



# **Hamilton County, TN Procurement Rules**

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**2016 Edition**

**Office of Purchasing  
455 N. Highland Park Avenue  
Chattanooga, TN 37404**

# INTRODUCTION

## HAMILTON COUNTY, TN

### PROCUREMENT RULES

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2016 Edition

This manual contains the information and instructions regarding the official Procurement (or Purchasing) Rules as approved by the Hamilton County Commission. These Rules have been established to assist the County's Purchasing Department, all County General Government agencies, departments, offices, and Elected Officials buy the best available goods and services required for County operations at the lowest possible prices while providing an open and fair competitive process for all affected parties. This edition of the *Procurement Rules* supersedes all previous editions and changes thereto.

Please note that the processes and, occasionally, even the Rules set forth herein may be changed. Any approved changes to these Procurement Rules, and any associated procedures, will be communicated to all Hamilton County governmental offices. However, we recommend that you always refer to the online edition of this document found on the County's intranet site <https://hamconet.hamiltontn.gov/Policies/ProcurementRules.aspx> as it will always contain the latest version of the Hamilton County Procurement Rules.

The County's Purchasing Department staff is committed to assisting you in procuring the best possible material, equipment and services at the best possible prices, in order for you to do the best job possible. We are always willing and readily available to assist any County office, department or agency at any time.

We encourage any suggestions you may have to improve the effectiveness of the purchasing process. Comments, suggestions, or questions should be addressed to the Purchasing Department at 423.209.6350.

# TABLE OF CONTENTS

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<b>PART ONE</b>	<b>PROCUREMENT ORGANIZATION .....</b>	<b>1</b>
<b>SECTION 1.1</b>	<b>PURPOSE.....</b>	<b>1</b>
<b>SECTION 1.2</b>	<b>SCOPE .....</b>	<b>1</b>
<b>SECTION 1.3</b>	<b>AUTHORITY STATEMENT .....</b>	<b>1</b>
<b>SECTION 1.4</b>	<b>POLICY STATEMENT .....</b>	<b>1</b>
<b>SECTION 1.5</b>	<b>PROCUREMENT ACCOUNTABILITIES.....</b>	<b>2</b>
<b>SECTION 1.6</b>	<b>MISSION, VISION AND VALUES .....</b>	<b>2</b>
<b>SECTION 1.7</b>	<b>CODE OF ETHICS.....</b>	<b>3</b>
<b>PART TWO</b>	<b>GENERAL RULES .....</b>	<b>4</b>
<b>SECTION 2.1</b>	<b>ACCESS TO INFORMATION .....</b>	<b>4</b>
<b>SECTION 2.2</b>	<b>BID / PERFORMANCE / PAYMENT BOND.....</b>	<b>4</b>
<b>SECTION 2.3</b>	<b>DISCOUNTS FOR PROMPT PAYMENT .....</b>	<b>4</b>
<b>SECTION 2.3</b>	<b>CHANGE ORDER / CORRECTION .....</b>	<b>5</b>
<b>SECTION 2.4</b>	<b>CONTRACT MANAGEMENT .....</b>	<b>5</b>
Section 2.4.1	Formal Contract Development and Use.....	5
Section 2.4.2	Execution of the Contract .....	5
Section 2.4.3	Notice of Contract Award .....	5
<b>SECTION 2.5</b>	<b>COST-NEUTRAL &amp; REVENUE-GENERATING SERVICES.....</b>	<b>5</b>
<b>SECTION 2.6</b>	<b>DISADVANTAGED BUSINESSES .....</b>	<b>6</b>
<b>SECTION 2.7</b>	<b>FUNDING AVAILABILITY .....</b>	<b>6</b>
<b>SECTION 2.8</b>	<b>INSURANCE REQUIREMENTS.....</b>	<b>6</b>
<b>SECTION 2.9</b>	<b>PURCHASES USING CONSTITUTIONAL OFFICER’S FEE ACCOUNTS.....</b>	<b>6</b>
<b>SECTION 2.10</b>	<b>REBATES AND INCENTIVES .....</b>	<b>6</b>
<b>SECTION 2.11</b>	<b>RECEIVING AND INSPECTION .....</b>	<b>7</b>
<b>SECTION 2.12</b>	<b>SEVERABILITY.....</b>	<b>7</b>
<b>SECTION 2.13</b>	<b>TAX EXEMPT TRANSACTIONS.....</b>	<b>7</b>
<b>SECTION 2.14</b>	<b>VENDOR RELATIONS .....</b>	<b>7</b>
<b>PART THREE</b>	<b>PROCUREMENT POLICIES AND PROCEDURES .....</b>	<b>9</b>
<b>SECTION 3.1</b>	<b>AUTHORIZED MECHANISMS.....</b>	<b>9</b>

Section 3.1.1	Purchase Orders.....	9
Section 3.1.2	Contract Pricing.....	9
Section 3.1.3	Procurement Cards .....	10
<b>SECTION 3.2</b>	<b>OVERVIEW OF PURCHASING THRESHOLDS .....</b>	<b>10</b>
Section 3.2.1	Informal Purchases between \$1 and \$2,499.....	11
Section 3.2.2	Informal Purchases between \$2,500 and \$24,999.....	11
Section 3.2.3	Formal Purchases of \$25,000 and Over .....	12
<b>SECTION 3.3</b>	<b>ALLOWABLE PROCUREMENT VARIATIONS .....</b>	<b>12</b>
Section 3.3.1	Urgent Purchases .....	12
Section 3.3.2	Grant Funding Sources .....	13
Section 3.3.3	Standardization of Equipment and / or Services.....	13
Section 3.3.4	Computer Hardware and Software .....	13
Section 3.3.5	Telecommunications Equipment .....	13
Section 3.3.6	Radio Equipment.....	13
Section 3.3.7	Perishable and Consumable Commodities .....	13
Section 3.3.8	Sealed Bid / Quote Continuation .....	13
Section 3.3.9	Purchase of Used or Secondhand Goods .....	14
Section 3.3.10	Designated Professional Services.....	14
Section 3.3.11	Repairs .....	14
Section 3.3.12	Direct Pay Items .....	14
Section 3.3.13	Procurement of Undercover Narcotics Vehicles.....	15
<b>SECTION 3.4</b>	<b>OVERVIEW OF AUTHORIZED METHODS .....</b>	<b>15</b>
<b>SECTION 3.5</b>	<b>EMERGENCY PROCUREMENT .....</b>	<b>15</b>
<b>SECTION 3.6</b>	<b>COOPERATIVE PURCHASING PROCUREMENT.....</b>	<b>16</b>
<b>SECTION 3.7</b>	<b>SOLE SOURCE PROCUREMENT .....</b>	<b>16</b>
<b>SECTION 3.8</b>	<b>OVERVIEW OF COMPETITIVE SEALED SOLICITATIONS .....</b>	<b>17</b>
<b>SECTION 3.9</b>	<b>COMPETITIVE SEALED BIDS .....</b>	<b>18</b>
Section 3.9.1	Specifications .....	18
Section 3.9.2	Waiving of Informalities.....	18
Section 3.9.3	Mistakes in Bids.....	18
<b>SECTION 3.10</b>	<b>COMPETITIVE SEALED PROPOSALS.....</b>	<b>18</b>
Section 3.10.1	Requirements.....	19
Section 3.10.2	Preparation and Contents.....	19
Section 3.10.3	Evaluation and Recommendation .....	19
Section 3.10.4	Discussions .....	19
Section 3.10.5	Negotiations.....	20
<b>SECTION 3.11</b>	<b>COMPETITIVE SEALED QUALIFICATIONS.....</b>	<b>20</b>
Section 3.11.1	Requirements.....	20
Section 3.11.2	Preparation and Contents .....	20
Section 3.11.3	Discussions .....	20
<b>SECTION 3.12</b>	<b>PUBLIC NOTICE.....</b>	<b>20</b>
<b>SECTION 3.13</b>	<b>AMENDMENTS TO OR CANCELLATION OF COMPETITIVE SEALED SOLICITATIONS .....</b>	<b>21</b>

<b>SECTION 3.14</b>	<b>PRE-BID / PRE-PROPOSAL CONFERENCES.....</b>	<b>21</b>
<b>SECTION 3.15</b>	<b>METHODS FOR SUBMISSION.....</b>	<b>21</b>
<b>SECTION 3.16</b>	<b>WITHDRAWAL OR REPLACEMENT.....</b>	<b>22</b>
<b>SECTION 3.17</b>	<b>OPENING OF SEALED SOLICITATIONS.....</b>	<b>22</b>
Section 3.17.1	Sealed Bids.....	22
Section 3.17.2	Sealed Proposals or Qualifications.....	22
Section 3.17.3	Information Availability.....	23
<b>SECTION 3.18</b>	<b>SPECIAL CIRCUMSTANCE NEGOTIATIONS.....</b>	<b>23</b>
Section 3.18.1	Competitive Solicitations.....	23
Section 3.18.2	Non-Competitive Circumstances.....	23
<b>SECTION 3.19</b>	<b>BEST VALUE PROCUREMENT.....</b>	<b>24</b>
<b>SECTION 3.20</b>	<b>PROCUREMENT AWARDS.....</b>	<b>25</b>
<b>SECTION 3.21</b>	<b>PROTEST OF SOLICITATION.....</b>	<b>25</b>
Section 3.21.1	Protest of Specifications.....	25
Section 3.21.2	Protest of Award.....	26
Section 3.21.3	Contents of Protest.....	26
Section 3.21.4	Certification.....	26
Section 3.21.5	Stay of Award.....	26
Section 3.21.6	Resolution of Protest.....	26
<b>PART FOUR</b>	<b>EQUIPMENT LEASE / RENTAL.....</b>	<b>28</b>
<b>SECTION 4.1</b>	<b>LEASE AND RENTAL OF EQUIPMENT.....</b>	<b>28</b>
<b>SECTION 4.2</b>	<b>LEASE AND RENTAL AWARDS.....</b>	<b>28</b>
<b>PART FIVE</b>	<b>DISPOSAL OF COUNTY-OWNED PERSONAL PROPERTY.....</b>	<b>29</b>
<b>SECTION 5.1</b>	<b>SURPLUS PROPERTY.....</b>	<b>30</b>
<b>SECTION 5.2</b>	<b>ALLOWABLE EXCEPTIONS TO PUBLIC AUCTION.....</b>	<b>30</b>
Section 5.2.1	Disposal of Specialty Items.....	30
Section 5.2.2	Trade-Ins for New Purchases.....	30
Section 5.2.3	Low Value Surplus.....	29
<b>SECTION 5.3</b>	<b>SALVAGE PROPERTY.....</b>	<b>31</b>
<b>SECTION 5.4</b>	<b>SCRAP PROPERTY.....</b>	<b>31</b>
<b>PART SIX</b>	<b>APPENDICES.....</b>	<b>32</b>
APPENDIX A	NIGP CODE OF ETHICS.....	33
APPENDIX B	HAMILTON COUNTY CODE OF ETHICS.....	36
APPENDIX C	DEFINITIONS.....	39
APPENDIX D	HAMILTON COUNTY DBE POLICY.....	44
APPENDIX E	TYPES OF SPECIFICATIONS.....	50

# PART ONE

## PROCUREMENT ORGANIZATION

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### SECTION 1.1 PURPOSE

The primary purpose of this document is to set forth rules, procedures and relevant guidance to govern procurement and procurement-related activities for the County. It serves as a “procurement user’s guide” for County employees and officials, and all purchases shall be processed in accordance with these policies and procedures. The contents are not intended to conflict with any existing law. In the unlikely event that any aspect of the document conflicts with law, the law shall take precedence.

### SECTION 1.2 SCOPE

Except as otherwise provided, all necessary and appropriate goods, materials, equipment, bonds, insurance, and services bought, leased or rented by Hamilton County shall be according to these Rules for all agencies, departments, offices, and elected officials of Hamilton County Government. Purchases made in any manner other than that described herein may not constitute a binding obligation payable by the County. (NOTE: The Hamilton County Department of Education is expressly excluded from these rules except for its transactions which are funded with Hamilton County bond proceeds.)

