

HENNEPIN COUNTY PURCHASING RULES

**Board Approval – August 2019
Resolution 19-0325 (including Callison amendment and Goettel Amendment)**

**HENNEPIN COUNTY PURCHASING RULES
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HENNEPIN COUNTY PURCHASING RULES

Section 1: Purpose

The purpose of these Rules is to establish Hennepin County policies necessary for the County to conduct its business for purchasing, acquiring or selling all commodities, equipment, property, and services, including personal, professional and human services. To that end, these policies will:

- A. Incorporate and comply with all applicable Minnesota Statutes and Hennepin County Board Resolutions;
- B. Assist in the efficient and effective acquisition of needed commodities and services;
- C. Facilitate purchases of the greatest value for the cost
- D. Facilitate the purchase of sustainable goods and services that otherwise meet price, performance, and availability requirements and advance County goals;
- E. Maximize the benefit to the County for the sale or disposal of all property;
- F. Provide guidance to departments and vendor community for performing purchasing-related tasks;
- G. Provide contract administration and management guidance to County managers and other County staff; and
- H. Authorize the County Administrator to annually update and publish the Purchasing Rules, incorporating changes from Board resolutions, Minnesota statutes, and purchasing best practices. Except, changes that are substantive, policy related, or that modify agreement signature authority shall receive the Board's consent prior to taking effect.

Purchasing procedures may be included in the Administrative Manual.

HENNEPIN COUNTY PURCHASING RULES

Section 2: Ethics

All persons authorized to make purchases on behalf of Hennepin County will uphold and comply with the following standards:

- A. Employees shall ensure that all purchases and sales comply with MN Statutes. Any purchase or sale not in compliance with law will be void and the director of the organization making the purchase or sale will be personally liable for the cost of the order and for the reasonable value of the materials or equipment sold. MN Stat. 383B.149
- B. Employees shall not take advantage of their positions as County employees for personal gain.
- C. Employees will represent the County's interests in all transactions and will maintain independence in all interactions with vendors.
- D. No County employee shall have a financial interest, direct or indirect, in any contract or purchase. MN Stat. 383B.151
- E. Employees will treat all vendors and potential vendors honestly, fairly and impartially, giving no one preferential treatment.
- F. No County employee shall directly or indirectly receive money or anything of value from vendors doing business with the County. Hennepin County Human Resources Rules Section 16.3(c).
- G. No County employee shall make payments or incur obligations in excess of appropriations or when sufficient moneys are not or will not be available. MN Stat. 383B.116, Subd. 3
- H. Employees will follow the Rules of Conduct as set forth in the County's Human Resources Rules, particularly with respect to the rules regarding outside employment.
- I. Employees will follow the County's policy on Theft, Embezzlement and Other Dishonest Acts as set forth in the County's Administrative Manual.

HENNEPIN COUNTY PURCHASING RULES

Section 3: Equal Opportunity, Affirmative Action, and Underutilized Business Inclusion

The County Board of Commissioners has established three key programs to enhance diversity in County contracting and directed these programs be administered by the Purchasing and Contract Services Department: .

Equal Employment Opportunity and Affirmative Action Program – a program to ensure non-discrimination and promote the employment of women and minorities on County construction and non-construction contracts;

Small Business Enterprise Program – a race- and gender-neutral program to address identified barriers to small business formation and participation within County purchasing activities; and

Small Minority and/or Women-Owned Business Enterprise Program – a program that supplements and enhances the Small Business Enterprise Program with narrowly-tailored race- and gender-conscious measures to redress the contracting disparities documented in the 2017-Minnesota Joint Disparity Study (Study), and as amended, as referenced in Resolution 18-0140R2.

Resolution 00-8-590R2 authorized the County Administrator to make programmatic changes that are in accord with Hennepin County policy as it pertains to the Purchasing Department and Targeted Contract Services Division and that any programmatic changes will be reported to the County Board on a quarterly basis.

A. Employment EEO/AA Program

The County and its contractors will maintain a contracting environment that is free from discrimination based on race, color, creed, religion, national origin, sex, age, disability, marital status, sexual orientation, and public assistance status. Resolutions 84-5-403, 86-12-879R1, 87-6-394B as amended, 98-5-274, and 00-8-590R2

For contracts exceeding \$100,000, County shall:

1. Promote Affirmative Action Programs to encourage companies to actively seek qualified women and minorities for their employment opportunities.
2. Monitor contractor performance to meet goals, demonstrate goal-oriented actions and assure contractor adherence to their Affirmative Action Plan commitments, or make good faith efforts to do so. However, contracts made pursuant to MN Stat 471.345 Subd.20 may promote Affirmative Action by reporting requirements established by County.

HENNEPIN COUNTY PURCHASING RULES

Section 3: Equal Opportunity, Affirmative Action, and Underutilized Business Inclusion

3. Encourage labor and industry to train and hire unemployed and underemployed Hennepin County residents, including graduates of local training programs and ex-offenders, to meet the increased demand for a skilled workforce, while developing the County's economic resources.
4. Ensure that all contractors comply with the Contractor Non-Discrimination Statute. MN Stat. 181.59.
5. Ensure that non-exempt contractors with non-construction contracts maintain a workforce certificate with the Minnesota Department of Human Rights (MDHR). Resolution 18-0140R2.

B. Small Business Enterprise Program

The County is committed to breaking down the barriers small businesses face in accessing and participating in County business opportunities.

To promote and maintain an open competitive business environment with a level playing field, the County:

1. Certifies small business enterprises (SBEs) in construction, non-construction and personal and professional services for participation in the SBE Program and conducts SBE vendor searches for inclusion in solicitations. The County will recognize Targeted Group Small Business firms certified by the State of Minnesota and firms certified as Disadvantaged Business Enterprises (DBE) pursuant to the federal DBE certification program.
2. Sets SBE utilization goals and determines exceptions on construction and non-construction contracts over \$100,000.
3. Monitors whether contractors and their subcontractors demonstrate a good faith effort meeting an SBE utilization goal.
4. Determines the necessity for small businesses to be certified in order to do business with the County.
5. May establish, through a Request for Qualification or other selection process, a list of SBE and/or Target Group Small Business firms that may be directly solicited for construction, commodities or services within the statutory procurement rules.

HENNEPIN COUNTY PURCHASING RULES

Section 3: Equal Opportunity, Affirmative Action, and Underutilized Business Inclusion

C. Small Minority and/or Women-Owned Business Enterprise Program

The County is committed to redressing the contracting disparities with businesses owned by specific minority groups (MBEs) and women (WBEs), (the “Underutilized Firms”) as documented in the 2017-Minnesota Joint Disparity Study (Study), and as amended, as referenced in Resolution 18-0140R2. Resolutions 98-4-273, 99-8-583 and 08-590R2.

To promote a level playing field for small minority- and women-owned firms and to redress the contracting disparities documented in the Study, the County:

1. Certifies small business enterprises (SBEs), including firms owned by specific minority groups (MBEs) and women (WBEs) and conducts vendor searches for such firms for inclusion in solicitations.
2. The County Administrator may supplement and enhance the SBE program with narrowly-tailored race and/or gender-conscious measures to address the disparities documented in the Study, including setting utilization goals for Underutilized firms in contracts, and monitoring whether contractors demonstrate a good faith effort to meet such goals.
3. Purchasing and Contract Services Department will implement specific recommendations of the Study to reduce contracting disparities, and with input from Departments, will develop department-level contract inclusion goals and measures to reduce the contracting disparities documented in the Study, including for architectural and engineering contracts.

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Section 4: County Board Contracting Authority

Except as otherwise delegated by these Rules or Board Resolution, the following sets forth purchasing related matters referred to the County Board for approval, ratification or information. This listing is not necessarily all-inclusive.

A. Approval

1. All contracts awarded to other than the lowest bidder meeting specifications (MN Stat. 383B.145, Subd. 8), and every grant and purchase of service contract for the purchase of community social services (MN Stat. 256.0112, Subd. 2) and all contracts awarded to businesses or social service organizations under the set-aside program (MN Stat. 383B.145, Subd. 5). Such contracts include those entered into for Hospital Shared Service Purchasing (MN Stat. 471.345, Subd. 10).
2. Road and Bridge, and Facility Construction Projects:
 - a. Schematic design and release of facility construction bid specifications:
 - 1) For new facility construction projects costing \$1,000,000 or more.
 - 2) For facility construction projects costing less than \$1,000,000 where there are major policy implications.
 - b. Contract awards:
 - 1) For facility construction projects (new construction, additions, and the acquisition of buildings and land).
 - 2) For facility remodeling/renovation/modification projects and facility asset preservation program projects costing \$500,000 or more or where there are major policy implications.
 - c. Road and bridge contract awards which require amendment(s) to approved project budgets resulting in a budget increase(s) or significantly affect the scope of the project.
 - 1) For Transportation Supplemental Capital Activities project contracts costing \$500,000 or more or where there are major policy implications.

HENNEPIN COUNTY PURCHASING RULES

Section 4: County Board Contracting Authority (contd)

- d. Any change order, contract amendment, or supplemental agreement which exceeds the approved project budget, or significantly affects the scope of a project.
3. Professional, personal, or human services contracts, including those contracts entered into through the State Cooperative Purchasing Venture, as follows:
 - a. contracts costing more than \$100,000; and
 - b. contracts or contract amendments where the not-to-exceed amount combined with the total expenditure under any and all existing contracts with the same Contractor during the 365 days preceding the start date of the new contract or amendment exceeds \$100,000.
4. Contracts for installment purchases, equipment/commodity leases, or lease purchases costing more than \$250,000 per annum.
5. Information Technology agreements exceeding \$500,000 per annum.
6. Transfer or sale of personal property, other than motor vehicles auctioned, where the estimated fair-market value of the property or sale proceeds exceeds the statutory bid limit.
7. Contracts for publication of official proceedings/matters. MN Stat. 375.12, MN Stat. 375.17, and MN Stat. 279.07-279.08.
8. Joint powers or cooperative purchasing agreements. MN Stat. 383B.143, Subd. 5 and 471.59
9. Except as expressly set forth herein, purchase, sale, lease or conveyance of real estate. MN Stat. 373.01
10. Lease of personal property to others. MN Stat. 373.01
11. Sole Source contracts that exceed \$250,000 per annum and that are not covered under Section 4(A)(3) above.

Facility construction project bid awards will be submitted for immediate approval at the first Board meeting following bid opening, whenever possible.

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Section 4: County Board Contracting Authority (contd)

B. Ratification

1. Emergency purchases exceeding statutory bid limit. MN Stat. 383B.145, Subd. 2
2. Payments made to vendors prior to County Board approval in order for the County to avail itself of vendor discounts. MN Stat. 383B.147 and Resolution 81-1-61

C. Information

1. Delegation of authority to responsible officials to perform the purchasing powers and duties delegated to the County Administrator by the County Board. Resolution 80-1-2
2. Contracts for professional, personal, or human services not exceeding \$100,000, which were approved and signed by the County Administrator (or designee(s)). Resolution 02-500
3. Dispatch of county equipment and personnel to combat the danger of fires, hazard, casualty, or other similar occurrences taking place within or outside Hennepin County. Resolution 85-6-386R2
4. Temporary permits, licenses, leases, lease amendments, rights of entry and related property agreements that do not exceed \$15,000 per twelve-month period. Resolution 97-4-238

HENNEPIN COUNTY PURCHASING RULES

Section 5: Delegation of County Board Authority

A. County Administrator

1. County Board Resolution 80-1-2 delegated authority to the County Administrator to:
 - a. Implement the following purchasing functions:
 - 1) Purchasing and contracting for all goods, materials, supplies, equipment and contracted services, as provided in MN Stat. 383B.143.
 - 2) Preparing, reviewing, modifying, and approving all plans and specifications for goods, materials, supplies, equipment and contracted services.
 - 3) Transferring any goods, materials, supplies, or equipment to or between departments, boards, commissions and agencies.
 - 4) Selling or otherwise disposing of goods, materials, supplies, and equipment that are unusable or no longer required.
 - 5) Periodically reviewing and requiring department directors to supply necessary data concerning inventories and surpluses, and monitoring compliance by department directors with purchasing laws, rules, regulations and procedures.
 - b. Enter into price agreements and authorize directors of departments to make purchases within the scope of such agreements.
 - c. Make purchases in the event of emergencies when circumstances prevent the Board from acting.
 - d. Designate and delegate to a Purchasing Manager certain purchasing tasks empowered to the County Administrator under law or assigned to the Administrator by delegation of the Board.
 - e. Delegate to other persons those functions assigned to the County Administrator as Welfare Director.
2. In addition, Resolution 80-1-2 directed the County Administrator to:
 - a. Promulgate rules governing small purchases by departments.

