM to take pictures of the Surplus Property.

1. LABEL AND ITEM REFERENCE NUMBER

To post Surplus Property to the Auction Website, County Entities must label their Surplus Property with an item reference number obtained from the SAPM.

To obtain a label, enter a full description of the Surplus Property on the Auction Website or provide the description directly to the SAPM.

Vehicle Inspection Forms. To obtain a label for a vehicle, a vehicle inspection form must be completed and submitted to the SAPM. Contact Purchasing to obtain the vehicle inspection form.

Lots. The SAPM will determine if the Surplus Property will be labeled in lots or as an individual item.

- A “lot” is a group of items that will produce higher revenue by being sold together rather than as individual items. Each lot will contain one reference number.
- Before posting multiple individual items which have potential to be sold as a lot, contact the SAPM for instructions.

Upon receipt of your information, the SAPM will provide you with a label containing an item reference number.

2. PRICING

To post Surplus Property to the Auction Website, County Entities must obtain a price for their Surplus Property through the SAPM.

- County Entities do not have the authority to price Surplus Property, but will need to enter an estimated price when submitting the auction posting. The SAPM will adjust the price appropriately before the Surplus Property goes to auction.
- Prices will be determined by Purchasing on an item-by-item basis in accordance with industry standard procedures. If a County Entity is dissatisfied with the selected price, the County Entity should contact the SAPM and/or the Purchasing Director to discuss the matter further.
- The use of other County websites will aid in the determination of price projection.
- Prices for certain Surplus Property will be adjusted through research of the purchasing trends of previously purchased Surplus Property.
- Sales will be tracked through the use of an access database and future prices will be adjusted accordingly.
- All bid increments will be determined by the opening bid price.

C. PREPARATION FOR SALE

To prepare your Surplus Property for sale on the Auction Website, follow these instructions:

- Ensure all internal inventory tags are removed from the Surplus Property.
- Label the Surplus Property with the item reference number provided by the SAPM.
- Erase all confidential data from approved electronic devices.
- Store and secure the Surplus Property.
 - Carefully secure lots with shrink wrap, tape, etc. to ensure security of all items in the lot.
 - County Entities are responsible for the Surplus Property until the scheduled time for buyer pickup. If an item is stolen, lost, or otherwise disposed of, the County Entity will be responsible for providing the buyer with a replacement of equal or greater value.

D. COUNTY CLASSIFIEDS FOR INTERNAL TRANSFER

Prior to offering the public an opportunity to bid on Surplus Property, it is offered to other County Entities on the “County Classifieds” section of the Auction Website for internal transfer for seven (7) calendar days.

If interested in the Surplus Property, the acquiring County Entity must contact the releasing County Entity for pickup and inventory transfer.

If the Surplus Property is claimed, the releasing County Entity must notify the SAPM of the transfer and the acquiring County Entity must provide the SAPM with the transfer form.

When the SAPM receives the transfer form from the acquiring County Entity, the SAPM will deactivate the item from the Auction Website.

If either County Entity fails to follow the proper procedures, the Surplus Property will remain posted on the Auction Website and will proceed to the Public Auction portion of the Auction Website.

E. PUBLIC AUCTION

After seven (7) calendar days on the County Classifieds portion of the Auction Website, the Surplus Property is posted on the Public Auction portion of the website for at least fifteen (15) calendar days.

- All items with an end date on a nonbusiness day will be transferred to the Public Auction on the next business day.

The SAPM, however, can cancel bids in an auction if one or more of the following circumstances apply:

- (1) It is determined that an auction shall be cancelled or terminated early;
- (2) A bidder requests permission to cancel a bid and such permission is given;
- (3) The identity of a bidder cannot be verified; or
- (4) It is determined that a bidder is purchasing the item for a use contrary to the health, welfare, or safety of Hamilton County, Ohio or the general public.

After the fifteen (15) calendar days, the Surplus Property will be awarded to the highest bidder.

If the Surplus Property did not receive any bids or a valid bidder cannot be authorized, the County Entity should work with Purchasing to dispose of the Surplus Property through another permissible method.

F. BIDDER PAYMENT AND PICKUP PROCEDURE

Upon the conclusion of the auction, the winning bidder will be contacted via email by the SAPM.

