

# Schenectady County Purchasing Policy

December 2023

**Adopted by Resolution 206-23 of the Schenectady County Legislature, December 12, 2023**

## **BACKGROUND:**

Schenectady County conducts its purchasing program in accordance with the laws, rules, and regulations of New York State government (NYS), the Schenectady County Charter, and the Schenectady County Administrative Code. In addition, Section 104-b of NYS General Municipal Law (GMU) requires local governments to adopt their own policies and procedures to address purchases that do not meet the statutory bid requirements.

This Purchasing Policy reflects the specific objectives and priorities of the County Legislature and includes directives and guidance to County departments in achieving these objectives.

## **OBJECTIVES:**

- (1) To acquire the highest quality materials, supplies, and services for County departments to use in fulfilling their responsibilities.
- (2) To ensure that these materials, supplies, and services are available in a timely manner.
- (3) To obtain the best price and value available to maximize the value of taxpayer resources.

## **PRINCIPLES/GOALS:**

- The County provides a purchasing program that safeguards taxpayer resources, ensures fairness and integrity, and guards against favoritism, fraud, and corruption.
- The County's purchasing process is open and transparent to potential vendors and the public; minority and women-owned businesses are encouraged to participate.
- The County's Purchasing Department and a designated Purchasing Agent provide expertise, information and assistance to County departments, vendors, and the public.
- To maximize cost savings, competitive processes are used to negotiate county-wide vendor contracts and existing government contracts, preferred sources, approved consortiums, and cooperative purchasing agreements are utilized.
- The County is proactive in protecting our environment by seeking and utilizing environmentally responsible products, vendors, processes, and transport.

## **COMPLIANCE, ETHICS, AND FRAUD PREVENTION:**

All County departments and their staff must comply with the County *Code of Ethics* and *Fraud, Waste and Abuse Prevention Policy* in procuring government goods and services. Proper internal controls should be implemented to prevent fraud, and conflicts of interest, both in fact and appearance, should be avoided.

Vendor contracts should include appropriate references to laws, regulations, policies, and reporting requirements, and all required certifications (e.g., non-collusion, divestment) should be attached to the contract document.

## DESIGNATED PERSONNEL:

The following individuals are primarily responsible for administering Schenectady County's Purchasing Program:

Thomas Bellick, *Purchasing Agent*

Margaret Aragosa, *Assistant Purchasing Agent*

Jaclyn Falotico, *Commissioner of Finance*

Christopher Gardner, *County Attorney*

Rory Fluman, *County Manager*

The Purchasing Agent is responsible for ensuring compliance with laws, rules, regulations, and policies.

Specific duties include:

- Administer the competitive bidding process.
- Solicit, document, and evaluate quotes/ proposals when competitive bids are not legally required.
- Prepare and transmit Purchase Orders for items requested by County departments.
- Negotiate county-wide contracts for goods and services routinely used by multiple departments.
- Maintain lists of government contracts, preferred sources, consortiums, and cooperative agreements.
- Provide purchasing information and assistance to departments, vendors, and the public.

Note that the Purchasing Agent does not handle transactions for the purchase and lease of real property.

## PURCHASE OF COMMODITIES, PUBLIC WORKS, AND OTHER SERVICES:

**Commodities** are materials, supplies, equipment, and other products or consumables. **Public Works** are building, or construction projects that meet the prevailing wage requirements of Article 8 of the NYS Labor Law. **Other Services** are those that do not fall under the definition of Public Works or Professional Services.

### Purchases Requiring Competitive Bids:

#### **Commodities and Services \$20,000 and above, and Public Works Contracts \$35,000 and above:**

The purchase of materials, supplies, equipment, or other services in aggregate\* of more than twenty thousand dollars per year, or public works contracts in aggregate\* of more than thirty-five thousand dollars per year, to an individual vendor must be competitively bid under NYS Municipal law. However, certain exceptions to competitive bidding are allowed; see *Attachment A* for a list and description of these exceptions.