### SECTION 1.3 AUTHORITY STATEMENT

The Procurement Rules for Hamilton County as set forth in this document are established under authority granted by the Tennessee State Legislature's passage of Chapter 156 of the Private Acts of 1941 as modified by Chapter 55 of the Private Acts of 2007 and the subsequent adoption of such act by the Hamilton County Board of Commissioners' passage of Resolution 807-24 on August 1, 2007.

### SECTION 1.4 POLICY STATEMENT

In an attempt to secure the best and most suitable goods and services at the best possible prices, it is the policy of Hamilton County to:

- Promote competition via a competitive process wherever practical when purchasing or securing goods and services for Hamilton County.
- Select the lowest priced and best value goods and services offered, balancing multiple factors regarding costs, quality, service, risk, and other values. Neither the price nor the product / service qualities in excess of established specifications shall be the sole criterion for selection.
- Establish and maintain integrity as the foundation upon which each and every action conducted is executed.
- Pursue continuous improvement in the procurement processes and results throughout the County.

## **SECTION 1.5 PROCUREMENT ACCOUNTABILITIES**

The County shall maintain a Procurement or Purchasing Department as a unit of the County's Finance Division. This department shall be managed by the Director of Purchasing who is the legally authorized purchasing agent for Hamilton County. The Director delegates purchasing authority to authorized buyers. The creation of credit accounts, lines of credit or similar devices for purposes of acquiring goods or services subject to these Hamilton County Procurement Rules is exclusively limited to the County's Director of Purchasing or his / her designated appointee.

The Purchasing Department is charged with overall responsibility for procuring and / or supervising the procurement of all goods and services, needed by the County, its departments, agencies, offices, and elected officials. The Purchasing Department will be primarily responsible for developing and administering a standard set of contractual terms and conditions designed to apply to purchasing contracts entered into by Hamilton County. The Purchasing Department will administer the appropriate, effective, and efficient disposition of surplus and scrap personal property for Hamilton County. However, the Purchasing Department is not responsible for the administration or oversight of the County's Real Property, and as such, Real Property activities are not governed under these Procurement Rules.

The Purchasing Department is permitted to update this document so long as the revisions reflect either:

1. Changed procedures which do not alter the essence of the Rules, or
2. The adoption of any newly passed state legislation which does not require County Commission approval.

Before any such changes occur, they must be submitted in writing for approval by the Finance Administrator and County Mayor. The Mayor however retains the right to refer any / all such requested changes to the County Commission before they can be effected.

## **SECTION 1.6 MISSION, VISION AND VALUES**

The primary mission of the Purchasing Department is to administer and continuously improve upon a procurement process that facilitates the County's ability to consistently buy the best available products and services at the lowest possible prices while adhering to established policies and rules that are designed to provide an open and fair competitive process for all.

Our vision is focused upon serving our primary customer base in a manner that consistently promotes integrity, respect, efficiency and effectiveness in all activities and operations administered by the Hamilton County Purchasing Department. For these purposes, our primary customer base is comprised of the taxpayers and citizens of Hamilton County, suppliers and potential suppliers of goods and services needed for County operations, and all elected officials and County employees whose procurement activities are subject to the Hamilton County Procurement Rules.

The Purchasing Department's guiding values have been adopted with the intent of assuring that the Department's operations are always conducted in a manner that is consistent with both the Department's and the County's stated missions while doing the right things the right way. Accordingly, these values include: Continuous Improvement, Customer Service, Efficiency, Effectiveness, Impartiality, Integrity, Quality, and Transparency.

In recognition of our mission, vision, values and operating standards, the Hamilton County Purchasing Department has been the proud recipient and award holder of the National Institute of Governmental Purchasing (NIGP) Outstanding Agency Achievement Accreditation Award (OA4) since 2010

## **SECTION 1.7 CODE OF ETHICS**

As a long-time member of the National Institute of Governmental Purchasing (NIGP), the Purchasing Department will follow the respective Code of Ethics of the National Institute of Governmental Purchasing (See [APPENDIX A](#)) as well as the Hamilton County Code of Ethics (See [APPENDIX B](#)) when carrying out the duties of this office.

Additionally, all County employees and officials must conduct all business with honesty, fairness, integrity and loyalty to the County. They must discharge their duties impartially so as to assure fair competitive access to procurements issued by the County. Moreover, they should conduct themselves in such a manner as to foster public confidence in the integrity of the County's purchasing activities.

Any County employee or official, who attempts to realize a personal gain through public employment, by conduct inconsistent with the proper discharge of such employee's duties, is a breach of public trust. Further, any effort of an individual to influence a County employee to breach the standards of ethical conduct set forth in these guidelines is also a breach of ethical standards.

No elected or appointed official of the County, nor any person appointed to any board or commission, nor employee of the County, shall make, participate in making, or use his official position, to influence a County government decision in which he knows or has reason to know he has any financial interest. All County officers and employees must comply with the County's Code of Ethics in fulfilling their purchasing responsibilities.

Any Hamilton County employee or official found to be in violation of either Code shall be subject to appropriate disciplinary action up to and including termination of employment and pursuit of legal remedy as further outlined in the Hamilton County Code of Ethics ([APPENDIX B](#)).



# PART TWO

## GENERAL RULES

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The information contained in the sections below provides general rules which apply regardless of the procurement method or threshold requirements. Definitions for frequently used terminology relative to Purchasing can be found in [APPENDIX C](#) of this document.

### SECTION 2.1 ACCESS TO INFORMATION

All public records pertaining to purchasing shall be open for inspection during normal business hours. Information relating to the award of a particular contract shall be open to the public only after evaluation and recommendation of applicable quotes, bids or proposals has been completed. Under no circumstances may any information concerning known vendor quotes, sealed bids, or proposals be disclosed to any third party (e.g. competing vendor, media, etc.) during the quotation, sealed bid, or proposal evaluation process.

The Purchasing Department may set a schedule of fees that may include per page copy costs along with production charges for any work requiring more than one (1) hour of staff time for the requested material; provided that said fee shall not be exorbitant and shall be reasonably calculated to cover the costs of the service.

The records of the Purchasing Department may be inspected, provided nothing herein shall require the compilation of the records in any particular manner or order other than that normally kept by the Purchasing Department. Such inspection shall not unduly disrupt the operations of the Department.

### SECTION 2.2 BID / PERFORMANCE / PAYMENT BOND

At the direction of State law or the discretion of the Purchasing Department, a bid, performance, or payment bond may be required. The Purchasing Department in conjunction with the requesting department determines the amounts and terms of any bond.

### SECTION 2.3 DISCOUNTS FOR PROMPT PAYMENT

Bidders may include cash discounts in their quoted price, with terms of payment to be a minimum of Net 20. If cash discount for prompt payment is offered by the bidder, it must be shown in the bidder's response; however, discounts for prompt payment will not be considered in the evaluation of bids or proposals. If earned, the County will take all discounts offered for prompt payment, provided correct and proper invoices, prepared in accordance with the terms of the purchase order or contract, are processed and payment is issued or post-marked to the successful bidder within the stipulated time frame.

**Note:** The time for computing prompt pay begins upon the County's receipt of an accurate invoice.

## SECTION 2.3 CHANGE ORDER / CORRECTION

When it becomes apparent to the Purchasing Department that a Change Order or correction of a contract is necessary, the Purchasing Department determines and takes the appropriate action as necessary.

## SECTION 2.4 CONTRACT MANAGEMENT

The Purchasing Department oversees and maintains all procurement-related contracts with the exception of Construction projects managed by the Engineering Department. Prior to execution, any purchasing-related contract must include a review by the Director of Purchasing or Contract Manager along with the Office of the County Attorney as outlined in the sections which follow.

### Section 2.4.1 Formal Contract Development and Use

Formal contracts shall be used for more complex procurement-related goods or services where the contract will be greater than one year. Generally, the Hamilton County Pro Forma Contract (County Contract), developed in conjunction with the Office of the County Attorney, is utilized unless the Supplier furnishes a contract that requires less editing than the County Contract. The Contract is written to reflect requirements of the Bid / RFP and any amendments, Terms and Conditions, and the Response Documents to the Bid / RFP. Once written and / or reviewed by Purchasing, the Contract is sent to the User Department for review along with any addendums to the contract. After review by the User Department, execution of the Contract begins.

When a Supplier contract is utilized, it shall include applicable required clauses from the County Contract, e.g., Incorporation of Documents, Conflicts of Interest, TN Revenue Registration, Consumer Price Index / escalation clauses, etc. Once review and modification is made by the Purchasing Department and the User Department, supplier- initiated contracts require final review and approval by the Office of the County Attorney.

### Section 2.4.2 Contract Execution

All contracts and/or contract renewals in excess of \$25,000 or more shall **only** be executed by the County Mayor. All contracts and/or contract renewals below \$25,000 shall be executed on behalf of the County jointly by the Administrator /Elected Official over the User Department and the Director of Purchasing. No other employee, Constitutional Officer, or Elected Official is authorized to execute purchasing-related contracts. Contracts and/or renewals shall be signed by both the authorized County official and an Authorized signatory from the Supplier.

### Section 2.4.3 Notice of Contract Pricing-Award

When contract pricing (or unit price/blanket contracts) is the methodology used for Purchasing goods and services, the Notice of Contract Award may be utilized in place of a formal contract, regardless of the length of the term.

## SECTION 2.5 COST-NEUTRAL & REVENUE-GENERATING SERVICES

While the vast majority of goods and services acquired by the County result in payments to vendors, the County does occasionally acquire services that are cost-neutral or revenue-generating for the County. Acquisitions of cost-neutral and revenue-generating services regardless of the dollar threshold shall be

governed by the Request for Proposal (RFP) process set forth [SECTION 3.10](#) of this document at the discretion of the Director of Purchasing.

## **SECTION 2.6 DISADVANTAGED BUSINESSES**

Nothing herein shall be construed as prohibiting the Purchasing Department from taking affirmative steps to assure that disadvantaged businesses are utilized when possible as sources of goods and services. Furthermore, the Purchasing Department shall routinely adhere to and promote the County's Disadvantaged Business Enterprises (DBE) policy (See [APPENDIX D](#)) and other applicable non-discriminatory laws as it conducts the County's procurement activities.

## **SECTION 2.7 FUNDING AVAILABILITY**

The Purchasing Department will work with the User Department to assure that sufficient operating or capital budget funds are available to cover the amount of each requisitioned purchase. For items which are not budgeted in either the Operating or Capital Budget in a given year, the User Department will obtain approval from the Finance Administrator and the County Mayor to fund the project prior to project quote or sealed bid / proposal and approval.

## **SECTION 2.8 INSURANCE REQUIREMENTS**

Certain purchases made by Hamilton County are subject to the insurance provisions set forth in the Insurance Requirements and Recommendations Manual maintained and administered by the County's Risk Management Office. This is not limited to, but is especially applicable to purchases involving vendor-supplied goods, services, construction or installations on County properties. Additionally, some purchases having financial / medical / personal information or data security elements may also require specific insurance coverage(s) on the part of the vendor or service provider as determined by the Risk Manager. The Purchasing Department shall assist User Departments by assuring that the County's insurance requirements are satisfied before a transaction is approved.

## **SECTION 2.9 PURCHASES USING CONSTITUTIONAL OFFICER'S FEE ACCOUNTS**

On occasion, certain Constitutional Officers may have the need to purchase goods and services, paying for them using the respective Constitutional Officer's Fee bank account. All of the provisions of these Rules apply to these purchases. It is the responsibility of the respective Constitutional Officer to assure that proper documentation is retained that will demonstrate compliance with these Rules as well as any statutory requirements relative to the use of these fee accounts. However, it is recommended that the Purchasing Department be contacted for assistance with establishing and meeting appropriate documentation standards for any / all transactions of this nature.

## **SECTION 2.10 REBATES AND INCENTIVES**

Manufacturers and vendors frequently offer mail-in rebates or other incentives to buy (e.g., extended warranties, extra product, gifts, etc.) with their products. When such an opportunity applies to a County purchase, the Purchasing Department must be consulted in advance of enrolling in any rebate /

incentive programs by the User Department. It should be noted that all such rebates and incentives belong to the County and any effort by a County employee to convert such item to personal use / gain will subject the offending individual(s) to serious discipline up to and including, but not limited to, termination of employment and legal prosecution.