1. PAYMENT

Payment in full for the awarded property is due within seven (7) business days from the date the e-mail has been sent to the successful bidder, excluding national holidays.

- All payments will be accepted in person between the hours of 8:00am and 4:00pm, Monday through Friday, excluding national holidays at the following address: Purchasing Department, 5th Floor County Administration Building 138 East court Street, Cincinnati, Ohio 45202.
- Acceptable forms of payment are: Cashier's Check, Certified Check, Money Order, Traveler's Check, Company Check (only acceptable with an

accompanying bank letter guaranteeing payment), and Credit Card via Point and Pay.

- All checks are to be made payable to: Hamilton County Treasurer.
- If the winning bidder, and subsequently the next highest bidder(s), does not pay in full in the allotted time, the County Entity should work with Purchasing to dispose of the Surplus Property through another permissible method.

2. PICKUP

Upon payment in full, Purchasing will provide the winning bidder with a receipt and the pickup contact information for the County Entity.

- The pickup contact information will include the pickup contact's name and phone number and the final day for pickup.
- In the event that an individual County Entity does not have a pickup contact, the SAPM will provide pickup service through Purchasing.

The winning bidder will have a maximum of ten (10) business days to retrieve the awarded property after payment has been received.

If the winning bidder is unable to contact the pickup contact, the bidder is encouraged to contact the SAPM via the "general" email or phone number, at which point the SAPM will provide a pickup time.

Pickup times are between 8:30am and 3:30pm, Monday through Friday, or as otherwise stated by the pickup contact.

If the item is not picked up within ten (10) business days, the County Entity will notify the SAPM to contact the winning bidder.

Upon pickup of the awarded property, the pickup contact should witness the winning bidder sign the receipt verifying that the awarded property has been received and retain a copy of the signed receipt.

3. NO PICKUP

If the winning bidder fails to contact the pickup contact or the SAPM within the allotted ten (10) business days, the awarded property will be awarded to the next highest bidder. It is the County Entity's responsibility to let the SAPM know that the awarded property has not been picked up.

No monetary refund shall be given the winning bidder if the winning bidder pays for the awarded property but fails to pick it up in the allotted time.

If there were other bidders, the County Entity should first attempt to award the item to the next highest bidder. Once the process has been exhausted, the County Entity should work with Purchasing to dispose of the Surplus Property through another permissible method.

Section 9 – RECORD RETENTION SCHEDULE

The entire Ohio County Records Manual is published on the Ohio History Connection's Website at: <https://www.ohiohistory.org/OHC/media/OHC-Media/Learn/Archives-Library%20Documents/CountyManual.pdf>

SCHEDULE OF RECORDS RETENTION AND DISPOSITION

Use of the word "Audited" under Retention Period below means the records have been audited by the Auditor of State and the Audit Report has been released.

<u>Schedule Number</u>	<u>Record title and description</u>	<u>Retention Period</u>
92-01	Accident Reports	2 Fiscal years provided audited
92-02	Accounts Receivable ledger and documents	4 fiscal years after payment provided audited
92-03	Automatic data processing and electronic data processing media used for temporary storage or control	Erase when no longer of administrative value. Separately schedule ADP or EDP media maintained Files.
92-04	Annual Budgets	Permanent
92-05	Annual Reports	Permanent
92-06	Applications for employment (Unsuccessful/ Not hired)	2 years after receipt
92-07	Audit Reports – Federal, State, and Internal	5 Fiscal years
92-08	Bank Deposit Receipts	4 Fiscal years provided audited
92-09	Bank Statements	4 Fiscal years provided audited
92-10	Blank Forms- Obsolete or superseded	30 days after obsolescence

92-11	Bulletins	30 days after obsolescence
92-12	Bids and Proposals (Unsuccessful and Successful)	3 Fiscal years provided audited
92-13	Bond Coupons	2 Fiscal years provided audited
92-14	Bond Registers	20 years after issue called
92-15	Bonds (Redeemed)	2 Fiscal years after redeemed provided audited
92-16	Cancelled Checks	4 Fiscal years provided audited
92-17	Cash Books and Cash Journals (O.R.C. 311.11)	4 Fiscal years provided audited
92-18	Check Registers	4 Fiscal years provided audited
92-19	Claims and Litigations records	5 years after case is closed & appeals exhausted
92-20	Contracts (O.R.C. 2305.06)	15 years
92-21	Copies – Extra Caron, Photo Copies etc.	Destroy when no longer of Admin. Value
92-22	Correspondence (Executive)	4 years Review by OHS for possible transfer. Destroy if of no historical value.
92-23	Correspondence (Administrative)	2 Years provided audited
92-24	Correspondence (Routine standard form letters)	1 year
92-25	Federal Grant files and supporting financial records and documents	Retain until State and Federal audits have been conducted, audit reports released, and all litigation, claims, & audit findings involving the records have been resolved.