Process: The Purchasing Agent works with the responsible department to develop project specification and requests for bids are advertised in the County's official newspaper and/or distributed online through a free, public forum. Vendor bids are received and opened after a minimum of five days after the bid publication. Note that Schenectady County Resolution 119-20 authorizes the acceptance of vendor bids and offers submitted electronically (this does not apply to Public Works contracts).

Bid results are reviewed by the Purchasing Agent and an award is made to the lowest responsible bidder or using the best value standard authorized by Schenectady County Local Law 1-13

**Public Works Construction Contracts exceeding \$200,000** may only be awarded to contractors and subcontractors that have approved apprenticeship programs as defined in Article 23 of New York State Labor Law.

**\*Aggregate Purchases:** Monetary thresholds cannot be avoided by splitting contracts into lesser agreements or a series of agreements. The requirements above apply to aggregate purchases from the same vendor, or of the same or similar type of commodity or service during a twelve-month period.

## **Purchases Below Competitive Bidding Threshold:**

Formal competitive bids are not legally required to purchase commodities or services under \$20,000, or to award Public Works contracts under \$35,000. However, the County procures all items and services using open and competitive processes whenever practicable.

### **Commodities and other Services:**

***Purchases less than \$2,000:*** Departments consult with the Purchasing Department and follow the procedures outlined in the Purchasing Manual.

***Purchases of \$2,000-\$5,000:*** Departments prepare and send a Requisition to the Purchasing Agent. A minimum of three documented verbal quotes must be obtained, and a Purchase Order will be issued to the lowest qualified vendor.

***Purchases of \$5,001-\$19,999:*** Departments prepare and send a Requisition to the Purchasing Agent. A minimum of three written quotes must be obtained, and a Purchase Order is issued to the lowest qualified vendor.

The County Manager or Purchasing Agent may authorize a department to order merchandise directly from vendors under existing municipal contracts, approved consortiums, or from NYS preferred vendors.

### **Public Works:**

***Purchases less than \$5,000:*** Departments consult with the Purchasing Department and follow the procedures outlined in the Purchasing Manual.

***Purchases of \$5,000-\$34,999:*** Departments prepare and send a Requisition to Purchasing Agent. A minimum of three written quotes must be obtained, and a Purchase Order is issued to the lowest qualified vendor.

**Public Posting in Lieu of Quotes:** If three verbal or written quotes cannot be obtained, the Purchasing Agent may post an online solicitation and select a quote from the lowest qualified vendor.

## **Additional Requirements and Considerations:**

**Energy/ Environmental:** Schenectady County Resolution 66-08 requires all County agencies and departments to purchase Energy Star-certified products when available. In addition, NYS law allows preferences for recycled products and environmentally sensitive cleaning and maintenance products.

**Equal Employment/Affirmative Action:** Contracts over \$200,000 must comply with the minority and women owned business participation levels specified in the *Schenectady County Equal Opportunity and Affirmation Action Plan* (June 2019) if other Federal or State funding EEO/AA requirements are not specified.

## **PROFESSIONAL SERVICES:**

Professional Services require specialized or technical skills, expertise or knowledge, the exercise of professional judgment, or a high degree of creativity. Article 5A, Section 104-B of NYS GMU states that “professional services must be procured in a manner that assures the prudent and economical use of public monies in the best interest of the taxpayers.” The selection method to be used may include, but is not limited to, request for proposals, request for qualifications, recruitment, or open acceptance of proposals. Professional services contracts awarded with State or Federal funds must comply with any additional laws or requirements specified.

Process: When Professional Services are required, the requesting department should consult with the Purchasing Agent, County Attorney, and Finance Commissioner to determine the best method for solicitation, evaluation, and selection of proposals. Once a proposal is selected, the County Attorney prepares a Professional Services Contract which must be approved and signed by the County Manager.

## **OTHER SERVICE AGREEMENTS:**

***Maintenance Agreements:*** Maintenance agreements for new or existing equipment are procured and administered by the Purchasing Agent.