## **SECTION 2.11 RECEIVING AND INSPECTION**

The User Department is responsible for examining all deliveries for assurance that the quality and quantity of the items requisitioned and delivered comply with the specifications. Such examination should take place immediately upon receipt of delivered items. The User Department shall inform the Purchasing Department when an item does not meet specifications or has been damaged prior to receipt.

Goods may be returned to the business when an inferior product, an unacceptable substitute, a damaged product, or an item in an unserviceable condition is received, or an item is received in error. The Purchasing Department is available to assist with such returns, if needed.

## **SECTION 2.12 SEVERABILITY**

If any provisions of these Rules or any application thereof to any person or under any circumstance is held to be invalid, such invalidity shall not affect the provisions or applications of these rules which can be given effect without the invalid provision or application, and to this end the provisions of these Rules are declared to be severable.

## **SECTION 2.13 TAX EXEMPT TRANSACTIONS**

As a political subdivision of the State of Tennessee, Hamilton County is exempt from Tennessee and local sales taxes on transactions made by the County for its exclusive use. Furthermore, as a local governing entity, the County may be exempted from certain Federal taxes on items purchased exclusively for the County's use or consumption (e.g., Federal fuel tax). Contact the Purchasing Department for further guidance on taxes applicable to purchases.

## **SECTION 2.14 VENDOR RELATIONS**

Hamilton County is committed to working with credible vendors when acquiring goods and services needed for its operations. In the event of a dispute with a vendor, the Purchasing Department will lead efforts to identify and resolve matters of conflict to the mutual satisfaction of all affected parties.

Anytime the Purchasing Department becomes aware of a vendor conducting or attempting to conduct business with the County in a questionable manner, it will investigate the matter and, wherever warranted, utilize a progressive-discipline approach tailored to the situation at hand. This approach could lead to serious consequences for the involved vendor(s) including, but not limited to, temporary or permanent suspension (i.e., debarment) of the vendor's eligibility to directly or indirectly sell its goods or services to the County. However, if a matter of concern involves illegal or unethical practices, the Director of Purchasing shall bypass the progressive discipline routine and petition the County's Administrator of Finance to approve temporary or permanent suspension of the offending firm's eligibility as a County vendor and / or the Office of the County Attorney for legal remedy if appropriate.

Once a determination has been made to suspend a vendor's eligibility for "cause", the following steps shall be taken:

- The reasons for the action must be documented and kept on file in the Purchasing Department.
- The representatives of the suspended firm must be made aware of their rights to protest their suspension with the County Mayor and / or the County Commission.
- The firm must be provided with a written copy of the County's decision and copies of the same shall be forwarded to the Administrator of Finance, the County Auditor, the County Attorney, the County Mayor and the then-current Chairperson of the County Commission.

# PART THREE

## PROCUREMENT POLICIES AND PROCEDURES

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### SECTION 3.1 AUTHORIZED MECHANISMS

Hamilton County utilizes the following procurement mechanisms to support the acquisition of goods and services:

- Purchase Orders
- Contract Pricing
- Procurement Cards

The above mechanisms are to be used in the County's procurement of goods, services, and construction projects unless otherwise specifically exempted by State Law. A general overview of each is presented below.

#### Section 3.1.1 Purchase Orders

A purchase order, when fully executed, authorizes a vendor to deliver a specific good(s) or service(s) to the issuing organization (e.g., Hamilton County) at an agreed-upon price and set of terms and conditions. In certain circumstances the Purchase Order along with the General Terms and Conditions serves as the contract document for the item; in others a separate contract outlining a detailed agreement between the County and the provider is required, either with or without the Purchase Order.

The User Department creates the requisition which begins the Purchase Order procurement process, outlining its needs, including specifications, when known. The User Department should provide as much detail as possible regarding their specifications, but should avoid the specifications which would restrict competition. The head of the User Department or designee will approve and forward the Requisition to the Purchasing Department.

Purchase Orders may only be issued by the Hamilton County Purchasing Department. All such Purchase Orders will include an appropriate description, quantity, and total price of the goods and services to be purchased. Furthermore, all purchase orders issued by the Purchasing Department include the link ([www.hamiltontn.gov/purchasing/terms.htm](http://www.hamiltontn.gov/purchasing/terms.htm)) to access the County's General Terms and Conditions for purchases. Note: Sealed Bid or Request for Proposal documents may contain additional customized terms and conditions. For this, any terms and conditions set forth in the Sealed Bid or Request for Proposal documents will govern.

#### Section 3.1.2 Contract Pricing

When frequent orders for the same goods or services may be expected to occur for an extended period of time, the Purchasing Department may determine the County's interests are best served by soliciting Contract Pricing (or unit price/blanket contracts) bids for such items.

The initial need for Contract Pricing is identified by the User Department(s), including specifications, estimates of annual volumes, and anticipated annual spend. The Purchasing Department then determines the appropriate procurement process (quote or sealed bid) by which goods or services will be procured. After pricing has been obtained, the evaluation has been completed, and the recommendation approved, a Notice of Contract Pricing Award will be issued to the vendor.

The initial award for Contract Pricing shall be approved by the County Commission via Resolution. Subsequent purchases from Contract Pricing contracts, regardless of the total purchase amount, shall be made with a reference to the original approving Resolution number and without further Commission approval assuming budget availability. Upon award, the User Department(s) is provided an associated contract number, allowing them to proceed with specified purchases via the Contract, contract numbers are then utilized (and recorded) when invoices resulting from Contract pricing are submitted for payment.

### **Section 3.1.3 Procurement Cards**

Significant numbers of small dollar transactions are required to carry out the County's daily operations. Neither the Purchase Order nor the Purchase Contract methodologies described above are efficient for administering these transactions. Therefore, Hamilton County has established a Procurement Card program for the primary purpose of providing an efficient, well-controlled and cost effective method for purchasing and paying for transactions with amounts below the minimum quote threshold ([SECTION 3.2](#)). Since transactions on Procurement Cards are restricted to amounts below the minimum quote threshold ([SECTION 3.2](#)), there are no requirements for obtaining competitive pricing when acquiring goods or services with a County Procurement Card. However, comparison pricing is recommended with procurement card purchases, whenever practical.

For more detailed information regarding the County's procurement card program, please refer to the current Procurement Card Procedures Guide, located on the County's intranet website.

## **SECTION 3.2 OVERVIEW OF PURCHASING THRESHOLDS**

The County recognizes that not all purchases require the same level of administrative effort and attention. Therefore, the County has adopted an escalating scale of effort / formal process for requisitioned purchases for any office of Hamilton County.

- Less than \$2,500 require no competitive pricing quotes;
- Between \$2,500 and \$24,999 require three (3) written quotes when possible; and;
- \$25,000 and above require a competitive sealed procurement process (See [SECTION 3.8](#) et. seq.).

Be aware that a purchase transaction cannot be divided into multiple (smaller dollar) requisitions for the purpose of circumventing the process and documentation standards set forth in these Rules. The Purchasing Department is authorized to reject any requisition which appears to be artificially divided so as to avoid these Rules.

The following sections define the requirements and rules relative to each level of effort.

### **Section 3.2.1 Informal Purchases between \$1 and \$2,499**

Purchases at this level can be awarded without formal advertisement and without a requirement for competitive quotes. However, an informal check as to the competitiveness of pricing may be beneficial so as to acquire the best value for the County. There are two mechanisms by which purchases at this level can be accomplished.

#### **A. Procurement Card**

For those employees who are authorized users of the County's Procurement Card program and dependent on their individual approved transaction limits, this purchasing mechanism is an efficient administration of transactions at this level.

**Note:** DUE TO CONTROLS REQUIRED FOR FIXED ASSETS INVENTORY TRACKING PURPOSES, COMPUTER HARDWARE, RADIO EQUIPMENT, OR WEAPONRY OF ANY TYPE ARE NOT ALLOWABLE CATEGORIES FOR PURCHASES UTILIZING PROCUREMENT CARDS.

Additional details about the Procurement Card methodology and the Rules which govern procurement card transactions are found [SECTION 3.1.3](#).

#### **B. Purchase Order**

In certain instances, the use of the Procurement Card is not possible or feasible. In this case, purchases at this level can be made by use of a written or verbal quote by the User Department and / or Purchasing. Such purchases can be made by entering purchase detail on a requisition and attaching required supporting notes and / or accompanying documentation. This requisition is then processed with the standard approvals in the Purchasing system as detailed further in [SECTION 3.1.1](#) of this document.

### **Section 3.2.2 Informal Purchases between \$2,500 and \$24,999**

Purchases at this level require three (3) written quotes, where possible, however do not require formal advertisement. Written quotes can be in the form of specific quotes on vendor letterhead or quote forms and / or emailed or faxed detailed quotes which have appropriate vendor identifications. Internet quotes which include appropriate vendor identification may be utilized for purchases valued up to \$9,999 but not for amounts of \$10,000 or over. Emailed or faxed quotes that do not include vendor identification are not acceptable.

Please note, in certain circumstances, the Request for Proposal method ([SECTION 3.10](#)) may be used for informal purchases between \$2,500 and \$24,999 (without the requirement for formal advertisement) at the discretion of the Director of Purchasing.

#### **A. Purchases between \$2,500 and \$9,999**

Purchases at this level can be made by use of written quotes obtained by either the User Department and / or Purchasing. If support is required from Purchasing for this level of purchase, the User Department should provide as much detail as possible as to their need and associated product specifications. Additionally, the User Department is encouraged to suggest any prospective vendors who may be qualified to provide their needed goods and services.

Such purchases can be made by entering purchase detail on a requisition along with any supporting notes and / or accompanying documentation. This requisition is then processed with the standard approvals in the Purchasing system as detailed further in [SECTION 3.1.1](#) of this document.



## **B. Purchases between \$10,000 and \$24,999**

Purchases at this level shall be administered by the Purchasing Department in support of the needs of the User Department. The User Department should provide as much detail as possible as to their need and associated product specifications. The Purchasing Department is charged with responsibility for ensuring that specifications issued for all purchases in this range are prepared in a manner that properly facilitates competitive bidding and are not unnecessarily restrictive. Therefore, the Purchasing Department will review all bid specifications, require modifications (as necessary) and ultimately approve a final set of specifications for each purchase. At the discretion of the Director of Purchasing, quotes will be obtained by the Purchasing Department or the responsibility for obtaining quotes delegated to other authorized individuals.

Additionally, the User Department is encouraged to suggest any prospective vendors who may be qualified to provide their needed goods and services.

Such purchases can be made by entering purchase detail on a requisition as required, along with any supporting notes and / or accompanying documentation. This requisition is then processed with the standard approvals in the Purchasing system as detailed further in [SECTIONS 3.1.1](#) and [3.1.2](#) of this document.

## **C. Special Exceptions**

Certain items, such as vehicles, must be purchased using a competitive sealed solicitation process, including, but not limited to, a customized bid directly from Hamilton County or the use of a cooperative contract at the sole discretion of the Director of Purchasing (see [SECTION 3.9](#)) and approved by the County Commission. Other categories of items may be added to this requirement as necessary by the Director of Purchasing, the Administrator of Finance, and / or the County Mayor.

## **Section 3.2.3 Formal Purchases of \$25,000 and Over**

All purchases estimated to cost \$25,000 or more must be publicly advertised and a formal competitive sealed procurement process utilized to promote open and fair competition as outlined in the sections which follow. Please note that Emergency Purchase, Sole Source, and Cooperative Purchases are exempt from this process and are included in [SECTIONS 3.5 through 3.7](#) below.

## **SECTION 3.3 ALLOWABLE PROCUREMENT VARIATIONS**

Unless specifically addressed in this Section, all transactions are to be executed in full compliance with the Rules set forth in [SECTIONS 3.1 & 3.2](#).

### **Section 3.3.1 Urgent Purchases**

If the head of the User Department or their management designee substantiates that: 1) goods or services costing between \$2,500 and \$25,000 are urgently needed; 2) immediate action is required; and 3) competitive quote and insurance requirements have been satisfied, the Director of Purchasing or his / her designee may authorize immediate placement of the order and instruct the User Department to follow-up immediately with a requisition marked "Confirmation Only".