HENNEPIN COUNTY PURCHASING RULES

Section 5: Delegation of County Board Authority (contd)

A. County Administrator (contd)

- b. Establish rules and regulations defining the criteria and conditions for the prequalification of bidders.
 - c. Promulgate rules concerning notice requirements for the solicitation of bids.
 - d. Adopt, promulgate, amend, as necessary, and file with the County Board rules and regulations governing all of the subject matter contained in MN Stat. 383B.148.
3. Pursuant to MN Stat. 383B.15, Subd. 2., the County Administrator may waive a bond or bonds, at discretion, on deciding that the bond or bonds are not reasonable or necessary for the protection of the County.
4. Resolutions 80-1-2 and 86-11-870 delegate authority to the County Administrator to:
 - a. Enter into non-disclosure agreements with potential customers to protect the County's interests in allowing for the use, testing and evaluation of computer software developed by the County.
 - b. Enter into non-disclosure agreements with municipalities in Hennepin County for the use of computer software developed by the County.
 - c. Enter into non-disclosure agreements with third parties related to the sharing, exchange, or handling of data or information as required to conduct County business.
5. Resolutions 80-1-2, 98-4-233, 99-182, and 05-333 delegate the following authority to the County Administrator:
 - a. For road and bridge; solid waste; or construction, modification, maintenance, operation, and repair of County facilities and space used by the County:

HENNEPIN COUNTY PURCHASING RULES

Section 5: Delegation of County Board Authority (contd)

A. County Administrator (contd)

- 1) Approve and sign facility remodeling/renovation/modification project contracts and facility asset preservation program contracts costing less than \$500,000 and where there are no major policy implications, and any change order, contract amendment, or supplemental agreement thereto. If the change order, contract amendment, or supplemental agreement increases the contract amount to \$500,000 or more or if it raises a major policy implication, the contract shall be referred to the Board for informational purposes.
- 2) For facility remodeling/renovation/modification project contracts and facility asset preservation program contracts costing \$500,000 or more or where there are major policy implications and for facility construction project contracts approve and sign any change order, contract amendment, or supplemental agreement which does not exceed the approved project budget and does not significantly affect the scope of the project.
- 3) Road and Bridge
 - a) Approve and sign contracts, contract amendments, change orders, supplemental agreements and increases to a contract sum that are within an approved project budget and do not significantly affect the scope of the project. Amendments to professional services agreements must not exceed 20% of the original contract award.
 - b) Approve and sign Transportation Supplemental Capital Activities project contracts costing less than \$500,000 and where there are no major policy implications, and any change order, contract amendment, or supplemental agreement thereto. If the change order, contract amendment, or supplemental agreement increases the contract amount to \$500,000 or more or if it raises a major policy implication, the contract shall be referred to the Board for informational purposes. Amendments to professional services agreements must not exceed 20% of the original contract award.

HENNEPIN COUNTY PURCHASING RULES

Section 5: Delegation of County Board Authority (contd)

A. County Administrator (contd)

- c) For Transportation Supplemental Capital Activities project contracts costing \$500,000 or more or where there are major policy implications approve and sign any change order, contract amendment, or supplemental agreement which does not exceed the approved project budget and does not significantly affect the scope of the project. Amendments to professional services agreements must not exceed 20% of the original contract award
 - d) Advise and make contract award recommendations to the State Commissioner of Transportation for certain road and bridge projects financed either in whole or in part with federal funds, pursuant to MN Stat. 161.36 and P.W. 66-40-86.
 - e) Under the Federal Delegation of Authority program for certain federally funded projects, evaluate bids received, award contract to the lowest responsible bidder, issue contract payments to the contractor as the work proceeds. Resolution 00-12-931, Mn/DOT Agreement No. 81115, and P.W. 59-40-00
 - f) Approve partial payment in excess of 95% of contract work completed on a County road or County state-aid highway. MN Stat. 162.04
- b. For personal, professional, or human services:
- 1) Approve and sign contracts for personal, professional, or human services, as follows: contracts or contract amendments where the not-to-exceed amount combined with the total expenditure under any and all existing contracts with the same Contractor during the 365 days preceding the start date of the new contract or amendment costs \$100,000 or less. Approve and sign amendments to board approved contracts for personal, professional, or human services to extend the term of agreements without increasing the contract amount.
 - 2) Adjust human services contract amounts, adjust rates, add or delete service locations, or make minor service changes that are within an approved budget for a category of human service

HENNEPIN COUNTY PURCHASING RULES

Section 5: Delegation of County Board Authority (contd)

A. County Administrator (contd)

(as denoted in County Board budget resolutions) and do not significantly affect the scope of the contract or category of service provision and directly benefit clients.

- c. Approve and sign installment purchases, equipment/commodity leases, or lease purchases not exceeding \$250,000 per annum.
 - d. Approve and effect the transfer or sale of personal property where the estimated fair-market value of the property or sale proceeds does not exceed the statutory bid limit and motor vehicle auction sales regardless of the amount of the sales.
6. Resolution 85-6-386R2 authorized the County Administrator to rent equipment to combat the danger of fire, hazard, casualty or other similar occurrences taking place within or occurring outside the territorial limits of Hennepin County.
 7. Resolution 87-5-336 authorized the County Administrator to accept right-of-way quit claim deeds on behalf of the County.
 8. Resolution 97-4-238 authorized the County Administrator to approve and sign temporary permits, licenses, leases, lease amendments, rights of entry, and related property agreements that do not exceed \$15,000 per twelve month period, provided that it is hereby required that the agreements listed in the quarterly report as set forth in said resolution be ratified and approved by the Board.
 9. Resolution 01-4-263 directed the County Administrator to establish minimum recycled content standards for the purchase of designed products, incorporating State and Federal guidelines and minimum content standards. The County Administrator shall update procedures as necessary to maximize the County's procurement of environmentally preferable products.
 10. Resolution 02-7-471 authorized the County Administrator to permit current and new County Cooperative Purchasing Program members to access certain County professional service agreements; to negotiate new agreements with existing cooperative members, and to negotiate new agreements with other Minnesota governmental units.
 11. Pursuant to MN Stat. 383B.142, Subd. 2 and Resolution 80-1-2 the County Administrator directed the Deputy County Administrator, Assistant County Administrators, Purchasing Manager, and Central Services Manager to perform certain responsibilities assigned to the Administrator

HENNEPIN COUNTY PURCHASING RULES

Section 5: Delegation of County Board Authority (contd)

A. County Administrator (contd)

by MN Stat. 383B.141 to 383B.151 and the resolution. Responsibilities of these positions are set forth in the following paragraphs.

12. Resolution 07-4-154R1 authorized the County Administrator to approve amendments or revisions to the purchasing credit card contract and program policies and procedures.
13. The Board hereby acknowledges that the County Administrator may change or modify the delegation of responsibilities within his/her authority provided that any such changes in delegation shall be incorporated into these Rules as an addendum.
14. In the absence of both the County Administrator and Deputy Administrator, the Administrator may delegate an Assistant Administrator or other person to perform those tasks delegated to the Administrator as listed in A above.
15. The County Administrator or his/her designee may sign certifications required pursuant to the application for and the acceptance of grants.
16. The County Administrator or his/her designee may terminate contracts for non-performance or for others reasons when it is in the best interests of the County.
17. The County Administrator may approve and sign Information Technology agreements not exceeding \$500,000 per annum. The County Administrator may delegate authority to enter software agreements to the end user when the end user is required to "click through" or otherwise accept the terms of an electronic agreement.
18. The County Administrator may approve and sign third party payable, reimbursable and receivable agreements related to the implementation and ongoing operation of the 800 MHz band, including but not limited to antenna agreements and site use/lease agreements. County and third-parties shall follow applicable policy regarding application and use of small-cell transmitters.

B. Deputy County Administrator

In the absence of the County Administrator or at the Administrator's direction, the Deputy County Administrator is responsible for performing those tasks delegated to the Administrator as listed in A. above.

HENNEPIN COUNTY PURCHASING RULES

Section 5: Delegation of County Board Authority (contd)

C. Deputy/Assistant County Administrators

1. The Deputy/Assistant County Administrators are responsible for performing, or causing to be performed, purchasing responsibilities including those related to professional, personal, or human services by the departments under their direction.
 - a. Purchasing responsibilities for personal, professional, or human services are as follows:
 - 1) Preparing or causing to be prepared, reviewing, modifying and approving plans and specifications for contracted services.
 - 2) Opening and evaluating proposals and recommending to the County Board approval of a contract exceeding \$100,000 with the provider most qualified to deliver the services.
 - 3) Approving and signing contracts not exceeding the amount delegated pursuant to the County Administrator's Addendum to Purchasing Rules (current amount is \$25,000).
 - 4) Determining the necessity and amount of any performance bond or other bonds.
 - 5) Obtaining the certificate of insurance when required by contract documents.
 - b. General purchasing responsibilities include:
 - 1) Monitoring departmental compliance with purchasing laws, rules, regulations and procedures.
 - 2) Monitoring and evaluating the performance of contractors.
 - 3) Authorizing emergency purchases necessitated by breakage, damage, or decay or when the public interest would suffer by delay, and submitting such purchases exceeding statutory bid limit to the County Board for ratification.
 - 4) Assuring that payment requests are processed in accordance with approved County procedures. (Hennepin

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Section 5: Delegation of County Board Authority (contd)

County Administrative Policy "Payment Authorization Practices")

- 5) Assuring that contractors are in compliance with Hennepin County's Affirmative Action requirements.
 - c. Deputy/Assistant County Administrators may designate other persons in departments under their direction to perform the purchasing responsibilities in C.1 above with the exception of approving and signing contracts and authorizing emergency purchases.
2. In addition to responsibilities in C.1 above, the Deputy/Assistant County Administrator – Health and Human Services is also responsible for those functions assigned to the County Administrator as Welfare Director and for performing or causing to be performed purchasing responsibilities related to the administration of Health and Human Services programs.

Additional human services-related responsibilities include:

For human services that directly benefit clients, approving adjustments to contract amounts, rate adjustments, addition or deletion of service locations, and minor service changes that are within an approved budget for a category of human service (as denoted in County Board budget resolutions) and do not significantly affect the contract scope or category of service provision.

3. In addition to responsibilities in C.1. above, the Deputy/Assistant County Administrator - Public Works is also responsible for performing or causing to be performed purchasing responsibilities related to the administration of solid waste and road and bridge projects.
 - a. Additional construction-related responsibilities for road and bridge projects include:

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Section 5: Delegation of County Board Authority (contd)

- 1) Approving and signing contracts, contract amendments, change orders, supplemental agreements, professional services contract amendments, and increases to a contract sum that are within an approved project budget and do not significantly affect the scope of the project. Amendments to professional services agreements must not exceed 20% of the original contract award.
- 2) Advising and making contract award recommendations to the Commissioner of Transportation for certain road and bridge projects financed either in whole or in part with federal funds, pursuant to MN Stat. 161.36 and P.W. 66-40-86.
- 3) Under the Federal Delegation of Authority program for certain federally funded projects, evaluating bids received, awarding the contract to the lowest responsible bidder, and issuing contract payments to the contractor as the work proceeds. Resolution 00-12-931, Mn/DOT Agreement No. 81115, and P.W. 59-40-00
- 4) Approving partial payment in excess of 95% of contract work completed on a County road or County state-aid highway. MN Stat. 162.04. If the Deputy/Assistant County Administrator - Public Works is also the County Engineer, then this authority is suspended and the County Administrator is the approving authority.
- 5) Preparing or causing to be prepared, reviewing, modifying and approving plans and specifications for contracted services including commodities related thereto.
- 6) Advertising for bids through Purchasing.
- 7) Recommending to the Purchasing Manager the amount necessary for a bid bond or bid deposit when not required by law and the amount thereof.
- 8) Evaluating bids, and recommending to the Purchasing Manager the lowest responsible bidder who should be awarded the contract except in those instances where

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Section 5: Delegation of County Board Authority (contd)

awarding of the contract is the responsibility of the County Board.