92-26	Insurance policies (O.R.C. 2305.10)	2 years after expiration provided all claims have been settled.
92-27	Inventories (Annual of Public property)	2 Fiscal years provided audited
92-28	Invoices (Paid)	4 Fiscal years provided audited
92-29	Job Descriptions	Until superseded or classification abolished
92-30	Leases	5 years after expiration, provided audited.
92-31	Leave requests (Sick and Vacation)	4 Fiscal years provided audited
92-32	Management Reports or Feasibility Studies	5 Years
92-33	Official's Bonds (O.R.C. 2305.12)	10 Years after expiration provided audited
92-34	Pay Ins to Treasury Records	4 Fiscal years provided audited
92-35a	Payroll Records- Originals held by County Auditor or Chief Fiscal Officer	Permanent
92-35b	Payroll Records- Copies of payroll records held by appointing authority	3 Fiscal years provided audited
92-36	Personnel Files	Permanent by the appointing authority
92-37	Petty Cash Records	2 Fiscal years provided audited
92-38	<u>Preliminary</u> drafts of: Letters, Memoranda, Worksheets, Reports, and Informal Notes	Until no longer of admin. Value to the office.
92-39	Professional Association Records	Until no longer of admin. Value to the office.
92-40	Publications	8 Years then OHS will evaluate for historical value.

92-41	Publication Stock	30 days after obsolescence
92-42	Purchase Orders	4 Fiscal years provided audited
92-43	Receipt Documents	4 Fiscal years provided audited
92-44	Records of Accrued Fees	4 Fiscal years provided audited
92-45	Records of receipts and expenditures	10 Fiscal years provided audited
92-46	Requisitions	3 Fiscal years provided audited
92-47	Tape Recordings, Video Recordings, & Short Hand notes of Meetings	30 days after transcribed or minutes approved
92-47a	Tape Recordings, etc. of Statutory Boards and Commissions	2 Years
92-47b	Courts must separately schedule Electronic Recordings and Stenographic notes	Courts must schedule retention period
92-48	Telecommunication Service Requests	2 Fiscal years
92-49	Telephone Bills and Telephone Long Distance Logs	2 Fiscal years provided audited
92-50	Telephone Messages	Until no longer of admin. Value
92-51	Time Cards and Time & Sign-in Sheets (O.R.C. 2305.11)	3 Fiscal years provided audited
92-52	Travel Expense Reports	4 Fiscal years provided audited
92-53	Voucher Registers or Journals	4 Fiscal years provided audited
92-54	Vouchers	4 Fiscal years provided audited
92-55	Warrant Register or Journals	4 Fiscal years provided audited
92-56	Warrants (Paid)	4 Fiscal years provided audited
92-57	W-2's	4 Fiscal years provided audited

Section 10 – LEASED OR PURCHASED VEHICLES

All vehicles to be purchased or leased require the approval of the BOCC.¹⁴⁵ BOCC approval is obtained when Purchasing requests approval of the purchase by resolution. Purchasing prepares the resolution after receiving a Requisition and completed vehicle purchase worksheet from the requesting County Entity. Contact Purchasing for the vehicle purchase worksheet.

Upon adoption of the resolution by the BOCC, Purchasing releases the PO to the County Entity to place the order.

The vendor should deliver the vehicle to the County Entity and the title to Purchasing. Once the title is received by Purchasing, the County Entity may request Purchasing's assistance with any of the following:

- (1) Transferring license plates;
- (2) Obtaining new license plates;
- (3) Signing and notarizing the title for the sold, traded or auctioned vehicle; and
- (4) Destructing current license plates.

Purchasing files all County vehicle titles and maintains a database of information for each vehicle.

Purchasing is responsible for any BMV requests, recall notices, county driving complaints, renewals, and any other vehicle request.