### **Section 3.3.2 Grant Funding Sources**

In some instances, procurements funded by grants may have special conditions attached to the grants. In such circumstances, the requirement for procurement of goods and / or services shall abide by the special conditions as specified in the grant. The User Department is responsible for ensuring that they fully understand any grant requirements and that their documentation is sufficient and adequately detailed to provide the grant source with an understanding of the purchase and to allow for their respective audit reviews and potential subsequent reimbursements.

### **Section 3.3.3 Standardization of Equipment and / or Services**

For standardization and compatibility purposes, specific equipment brands and / or service vendors, which have typically been previously selected utilizing a competitive process, may be specified when it is in the best interest of the County to insure compatibility with existing equipment and supporting effective and efficient future operations. Such decision will be based on the joint recommendation of the controlling Department (e.g., including, but not limited to, Information Technology, Telecommunications, Emergency Services, Emergency Medical Services, etc.) and the Director of Purchasing to ensure optimal and effective ongoing operation without additional competitive bidding.

### **Section 3.3.4 Computer Hardware and Software**

To assure standardization and compatibility with existing equipment, computer hardware (i.e., personal computers, laptops, tablets, printers), excluding other peripherals, and all specialized or customized computer software purchases for County offices, with the exception of the Sheriff's Office, will be purchased on the joint recommendations of the User and the Information Technology Department; purchases for the Sheriff's Office will be purchased on the recommendation of the Hamilton County Sheriff's Office Information Systems Department. Purchases of equipment controlled by Contract Pricing of the IT department must be ordered through IT and not by other mechanism (i.e., Procurement Card, etc.).

### **Section 3.3.5 Telecommunications Equipment**

The selection and purchase of telecommunications equipment will be upon the joint recommendations of the User and Telecommunications Departments to assure standardization and compatibility with existing resources.

### **Section 3.3.6 Radio Equipment**

The selection and purchase of radio equipment will be upon the joint recommendations of the User and Emergency Services, Emergency Medical Services, and / or the Hamilton County Sheriff's Office (HCSO) to assure standardization and compatibility with existing equipment utilized within Hamilton County and / or other public safety agencies.

### **Section 3.3.7 Perishable and Consumable Commodities**

Perishable and consumable commodities, such as food and fuel products, may be purchased in the open market, subject to such restrictions as the Board of Commissioners may apply.

### **Section 3.3.8 Sealed Bid / Quote Continuation**

At the discretion of the Director of Purchasing and with the proper level of approval, purchase of like goods and services may be made from previously approved sealed bids / quotes for a period not to

exceed sixty (60) days from the original award date or written quote date as long as the vendor is willing to extend the pricing and the purchase does not circumvent the sealed solicitation process. This section is intended to apply to specified quantity bids or quotes, but is not applicable to unit price contracts.

### **Section 3.3.9 Purchase of Used or Secondhand Goods**

The County may purchase used or secondhand goods, materials, supplies, commodities, and equipment from any federal, state, or local governmental entity without public advertisement or competitive solicitations (TCA §12-3-1202). In addition, the County may purchase or trade, upon approval of the governing bodies involved in the transaction, any used or surplus property from another governmental entity (TCA §12-2-420).

Additionally, subject to prevailing State and local requirements, used equipment may be purchased from any private entity or individual without public advertisement and competitive solicitation, when it is more economical and in the best interest of the County. Such purchases require documentation as to the general range of value of the item through a nationally recognized publication or through the appraisal by a licensed appraiser, and the price is not more than five (5%) higher than the highest value of the documented range (TCA §12-3-1202).

The Hamilton County Purchasing Department should be consulted for detailed guidance before pursuing a potential purchase of used or secondhand goods.

### **Section 3.3.10 Designated Professional Services**

The Purchasing Department shall maintain a list, subject to the approval of the Board of Commissioners, of professional, technical and consultant services which require extended analysis, the exercise of discretion, the use of independent judgment, and the maintenance of confidentiality in their performance. These services require an advanced, specialized type of knowledge, expertise, or training customarily acquired either by a prolonged course of study or equivalent experience in the field. These contracts, regardless of the price, are not required to be awarded on the basis of a competitive sealed bid or competitive sealed Proposal, but may be awarded based upon recognized competency, integrity and skill.

Unless the service is specifically approved by the Board of Commissioners as a designated professional, technical or consultant service, the User Department shall procure those services using the appropriate competitive process.

### **Section 3.3.11 Repairs**

The Purchasing Department may authorize repairs costing up to \$10,000 to machinery or equipment for which limited repair facilities exist without use of competitive quotes when, in its sole discretion, such action is in the best interest of the County. The County Mayor and / or the County Commission may authorize repairs costing more than \$10,000 to machinery or equipment for which limited repair facilities exist without use of competitive quotes when such action is deemed to be in the best interest of the County.

### **Section 3.3.12 Direct Pay Items**

Some types of transactions in stand-alone amounts of less than \$2,500 may be paid by invoice in lieu of other authorized mechanism. Direct Payments should only be used to pay for things for which quotes cannot be acquired or where competitive pricing cannot be achieved, such as utility bills, postage, dues and subscriptions, or legal notices where no viable competitive alternative exists. The Purchasing

Department will maintain a complete listing of items which qualify to be purchased in this manner. The Accounting Department will review all Direct Pay submissions for adherence to this section.

### **Section 3.3.13 Procurement of Undercover Narcotics Vehicles**

Vehicles to be purchased for the Hamilton County Sheriff's Office (HCSO), whether over or under the sealed bid threshold, and which are for the specific use of undercover narcotic operations, shall be authorized by Resolution of the Commission and acquired in one of two manners: (1) Used vehicles may be purchased at auction; or (2) New vehicles may be purchased utilizing the Tennessee Statewide contract or obtaining three competitive "confidential" quotes in the event the necessary vehicle is not available on the statewide contract, if authorized in advance by the Director of Purchasing.

## **SECTION 3.4 OVERVIEW OF AUTHORIZED METHODS**

Hamilton County utilizes the following authorized methods in acquiring goods and services:

- Emergency Procurement
- Cooperative Purchasing Procurement
- Sole Source Procurement
- Competitive Sealed Solicitations (Bids, RFPs and RFQs)

Specific details supporting Authorized Purchasing Methods are presented in subsequent sections of the document ([SECTIONS 3.5 through 3.21](#)).

## **SECTION 3.5 EMERGENCY PROCUREMENT**

The head of a User Department and / or his / her designee are authorized to purchase or lease any services, supplies, materials or equipment in actual emergencies arising from unforeseen causes, including delays by contractors, delays in transportation, and unanticipated volume of work. Emergency Purchases do not require public posting or competitive bidding. In the event of an Emergency Purchase, the following procedures are required:

- A. A record of any emergency purchase shall be made by the person or body authorizing such emergency purchase, and shall specify the amount paid, the items purchased, from whom the purchase was made, and the nature of the emergency.
- B. A report of any emergency purchase shall be prepared as soon as possible by the User Department and submitted to the Director of Purchasing. The Director of Purchasing then compiles the documentation relative to the emergency for submittal to the county governing body, the County Mayor, the Chief of Staff, the Administrator of Finance, and the County Auditor.
- C. When requesting financial assistance through FEMA or TEMA, the User Department along with the Purchasing Department must ensure compliance with procurement standards relative to FEMA or TEMA. The User Department's documentation shall be sufficient and adequately detailed to provide FEMA or TEMA with an understanding of the purchase and to allow for their respective audit reviews and potential subsequent reimbursements.

## SECTION 3.6 COOPERATIVE PURCHASING PROCUREMENT

The County may participate in, sponsor, conduct or administer cooperative purchasing agreements or contracts as approved by (TCA § 12-3-1205) without public posting and additional competitive bidding when such contracts or agreements are open to the County and, in the sole discretion of the Purchasing Department, such action being in the best interest of the County. Currently, this law does not apply to cooperative agreements for vehicles, construction, engineering, or architectural services; construction materials, or construction machinery services. It is important to be aware that in some instances (i.e., furniture, larger equipment, etc.), competitive quoting or bidding may yield lower prices than purchasing off a cooperative contract, thus the best interest of the County will be solely determined by the Purchasing Department.

This includes, but is not limited to, the following as permitted by the then-current state law:

- A. **TN State Contract:** Hamilton County may purchase goods or services under the provisions of contracts or price agreements entered into by the Tennessee Department of General Services (i.e., Statewide Contracts). When such contracts / agreements are not open to the County, but the County can obtain an item with equal or better specifications from local sources at a price that is the same or lower than current state contract pricing, the County may acquire such item(s) without public advertisement or competitive bidding.
- B. **TN Cooperative Purchasing:** Also known as piggybacking, Hamilton County may purchase supplies, goods, equipment, and services under contracts or price agreements entered into by any other local governmental unit of the State of Tennessee so long as the solicitation of the originating entity was competitively awarded and allows for such purchases.
- C. **Other Governmental Cooperative Purchasing Contracts:** Hamilton County may participate in, sponsor, conduct, or administer a cooperative purchasing agreement for the procurement of any goods, supplies, services, or equipment with one (1) or more other governmental entities outside this state, to the extent the laws of the other state permit the joint exercise of purchasing authority, in accordance with an agreement entered into between or among the participants; provided, such goods, supplies, services, or equipment were procured in a manner that constitutes competitive bidding and were advertised, evaluated, and was awarded by a governmental entity and made available for use by other governmental entities. Hamilton County may participate in a master agreement by adopting a resolution accepting the terms of the master agreement. The Purchasing Department has the sole authority to commit the County to participate in any such master agreement by submitting the required resolution to the Commission and will maintain a list of such approved agreements.
- D. **General Services Administration (GSA) Contracts:** Hamilton County may purchase goods or services under the provisions of contracts or price agreements entered into by the federal General Services Administration (GSA), providing they are open to local governments.

The recommendation and approval of the procurement award for purchases from cooperative purchasing agreements will follow the procedures set forth in [SECTION 3.20](#) after such purchase is approved by the Purchasing Department.

## SECTION 3.7 SOLE SOURCE PROCUREMENT

Sole source purchases are allowed when items are unique and possess specific characteristics that can be filled by only one source. A contract may be awarded without public notice /advertisement or

competitive bidding only when the Purchasing Department determines after a good faith review of available sources that there is only one source for the required goods or services. Factors to be considered in sole source purchases include, but are not limited to:

- A. Whether the vendor possesses exclusive and / or predominant capabilities or the items contain a patented feature provide superior utility not obtainable from similar products;
- B. Whether the product or service is unique and easily established as one of a kind;
- C. Whether the program requirements can be modified so that competitive products or services may be used;
- D. Whether the product is available from only one source and not merchandised through multiple wholesalers, retailers, etc.;
- E. Whether items must be interchangeable or compatible with items currently utilized by the County; or
- F. Other justifications as approved in advance by the Director of Purchasing.

Any negotiations as to price, delivery, and other terms will be conducted by the Purchasing Department. Justification for declaring a vendor to be a “Sole Source” supplier shall be submitted with the purchase requisition by the User Department and appropriate documentation, (e.g., a signed letter with a sole source declaration from the supplier), shall be maintained in the financial system for review by the County Auditor.

The recommendation and approval of the procurement award for sole source purchases will follow the procedures set forth in [SECTION 3.20](#) after such purchase is approved by the Purchasing Department.

## **SECTION 3.8 OVERVIEW OF COMPETITIVE SEALED SOLICITATIONS**

As previously defined in [SECTION 3.2.3](#), all purchases estimated to cost \$25,000 or more must be publicly advertised and a formal competitive sealed bid, proposal, or qualifications process utilized to promote open and fair competition as outlined in the sections which follow.

Bids, proposals and qualifications shall be evaluated based upon the specifications and any other relevant requirements set forth in the Invitation to Bid (“ITB”), Request for Proposal (“RFP”) or Request for Qualifications (“RFQ”). Criteria which are to be considered in the evaluation shall be objectively measured.

For any competitive sealed solicitations, the Purchasing Department administers a standard set of contractual terms and conditions designed to apply to purchasing contracts entered into by Hamilton County. A copy of these terms and conditions ([www.hamiltontn.gov/purchasing/terms.thm](http://www.hamiltontn.gov/purchasing/terms.thm)) can be found on the County’s internet website. Additionally, at the direction of the Purchasing Department, in conjunction with the County Attorney’s Office, supplemental terms and conditions may be developed and / or agreed to on a contract-by-contract basis.