- 9) Recommending to the Purchasing Manager the necessity and amount of any performance and/or payment bonds.
 - 10) Obtaining the certificate of insurance when required by contract documents.
 - 11) Assisting the Purchasing and Contract Services Division in obtaining an affirmative action plan if a plan is required.
- b. Determining whether or not to advertise for bids for solid waste facilities pursuant to Minnesota Statute 473.811, Subd. 4b.
- c. The Deputy/Assistant County Administrator - Public Works may designate other persons within Public Works departments to perform the purchasing responsibilities in C.3 above with the exception of approving and signing contracts, contract amendments, change orders over \$15,000, supplemental agreements over \$15,000, and increases to a contract sum; and authorizing emergency purchases as long as said change orders or supplemental agreements are within approved scope and budget.

HENNEPIN COUNTY PURCHASING RULES

Section 5: Delegation of County Board Authority (contd)

D. Chief Information Officer

The Office of the Chief Information Officer is responsible for performing or causing to be performed purchasing responsibilities related to the administration of information technology. These additional information technology-related responsibilities to ensure purchases are consistent with County and departmental strategic plans include:

- 1) Review and approval of all contracts that require County Board approval with information technology persons or professionals prior to their approval by County Administration and/or the County Board.
- 2) The Office of the Chief Information Officer is responsible for reviewing and approving all Information Technology contracts. Departments pursuing and/or analyzing Information Technology shall ensure that the Office of the Chief Information Officer is duly consulted to ensure that externally developed information technologies/systems are acceptable prior to their approval by the Purchasing Manager, County Administration, and/or the County Board.
- 3) Review and approval of all specifications to purchase externally-developed information or communication technologies/systems.
- 4) Deciding whether any County Department may temporarily deploy, test and use no-cost Information Technology in a non-production environment without solicitation (may be referred to herein as a “proof of concept”). Proof of concept engagements shall otherwise be treated in the same manner as other Information Technology engagements with respect to the necessity of agreements and approval and signature authority for said agreements. During or following a proof of concept, if County elects to license or purchase Information Technology that involves specifications and/or requirements that are substantially similar to the proof of concept Information Technology, said license/purchase shall, despite the proof of concept, be treated in the same manner as other Information Technology engagements with respect to the solicitations, selections, necessity of agreement and signature authority for said agreements.

E. Purchasing Manager

The Purchasing Manager's responsibilities include:

1. Purchasing and contracting for all goods, materials, supplies, equipment and related services, and facility repair and maintenance, and performing

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Section 5: Delegation of County Board Authority (contd)

all necessary and lawful purchasing related tasks to accomplish the same, including approving and signing contracts and related contract documents.

Approve and sign SBE program related construction contracts, which are less than the applicable statutory bid limit.

2. Preparing or causing to be prepared, reviewing, modifying and approving plans and specifications, drafted by the department or drafted in collaboration between Purchasing and the department, for facility construction projects, facility asset preservation program projects, goods, materials, supplies, equipment and contracted services, and for the sale of real estate.
3. Advertising for bids.
4. Opening and evaluating bids except where evaluation of bids is performed by other departments; and awarding the bid to the lowest responsible bidder or bidders (consistent with Section 6(B)(10)) meeting the specifications except in those instances where awarding of the bid is the responsibility of the Board or others.
5. Monitoring compliance by departments with purchasing laws, rules, regulations and procedures including but not limited to ensuring that the Chief Information Officer approves proposed Information Technology procurements, except where monitoring has been delegated to Deputy/Assistant County Administrators.
6. Monitoring and evaluating the performance of contractors and if necessary, canceling contracts.
7. Referring matters which are not routine or have policy implication or require special consideration to County Administration.
8. Transferring goods, materials, supplies, or equipment to or between departments, commissions and agencies; and selling or otherwise disposing of goods, materials, supplies, and equipment which are unusable or no longer required, exclusive of the transfer or sale of easily moved personal property (office furnishings and equipment, other equipment, and commodities) handled by the Central Services Manager.
9. Signing purchase orders, equipment maintenance agreements, and bills of sale for personal property except in those instances where responsibility/ authority belongs to the Board or others.

HENNEPIN COUNTY PURCHASING RULES

Section 5: Delegation of County Board Authority (contd)

10. Signing installment purchases, equipment/commodity leases, or lease purchases not exceeding \$250,000 per annum.
11. Approve and sign Information Technology agreements not exceeding \$500,000 per annum. The Purchasing Manager may delegate authority to enter software agreements to the end user when the end user is required to “click through” or otherwise accept the terms of an electronic agreement.
12. Authorizing exceptions to the County's standard contract language, including but not limited to the County's terms and conditions, with concurrence of the County Attorney's Office.
13. Renewing annual cooperative purchasing agreement with the State of Minnesota for its Cooperative Purchasing Venture. Approve, modify, sign, and renew any vendor/contractor agreement that is available to the County under the U.S. General Services Administration (GSA) or pursuant to a County Board approved joint powers or cooperative purchasing agreement. MN. Stat. 383B.143, Subd. 5.
14. Authorizing emergency purchases necessitated by breakage, damage, or decay or when the public interest would suffer by delay and submitting such purchases exceeding statutory bid limit to the County Board for ratification.
15. Facilitating or assisting in the following areas:
 - a. Determining the necessity for a bid bond or bid deposit when not required by law and the amount thereof.
 - b. Determining the necessity and amount of any performance or other required bonds.
 - c. Obtaining the certificate of insurance when required by contract documents.
 - d. Determining whether any product, service or vendor is sole source; approve and sign sole source contracts not exceeding \$250,000 per annum, except as otherwise delegated under Section 6(A)(4) below.
16. Implement SBE/EEO/AA and Diversity Policy compliance.

HENNEPIN COUNTY PURCHASING RULES

Section 5: Delegation of County Board Authority (contd)

17. In addition to other delegation of authority herein, the Purchasing Manager may designate other persons under his/her direction, to perform any specified tasks delegated to the Purchasing Manager in E. above.
18. The Purchasing Manager is authorized to develop procedures to use:
 - a. Reverse Auctions to purchase supplies, materials, and equipment using an electronic purchasing process in which vendors compete to provide the supplies, materials, or equipment at the lowest selling price in an open and interactive environment. MN Stat. 471.345, Subd. 16.
 - b. An electronic selling process in which purchasers compete to purchase surplus supplies, materials, or equipment which is surplus, obsolete, or unused, at the highest purchase price in an open and interactive environment. MN Stat. 471.345, Subd. 17.
 - c. Electronic bidding whereby vendors may submit bids, quotations, and proposals electronically in a form and manner required by the County; the County may allow bid, performance, or payment bonds, or other security to be furnished electronically. MN Stat. 471.345, Subd. 18.
19. The Purchasing Manager is authorized to award competitive sales of Hennepin County's service for recycling electronic devices. Resolution 07-11-591; and
20. The Purchasing Manager will establish guidelines for departments to determine the best solicitation process for Personal Services and Professional Services (e.g. Request for Proposals and Direct Negotiations). Solicitations for Human Services will be determined by the Deputy/Assistant County Administrator – Health and Human Services.
21. The Purchasing Manager shall develop and implement a vendor appeals process.

F. Central Services Manager

The Central Services Manager is responsible for:

1. Transferring surplus personal property (goods, materials, supplies and equipment) to or between departments, boards, commissions and agencies.

HENNEPIN COUNTY PURCHASING RULES

Section 5: Delegation of County Board Authority (contd)

2. Selling or otherwise disposing of easily moved surplus personal property which is unusable or no longer required except where solicitation of sealed bids is required, except where personal property is sold or transferred to a governmental unit and exceeds statutory bid limit, and except where the Purchasing Manager specifically designates commodities where it would be more advantageous to the County to be handled through Purchasing.
3. Annually requiring department directors to supply necessary data concerning surplus personal property and compiling a report for County Administration.

HENNEPIN COUNTY PURCHASING RULES

Section 6: Purchase of Commodities, Biddable Services, and Construction

Commodities, biddable services, and construction projects must be competitively bid in accordance with Minnesota Statutes unless specifically exempted from the bidding requirement.

All commodities, biddable services, and construction projects will be competitively bid unless Purchasing determines that sufficient justification exists to not bid.

Purchases estimated to cost more than the statutory bid limit will be purchased through a sealed-bid process and are formal bids.

Purchases equal to or less than the statutory bid limit or equipment rentals \$60,000 or less will be purchased through a bid process when practical, as determined by Purchasing, and are informal bids.

A. Purchases Exempted from Bidding Requirement

1. Small Purchases as defined by these Rules.
2. Emergency Purchases.
3. Sole Source Purchases.
4. Personal, Professional or Human Services. Notwithstanding this exemption service contracts shall be signed pursuant to these rules and/or other Board delegation of contracting authority.
5. Certain Set-Aside Programs. MN Stat. 383B.145, Subd. 5
6. Solid Waste Purchases. MN Stat. 473.811, Subd. 4B
7. Other bidding exemptions as defined by applicable law, including but not limited to MN Stat. 383B.217, and/or Resolutions 04-436, 04-126, as modified by 04-126R1, and 04-268, as updated by 08-021R1

B. Purchases Over Statutory Bid Limit - Formal Bids

1. General

These purchases will be competitively bid through a sealed-bid process that is publicly advertised. The bid will be based on a specification of the commodity, biddable service, or construction project and other terms and conditions that the County deems necessary. As an alternative to the sealed-bid process, the County may award a contract for construction, alteration, repair, or maintenance work to the contractor offering the best value under a request for proposals pursuant to MN Stat. 471.345, Subd 3a, as well as the price and performance criteria established

HENNEPIN COUNTY PURCHASING RULES

Section 6: Purchase of Commodities, Biddable Services, and Construction (contd)

B. Purchases Over Statutory Bid Limit - Formal Bids (contd)

by applicable law including but not limited to MN Stat. Chapter 16C. . Contracts awarded pursuant to the sealed-bid process or by best value procurement shall be approved according to these Rules.

2. Specifications

a. General Requirements. Specifications:

- 1) Will describe the commodity, biddable service, or construction project to be purchased that will meet the needs of the County.
- 2) Will describe the products, materials, equipment or services that establish a standard of required function, dimension, appearance and quality that must be met.
- 3) Shall be prepared to permit free and full competition as is reasonably possible and shall not be prepared to exclude all but one type or kind. A violation of this provision for supplies or equipment which could be purchased competitively is a gross misdemeanor. MN Stat. 471.35 and .37
- 4) Should be clear, definite and concise to reasonably enable prospective bidders to understand the basis on which to submit proposals.
- 5) Should not call for features or levels of quality inappropriate for the intended use. Evaluation of essential features or levels of quality should consider overall economic advantage to the County.
- 6) Should describe the performance requirements, formulation, design and such other factors that may bear upon the County's determination that the Bidder is responsible.

b. Restrictive Specifications. Some latitude is permissible in specifying features of certain items. While it is not necessary to prepare specifications in a manner that every known manufacturer could competitively bid, the County should be able to demonstrate a reasonable basis for any restrictive specification.

c. Brand Name or Equal. "Brand Name" includes identification of products by manufacturer, make and model name or model number. Any item identified by "brand name or equal" is intended to be descriptive and not

HENNEPIN COUNTY PURCHASING RULES

Section 6: Purchase of Commodities, Biddable Services, and Construction (contd)

B. Purchases Over Statutory Bid Limit – Formal Bids (contd)

restrictive. Whenever an item, article or material is defined by describing proprietary product or by using the name of a manufacturer, the term “or equal” if not inserted shall be implied unless specifically stated to the contrary.