¹⁴⁵ O.R.C. 307.41.

SECTION 11 – CONCLUSION

This Manual is designed to aid departments in complying with requirements of the Ohio Revised Code as well as the policies and procedures approved by the BOCC.

This Manual does not supersede the Ohio Revised Code. If inconsistencies arise between the provisions of this Manual and the Ohio Revised Code, the Ohio Revised Code prevails.

This May, 2023 revision of this Manual supersedes all previous versions of this Manual or prior manuals adopted by the BOCC.

ATTACHMENT A – HELPFUL CONTACTS

Department	Phone Number
Facilities	(513) 946-5000
Human Resources	(513) 946-4700
Planning + Development	(513) 946-4550
Prosecutor’s Office, Civil Division	(513) 946-3040
Purchasing	(513) 946-4355
Surplus Asset Program Manager	(513) 946-4354

ATTACHMENT B - LEASE OR RENTAL OF SPACE AND FACILITIES

Per Section 307.86 of the Ohio Revised Code, property, including land, buildings, and other real property leased for offices, storage, parking, or other purposes, the following applies:

- 1.) The BOCC is authorized, by the Ohio Revised Code, to lease property.
- 2.) The County must develop a request for proposals (RFP) for leasing the property. This RFP must specify the criteria that will be considered by the County before it enters into a lease. These criteria may include the desired size and geographic location of the property.
- 3.) The County must give notice in a manner substantially similar to the notice required under competitive bidding, as specified in Section 307.87 of the Ohio Revised Code.
- 4.) The County receives responses to the RFP from prospective lessors after giving public notice. The responses to the RFP from prospective lessors must meet the criteria specified in the RFP.
- 5.) The County then negotiates with prospective lessors that meet the criteria of the RFP to obtain a lease at the best and lowest price reasonably possible, considering the fair market value of the property and any relocation and operational costs that may be incurred.

The process for lease or rental of space and facilities is as follows:

- 1.) Written request must be submitted to the BOCC containing:
 - (a) reason of need (justification);
 - (b) time frame (quarter of year needed);
 - (c) availability of funds;
 - (d) bid specifications, for inclusion in the request-for-proposals, attached to the written request.
- 2.) Bid specifications must be clear, concise, and nonrestrictive. The specification process starts in the using department.

Purchasing will assure that the specifications that accompany the bid package are not restrictive.

Upon approval of the BOCC, the RFP will be legally advertised by Purchasing, per Section 307.87 of the Ohio Revised Code:

- 1.) Advertisements will be approved at the earliest BOCC Meeting;
- 2.) Upon approval of the advertisement, Purchasing will secure funds for a purchase order to cover costs of advertising;
- 3.) Notice shall be published once a week, for not less than two consecutive weeks, preceding the day of the opening of bids in a newspaper of general circulation within the county;
- 4.) Bid openings shall follow not less than eight (8) days after the second publishing of the advertisement.

After proposals have been received, opened, and publicly read, they will be returned to the requesting department to prepare a recommendation and bid evaluation.

The recommendation submitted to the BOCC must contain:

- 1.) A written letter to the BOCC indicating:
 - (a) name and address of lowest and best lessor;
 - (b) lessor vendor number;
 - (c) total cost of contract;
 - (d) account code;
 - (e) any other pertinent information.
- 2.) Tabulation of proposals (spreadsheet);
- 3.) Contract for the lease or rental signed by the lessor. If vendor is unable to supply contract, contact Purchasing for assistance.

Upon acceptance of the recommendation, the BOCC will process the contract as follows:

- 1.) The contract and supporting documentation are submitted to the Prosecutor's Office for approval as to form;
- 2.) The purchase order is prepared by Purchasing;
- 3.) The contract, purchase order, and supporting documentation are submitted to the Auditor's Office for certification of funds;
- 4.) The contract, purchase order, and supporting documentation are returned to the BOCC's Office to proceed to award the contract at the next regular BOCC meeting.

Upon approval of the contract at the BOCC meeting, the BOCC will formally award the contract by resolution.

After formal award of the contract, the vendor copy of the purchase order and the contract are sent to the successful vendor. Copies of the purchase order and contract with certification are sent to the requesting department, Auditor's Office, and Purchasing, and an original is kept on file in the office of Hamilton County Clerk of the Board.