Note that the terms “bid”, “proposal” or “qualifications” may be collectively or separately referred to as “solicitation”, “competitive solicitation”, or “competitive sealed solicitation” throughout subsequent sections of this document ([SECTIONS 3.9 through 3.21](#)).

## **SECTION 3.9 COMPETITIVE SEALED BIDS**

Contracts for goods or services amounting to less than (\$25,000) annually are exempt from the following competitive sealed bid methodology. Otherwise, all contracts shall be awarded by competitive sealed bid except for Emergency Purchase, Sole Source, and Cooperative Purchasing with consideration given for allowable variations as outlined in [SECTION 3.3](#) above. As previously stated in [SECTION 3.2](#), a purchase transaction cannot be divided into multiple (smaller dollar) requisitions for the purpose of circumventing the competitive sealed bid process.

When it is determined that a sealed bid is necessary, the Purchasing Department is responsible for administering an Invitation to Bid (“ITB”) process as outlined in this section as well as [SECTIONS 3.12 through 3.21](#) below. All Invitations to Bid shall include appropriate specifications and applicable contractual terms and conditions.

### **Section 3.9.1 Specifications**

The Purchasing Department is charged with responsibility for ensuring that specifications issued for all bids are prepared in a manner that facilitates competitive bidding. Therefore, the Purchasing Department will review all bid specifications, require modifications (as necessary) and ultimately approve a final set of specifications for each bid. For reference, a listing of representative types of specifications is provided as [APPENDIX E](#) of this document.

Note: The Purchasing Department may delegate these responsibilities to other appropriate individuals (e.g., Architects and / or Engineers for construction projects, etc.); however the applicable Hamilton County Procurement Rules will still govern any such solicitation.

### **Section 3.9.2 Waiving of Informalities**

Hamilton County reserves the right to waive minor informalities or technicalities when it is in the best interest of Hamilton County.

### **Section 3.9.3 Mistakes in Bids**

No change in bid prices or other provisions of the bids which are prejudicial to the interest of the County or fair competition shall be permitted. Where requested, unit price(s) must be shown for all products or services. In case of error in extension by a vendor, unit price will govern.

## **SECTION 3.10 COMPETITIVE SEALED PROPOSALS**

On those purchases of goods or services which are expected to exceed (\$25,000), when the Purchasing Department determines that it is neither practicable nor advantageous to the County to use the competitive, sealed bid method, a purchase may be executed by using the competitive sealed proposal method described below. A Request for Proposal (“RFP”) is utilized when factors, such as qualifications, experience or competence, are more important than price; and when (1) there is more than one solution to a purchasing issue and the competitive sealed proposals will assist in choosing the best solutions; or (2) there is not readily identifiable solution to a purchasing issue and the competitive sealed proposals will assist in identifying one or more solutions. Typically, RFPs are used where there are no concrete specifications and the County is looking for the vendor to propose its own solution to satisfy the County’s need as described in the solicitation.

A multi-step sealed method may be used when it is not practical to initially develop definitive specifications sufficient enough to elicit information. This two-phase process consists of the first phase, in which the County issues a solicitation requesting submission of a technical proposal (either an RFP or RFQ), which does not include pricing, based on established criteria set by the County. Once the submissions have been reviewed, the County compiles a list of responsive proposers based upon the responsiveness of the submissions. In the second phase, those proposers deemed responsive during the first phase, submit price proposals to be considered.

This methodology could also apply to purchases between \$2,500 and \$24,999 at the discretion of the Director of Purchasing; however at this lower threshold public notice / advertising would not be required and shall be awarded per [SECTION 3.20](#).

### **Section 3.10.1 Requirements**

RFP documents shall be prepared in such a manner that clearly defines the County's minimum requirements without unnecessarily limiting competition, solicits proposals and gains adequate information from which the County can evaluate Proposer responses. A prototype RFP document is available from the Purchasing Department.

### **Section 3.10.2 Preparation and Contents**

The User and Purchasing Departments shall cooperatively prepare the Request for Proposals (RFP) to be issued by the Purchasing Department. The request shall indicate the factors to be evaluated in considering the proposals. Such factors may include costs, business qualifications, experience, staffing, and any other factors deemed relevant by the User and / or Purchasing Departments. Cost proposals may be submitted either with the proposal, submitted in a separate sealed envelope, or submitted at a later specified time as directed in the Request for Proposal document.

When it is determined that an RFP is appropriate, the Purchasing Department is responsible for administering the process in accordance with [SECTIONS 3.12 through 3.21](#).

### **Section 3.10.3 Evaluation and Recommendation**

The Purchasing Department shall ensure that the RFP evaluation committee members for any solicitation know and understand that the Purchasing Department is in charge of ensuring the integrity of the evaluation process. Additionally, a representative of the Purchasing Department shall be a member of any evaluation committee. The User Department will be responsible for providing written documentation of the recommendation which shall be submitted to the Director of Purchasing for approval prior to the presentation of the resolution to the Commission for approval and award.

### **Section 3.10.4 Discussions**

Discussions and / or oral presentations may be conducted with the businesses which have submitted proposals determined to be reasonably likely of being considered for selection, to assure a full understanding of, and responsiveness to, the solicitation requirements. A good faith effort shall be afforded to assure fair and equal treatment with respect to the opportunity for discussion and / or revision of their respective proposals. Revisions may be permitted after the submission and prior to the award for the purpose of obtaining the best and final offer.



### **Section 3.10.5 Negotiations**

The County may conduct negotiations with the apparent successful proposer, whose proposal is determined to be the most advantageous to the County, taking into consideration price as well as the evaluation factors. During the negotiations, the County and the vendor may agree to alter the proposal in a way more favorable to the County; however County personnel must not disclose information contained in other proposals. The negotiations cannot increase the cost or amend the proposal such that the apparent successful proposer no longer offers the best proposal. Upon successful negotiations, the County, by and through the responsible User Department, will enter into a negotiated contract. In the event negotiations with the apparent successful proposer fails, the County may conduct negotiations with the next best proposer.

## **SECTION 3.11 COMPETITIVE SEALED QUALIFICATIONS**

Certain Services may require a high degree of skills and technical expertise by the provider. Contracts for such services are not based on competitive bidding and are awarded on the basis of recognized competence and integrity.

### **Section 3.11.1 Requirements**

Request for Qualifications (“RFQ”) documents shall be prepared in such a manner that they clearly define the County’s minimum requirements and gain adequate information from which the County can evaluate Proposer qualifications.

### **Section 3.11.2 Preparation and Contents**

The User and Purchasing Departments shall cooperatively prepare the Request for Qualifications (RFQ) to be issued by the Purchasing Department. The Request shall indicate the factors to be evaluated in considering the proposals. Such factors may include costs, business qualifications, experience, staffing, and any other additional factors deemed relevant by the User and / or Purchasing Departments.

When it is determined that an RFQ is necessary and appropriate, the Purchasing Department is responsible for administering the process in accordance with [SECTIONS 3.12 through 3.21](#).

### **Section 3.11.3 Discussions**

Discussions may be conducted with the businesses which have submitted qualifications determined to be reasonably likely of being considered for selection, to assure a full understanding of, and responsiveness to, the solicitation requirements. A good faith effort shall be afforded to assure fair and equal treatment with respect to the opportunity for discussion and / or revision of their respective qualifications documents.

## **SECTION 3.12 PUBLIC NOTICE**

Notice of an Invitation to Bid (“ITB”), Request for Proposal (“RFP”), and / or Request for Qualifications (“RFQ”) shall be publicly posted, not less than ten (10) calendar days prior to the date set for the opening. The notice shall state where solicitation documents may be obtained, as well as, the place, date, and time of the opening. In the event that the Request for Proposal methodology is utilized for transactions below the competitive sealed bid / proposal threshold, public notice is not required.

### SECTION 3.13 AMENDMENTS TO OR CANCELLATION OF COMPETITIVE SEALED SOLICITATIONS

At the discretion of the Purchasing Department, the solicitation (i.e., Invitation to Bid, Request for Proposal, or Request for Qualifications) may be amended or the solicitation canceled entirely. When such changes are necessary, businesses that have been sent the solicitation, or otherwise known to have received the solicitation, will be sent a notification by the means in which it was originally distributed (e.g., email, electronic bid / proposal system, facsimile, etc.). A log will be maintained of those to whom a notification is sent.

In the event amendments are necessary, if the Purchasing Department determines that sufficient time does not exist to permit businesses to change their bid / proposal, the solicitation may be cancelled or the bid / proposal opening may be moved to a later date in accordance with the Tennessee State Law (TCA §12-4-126). If it is in the best interest of the County to cancel the solicitation, all submissions received up to that time will be rejected.

### SECTION 3.14 PRE-BID / PRE-PROPOSAL CONFERENCES

At the discretion of the Purchasing and User Departments, a pre-bid / pre-proposal conference may be held to impart information to potential providers about the item(s) to be bid / proposed. If the Purchasing Department determines that attendance by a prospective provider at the pre-bid / pre-proposal conference is necessary, it may make such attendance a mandatory prerequisite for the submission of a sealed bid / proposal. Notice of the pre-bid / pre-proposal conference (whether mandatory or not) will be made in the same manner as the Invitation to Bid or Request for Proposal if the conference requirement is not known / disclosed when the original Invitation to Bid or Request for Proposal is submitted.

Note: The Purchasing Department may delegate these responsibilities to other appropriate individuals (e.g., Architects and / or Engineers for construction projects, etc.); however the applicable Hamilton County Procurement Rules will still govern any such solicitation.

### SECTION 3.15 METHODS FOR SUBMISSION

There are two acceptable methods of submitting competitive, sealed solicitation documents (i.e., ITB, RFP, or RFQ) to the Purchasing Department. Submissions may be either manual or electronic so long as they conform to the guidelines set forth in this Section. The acceptable method will be specified in the initial offering document.

- The County considers bids received through U.S. mail, courier service, or in-person delivery to be manual submissions.
- The County defines electronic submissions as ONLY those submitted via the internet submission link provided in its website and / or the link provided in any electronically distributed Invitation to Bid, Request for Proposal, or Request for Qualifications.
- UNDER NO CIRCUMSTANCES WILL FAXED OR EMAILED SUBMISSIONS BE ACCEPTED FOR COMPETITIVE SEALED SOLICITATIONS.

## SECTION 3.16 WITHDRAWAL OR REPLACEMENT

Withdrawal of an inadvertent or erroneous bid or proposal by the vendor (before or after opening) may be permitted, when the Purchasing Department determines it to be appropriate.

For an unopened manually submitted bid or proposal in exclusive possession of Hamilton County to be withdrawn, a written request for withdrawal must be submitted to the office of the Hamilton County Purchasing Department by a duly authorized representative of the vendor. To take effect, such requests must be received prior to the time set for the opening. A successfully withdrawn submission may be replaced with another sealed bid / proposal if it is received prior to the time set for the opening. In all cases, determination of bid / proposal receipt will be solely governed by the clock-in time as determined by a clock or timepiece designated by the Purchasing Department. No other clock or timepiece will have any bearing on determining whether or not the bid / proposal has been received prior to the time set for the opening.

Electronic bids / proposals are available to be withdrawn by the vendor until the specified opening.

An apparent successful bidder alleging a material mistake may be allowed to withdraw their Bid at the option of the County.

## SECTION 3.17 OPENING OF SEALED SOLICITATIONS

### Section 3.17.1 Sealed Bids

Bids shall be publicly opened by the Purchasing Department at the time and place designated in the Invitation to Bid and in the public notice.

In all cases, determination of bid receipt for manual submissions will be solely governed by the clock-in time as determined by a clock or timepiece designated by the Purchasing Department. No other clock or timepiece will have any bearing on determining whether or not a manual bid is received prior to the time set for the opening of bids. At the time of the bid opening, information deemed relevant by the Purchasing Department, together with the names of each Bidder, will be read aloud.

The determination of bid receipt for electronic submissions shall be governed by the clock-in time as maintained by the bid processing software. At the time of the bid opening, information deemed relevant by the Purchasing Department, together with the names of each Bidder, will be read aloud. In the event of hardware or software failure at bid opening time, manual bids will be opened as scheduled. However, the affected electronic bids will be opened upon the system's return to operation. All persons who attended the opening of manual bids at the scheduled public opening will be provided with results per [SECTION 3.17.3](#).