- d. **Prevailing Wage Rates.** For contracts estimated to exceed the statutory bid limit, except contracts made pursuant to Minn. Stat. 471.345, Sub. 20, if a minimum standard for wages and benefits with respect to the employees of a contractor is deemed appropriate to the County’s interest by the County Board, or is required for compliance with State of Minnesota or federal law, the specifications shall include such prevailing wage rates. Contracts made pursuant to Minn. Stat. 471.345, Sub. 20 shall be only for residential real estate projects completed by small businesses; specifications shall include a provision that workers shall be paid a minimum wage of \$15.00 per hour, and the wage will be reviewed periodically and adjusted accordingly. Resolutions 87-7-603, 91-9-810, 97-7-442.
 - e. **Vendor Involvement.** Direct vendor involvement in writing specifications at the department level is discouraged.
 - f. **Responsibility for Specifications.** Departments must utilize the Purchasing office for assistance in the development of specifications except for construction contracts that are the responsibility of the Transportation and Facility Services Departments.
 - g. **Affirmative Action/Small Business Enterprise Programs**
 - 1) All commodities, biddable services, and construction contracts over \$100,000 must comply with the County’s Affirmative Action Program requirements.
 - 2) All commodities, biddable services, and construction contracts over \$100,000 must comply with the Small Business Enterprise Program requirements.
3. **Bid Documents**
- a. **General.** Bid documents constitute the complete set of County requirements for the purchase. Bid documents will specify those parameters which will be considered in determining lowest responsible bidder meeting specifications.
 - b. **Copies of Bid Documents**

HENNEPIN COUNTY PURCHASING RULES

Section 6: Purchase of Commodities, Biddable Services, and Construction (contd)

B. Purchases Over Statutory Bid Limit – Formal Bids (contd)

- 1) Bidders may obtain complete sets of bid documents from the issuing office designated in the advertisement or invitation for bid, in the number of copies and for the deposit sum, if any, stated in the advertisement. The deposit will be refunded under conditions determined by the County.
 - 2) The County makes copies of bid documents available only for the purpose of obtaining bids and does not confer a license or grant for any other use.
4. Advertisement/Public Notice
- a. Formal bids must be advertised or solicited by public notice except as stated in applicable law, including but not limited to in MN Stat. 383B.145, Subd. 2, 3, 4, and 5. (See also MN Stat. 373.01).
 - b. Advertisement or public notice for formal bids must be published in accordance with the following schedules:
 - 1) Commodities, biddable services, and construction other than road and bridge projects. Advertisement or public notice must be published once a week for at least two (2) consecutive weeks. The last publication must be at least seven (7) calendar days before the date and time for bid opening. MN Stat. 383b.145(6).
 - 2) Road and Bridge Construction Projects. Advertisements must be published once a week for at least three (3) consecutive weeks. The last publication must be at least ten (10) calendar days before the date and time for bid opening. MN Stat. 160.17
 - 3) Real Estate Sales. Advertisements for sealed bids or proposals must be published once a week for at least three (3) consecutive weeks, and once in a newspaper of general circulation in the area where the property is located. The last publication must be at least seven (7) calendar days before the date and time for bid opening or proposal due date. The notice shall state the time and place of considering the proposals, contain a legal description of any real estate, and a brief description of any personal property. MN Stat. 373.01

HENNEPIN COUNTY PURCHASING RULES

Section 6: Purchase of Commodities, Biddable Services, and Construction (contd)

B. Purchases Over Statutory Bid Limit – Formal Bids (contd)

- c. Advertisements or public notices must specify the place where plans, specifications and bid forms can be obtained, and the time and place for opening.
 - d. Advertisements or public notices shall be published as appropriate and in compliance with Minnesota Statutes and Hennepin County Board Resolutions.
 - e. At the discretion of the Purchasing Manager, in a readvertisement or new public notice for bids, the bids may be opened no less than three (3) calendar days after the last publication.
5. Bidding Procedure
- a. General Procedure
 - 1) Bids must be submitted in conformance with the bid documents. Bidders shall use complete sets of bid documents in preparing bids; the County will not assume any responsibility for errors or misinterpretations resulting from the use of incomplete sets of bid documents.
 - 2) Bids must be submitted in an envelope that is sealed, or as is required by the bid documents.
 - 3) Bids must be delivered to the designated place listed in the advertisement prior to the time for bid opening. Bidders assume full responsibility for timely delivery.
 - 4) Bidders must not change the bid form nor make additional stipulations on the bid form which are prohibited by or inconsistent with the provisions of the bid documents.
 - 5) The bid must be signed by the person or persons legally authorized to bind the bidder to a contract.
 - 6) Noncollusion. Bidders will comply with all federal and state laws regarding noncollusion.
 - 7) Bid Security. The County may require a bid bond or bid deposit.

HENNEPIN COUNTY PURCHASING RULES

Section 6: Purchase of Commodities, Biddable Services, and Construction (contd)

B. Purchases Over Statutory Bid Limit – Formal Bids (contd)

- a) A required bid bond or bid deposit must be submitted with the bid and in the amount specified. Failure to submit the bid bond or bid deposit will be cause for rejection of the bid.
 - b) Bid bonds or bid deposits will be returned under conditions determined by the County. Upon release, the bid security will be returned to the bidders except that bid bonds will not be returned unless their return is specifically requested.
 - c) If a low bidder is allowed to withdraw a bid due to claim of error or if the low bidder fails to so execute or furnish any required document, the County reserves the right to retain the bid security
- b. Interpretation or Correction of Bid Documents/Addenda
- 1) Bidders shall promptly notify Purchasing of any ambiguity, inconsistency or error they find in the bid documents.
 - 2) Bidders requiring clarification or interpretation of the bid documents may be required to make a written request which shall reach the issuing office at least seven (7) calendar days prior to the date for bid opening.
 - 3) Any interpretation, correction or change of the bid documents will be made by addendum.
 - a) Addenda will be mailed or delivered to all that are known by the issuing office to have received a complete set of bid documents.
 - b) Copies of addenda will be made available for inspection in those offices stated in the advertisement or invitation for bid where the bid documents are on file for that purpose.
 - c) No addenda will be issued later than four (4) calendar days prior to the date for bid opening except an addendum withdrawing the request for bids or one which includes postponement of the date for bid opening.

HENNEPIN COUNTY PURCHASING RULES

Section 6: Purchase of Commodities, Biddable Services, and Construction (contd)

B. Purchases Over Statutory Bid Limit – Formal Bids (contd)

- d) Bidders are responsible for determining prior to submitting bids that they have received all addenda issued, and shall acknowledge the receipt of same in the bid.

Interpretations, corrections or changes of the bid documents made in any other manner than by addenda will not be binding and bidders shall not rely upon such interpretations, corrections and changes.

c. Substitutions on Brand Name or Equal or Other Specifications

- 1) Substitutions for commodities contemplated by the specifications may be considered prior to bid award.
- 2) The bidder must provide all information requested by the County to evaluate the proposed substitution. The burden of proof of the merit of the proposed substitute is upon the proposer.
- 3) Construction Project Substitutions. No substitution will be considered prior to bid opening unless written request for approval has been received by the office issuing the bid documents at least ten (10) calendar days or such other number of days as specified, prior to the date for bid opening.
 - a) The bidder must provide all information requested by the County or its consultant to evaluate the proposed substitution. The burden of proof of the merits of the proposed substitution is on the proposer.
 - b) The County may require the name of the material, product or equipment proposed, samples of the proposed substitution, a complete description of the proposed substitution including drawings, cuts, performance data, test data, changes in other materials, products, equipment, or work that would result from acceptance of the substitute or any other information deemed necessary for the evaluation.
 - c) If the County approves a substitution prior to bid opening, such approval will be set forth in an addendum to the specification. Bidders shall not rely upon approvals made in any other manner.

HENNEPIN COUNTY PURCHASING RULES

Section 6: Purchase of Commodities, Biddable Services, and Construction (contd)

B. Purchases Over Statutory Bid Limit – Formal Bids (contd)

- 4) All substitutions must be approved by the County and the County's decision to approve or disapprove of a substitution is final.
- 5) The County will determine if an addendum to the bid document is necessary for bids other than construction when it has approved a substitution.
- 6) No substitutions will be considered after the contract award unless specifically provided for in the contract documents.

d. Responsive Bids Required

- 1) Bidders must submit bids that conform in all material ways to the requirements of the bid documents.
- 2) The bidder must provide sufficient information for the County to determine whether the product offered meets the requirements of the bid documents. The County is not responsible for locating or securing such information.
- 3) The bidder shall also submit a list of any variations from the specifications. When variations are not cited, the bidder shall meet all of the requirements of the specifications.
- 4) If the bidder proposes to modify a product to make it conform to the requirements of the specifications, the bidder shall provide a clear description of such proposed modifications for prior approval when required or with the bid.
- 5) Modifications proposed after the bid opening to make a product conform to the requirements of the specifications will not be considered.

6. Opening and Tabulation of Bids

Sealed bids must be publicly opened at the time and in the manner specified in the advertisement for bids, read aloud by the responsible Purchasing official and tabulated as soon as practical. The tabulation must be signed and a copy retained for public inspection. MN Stat. 383.145, Subd. 7

HENNEPIN COUNTY PURCHASING RULES

Section 6: Purchase of Commodities, Biddable Services, and Construction (contd)

B. Purchases Over Statutory Bid Limit – Formal Bids (contd)

7. Reservation to Reject Bids and Rebid

The County has the right to reject bids. The County may reject:

- a. All bids when deemed to be in the County's best interest.
- b. An otherwise lowest bid when it is determined that another bid is more advantageous to the County. MN Stat. 383B.145 Subd. 8.
- c. A bid that is incomplete, irregular, conditional or qualified or otherwise not in compliance with the bid documents in all material respects or reasonable interpretation thereof.
- d. A bid from a debarred or disqualified vendor/bidder.

The County may advertise or readvertise for new bids when it is in the County's best interest.

8. Modifications, Mistakes, Corrections or Withdrawals of Bids

a. General

- 1) Any decision involving a bid modification, mistake, bid correction or bid withdrawal is a decision for the Purchasing Manager.
- 2) The Purchasing office shall maintain sufficient records of evidence to establish the basis for allowing bid modifications, corrections or withdrawals.

b. Modifications or Withdrawals Before Bid Opening

A bidder may modify or withdraw a bid by written request received by the Purchasing office prior to the time designated for bid opening.

- 1) An individual legally authorized to bind the bidder to a contract must sign the request.
- 2) The original bid shall not be physically returned to the bidder until after the bid opening.
- 3) Bid security, if required, shall be in an amount sufficient for the bid as modified or resubmitted.

HENNEPIN COUNTY PURCHASING RULES

Section 6: Purchase of Commodities, Biddable Services, and Construction (contd)

B. Purchases Over Statutory Bid Limit – Formal Bids (contd)

c. Modifications or Withdrawals after Bid Opening

A bid may not be modified, withdrawn or cancelled by the bidder during the stipulated time period following the time and date designated for the bid opening, unless approved by the County, and each bidder so agrees in submitting a bid.

Nothing in these Rules prohibits the County from accepting a voluntary reduction in price from a bidder awarded the contract provided that such reduction is not conditioned on, or does not result in, the modification or deletion of any conditions contained in the contract requirements.

9. Determination that Low Bidder is Responsible

Prior to award of the contract, if requested by the County, the apparent low bidder shall furnish current data relevant to determining bidder's responsibility as requested by County including but not limited to the bidder's financial resources, management, and organization within a time period determined by the County. The County shall have the right to request such data and take such steps as it deems necessary to determine the ability of the bidder to perform the work and the bidder shall furnish all such information and data for this purpose as the County may request. The County reserves the right to reject the bid where the available evidence or information does not satisfy the County that the bidder is fully qualified to carry out properly the terms of the contract or if the information is not provided within the requested time period. The County may require that the expertise of the bidder in the particular field of endeavor be demonstrated and documented to the County's satisfaction.