***Information Technology Services and Software:*** Computer and other technology services and software licenses are procured by the Purchasing Agent, after review and consultation with the Department of Information Services.

***Other Equipment Leases/Rentals:*** Equipment leases and rental agreements are procured by the Purchasing Agent, in consultation with the Finance Department and the County Attorney.

***Specialized Services:*** Other services unique to individual departments are procured in consultation with the Purchasing Agent, Finance Commissioner, County Attorney, and County Manager.

## **PURCHASING PROCEDURES MANUAL:**

The County Purchasing Department maintains a detailed manual which includes specific instructions, processes, and procedures for departmental orders, receipts, and payment authorization.

## Sources and References:

New York State General Municipal Law:	Article 5A: § 103 and 104 (Procurement)
New York State Finance Law:	Article 11: § 162 (Preferred Sources) Article 11: § 163 (Services & Commodities)
New York State Labor Law:	Article 8 (Public Works) Article 23 (Apprenticeship Programs)
New York State Technology Law:	Article 3 (Electronic Bids)
Laws of Schenectady County:	Chapter 95: Ethics and Disclosure Law Local Law 1 of 2013: (Best Value Basis of Award) Resolution 119-20: (Electronic Bids)
Schenectady County Policies:	Fraud Waste and Abuse Prevention Policy Equal Opportunity and Affirmative Action Plan
Office of the New York State Comptroller:	<i>Seeking Competition in Procurement</i> (June 2016)

## ATTACHMENT A

### EXCEPTIONS TO COMPETITIVE BIDDING REQUIREMENTS

(Per New York State GMU Article 5A, Sections 103 and 104)

- (1) **Existing State, Municipal, and Federal Contracts:** Purchases of commodities and public works may be made under existing contracts with New York State (Office of General Services), NYS municipalities, and the Federal government where permitted. Departments should consult with the Purchasing Agent to determine the availability of existing State and municipal contracts.
  
- (2) **Consortiums and Cooperative Purchasing Contracts:** Some commodities can be ordered through established national and regional cooperative purchasing contracts such as:
  - Minnesota Multistate Contracting Alliance for Pharmacy (MMCAP)
  - U.S. Communities Government Purchasing Cooperative
  - NASCO Valvepoint
  - National Joint Powers Alliance (NJPA), or the HGAC Buy Cooperative Purchasing Program.

Departments should consult with the Purchasing Agent to determine the availability and process for utilizing cooperative purchase agreements.

- (3) **Emergency Procurement:** Emergency situations are defined as “a public emergency arising out of an accident or other unforeseen occurrence or condition whereby circumstances affecting public buildings, public property or the life, health, safety or property of the inhabitants of a political subdivision or district therein, require immediate action” In an emergency, the Purchasing Agent has the authority to make expenditures **below** the legal competitive bid thresholds without seeking quotes. A written description of the emergency must be provided, to document the expedited process. If the situation requires purchases or contracts **above** the legal bid threshold, the County Manager must authorize the expenditure by declaring the County emergency in writing.
  
- (4) **Sole Source Procurement:** A purchase may be exempt from competitive procurement if the Purchasing Agent makes a reasonable effort to determine that the item or service required is only available from one source. The Agent must document the reason(s) for sole source procurement. If the procurement is above the legal competitive bid threshold it must also be approved by the County Manager.
  
- (5) **Hospital Purchases:** Purchases of hospital supplies and services may be made without competitive bidding if made under joint contracts with other public or private hospitals or medical facilities. Per *OSC Opinion 89-2* the Glendale Nursing Home qualifies as a “municipal hospital”.
  
- (6) **Preferential Vendors:** Purchases from agencies for the disabled, agencies for the blind, and correctional facilities are exempt from competitive bidding. County departments are encouraged to purchase materials, supplies, and equipment from these entities whenever possible. More information about preferred sources can be found at <https://ogs.ny.gov/procurement/preferred-sources>.