### Section 3.17.2 Sealed Proposals or Qualifications

Requests for Proposals and Requests for Qualifications are not opened publically. However, Proposals or Qualifications submissions shall be opened by the Purchasing Department at the time and place designated in the Request for Proposal and in the public notice.

In all cases, determination of Proposal receipt will be solely governed by the clock-in time as determined by a clock or timepiece designated by the Purchasing Department. No other clock or timepiece will

have any bearing on determining whether or not a Proposal has been received prior to the time set for the opening of Proposals.

The name of each Proposer will be recorded and provided upon request; however, no other information regarding the proposal will be made available prior to the recommendation of award.

### **Section 3.17.3 Information Availability**

Information relating to submissions and / or any resulting award of a particular contract shall be open to the public only after evaluation of that bid or proposal has been completed and a recommendation of award has been publicly announced to the County Commission.

## **SECTION 3.18 SPECIAL CIRCUMSTANCE NEGOTIATIONS**

### **Section 3.18.1 Competitive Solicitations**

If, after a competitive process has been utilized, the Director of Purchasing working with the User Department determines that if one or more of the following conditions exist, the contract may be competitively negotiated if:

- the pricing received is not reasonable;
- there are no additional funds available;
- the specifications were not completely satisfied in the submission as to all or parts of the requirements;
- there were no submissions received after at least two attempts; and / or
- the delay required for re-solicitation under revised specifications and / or quantities by competitive sealed bidding would not be in the best interest of the County.

After making this determination, then a competitively negotiated award may be pursued. The process for utilizing competitive negotiations is as follows:

- A. Negotiation begins with the lowest responsive and responsible bidder or if no submissions were received, then negotiations may begin with known suppliers.
- B. The standards of the project are not substantially lowered or materially changed.
- C. The negotiated price is the lowest price offered by any responsible supplier.

### **Section 3.18.2 Non-Competitive Circumstances**

A contract may be made by non-competitive negotiations when competition is not feasible as determined by the Director of Purchasing in conjunction with the User Department prior to award. Non-competitive negotiations would include, but not be limited to, such situations as Sole Source or Emergency Purchases.

## SECTION 3.19 BEST VALUE PROCUREMENT

In most circumstances, awards will be made based on the best bid or proposal meeting specifications. However in certain instances, it may be in the best interest of the County to use Best Value Procurement in concert with normal quote or sealed submission processes. As defined by NIGP's *Best Values in Government Procurement* (2013), "in a best value selection, judges of comparative value seek to choose the provider offering the best combination of performance, qualifications, price and other values of importance to the organization, but must always do so with methods that promote full and open competition and reflect the core values of the public procurement profession." The use of Best Value Procurement begins with the planning and design of the definition of requirements which must include assessment and award criteria, evaluation, selections, negotiation, execution and award of contract, and contract administration; each of which must be described in the solicitation document.

The Director of Purchasing shall have the authority and responsibility to ensure the organization's procurement processes maintain that integrity and cannot be improperly manipulated. That said, the User Department shall receive advance approval from the Director of Purchasing before considering the use of Best Value as a means soliciting the procurement and of awarding a contract.

In determining the best value, the purchase price and whether the goods or services meet specifications are the most important considerations. However, the Purchasing Department may consider other relevant factors, including, but not limited to, the following:

- A. The quality and reliability of the goods and services;
- B. Installation costs;
- C. The delivery terms;
- D. Indicators of probable vendor performance (further explained below);
- E. The cost of any employee training associated with a purchase;
- F. The effect of a purchase on agency productivity; and / or
- G. Other factors relevant to determining the best value for the County in the context of a particular purchase.

As indicated above, the Director of Purchasing will consider probable future as well as past performance of a company when evaluating the best value for the County. Examples of factors that may reflect negatively on a company seeking to enter into a new agreement with the County include:

- A. Financial resources and ability to perform;
- B. Experience or demonstrated capability and responsibility;
- C. A history of insurance shortfalls, lapses, or other inadequacies;
- D. A demonstrated lack of good faith in resolving prior contract disputes short of litigation;
- E. Documented past failure to meet specifications;
- F. Documented delivery of poor service or poor quality merchandise in the past;
- G. Documented failure to make timely delivery of goods or services in past agreements with the County; or

- H. A documented history of seeking numerous (more than three) change orders or contract amendments from the County when such change orders or contract amendments have been denied in the past.

The County is under no obligation to have notified such businesses of poor past performance prior to receiving their bids, quotes, or proposals. However the User Department must provide the Director of Purchasing with documentation of such rationale, based on departmental input. The Purchasing Department must include this rationale in the solicitation file.

## **SECTION 3.20 PROCUREMENT AWARDS**

Purchases for amounts less than \$25,000 shall be awarded by the Director of Purchasing. In certain circumstances the Purchase Order along with the General Terms and Conditions serve as the contract document for the item; in others a separate contract outlining a detailed agreement between the County and the provider is required, either with or without the Purchase Order.

With the exception of Emergency Purchases ([SECTION 3.5](#)), all awards from authorized purchasing methods of \$25,000 or greater will be presented by Resolution to the Board of Commissioners, with the recommendation from the Purchasing and User Departments. In all cases, if a sealed bid or proposal other than the lowest amount is to be recommended / awarded, justification created by the User Department and approved by the Director of Purchasing will be provided in the documentation accompanying the Resolution.

Notice of Award will be communicated by the Purchasing Department in the same manner as the solicitation for purchases of \$25,000 or greater.

### **NOTES:**

- (1) When the County's competitive sealed bid, proposal, or qualifications process is used to administer bids funded by monies not subject to the County Commission's authority, the bid results will be turned over to the requesting / sponsoring agency's (e.g., Water & Wastewater Treatment Authority, Hamilton County Railroad Authority, etc.) representatives for evaluation and award in accordance with the respective agency's policies and procedures.
- (2) The County Mayor and / or designee retain the right to refer any / all Hamilton County recommendations of award to the County Commission.

## **SECTION 3.21 PROTEST OF SOLICITATION**

Any vendor may protest either the County's solicitation specifications or the contract award recommendation, if done so in the time frame and manner outlined in this section.

### **Section 3.21.1 Protest of Specifications**

Any vendor may protest the terms of the specifications and / or solicitation. Any protest regarding the specifications or solicitation requirements must be submitted to the County's Director of Purchasing at no less than seventy-two (72) hours prior to the bid / proposal due date and time, excluding weekends and legal holidays.

**FAILURE OF A VENDOR TO SUBMIT A PROTEST IN THIS TIMEFRAME CONSTITUTES A WAIVER OF THE PROTEST AND ANY RESULTING CLAIMS REGARDING THE SPECIFICATIONS OR SOLICITATION REQUIREMENTS.**

### **Section 3.21.2 Protest of Award**

Any vendor who has submitted a timely bid or proposal in response to a solicitation may protest the recommendation of award for a contract by submitting such protest to the County's Director of Purchasing. Any protest must be submitted in writing and be in the possession of the Purchasing Department before noon (ET) of the 2nd working day following the public recommendation of contract award.

**FAILURE OF A VENDOR TO FOLLOW THE PROTEST REQUIREMENTS WITHIN THE TIME FRAMES PRESCRIBED IN THIS SECTION CONSTITUTES A WAIVER OF THE PROTEST AND ANY RESULTING CLAIMS.**

### **Section 3.21.3 Contents of Protest**

The bid protest must be clearly designated "PROTEST OF AWARD" and contain the following:

1. The solicitation number and title as well as a complete statement of the basis for the protest;
2. The name, title, company name, physical address, email address, and telephone number of the person representing the protesting vendor;
3. The specific portion of the bid / proposal document(s) which forms the basis for the protest, as well as the specific objection of the vendor;
4. A statement indicating the relief sought by the protesting vendor; and
5. All other relevant information / documentation in support of the protest.

### **Section 3.21.4 Certification**

By submitting a protest of award, the protester certifies, to the best of his / her knowledge, information and belief, that the protest is well grounded in fact and is warranted by existing law, policy or a good faith argument for the extension, modification or reversal of existing law or policy, and that it is not interposed for any improper purpose, such as to harass, limit competition, or to cause unnecessary delay or needless increase in the cost of the procurement or of the litigation.

### **Section 3.21.5 Stay of Award**

In the event of a timely protest, the County shall not proceed further with the solicitation or with the award of the contract until the Director of Purchasing, after consultation with the head of the User Department, makes a written determination that the award of the contract without delay is necessary to protect substantial interest of the County.

### **Section 3.21.6 Resolution of Protest**

The Director of Purchasing has the authority to settle and resolve any solicitation protests. The Director of Purchasing will investigate the matter and make a diligent effort to issue a decision in writing within ten (10) calendar days of the receipt of the protest stating the reasons for the action taken. Nevertheless, any bidder / proposer who may disagree with the final recommendation of the Director of Purchasing shall have the right to present their reasons for disagreement by submitting a written Request for Administrative Review to the County Mayor within five (5) calendar days from receipt of the

written decision of the Director of Purchasing. A written decision will be provided to the protester stating the reason(s) for the final determination.

**THE PROTEST PROCEDURE SET FORTH IN THIS SECTION IS A MANDATORY ADMINISTRATIVE PROCEDURE THAT MUST BE UTILIZED AND EXHAUSTED PRIOR TO SEEKING JUDICIAL REVIEW OR REMEDY OF THE PROTEST.**



# PART FOUR

## EQUIPMENT LEASE / RENTAL

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### SECTION 4.1 LEASE AND RENTAL OF EQUIPMENT

The Director of Purchasing has sole authority to enter into agreements as agent for County Government for the lease or rental of equipment, including, but not limited to, copy machines, information technology equipment, telephones, and other equipment deemed necessary by the User Department.

All equipment lease agreements must contain or provide a “funding out” clause or non-appropriation termination rider for each fiscal year or other appropriate cut-off point during the term of the lease. All leases for more than (\$25,000) annually shall be subject to competitive, sealed bid while those under this amount shall be subjected to the County’s competitive quote guidelines. No lease agreement for the use of motorized vehicles will be entered into without prior approval by the Board of Commissioners.

### SECTION 4.2 LEASE AND RENTAL AWARDS

Lease and rental contracts shall be awarded following the thresholds set forth below (with the exception of motorized vehicles as stated in [SECTION 4.1](#)).

Less than \$25,000	Director of Purchasing
Over \$25,000	County Mayor and County Commission

# PART FIVE

## DISPOSAL OF COUNTY-OWNED PERSONAL PROPERTY

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The disposal of all County-owned personal property with an estimated useful life of one (1) year or greater when originally purchased is ultimately the responsibility of the Purchasing Department. For purposes of this section, “personal property” refers to all assets and equipment owned by the County, other than real property (land and buildings) with an estimated useful life in excess of one year as of the date of purchase. Personal property includes vehicles, office machinery and equipment, furniture, computer hardware and software and other tangible assets. Excess office supplies and other consumables are not considered to be surplus property and should be redeployed to other County offices for County use.

No items of such property may be sold to elected County officials or County employees except at public auction. This prohibition applies to elected officials and County employees throughout their active periods of service and for the period of time designated by the then current applicable state law after such service ends.

Once aware of items available for disposal, the User Department shall work with the Purchasing Department to evaluate the potential for returning such item(s) to County service. When further County-use is not deemed practical, the User and Purchasing Departments shall collaborate to place each item into one of the following disposal categories. Once an item has been offered at auction or marketed with unsuccessful results, the Purchasing Department may deem it scrap or salvage and dispose of it ([SECTIONS 5.3 or 5.4](#)).

### Salvage Property

County-owned personal property with an original estimated useful life of one (1) year or greater that is no longer capable of serving its original purpose(s) due to damages, obsolescence, etc., but which is deemed to have another useful / marketable purpose such as serving as a source for spare parts.

### Scrap Property

County-owned personal property with an original estimated useful life of one (1) year or greater that is no longer capable of serving its original purpose(s) due to damages, obsolescence, etc. and which is deemed to have no other useful / marketable purpose.

### Surplus Property

County-owned personal property with an original estimated useful life of one (1) year or greater that is no longer required for the County’s use, but is appropriate for marketing to other parties for further usage. In all cases, the Purchasing Department will evaluate the potential for each item classified as “surplus” to be returned to the County service by another department before making it available to outside parties.