10. Bid Award and Bid Consideration

When the County awards a contract, it must ordinarily award the contract to the lowest responsible bidder meeting the specifications and all requirements of the bid documents. The County may make multiple contract awards under a bid, so long as the awards go to the lowest responsible bidders meeting the specifications and all requirements of the bid documents, and making multiple contract awards is in the County's best interest.

- a. Bid award considerations include, but are not necessarily limited to factors such as:

HENNEPIN COUNTY PURCHASING RULES

Section 6: Purchase of Commodities, Biddable Services, and Construction (contd)

B. Purchases Over Statutory Bid Limit – Formal Bids (contd)

- 1) Adherence to all conditions and requirements of the bid specifications.
 - 2) Total bid price including any discounts.
 - 3) Experience of the bidder and key employees, including any information gathered from references.
 - 4) Evaluation of the bidder's ability to perform as specified.
 - 5) Financial ability of the bidder to successfully meet the requirements of the contract.
 - 6) Prior knowledge of and experience with the bidder in terms of past performance.
 - 7) Compatibility with existing commodities or systems.
 - 8) Environmentally Preferable Attributes.
 - a) Contains recycled content in the commodity or packaging,
 - b) Low or no hazardous or toxic content of commodity or packaging,
 - c) Minimizes or prevents waste generated by use and disposal of commodity or packaging,
 - d) Provides a preferable end of life disposal alternative,
 - e) Contains little or no volatile organic compounds,
 - f) Conserves energy or water,
 - g) Uses best available technology (BAT) and best environmental alternative (BEA) as approved in Resolution 92-6-489R2
- b. When the County deems that a bid other than the lowest bid meeting specifications is more advantageous, the reasons therefore must be stated and submitted by the department making the purchase to the

HENNEPIN COUNTY PURCHASING RULES

Section 6: Purchase of Commodities, Biddable Services, and Construction (contd)

B. Purchases Over Statutory Bid Limit – Formal Bids (contd)

County Board for action along with any documentation the Board may require in support of the recommendation. The documentation must be available for public inspection. MN Stat. 383B.145, Subd. 8

- c. The successful bidder will be notified of the bid award.

- d. Construction Bid Awards
 - 1) Road and Bridge Construction. The County Board must approve all contract awards which exceed the project budget or significantly affect the project scope.
 - 2) Facility Construction. The County Board must approve all contract awards unless it delegated approval by specific Board action or herein.

11. Low-Tied Bids

The Purchasing Manager will resolve low-tied bids in a manner which, in the Manager's judgment, is in the County's best interest.

12. Post-Award Considerations

a. Performance Bonds

- 1) Prior to contract execution, the successful bidder must provide a performance bond conditioned as required by law unless the County waives the bond. MN Stat. 383B.15
- 2) For construction contracts, the performance bond must be in an amount not less than the contract amount (MN Stat. 574.26). On all other contracts the performance bond must be in the amount specified by the County.
- 3) The bond must be written on the form furnished by the County, or on a form approved by the Purchasing Manager. The bond must be approved by the County Treasurer or designee.

HENNEPIN COUNTY PURCHASING RULES

Section 6: Purchase of Commodities, Biddable Services, and Construction (contd)

B. Purchases Over Statutory Bid Limit – Formal Bids (contd)

b. Payment Bonds

- 1) Prior to contract execution, the successful bidder on construction contracts must provide a payment bond in an amount not less than the amount of the contract unless the County waives the bond. MN Stat. 574.26
- 2) The County may require payments bonds on any construction-related service contracts.
- 3) The bond must be written on the form furnished by the County, or on a form approved by the Purchasing Manager. The bond must be approved by the County Treasurer or designee.

Note: Pursuant to MN Stat. 383B.15, Subd. 2., the County Administrator may waive a bond or bonds, at discretion, on deciding that the bond or bonds are not reasonable or necessary for the protection of the County.

c. Insurance

- 1) The successful bidder must obtain insurance coverage in types and amounts required by the County unless the County waives the insurance.
- 2) Prior to commencing work the successful bidder must provide a certificate of insurance that documents that the contractor has complied with the County's insurance requirements.
- 3) If the certificate form contains a certificate holder notification provision, the certificate of insurance shall state that the insurer will endeavor to provide not less than 30 days written notice to the County prior to cancellation of any described policies.

13. Cancellation of Bid Award

Failure on the part of the successful bidder, within the time allowed, to sign the contract, furnish an acceptable performance bond(s), furnish required insurance, or comply with any other requirement imposed by the bid documents prior to execution of the contract shall be considered just cause for cancellation of the award and forfeiture of the bid security Contract award may then be made to the next lowest responsive and responsible bidder(s),

HENNEPIN COUNTY PURCHASING RULES

Section 6: Purchase of Commodities, Biddable Services, and Construction (contd)

B. Purchases Over Statutory Bid Limit – Formal Bids (contd)

the invitation for bids readvertised, or such other action taken as deemed appropriate by the County.

C. Purchases Under the Statutory Bid Limit - Informal Bids

1. If the amount of the contract is estimated to be greater than \$25,000 but not more than the statutory bid limit, the contract may be made either upon sealed bids or by direct negotiation, by obtaining at least two quotations when possible, and without advertising for bids or otherwise complying with the requirements of competitive bidding. Negotiation is permissible when obtaining quotations. Quotations must be kept on file for at least one year after their receipt. MN Stat. 471.345, Subd. 4. Alternatively, the County may award a contract for construction, alteration, repair, or maintenance of County facilities to the contractor offering the best value under a request for proposals. MN Stat. 471.345, Subd 4a.
2. If the amount of the contract is estimated to be greater than the County's small purchase limit but not more than \$25,000 then the contract may be made by obtaining at least two quotations so far as practicable. If it is not practicable to obtain quotations, the purchase can be made in the open market. Quotations must be kept on file for at least one year after their receipt. Alternatively, the County may award a contract for construction, alteration, repair, or maintenance of County facilities to the vendor or contractor offering the best value under a request for proposals. MN Stat. 471.345, Subd 5.
3. If the amount of a contract for the rental of equipment is estimated to be \$60,000 or less, the contract may be made by direct negotiation by obtaining two or more quotations for the rental when possible and without advertising for bids or otherwise complying with the requirements of competitive bidding. All quotations shall be kept on file for a period of at least one year after their receipt. MN Stat. 471.345, Subd. 5a

D. Solid Waste Facilities

Notwithstanding any other law, the County may contract for the acquisition, construction, improvement, maintenance or operation of solid waste facilities or property or property rights for solid waste facilities by any means available and in the manner determined by the County Board, with or without advertisement for bids. MN Stat. 473.811, Subd. 4b

E. Sole Source

HENNEPIN COUNTY PURCHASING RULES

Section 6: Purchase of Commodities, Biddable Services, and Construction (contd)

1. When a copyright, patent or exclusive franchise exists and purchases can be made only at a standard, fixed or uniform price and no advantage can be secured by advertisement and competitive bidding because of the noncompetitive nature of the item to be purchased, bidding is not required. MN Stat. 383B.145, Subd. 3
2. The Purchasing Manager will decide whether a purchase meets the requirement to be sole source.
3. The decision to make a sole source purchase must be documented in writing.

F. Set-Aside Program

To support businesses and social services organizations which have a majority of employees who would be eligible for public assistance or who would require rehabilitative services in the absence of their employment, the County Board may elect to use a negotiated price or bid contract procedure under a set-aside program following the conditions set forth in MN Stat. 383B.145, Subd. 5 or pursuant to MN Stat. 471.345, Subd. 8 (Procurement from Economically Disadvantaged Persons). County Departments shall when reasonable and appropriate attempt to identify vendors eligible for a set-aside contract and include such vendors on a bid list or recommend the vendor to the County Board for a negotiated set-aside contract.

G. Contract Form and Term

1. The contract will be prepared by the County on form(s) established by the County.
2. A contract original term may not exceed seven (7) years. MN Stat. 383B.143, Subd. 2 and 3
3. A contract may be extended for the number of times deemed in the County's best interest.
4. The Purchasing Manager will extend a contract only after receiving a recommendation from the operating department director(s) or designee.

H. Debarment/Disqualification of Vendors/Bidders

1. The County reserves the right to debar vendors, as determined by the County Administrator.

HENNEPIN COUNTY PURCHASING RULES

Section 6: Purchase of Commodities, Biddable Services, and Construction (contd)

2. Further, it is the policy of the County to not do business with vendors who are debarred by the State of Minnesota or Federal government. MN Stat. 161.315, Subd. 3

I. Contract Cancellation

The County may cancel any contract because of default or poor performance in meeting the contract requirements or for any other conditions specified in the contract.

J. Prequalification of Vendors/Bidders or Commodities/Services

1. To minimize problems such as poor performance or the delivery of inferior commodities or services, the County may prequalify vendors/bidders and commodities and services to ensure their reliability and capability.
2. In consultation with the County Attorney's Office, the County will conduct any prequalification process in writing and each prospective vendor/bidder must submit all information requested by the County in order to become prequalified.
3. It is the County's responsibility to make the prequalification decision. The County will document the reasons for its decisions, and each applicant will receive written notification of the decision and reasons therefore.
4. Vendors/bidders that are not prequalified are not precluded from bidding, as they may become qualified subsequent to the establishment of the list of prequalified bidders.

K. Small Purchases

Notwithstanding any requirement in these Rules, department directors or their designees may purchase a Commodity (not a service) in the open market when the aggregate purchase price does not exceed \$5,000 and a contract with the vendor does not exist. If federal funds are used, applicable federal procurement rules must be followed.

1. This policy must not be circumvented by purchasing a group of identical or similar items each costing \$5,000 or less but exceeding \$5,000 in aggregate.
2. The \$5,000 limit is by Commodity; however if multiple departments are purchasing the identical or similar Commodity and the aggregate spend exceeds \$5,000, the Purchasing Manager may require that an appropriate

HENNEPIN COUNTY PURCHASING RULES

Section 6: Purchase of Commodities, Biddable Services, and Construction (contd)

K. Small Purchases (contd)

- procurement method be utilized to obtain competitive pricing and a vendor contract.
3. A department director or designee may not authorize an open market purchase of a Commodity if a contract with a vendor exists. The Commodity must be purchased from the contracted vendor.
 - a. It is the responsibility of the departments to determine if a contract exists and whether the \$5,000 limit for a particular Commodity has been reached.
 - b. An exception to using an existing contract because of special requirements may be granted by the Purchasing Manager or his/her designee.
 4. Prior to implementation of this small purchase policy, department directors shall establish written procedures, subject to approval by the Purchasing Manager, for implementing and controlling this small purchase policy, including the requirement that adequate records are maintained by the department to document the propriety of the purchase.
 5. County Departments may use a Purchasing Credit Card (p-card) for certain small purchases as authorized by Resolution 07-4-154R1.

HENNEPIN COUNTY PURCHASING RULES

Section 7: Purchase of Personal, Professional and Human Services

The County will consider all factors that any reasonable purchaser would use in soliciting and selecting the greatest value for cost that will achieve the desired outcomes in purchasing personal, professional, and human services. The method of vendor solicitation, selection, and contract negotiation that will reasonably consider the maximum number of appropriate service providers and proposals will be used. Vendor selection will be on the basis of predetermined criteria by knowledgeable individuals. The County Attorney's Office should be consulted in the development and execution of these contracts. Some methods to assist in vendor selection are:

- Request for Proposal
- Request for Information
- Solicitation of Interest
- Request for Assistance
- Direct Negotiations

Human Services means those services purchased by the Hennepin County Health and Human Services that benefit Hennepin County Health and Human Services clients who are served by all service areas under the direction of the Deputy/Assistant County Administrator for Health and Human Services. These services also include those in the County's Children and Community Social Services Plan (MN Stat. 256M.01 to 256M.80) and in the County's Minnesota Family Investment Program Consolidated Fund Plan (MN Stat. 256.01).

All personal, professional and human services contracts, including State of Minnesota professional services contracts, costing more than \$100,000 must be approved by the County Board.

A. Description of Services

Departments are responsible for the description of services for non-biddable services. The description will clearly communicate requirements and desired outcomes for the service to be purchased.

B. Contract Form and Term

1. Written contracts are required except where state statute or rule explicitly establishes alternative methods of purchase.
2. The contract will be prepared by the County on a form established by the County.
3. A purchase contract original term may not exceed seven (7) years.
4. A contract may be extended or renewed for the number of times deemed in the County's best interest. The County Attorney's Office must be consulted at

HENNEPIN COUNTY PURCHASING RULES

Section 7: Purchase of Personal, Professional and Human Services (contd)

B. Contract Form and Term (contd)

each extension or renewal to determine if contract language requires modification.

C. Department Director Responsibility

Department Directors will develop procedures to ensure that these policies are followed in their departments. Such procedures need to assure documentation demonstrating compliance with the above policies is retained.

D. Chief Information Officer Responsibility

The Office of the Chief Information Officer is responsible for review and approval of all contracts that require County Board approval with information technology persons and professionals prior to the contract being submitted to County Administration or the County Board for approval.

E. Affirmative Action/Small Business Enterprise Programs

1. All personal, professional and human services contracts over \$100,000 must comply with the County's Affirmative Action Program requirements.
2. All personal and professional service contracts over \$100,000 must comply with the Small Business Enterprise Program requirements.

F. In Health and Human Services, procedures need to provide the following:

1. Methods for monitoring contract performance,
2. Methods for monitoring unit prices and vendor margins, as appropriate,
3. Separation of service placement authority from contract management and/or rate setting and claim payment responsibilities, and
4. Process for the original approving authority to approve or ratify, as appropriate, changes in contract terms, scope, rates, and not-to-exceed amounts except as otherwise delegated.

G. State, Government, and Cooperative Purchasing Contracts

Departments may use personal and professional service contracts available through the State of Minnesota Cooperative Purchasing Venture. Use of these contracts requires the same approvals and follows the same policies and procedures as any other personal or professional service contract. (Resolution 98-11-755R1)

HENNEPIN COUNTY PURCHASING RULES

Section 7: Purchase of Personal, Professional and Human Services (contd)

G. State Contracts (contd)

1. Departments will prepare a separate agreement with the contractor that clearly specifies the work to be accomplished for the County, the contract amount and term, contract manager, and incorporates the State of Minnesota contract, prior to using the state contract.
2. Departments must have the County Attorney's Office review these contracts.
3. Departments must have the Chief Information Officer review and approve use of State Information Technology agreements.

HENNEPIN COUNTY PURCHASING RULES

Section 8: Contract Administration

A. General

1. All county purchases require a contract to be in place prior to the purchase being authorized, ordered and paid, unless the purchase is specifically exempted from the contract requirement.
2. Department Directors will develop procedures to ensure that these policies are followed in their departments.
3. All contracts will name a specific individual or position as responsible for managing the contract to ensure that contractors comply with all contract terms.
 - a. The contract manager may be involved in any contract negotiations.
 - b. All contract negotiations will be reduced to writing and become part of the contract document.
4. Contract Amount. The contract amount should be set at the amount expected to cover all purchases (except for those contracts where no NTEs are set). Fiscal staff should be consulted to help ensure that financial matters are properly reflected in the final agreement.
5. Contract Usage
 - a. For Personal, Professional, or Human Services contracts, normally, only the department which originates a contract may use that contract.
 - b. Other departments wishing to use a Personal, Professional, or Human Services contract must obtain written approval from the originating department's contract manager or department director prior to using the contract.
6. Contract Changes. The original approving authority must approve or ratify all changes to the contract terms, except as otherwise delegated.
7. Requisition/Purchase Order Process. All purchases should follow the requisition approval process outlined in the Hennepin County accounting manual, unless initiated by a purchasing card (p-card) or authorized as a direct pay transaction in accordance with the accounting manual.
8. The County shall make reasonable efforts to avoid, mitigate, or neutralize an organizational conflict of interest by a vendor in competitive procurements. To avoid an organizational conflict of interest by a vendor, the County may utilize

HENNEPIN COUNTY PURCHASING RULES

Section 8: Contract Administration (contd)

methods including but not limited to disqualifying a vendor from eligibility for a contract award or canceling the contract if the conflict is discovered after a contract has been issued. To mitigate or neutralize an organizational conflict of interest by a vendor, the County may use methods including but not limited to revising the scope of work to be conducted, allowing vendors to propose the exclusion of task areas that create a conflict, or providing information to all vendors to assure that all facts are known to all vendors.

9. Notwithstanding anything in these Rules to the contrary, the County may engage in electronic procurement, including accepting electronic signatures on bids, quotes, contracts, and contract related documents. In accordance with applicable law, any County contract, including but not limited to those contracts processed through the Enterprise Contracting, may be electronically signed. For clarification and not limitation, a paper and ink signature on a contract may be converted into an electronic format, then electronically signed.

B. Commodity or Biddable Service Contracts

1. The Purchasing Office is responsible for approving which departments may use bid contracts.
2. For all bid contracts the Department Director or designee will be the contract manager.
3. The department that orders and receives the commodity or service is responsible for insuring that the specifications and contract terms are met.
4. Quality and performance testing, verification of quantities, inspection for damage, identification of any deviations from the specifications are the responsibilities of the using departments.
5. Any deviations from the specifications or performance requirements will be documented by the County department and promptly reported to the Purchasing office.
6. The Purchasing Manager is responsible for resolving any contract disputes with the vendor on commodity or biddable service contracts.

HENNEPIN COUNTY PURCHASING RULES

Section 8: Contract Administration (contd)

C. Construction Contracts

The Facility Services Department is responsible for administering facility construction or modification contracts and the Transportation Department is responsible for administering road and bridge construction contracts.

D. Personal, Professional and Human Services Contracts

1. The using department is responsible for contract administration.

2. Contract Language

All contracts will contain the language recommended by the County Attorney's Office/Administrative Manual (usually contained in the most recently updated Contract Form 101) or so modified in consultation with the County Attorney's Office and contain the following, as appropriate:

- a. Scope of Work
- b. Contract Amount. Human Services contracts that are not cost-based, and where the department's budget is monitored on service authorizations, are not required to contain a contract amount.
- c. Contract Manager. This individual must assure that the contract terms are followed, deliverables received and payments properly processed.
- d. Payment Basis and Methods
- e. Definition of Costs. The contract, as appropriate, must specify the allowable costs, and must ensure that the same cost item is not billed more than once.
- f. Indemnification
- g. Insurance
- h. Default/Cancellation
- i. Independent Contractor
- j. Ownership of Materials
- k. Contract Modification Procedures

HENNEPIN COUNTY PURCHASING RULES

Section 8: Contract Administration (contd)

- I. Contract Term
 - m. Data Privacy
 - n. Access to Records
- E. Payments
1. Payments for commodities and services must be processed in accordance with the applicable policies and procedures in the Administrative Manual ("Payment Authorization Practices") and the Accounting Manual.
 2. Invoices must be paid promptly and according to the terms of the contract. If no contract terms apply, payment must be made within thirty-five (35) days from receipt of the commodities or completion of services or receipt of the invoice, whichever is later, unless the County in good faith disputes the obligation. MN Stat. 471.425
 3. Payments will be authorized when the commodities received and/or services rendered to the County have been satisfactory. Payments must be documented, authorized, and consistent with County business practices.
 4. A contractor or subcontractor who knowingly presents, or causes to be presented, to the County a false or fraudulent claim for payment or approval of payment violates MN Stat. 15C False Claims Against the State.
 5. Payments will not normally be made in advance of receipt and acceptance of goods or services. Advance payments will be made only when specified in state statute or rule or when required by the terms of a contract approved by the County Board or other designated person. Partial payments after receipt and acceptance of part of an order may be allowed.
 6. Payments must conform to the prices stated in the bidder's proposal or agreed to in the contract.

HENNEPIN COUNTY PURCHASING RULES

Section 9: Cooperative Purchasing Programs

Cooperative Purchasing Programs provide opportunities to maximize purchasing power by combining with other entities to achieve joint contracts for commodities, equipment and services. Hennepin County will participate in cooperative purchasing programs to the maximum extent possible and compatible with County Board policies.

- A. All joint powers agreements, including hospital shared services purchasing, shall be approved by the County Board. MN Stat. 383B.143, Subd. 5; 471.345, Subd. 10; and 471.59.
- B. The County Administrator, on behalf of the County Board, is authorized to negotiate new cooperative purchasing agreements with other states, educational institutions, or public or private organizations for the purpose of accessing goods, commodities or service agreements contingent upon County Board approval.
- C. All cooperative purchasing agreements will be administered by Purchasing. The Purchasing Manager, in consultation with the County Administrator, may extend or renew any cooperative purchasing agreement.
- D. Resolution 02-7-471 authorized the County Administrator to permit current and new County Cooperative Purchasing Program members to access certain County professional service agreements; to negotiate new agreements with existing cooperative members, and to negotiate new agreements with other Minnesota governmental units. This resolution also authorized the County Board Chair to sign new agreements.
- E. The County's Prevailing Wage Rules and Policies shall apply to applicable State Cooperative Venture Agreements.
- F. Departments may use contracts available through the State of Minnesota Cooperative Purchasing Venture, board approved cooperatives, allowable General Services Administration ("GSA") schedules, or the Minnesota Metropolitan County Cooperative if the Purchasing Manager has determined that (i) the vendor's pricing is fair and reasonable; (ii) the contract complies with applicable laws and regulations; and (iii) the contract was established through a competitive solicitation process. The foregoing applies whether the purchase is made directly from the proprietary vendor or from a reseller duly authorized to provide the services on behalf of the proprietary vendor.

HENNEPIN COUNTY PURCHASING RULES

Section 10: Transfer or Sale of Property

A. Sale of Personal Property

1. Sales estimated to exceed the statutory bid limit in MN Stat 373.01 will be conducted by sealed bid. 383B.148, Subd. (e)
 - a. Solicitation of sealed bids will be publicly advertised in a manner and for a time period expected to result in the best return for the County, but in any case for not less than two (2) consecutive weeks.
 - b. Bid Deposit

The County may require a bid deposit be submitted with the bid.
 - c. Bid Award
 - 1) Sales will be awarded to the highest responsible bidder; however, the County reserves the right to reject all bids if deemed to be in the County's best interest.
 - 2) Any sale for more than the statutory bid limit must be submitted to the County Board for approval except for motor vehicle sales at public auction.
 - d. Award Cancellation. For any sealed bid where the successful bidder fails to pay for the property within the time period specified in the bid documents, the award may be cancelled and the item sold to the next highest responsible bidder. Any bid deposit from a bidder who fails to claim the awarded property may be retained by the County not as a penalty but in liquidation of certain damages.
2. Sales Estimated to be Under the Statutory Bid Limit
 - a. Sales estimated to be less than the statutory bid limit will be conducted by soliciting sealed bids or by obtaining two or more quotations when practical. Negotiation is permissible when obtaining quotations. Quotations must be kept on file for at least one year.
 - b. The decision to solicit sealed bids or quotations will be made by the Purchasing Manager.
3. Public Auction. A public auction publicly advertised may substitute for a sealed-bid sale of personal property.

HENNEPIN COUNTY PURCHASING RULES

Section 10: Transfer or Sale of Property (contd)

A. Sale of Personal Property (contd)

4. Transfer or sale of personal property to any unit of government may be made without regard to the uniform municipal contracting law. MN Stat. 383B.145, Subd. 1 and 9

5. Prohibition Against Purchase by Employees

County employees are prohibited from purchasing surplus personal property unless, after reasonable public notice, the purchase is at a public auction or by sealed bid if the employee is the highest responsible bidder and was not directly involved in the auction or sealed-bid process. MN Stat. 15.054

6. Sales Contrary to Law

If any property is sold contrary to the provisions of law, the sale shall be void, and the director of the department, board, commission, or agency shall be personally liable for the reasonable value of materials or equipment sold. MN Stat. 383B.149

B. Sale of Real Property

1. Sales of surplus real property will be conducted in accordance with Minnesota Statute 373.01, or other applicable law.