The “Scrap and Surplus Disposal (Non-Computer) Authorization Form” , “PC Equipment Surplus Inventory Control Sheet,” or the “Change of Vehicle Use Form,” must be completed and approved in

the User Department and submitted to Purchasing before the subject item(s) are officially declared to be “salvage”, “scrap” or “surplus” property. These forms and instructions are available through the Purchasing Department’s page of the County’s Intranet site. The Purchasing Department may select the auction format (e.g. traditional, silent, internet, etc.) it deems to be the best venue for achieving successful, cost-effective auction. However, before an internet auction is initiated, the host auction firm must be approved by the County Commission. The Purchasing Department will maintain a register of all internet auction firms granted Commission approval.

The Purchasing Department shall maintain detailed records regarding the disposal of all such personal property declared surplus for a period of five (5) years after their disposal.

Additional Rules governing disposals in each of these categories are set forth below.

## **SECTION 5.1 SURPLUS PROPERTY**

Surplus Property shall be sold at public auction or sale, except as provided in [SECTION 5.2](#) below. The Purchasing Department is responsible for scheduling all auctions / sales and for notifying all other relevant parties (e.g., County Auditor’s office). Notice of the public auction or sale shall be given in the same manner as for competitive sealed solicitations ([SECTION 3.12](#)).

The Purchasing Department will be responsible for assuring that adequate records regarding auctions and sales are prepared and maintained. Those records shall include, but not be limited to, the following:

- Sales Proceeds Summary Sheet
- Scrap and Surplus Disposal Authorization Form / Change of Vehicle Status Form
- Inventory of Items Offered at Auction / Sale
- Auction Sale Proceeds Report with copies of checks or wire receipts
- Copy of public auction or sale legal advertisement

## **SECTION 5.2 ALLOWABLE EXCEPTIONS TO PUBLIC AUCTION**

There are three allowable exceptions to surplus property being sold at public auction. Proceeds and documentation from the disposal of items governed by these exceptions will be handled in the same manner as the disposition of other Surplus property as outlined above ([SECTION 5.1](#)).

### **Section 5.2.1 Disposal of Specialty Items**

When in the opinion of the Purchasing Department it would be more efficient, cost effective and more likely to secure a fair price, specialty items, including, but not limited to, information technology equipment, weapons, artwork, etc. may be marketed or sold through competitive sealed solicitations rather than auctioned by the Purchasing Department with approval of the Finance Administrator, but, in no case, in a manner that violates any laws prohibiting sales of such property to former or actual County employees or Elected Officials, and / or State Law pertaining to a specific category of items.

### **Section 5.2.2 Trade-Ins for New Purchases**

With prior approval of the Director of Purchasing, the trade-in of salvage, scrap or surplus property as an offset or allowance on the purchase of new property is allowable provided all participating suppliers are given an equal opportunity to include the trade-in alternative.

### **Section 5.2.3 Low Value Surplus**

Surplus property with a total estimated value below Two Hundred Fifty Dollars (\$250) may be subject to a sale negotiated by the Director of Purchasing, rather than auctioned by the Purchasing Department with approval of the Finance Administrator, but, in no case, in a manner that violates any laws prohibiting sales of such property to former or actual County employees or Elected Officials, and / or State Law pertaining to a specific category of items.

## **SECTION 5.3 SALVAGE PROPERTY**

Salvage property items may be sold by the Purchasing Department at the best available price using three (3) documented quotes, when practical. Funds from the disposal by this method will be deposited in the General Fund Revenue account by the Purchasing Department and reported per requirements in [SECTION 5.1.](#)

## **SECTION 5.4 SCRAP PROPERTY**

Scrap property items may be sold by the Purchasing Department at the best available price using three (3) documented quotes, when practical.

Certain-scrap items may be disposed of by destruction and placement in dumpsters maintained and managed by the Maintenance, Highway, or Support Services Departments with prior authorization by the Director of Purchasing or his / her designee. Such disposition must be overseen by the Purchasing Department.

Funds from the disposal by this method will be deposited in the General Fund Revenue account by the department responsible for the disposal.

Additionally, items which may be covered by Risk Management Policies may be disposed of either by the Risk Management Department or the Purchasing Department and the funds handled appropriately.

# PART SIX

## APPENDICES

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***Note: Documents included in these appendices are attached for ease of access and reference. Except for those expressly controlled by the Purchasing Rules, these documents may be updated and replaced without approval or adoption of the County Legislative Body.***

# APPENDIX A

## NIGP CODE OF ETHICS

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The Institute believes, and it is a condition of membership, that the following ethical principles should govern the conduct of every person employed by a public sector procurement or materials management organization:

- Seeks or accepts a position as head (or employee) only when fully in accord with the professional principles applicable thereto and when confident of possessing the qualifications to serve under those principles to the advantage of the employing organization.
- Believes in the dignity and worth of the service rendered by the organization, and the societal responsibilities assumed as a trusted public servant.
- Is governed by the highest ideals of integrity in all public and personal relationships to merit the respect and inspire the confidence of the organization and the public being served.
- Believes that personal aggrandizement or personal profit obtained through misuse of public or personal relationships is dishonest and not tolerable.
- Identifies and eliminates participation of any individual in operational situations where a conflict of interest may be involved.
- Believes that members of the Institute and its staff should at no time, or under any circumstances, accept directly or indirectly, gifts, gratuities, or other things of value from suppliers, which might influence or appear to influence purchasing decisions.
- Keeps the governmental organization informed, through appropriate channels, on problems and progress of applicable operations by emphasizing the importance of the facts.
- Resists encroachment on control of personnel in order to preserve integrity as a professional manager; handles all personnel matters on a merit basis, and in compliance with applicable laws prohibiting discrimination in employment on the basis of politics, religion, color, national origin, disability, gender, age, pregnancy and other protected characteristics.
- Seeks or dispenses no personal favors; handles each administrative problem objectively and empathetically, without discrimination.
- Subscribes to and supports the professional aims and objectives of the National Institute of Governmental Purchasing, Inc.

## **Guidelines to the NIGP Code of Ethics**

### **I. RESPONSIBILITY TO YOUR EMPLOYER**

- Follow the lawful instructions or laws of the employer.
- Understand the authority granted by the employer.
- Avoid activities, which would compromise or give the perception of compromising the best interest of the employer.
- Reduce the potential for any charges of preferential treatment by actively promoting the concept of competition.
- Obtain the maximum benefit for funds spent as agents for the employer.

### **II. CONFLICT OF INTEREST**

- Avoid any private or professional activity that would create a conflict between your personal interest and the interests of your employer.
- If possible, avoid engaging in personal business with any company that is a supplier to your employer. In situations where engaging in personal business with a supplier is unavoidable, the employee shall make it clear to the supplier that he / she is not allowed to and cannot accept preferential treatment from the company.
- Avoid lending money to or borrowing money from any supplier.

### **III. PERCEPTION**

- Avoid the appearance of unethical or compromising practices.
- Avoid business relationships with personal friends and family.
- Avoid noticeable displays of affection, which may give an impression of impropriety.
- Avoid holding business meetings with suppliers outside the office.

### **IV. GRATUITIES**

- Never solicit or accept money, loans, credits or prejudicial discounts, gifts, entertainment, favors or services from your present or potential suppliers which might influence or appear to influence purchasing decisions.
- Never solicit gratuities in any form for yourself or your employer.
- Items of nominal value offered by suppliers for public relations purposes are acceptable when the value of such items has been established by your employer and would not be perceived by the offeror, receiver or others as posing an ethical breach.
- Gifts offered exceeding nominal value should be returned with an explanation or, if perishable, either returned or donated to a charity in the name of the supplier.
- In the case of any gift, care should be taken to evaluate the intent and perception of acceptance to ensure that it is legal, that it will not influence your buying decisions, and that it will not be perceived by your peers and others as unethical.

### **V. BUSINESS MEALS**

- There are times when during the course of business it may be appropriate to conduct business during meals. The meal should be for a specific business purpose.
- Avoid meals with the suppliers unless absolutely necessary.
- The purchasing professional should pay for meals as frequently as the supplier.
- Budgeted funds should be available for such purposes as necessary.

## **VI. CONFIDENTIAL INFORMATION**

- Keep bidders' proprietary information confidential.
- Develop a formal policy on the handling of confidential information.

## **VII. RELATIONSHIP WITH THE SUPPLIER**

- Maintain and practice, to the highest degree possible, business ethics, professional courtesy, and competence in all transactions.
- Infrequent association with suppliers at lunches, dinners or business organization meetings is an acceptable professional practice enabling the Buyer to establish better business relations provided that the Buyer uses discretion and keeps free of obligation. Reciprocating is strongly recommended.
- Always strive to obtain the maximum value for each dollar of expenditure.
- Preclude from showing favoritism or being influenced by suppliers through the acceptance of gifts, gratuities, loans or favors. Gifts of a nominal value that display the name of a firm which is intended for advertisement may or may not be accepted in accordance with the recipient's own conscience or jurisdictional rules.
- Adhere to and protect the supplier's business and legal rights to confidentiality for trade secrets, and other proprietary information.
- Refrain from publicly endorsing products.

## **VIII. RELATIONSHIP WITH THE EMPLOYER**

- Remain focused on the best interests of the employer.
- Buyers do not engage in activities if there is a significant personal / financial interest.
- Exercise discretionary authority on behalf of the employer.
- Avoid acquiring interest or incurring obligations that could conflict with the interests of the employer.

## **IX. RELATIONSHIPS WITH OTHER AGENCIES AND ORGANIZATIONS**

- A Buyer shall not use his position to exert leverage on individuals or firms for the purpose of creating a benefit for agencies or organizations that he may represent.
- All involvement and transactions shall be handled in a professional manner with the interest of the Buyer's employer taking precedent.

## **X. RELATIONSHIP WITH PROFESSIONAL PURCHASING ORGANIZATIONS AND ASSOCIATIONS**

- It is the responsibility of the Buyer, through affiliation with professional organization, to represent that organization in a professional and ethical manner.
- A Buyer shall not use his position to persuade an individual or firm to provide a benefit to an organization.

## **XI. POLICY**

- It is the policy of NIGP that any member of the Institute who personally, or on behalf of his local chapter, is involved in the process of acquiring advertisers and / or exhibitors on behalf of the Institute, shall act only in the capacity of providing referrals of potential or interested parties to the Institute.
- As a result of such referral, should the Institute form a contractual obligation, appropriate credit shall be given to the individual or chapter.



# APPENDIX B

## HAMILTON COUNTY CODE OF ETHICS

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### **Section 1. Definitions.**

(1) “County” means Hamilton County, which includes all boards, committees, commissions, authorities, corporations or other instrumentalities appointed or created by the County or an official of the County, and specifically including the County School Board, the County Election Commission, the County Health Department, and Utility Districts in the County.

(2) “Officials and employees” means and includes any official, whether elected or appointed, officer, employee or servant, or any member of any board, agency, commission, authority or corporation (whether compensated or not), or any officer, employee or servant thereof, of the County.

(3) “Personal interest” means, for the purpose of disclosure of personal interests in accordance with this Code of Ethics, a financial interest of the official or employee, or a financial interest of the official’s or employee’s spouse or child living in the same household, in the matter to be voted upon, regulated, supervised, or otherwise acted upon in an official capacity.

**Section 2. Disclosure of personal interest in voting matters.** An official with the responsibility to vote on a measure shall disclose during the meeting at which the vote takes place, before the vote and to be included in the minutes, any personal interest that affects or that would lead a reasonable person to infer that it affects the official’s vote on the measure. In addition, the official may, to the extent allowed by law, recuse himself or herself from voting on the measure.

**Section 3. Disclosure of personal interest in non-voting matters.** An official or employee who must exercise discretion relative to any matter other than casting a vote and who has a personal interest in the matter that affects or that would lead a reasonable person to infer that it affects the exercise of the discretion shall disclose, before the exercise of the discretion when possible, the interest on the attached disclosure form and file the disclosure form with the County Clerk. In addition, the official or employee may, to the extent allowed by law, recuse himself or herself from the exercise of discretion in the matter.