2. For real property, advertisements for sealed bids or proposals must be published once a week for at least three (3) consecutive weeks, and once in a newspaper of general circulation in the area where the property is located. The last publication must be at least seven (7) calendar days before the date and time for bid opening. The notice shall state the time and place for considering proposals, contain a legal description of any real estate, and a brief description of any personal property. MN Stat. 373.01.

3. Bid Deposit/Earnest Money

The County may require a bid deposit and/or earnest money be submitted with the bid or proposals.

4. Bid Awards

- a. The County Board must approve all sales or conveyances of real property.

HENNEPIN COUNTY PURCHASING RULES

Section 10: Transfer or Sale of Property (contd)

B. Sale of Real Property (contd)

- b. Sales of real property will normally be awarded to the highest responsible bidder; however, the County Board may reject all bids and complete the sale of the real property in the manner deemed to be in the County's interest. MN Stat. 373.01 Subd. 1(b)
5. Conveyance or sale of real property to any unit of government may be made without regard to other statutory provisions. MN Stat. 465.035; 471.64, Subd. 1.

HENNEPIN COUNTY PURCHASING RULES

Section 11: Definitions

The following defined terms may or may not be capitalized throughout the document:

1. **Addenda:** Written or graphic instruments issued by the County prior to the time of bid opening which modify or interpret the bid documents by additions, deletions, clarifications or corrections.
2. **Agreement:** The terms "agreement" and "contract" are considered synonymous throughout these Rules, and, as applicable, include any amendments thereto.
3. **Alternate Bid (or Alternate):** An amount stated in the bid to be added to or deducted from the amount of the base bid if the corresponding change in the commodities, services, or work as described in the bid documents is accepted; or, a substitute bid permitted by the specifications where different commodities, services, or work are offered, and the bid amount replaces the bid for the original item(s).
4. **Approval:** The process of County Board or other authorized County person's consent to an action prior to its execution.
5. **Approved Project Budget (See Budget.)**
6. **Award:** The acceptance of a bid or proposal resulting in a contract with a bidder. Strictly speaking the proper term is "contract award"; however, the term "bid award" is often used in referring to such a contract award.
7. **Base Bid:** The sum stated in the bid for which the bidder offers to provide the commodities, services, or work described in the bid documents as the base, to which commodities, services, or work may be added or deleted for sums stated in alternate bids.
8. **Best Value:** Minnesota purchasing laws permit Best Value procurement as an alternative to a traditional Bid procurement. Best value is a procurement method that considers the specifications in the request for proposals, performance criteria, and price in the evaluation and selection process.
9. **Bid:** A complete and properly signed proposal to provide the commodities, services, or work or designated portion thereof for the sums stated therein, submitted in accordance with the bid documents in response to an Invitation for Bids or Request for Quotation.
10. **Bid Deposit:** A certified or cashier's check furnished by a bidder guaranteeing that the bidder will not withdraw the bid for a specified period of time, will furnish bonds

HENNEPIN COUNTY PURCHASING RULES

Section 11: Definitions (contd)

or other documents, as required, and will accept a contract, if awarded, or forfeit the deposit. The bid deposit is in lieu of a bid bond.

11. Bid Documents: The specifications, contract terms and conditions, advertisement or Invitation for Bids, instructions to bidders, bid form(s), other forms, proposed contract forms including all addenda, issued prior to bid opening.
12. Biddable Service: A service which can be specified in sufficient detail and clarity that all bidders may precisely calculate the costs for the service and where low bidder meeting specifications can be the basis for contract award, or where a service is required by law to be bid.
13. Bidder: One who submits a proposal in response to an Invitation for Bids or Request for Quotation.
14. Bond
 - a. Bid Bond: An insurance agreement, accompanied by a monetary commitment, by which a third party accepts liability and guarantees that the bidder will not withdraw the bid for a specified period of time, the bidder will furnish bonds or other documents as required, and if the contract is awarded to the bonded bidder, the bidder will accept the contract as bid, or else the third party will pay a specific amount to the County.
 - b. Payment Bond: An insurance agreement which assures payment, as required by law, to all persons supplying labor or materials for the completion of work under a contract.
 - c. Performance Bond: An insurance agreement executed by a successful bidder subsequent to contract award, to protect the County from loss due to the bidder's failure to complete the contract as agreed; secures the fulfillment of all contract requirements.
15. Budget
 - a. Approved Project Budget: That sum approved by the County Board, or other authorized official, either as a part of the Capital Improvement Program or a department's operating budget.
 - b. Capital Budget: The County Board approved financial plan for the first year of the five-year Capital Improvement Program for capital projects that include, but are not limited to, facility construction, facility modification, leasehold improvements, road/bridge construction or improvement, land/building acquisition as well as building or system improvements such as the 800 MHz Trunked Radio System.

HENNEPIN COUNTY PURCHASING RULES

Section 11: Definitions (contd)

- c. Operating Budget: The financial plan for the fiscal year which authorizes proposed personnel complements, expenditures and the revenues to finance them.
- 16. Buyer: A worker in the Purchasing Office who is appointed to purchase a specific range of goods or services on a routine basis, usually under the supervision of the Purchasing Manager directly or through subordinate manager.
- 17. Capital Improvement Program: A five-year plan for proposed capital improvements, the first year of which is formally adopted as the Capital Budget.
- 18. Capital Project: A facility construction or modification project or a road and bridge project approved by the County Board as part of the Capital Improvement Program.
- 19. Certificate of Insurance: A document providing evidence that certain types of insurance coverages and limits have been purchased by the party required to furnish the certificate.
- 20. Change Order: A written change to the contract signed by the contractor, the County and, where applicable, the consultant; issued after execution of the contract authorizing a change in the work or quantities of pay items or an adjustment in the contract sum or the contract time.
- 21. Commodity: An article of trade, a movable article of value, something that is bought or sold, or any movable or tangible thing that is produced or used as the subject of barter or sale. Goods, materials, supplies and equipment are commodities.
- 22. Contract: A verbal or written agreement between authorized parties, with binding legal and moral force, usually exchanging goods or services for money or other consideration. Use of the term contract herein may, given its use and context, include amendments to the contract.
- 23. Contract Amendment: Any written alteration in specifications, delivery point, rate of delivery, period of performance, price, quantity or other provision of the contract, accomplished by mutual action of the parties to the contract prior to contract termination.
- 24. Contract Documents: As related to the competitive bid process, consist of the Specifications/Invitation for Bids, instructions to bidders, contractor's bid form with required and/or County accepted forms or attachments, if any, executed contract, conditions of the contract (general, supplementary and other conditions), any drawings, specifications, a required Affirmative Action Plan, other forms, all

HENNEPIN COUNTY PURCHASING RULES

Section 11: Definitions (contd)

addenda issued prior to bid opening and all modifications issued after execution of the contract.

25. Contractor or Vendor: The person or entity who enters into a contract with the County to furnish commodities, services, or work.
26. County: The County of Hennepin.
27. Debarment: The exclusion of a person or company from participating in a purchasing activity for an extended period of time because of previous illegal or irresponsible action.
28. Disqualification: The exclusion of a person or company from participating in a purchasing activity for a limited period, normally not to exceed twelve (12) months, because of previous performance problems, illegal or irresponsible actions.
29. Emergency Purchase: A purchase of commodities, services, or work necessitated by breakage, damage, or decay or when the public interest would suffer by delay, which is made without following the normal purchasing procedure.
30. Evaluation of a Bid: The process of examining a bid after opening to determine the bidder's price(s), responsibility, responsiveness to requirements and other characteristics of the bid related to the selection of the lowest responsible bidder meeting specifications.
31. Facility Construction Project(s): New construction, additions, or acquisition of buildings and land.
32. Facility Asset Preservation Program: Projects that preserve and maintain the functionality of a facility, including: i) correcting infrastructure deficiencies; ii) code upgrades; iii) equipment replacements; and iv) major facility repairs or renovations. For further explanation see the Facility Asset Preservation Program Guidelines.
33. Formal Bid (Bid over the Statutory Bid Limit): Unless specified otherwise in the bid proposal, a bid which must be submitted in a sealed envelope and in conformance with a prescribed format to be opened in public at a specified time. Bid statutes specify the minimum monetary amount when formal bidding is required. (See Statutory Bid Limit.)
34. Guarantee or Guaranty (See Warranty.)

HENNEPIN COUNTY PURCHASING RULES

Section 11: Definitions (contd)

35. Human Services: The services included in the County's Children and Community Social Services Plan (MN Stat. 256M.01 to 256M.80) and in the County's Minnesota Family Investment Program Consolidated Fund Plan (MN Stat. 256.01).
36. Informal Bid: An unsealed competitive offer conveyed by letter, telephone, or other means that does not require public advertisement and is not required by law to be bid.
37. Information Technology agreements include those for development, maintenance, support, and use/licensing of computer systems, software, networks and/or other technology, including cloud computing and cloud services, and optical fiber.
38. Invitation for Bids (IFB): A formal request which is made to prospective suppliers requesting the submission of a bid on commodities, services, or work.
39. Lease: A contract giving the County the right to use an asset owned by another (the lessor) for a specified time, in return for compensation. Title does not pass from the lessor to the County.
40. Lease-Purchase: A lease in which the lease payments are applied, in whole or in part, as installment payments for equity or ownership upon completion of the contract.
41. Lowest Responsible Bidder: The bidder whose bid is in compliance with the specifications in all material respects and whose bid in unit price, total cost of operation or value per dollar is lower than any of the other bidders, and whose past performance, and business and financial capabilities are such that they are judged by the appropriate authority to be capable of satisfying the County's needs for the specific contract.
42. Optical Fiber: fiber optic cable along with, as applicable, related conduit, duct or the like as well as necessary connections, vaults, panels, multiplexers and other equipment required to make the fiber operational.
43. Personal Services: Services provided by an individual, firm or corporate entity where time constraints or specialized service needs preclude use of County staff.
44. Prequalification of Vendors/Bidders: The screening of potential vendors in which the County considers such factors as financial capability and management in order to develop a list of responsible bidders qualified to bid on a contract(s).
45. Prequalification of Commodities and Services: A procedure whereby the procurement process is facilitated by establishing before bid solicitation (or bid award) whether a particular commodity or service meets the required quality standards.

HENNEPIN COUNTY PURCHASING RULES

Section 11: Definitions (contd)

46. Prevailing Wage Rate: The hourly basic rate of pay plus the contribution for health and welfare benefits, vacation benefits, pension benefits, and any other economic benefit paid to the largest number of workers engaged in the same class of labor within the area and includes, for the purposes of section 177.44, rental rates for truck hire paid to those who own and operate the truck. The prevailing wage rate may not be less than a reasonable and living wage. MN Stat. 177.42 Subd. 6
47. Price Agreement: A contractual agreement in which the County contracts with a vendor to provide the purchaser's requirements at a predetermined price per unit. Usually it involves a minimum number of units, orders placed directly with the vendor by the County and a limited duration of the contract (usually one year).
48. Professional Services: Those services which require specialized training, knowledge and intellectual skills such as architectural, engineering, medical, accounting, auditing, legal, real estate, consulting and counseling services.
49. Proposal: An offer to provide commodities or perform services, or work either at a specified cost as in a bid proposal, or at a rate or sum as in professional/personal services.
50. Purchase Order: The purchaser's document used to formalize a purchase transaction with a vendor. The terms and conditions printed on the back of the form or otherwise included in the document are not applicable when a Request for Quotation, the Standard Terms and Conditions, or other terms and conditions have been utilized.
51. Purchasing (or Purchasing office): See "Purchasing Manager" below.
52. Purchasing Coordinator: An employee who has authority to do one or more of the following: prepare purchasing documents and requests for quotations; approve office supply requisitions and purchase releases; purchase commodities in the open market in accordance with the generic contract utilization policy; and obtain telephone quotations for emergency purchases if so directed.
53. Purchasing Manager: The position, pursuant to Hennepin County's purchasing statute and Purchasing Rules, delegated the responsibility for most of Hennepin County's purchasing tasks.
54. Ratification: The process of County Board approval of an action subsequent to its execution which normally follows authorization of the action by the County Administrator or other responsible official.

HENNEPIN COUNTY PURCHASING RULES

Section 11: Definitions (contd)

55. Request for Proposal (RFP): A formal request for a written offer, to provide professional, personal, human, or other non-competitive services under circumstances when bidding is not required.
56. A Request for Quotation (RFQ): A form of informal solicitation, including obtaining oral or written quotes from vendors without formal advertising and receipt of sealed bids. The RFQ document contains the terms and conditions of a proposed transaction. It is normally used for purchases where statutes do not require formal sealed bids and it is considered good business practice to establish price competition.
57. Reseller: A third-party vendor that is duly authorized by the proprietary owner of Information Technology to sell said Information Technology on the owner's behalf
58. Responsible Bidder: A bidder whose past performance and business and financial capabilities are such that the bidder is judged by the appropriate responsible purchasing official to be capable of satisfying the government's needs for a specific contract and who is not debarred by the County.
59. Responsible Purchasing Official: An employee with responsibility and authority, approved by the County Board either directly or through written delegation, to perform purchasing duties.
60. Responsive Bidder: A bidder whose bid conforms to and/or does not materially vary from the specifications and terms set out in the Invitation for Bids.
61. Road and Bridge Project: A new construction, modification or repair, or an acquisition of buildings and/or land project for work to be performed on part of the County transportation system, and which is normally part of the Capital Improvement Program.
62. Sign: execution of an agreement by written (paper) signature or by electronic signature pursuant to the rules herein.
63. Single Source (See Sole Source.)
64. Small Purchase: An acquisition that may be made in the open market as allowed by law and County policy without regard to bidding procedures.
65. Software: computer software, applications, utilities or other related code that resides or operates on County's computers, vendor's computers or other hosted computers including but not limited to online subscriptions to vendor hosted applications and/or content.

HENNEPIN COUNTY PURCHASING RULES

Section 11: Definitions (contd)

66. Sole Source: Characterized as the one and only source, regardless of the marketplace, possessing a unique and singularly available performance capability for the purpose of the contract award. (Sometimes used interchangeable with the term "Single Source".)
67. Solicit: The process or method whereby County solicits, considers and/or selects a vendor for a purchase or license of services, Information Technology or other acquisitions.
68. Specifications: Any description, written or graphic as in the case of drawings, of the physical, technical, functional characteristics or of the nature of a commodity, service or construction item. It may include a description of any requirement such as inspecting, testing or preparing a commodity, service or construction item for delivery. It may also include provisions which govern various aspects of the relation of parties under the contract.
69. Statutory Bid Limit: The estimated contract amount as stated in MN Stat. 471.345, Subd. 3 at which the County and other municipalities are required to publicly solicit for sealed bids when applicable law demands bidding. (As stated in MN Stat. 471.345, Subd. 6, the purpose of this section is to establish for all municipalities uniform dollar limitations upon contracts which shall or may be entered into on the basis of competitive bids, quotations or purchase or sale in the open market. To the extent inconsistent with this purpose, all laws governing contracts by a particular municipality or class thereof are superseded. In all other respects such laws shall continue applicable.) The statutory bid limit, effective in July 2019 is \$175,000 Hennepin County's special purchasing statute 383B.141-.151, and 383B.159 interacts with this section 471.345.
70. Supplemental Agreement: A written agreement between Public Works road and bridge contracting authority and the contractor, executed on the prescribed form and approved as required by law, covering the performance of extra work or other alterations or adjustments as provided for within the general scope of the contract, but which extra work constitutes a modification of the contract as originally executed and approved.
71. Transportation Supplemental Capital Activities project contracts: Projects that preserve, maintain and update the functionality of a transportation asset, including: i) pavements, traffic signal systems, drainage structures, and roadside elements; ii) upgrade pedestrian ramps and install Accessible Pedestrian Signals (APS) to meet current ADA design standards; iii) implement safety and mobility improvements that target crash reduction and delays for all modes; and iv) engineering activities associated with capital projects. For further explanation see the Transportation Supplemental Capital Activities Guidelines.

HENNEPIN COUNTY PURCHASING RULES

Section 11: Definitions (contd)

72. Unit Price: An amount stated in the proposal as a price per unit for commodities or services as described in the bid documents or in the proposed contract documents.
73. Waste Facility: All property, real or personal, including negative and positive easements and water and air rights, which is or may be needed or useful for the processing or disposal of waste, except property for the collection of the waste and property used primarily for the manufacture of scrap metal or paper. Waste facility includes but is not limited to transfer stations, processing facilities, and disposal sites and facilities.
74. Warranty: The terms "warranty" and "guarantee" are often used informally and in commercial transactions as having the same meaning as where equipment is "guaranteed" for a number of years, the term "warranted" being the more appropriate term in such case. A warranty is the representation, either expressed or implied, that a certain fact regarding the subject matter of a contract is presently true or will be true subject to any specified limitation. In a sales contract it is often a guarantee of the integrity of a product and of the maker's responsibility for the repair or replacement of defective parts. "Guarantee" or "guaranty" means a contract or promise by one person to answer for the payment of a debt or performance of the obligations of another person in case of the other's default.

HENNEPIN COUNTY PURCHASING RULES

Section 12: List of Applicable Minnesota Statutes/Board Resolutions/Policies

List of Applicable Minnesota Statutes

13.03	Access To Government Data
13.37	Subd. 2 General, Nonpublic Data; Classification (Includes Trade Secret Information and Sealed Bids Before Opening, etc.)
15C	False Claims Against the State
15.054	Public Employees Not To Purchase Merchandise From Governmental Agencies; Exceptions; Penalty
15.71	Public Contracts; Security for Completion of Performance; Definitions
15.72	Progress Payments on Public Contracts; Retainage
15.73	Alternative Form of Retainage
15.74	Exceptions to Application
16B.122	Purchase and Use of Paper Stock; Printing
115A.15	State Government Resource Recovery
116.70	CFC - Processed Packaging - Definitions
119A.375	Community Action Agencies
144.581	Hospital Authorities
160.17	Road Construction Contracts; Counties And Towns
161.23	Excess Acquisition
162.04	Limitation on Payment of Contract Price
176.182	Business Licenses Or Permits; (Workers' Compensation) Coverage Required
177.42	Minimum Wages - Definitions (Includes "Prevailing Wage Rate")
181.59	Discrimination On Account of Race, Creed, Or Color Prohibited In Contract
256.0112	Grants and Purchase of Service Contracts
279.07	Bids for Publication of Delinquent Real Estate Tax List
279.08	Bid Award for Publication of Delinquent Real Estate Tax List (Newspaper Designation)
331A	Newspapers (Sets Forth The Law For The Publication of Public Notices By Qualified Newspapers)
336	Uniform Commercial Code
337.01	Building And Construction Contracts; Indemnification Agreements
337.02	Unenforceability Of Certain Agreements
337.03	Nonapplication To Certain Agreements
337.04	Validity Of Other Agreements
337.05	Agreements To Insure
337.06	Common Law Rights
337.10	Building and Construction Contracts; Prohibited Provisions
373.01	Powers
373.02	Powers, How Exercised
375.09	May Not Hold Other Office; Bribery; Violation; Malfeasance
375.12	Publication of Proceedings
375.13	County Board Chair (Officials' Signatures on Documents)
375.17	Publication of Financial Statements

HENNEPIN COUNTY PURCHASING RULES

Section 12: List of Applicable Minnesota Statutes/Board Resolutions/Policies

List of Applicable Minnesota Statutes (contd)

375.19	Additional County Board Powers
375.26	Gifts, Acceptance
375.27	Liabilities, Limitations, Conditions of Gifts of Realty
375.84	Prepay Software, Subscriptions, United States Documents
375.85	Counties May Market Software Products
375.86	Application Of Other Law
382.18	375.171 Credit Cards Officials Not To Be Interested In Contracts
383B.116	Subd. 3 Prohibited Payments and Obligations Subd. 4 Illegal Expenditure
383B.141	Central Purchasing Authorization
383B.142	Procedure
383B.143	Contracts For Purchases
383B.144	Prequalification
383B.145	Competitive Bidding
383B.146	Purchases Consistent With Law
383B.147	Vendor Discounts
383B.148	Rules And Regulations
383B.149	Purchases Or Contracts Forbidden
383B.15	Bonds
383B.151	Financial Interest Forbidden
383B.159	Real Property Leases
383B.217	Subd. 7 <i>Hennepin County Healthcare System</i> Purchases and Marketing.
383B.921	Subd. 1 <i>Hennepin County Healthcare System</i> Public Procurement
383B.99	Laws Not Applicable
384.13	Claims, Disbursements
465.03	Gifts to Municipalities
465.035	Public Corporation, Conveyance Or Lease Of Land
465.036	Gifts, Hospitals
465.71	Installment And Lease Purchases; Cities; Counties; School Districts
471.345	Uniform Municipal Contracting Law Subd. 5a County Rental Contracts Subd. 20 – Solicitations to small business enterprises or veteran-owned small businesses
471.35	Specifications Of Supplies Or Equipment
471.36	Noncompetitive Supplies And Equipment
471.37	Violations
471.38	Claims
471.391	Declaration Form
471.392	Penalty
471.40	Auditing Claims
471.41	Auditing Accounts Not Itemized A Gross Misdemeanor
471.425	Prompt Payment Of Local Government Bills
471.59	Joint Exercise Of Powers

HENNEPIN COUNTY PURCHASING RULES

Section 12: List of Applicable Minnesota Statutes/Board Resolutions/Policies

471.64	Acquisition Of Property From United States And State Agencies
471.85	Property Transfer; Public Corporations
471.87	Public Officers, Interest In Contract; Penalty
471.88	Exceptions
471.881	Exceptions; Application
471.89	Contract, When Void
471.895	Certain Gifts by Interested Persons Prohibited
473.811	Metropolitan Counties and Solid Waste Management
473.844	Metropolitan Landfill Abatement Fund
574.26	Contractors' Bonds
574.263	Forestry Development Projects
574.264	Security in Lieu of Bond (Forestry Development Projects)
574.38	Letters of Credit

NOTE: This list includes the major statutory references related to purchasing matters; however, it may not be all-inclusive.

List of Applicable Hennepin County Board Resolutions

Section 3: Equal Opportunity and Affirmative Action

84-5-403
86-12-879R1
87-6-394B as amended
98-4-273
98-5-274
99-8-58300-8-590R2
18-0140R2

Section 4: County Board Contracting Authority

80-1-2
81-1-61
85-6-386R2
97-4-238
02-500

Section 5: Delegation of County Board Authority

80-1-2
85-6-386R2
86-11-870
87-5-336
97-4-238
98-4-233

HENNEPIN COUNTY PURCHASING RULES

Section 12: List of Applicable Minnesota Statutes/Board Resolutions/Policies

List of Applicable Hennepin County Board Resolutions (contd)

99-182
00-12-931
01-4-263
02-7-471
05-333
07-4-154R1
07-11-591

Section 6: Purchase of Commodities, Biddable Services, and Construction

87-7-603
91-9-810
92-6-489R2
97-7-442
04-126 (as modified by 04-126R1)
04-268, as updated by 08-021R1)
04-436
07-4-154R1.

Section 7: Purchase of Personal, Professional and Human Services

98-11-755R1

Section 9: Cooperative Purchasing Programs

02-7-471

NOTE: This list includes the major Hennepin County Board Resolution references related to purchasing matters; however, it may not be all-inclusive.

List of Applicable Hennepin County Policies

Hennepin County Human Resources Rules
Hennepin County Administrative Manual
Hennepin County Accounting Manual

NOTE: This list includes the major Hennepin County policy references related to purchasing matters; however, it may not be all-inclusive.

Appendices

Appendix A – Delegation/Designation Documents from County Administration

For the most recent delegation documents, contact County Administration or go to the Hennepin County intranet site:

<http://hennepin.sharepoint.com> > HC Connect > Departments > Purchasing and Contract Services > Policies, procedures and training > Delegation of contracting authority for professional and personal services.pdf