**Section 4. Acceptance of gifts and other things of value.** An official or employee, or an official’s or employee’s spouse or child living in the same household, may not accept, directly or indirectly, any gift, money, gratuity, or other consideration or favor of any kind from anyone other than the County:

(1) For the performance of an act, or refraining from performance of an act, that he would be expected to perform, or refrain from performing, in the regular course of his or her duties; or

(2) That a reasonable person would understand was intended to influence the vote, official action,

or judgment of the official or employee in executing County business.

It shall not be considered a violation of this policy for an official or employee to receive entertainment, food, refreshments, meals, health screenings, amenities, foodstuffs, or beverages that are provided in connection with a conference or meeting sponsored by an established or recognized association having an interest in the affairs of local government or by an umbrella or affiliate organization of such association.

In the adoption of this Code of Ethics, the County does not intend to deprive its officials and / or employees from exercising and enjoying the same acts of society as other members of the general population. Therefore, the exchange and acceptance of gifts and other acts of kindness that are reasonable throughout our society in acknowledgement of holidays and special days are not prohibited or in violation of this Code, as long as said acceptance and exchange is not intended or received as a compensation for any vote or job performance.

**Section 5. Ethics Complaints.** A County Ethics Committee (the “Ethics Committee”) consisting of five members shall be appointed to one-year terms by the County Mayor with confirmation by the County legislative body, to be appointed each year at the same time as internal committees of the County legislative body. One member of the committee shall be a member of the County legislative body; one member shall be a Constitutional County Officer; the County Auditor, or his designee, and the County Attorney, or his designee, shall serve on said committee; and the remaining member may be either an employee of County General Government and / or a member of a board, committee, commission, authority, corporation, or other instrumentality governed by this policy. The Ethics Committee shall convene as soon as practicable after their appointment and elect a chair and a secretary. The records of the Ethics Committee shall be maintained by the secretary and shall be filed in the office of the County Clerk, where they shall be open to public inspection.

Questions and complaints regarding violations of this Code of Ethics or of any violation of state law governing ethical conduct should be directed to the chair of the Ethics Committee. Complaints shall be in writing and signed by the person making the complaint, and shall set forth in reasonable detail the facts upon which the complaint is based.

The County Ethics Committee shall investigate any credible complaint against an official or employee charging any violation of this Code of Ethics, or may undertake an investigation on its own initiative when it acquires information indicating a possible violation, and make recommendations for action to end or seek retribution for any activity that, in the Committee’s judgment, constitutes a violation of this Code of Ethics. If a member of the Committee is the subject of a complaint, such member shall recuse himself or herself from all proceedings involving such complaint.

The Committee may:

- (1) refer the matter to the County Attorney for a legal opinion and / or recommendations for action;
- (2) in the case of an official, refer the matter to the County legislative body for possible public censure if the County legislative body finds such action warranted;

(3) in the case of an employee, refer the matter to the official responsible for supervision of the employee for possible disciplinary action if the official finds discipline warranted;

(4) in a case involving possible violation of state statutes, refer the matter to the district attorney for possible ouster or criminal prosecution.

The interpretation that a reasonable person in the circumstances would apply shall be used in interpreting and enforcing this Code of Ethics.

When a violation of this Code of Ethics also constitutes a violation of a human resource policy or a civil service policy, the violation shall be dealt with as a violation of the human resource or civil service provisions rather than as a violation of this Code of Ethics.

**Section 6. Applicable State Laws.** In addition to the ethical principles set out in this Code of Ethics, state laws also provide a framework for the ethical behavior of County officials and employees in the performance of their duties. Officials and employees should familiarize themselves with the state laws applicable to their office or position and the performance of their duties. To the extent that an issue is addressed by state law (law of general application, public law of local application, local option law, or private act), the provisions of that state law, to the extent they are more restrictive, shall control.

# APPENDIX C

## DEFINITIONS

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When used in the context of this manual and in the authorization of Purchase Orders, Contractual Agreements, Invitations to Bid, Request for Proposals or other pertinent documents, the words, conditions, and phrases below shall have the following meanings:

1. **Apparent Low Bid:** The bidder who submitted the lowest initial bid prior to conducting a complete bid review and evaluation.
2. **Award:** The presentation of a contract to a vendor; to grant; to enter into with all required legal formalities.
3. **Best Interest of the County:** A term frequently used in granting a purchasing official the authority to use discretion in taking whatever action that is most advantageous to the government. The term is used when it is impossible to anticipate extraordinary circumstances that may arise, substituting for specific directions that would, under normal circumstances, be delineated by law or regulation.
4. **Best Value:** Means more than low cost. It includes initial cost, service, quality and other factors related to the acquisition.
5. **Bid:** A vendor's response to an Invitation for Bid; the information concerning the price or cost of materials or services offered by a vendor.
6. **Bidder:** Any individual, company, corporation, partnership or other organization or entity bidding on solicitations issued by Purchasing and offering to enter into contracts with the County.
7. **Bid File:** A folder containing all of the documentation concerning a particular bid. This documentation includes: the names of all vendors to whom the invitation to bid was sent, the responses of the vendors, the bid abstract, and the award sheet.
8. **Bid Opening:** Conducted at the time and place stated in the invitation for bid and in the presence of anyone who wishes to attend.
9. **Bid Solicitation:** See Invitation to Bid below.
10. **Blanket Contract:** Also known as Contract Pricing / Unit Pricing, a method used to order only the materials or services actually required during a contract term with a predetermined price and an indefinite quantity for frequently used commodities or products. This method may consolidate agency requirements.
11. **Bonds:**
  - a. **Bid Bond:** An insurance agreement in which a third party agrees to be liable to pay a certain amount of money should a specific vendor's bid be accepted and the vendor fails to sign the contract as bid.
  - b. **Surety Bond:** An insurance bond, payment and / or performance, given to the County to protect against loss in case the terms of a contract are not completed by the vendor (or contractor). A surety company assumes liability for nonperformance if the vendor fails to deliver the goods or services as contracted.
  - c. **Payment / Material Bond:** A bond given to the County by a vendor (contractor) assuring the payment as required by law of all persons supplying material or labor in the prosecution of the work provided for in the contract.
  - d. **Performance Bond:** A bond given to the County by a vendor (or contractor) guaranteeing the performance of services or delivery of goods within a specified time. The purpose is to protect the County against a cash loss that might result if the vendor did not deliver as promised.

12. Buyer: An assistant to the Director of Purchasing. The Buyer is delegated, by the Director of Purchasing, the responsibility of negotiating with the vendors and obtaining the quotes and information from which bids are solicited.
13. Cash Discount: A discount from the purchase price allowed to the purchaser if payment is made within a specified time.
14. Commodity Code: A numbering system that enables the computer software to monitor the purchase and usage of items bought by the County. Each item is assigned up to a five-digit commodity code that represents one item only.
15. Competitive Bidding: Bidding on the same project or material items by more than one vendor; competitive bidding must, by due advertising, give opportunity for everyone.
16. Competitive Negotiation: A procurement method for obtaining goods, services, and construction for public use in which discussion and negotiations may be conducted with responsible Proposers who submit responsive Proposals.
17. Competitive Solicitation: An Invitation to Bid, Request for Proposal, Request for Qualifications, telephone calls, or any document used to obtain bids or proposals for the purpose of entering into a contract.
18. Concealed Damage: Damage not readily identifiable by routine visual viewing.
19. Confidential Information: Information available only to specified personnel or officers of the County that is not necessarily open to public scrutiny as allowed by State of TN law.
20. Confirming Order: A form used to verify a purchase order made by telephone, fax and / or any other approved electronic method of procurement that serves as the vendor's original hard copy. This is for verification only.
21. Construction: The building, alteration, demolition or repair (including, but not limited to all government municipal infrastructure, dredging, excavating and painting) of public buildings, structures and highways, and other improvements or additions to real property.
22. Contract: An agreement, grant or order for the procurement, use, or disposal of supplies, services, construction, insurance, real property or any other item.
23. Contract Modification: The alteration of an existing contract.
24. Contractor: A person or firm supplying labor, services, or materials for the County.
25. Cooperative Purchasing or Procurement: The action taken when two or more entities combine their requirements to obtain advantages of volume purchases, including administrative savings and other benefits. Cooperative procurement efforts may result in Contracts that other entities may "Piggyback."
26. Debarment: The disqualification of a person / firm to receive requests for quotation, invitations for bids, requests for proposals, or a contract award. After debarment notification, the contractor may appeal the decision with any Court of jurisdiction.
27. Delivery Schedule: The required / agreed upon date of delivery of items.
28. Department: Any agency, or division thereof, which is authorized or created by the Mayor or Private Act or General Ordinances.
29. Department Head: The chief administrative officer of a department.
30. Disadvantaged Business: A business that is owned or controlled by socially and economically disadvantaged individuals.
31. Discount for Prompt Payment: A predetermined discount that is time sensitive.
32. Dispute: A disagreement between parties to a contract over performance or other contract term requiring administrative action to resolve.
33. Encumber: Reserve funds against a line item; to charge against an account.

34. **Established Catalog Price:** A price included in the most current catalog, price list, schedule, or other source. This can also be referred to as Manufacturer's List Price.
35. **Ethical:** Conforming to professional standards of conduct; conforming to the Code of Ethics and / or Ethical Standards and Guidelines.
36. **Evaluation of Bid or Proposal:** The process of examining a bid or proposal to determine a submitter's responsibility, responsiveness to requirements, and other characteristics of the submittal that determine the eventual selection for award of contract.
37. **Financial Interest:**
  - a. Ownership of any interest, or involvement in any relationship, from which the individual or entity has, received, is presently receiving, or is entitled to receive compensation.
  - b. Holding a position in a business such as officer, director, trustee, partner, employee or the like, or holding any position of management.
38. **Fiscal Year:** An accounting period of 12 months, beginning July 1 of the current year through June 30 of the upcoming year.
39. **Good Faith:** Factual honesty in the conduct of a transaction; the observance of reasonable commercial standards of fair dealing.
40. **Goods:** All materials, equipment, and supplies.
41. **Immediate Family:** Spouse, children, grandchildren, parents, siblings.
42. **Ineligible Bidder:** A supplier, who by reason of historical financial instability, unsatisfactory reputation, poor performance, or other similar reasons, cannot meet the qualifications for placement on the bidder's list for award of a contract.
43. **Inspection:** Examination and testing, including processes, raw materials, components, intermediate assemblies, and end product items to determine whether the items conform to contract requirements.
44. **Invitation to Bid (ITB):** A formal request to prospective vendors soliciting price quotations or bids; contains, or incorporates by reference, the specifications or scope of work and all contractual terms and conditions.
45. **Invoice:** A written account of merchandise and process, delivered to the buyer; a bill.
46. **Joint Venture:** A partnership with two or more entities, government or private, formed to share in the risk or expertise of a special project or business venture.
47. **Lead Time:** The period from date of ordering to date of delivery that the Buyer must reasonably allow the vendor to prepare goods for shipment.
48. **Non-Competitive Negotiations:** The process of arriving at an agreement through discussion and compromise when only one source is available to meet the requirement.
49. **Piggyback (Piggyback Cooperatives):** A form of intergovernmental cooperative purchasing in which an entity will be extended the same pricing and terms of a contract entered into by another entity. Generally the originating entity will competitively award a contract that will include language allowing for other entities to utilize the contract, which may be to their advantage in terms of pricing, thereby gaining economies of scale that they would otherwise not receive if they competed on their own.
50. **Pre-bid /pre-proposal Conference:** A meeting held with potential vendors after an invitation for bids or proposal (RFP) has gone out to promote uniform interpretation of work statements and specifications by all prospective contractors. This meeting may or may not be mandatory.
51. **Procurement:** Buying, renting, leasing or otherwise obtaining equipment, supplies, services, construction, insurance, etc. It also includes all functions that pertain to the above, including description of requirements, selection and solicitation of sources, preparation and award of contract, contract administration, and all phases of warehousing and disposal.

52. Protest: A complaint about a governmental administrative action or decision brought by a vendor with the intention of achieving a remedy. A protest is a controversy that may occur during solicitation and through award of a contract. It may be a written objection to an invitation for bid or request for proposal, or to a proposed award.
53. Purchase Order: A legal document used to authorize a purchase from a vendor. A purchase order, when given to a vendor, should contain statements about the quantity, description, and price of the goods or services ordered; agreed terms to payment, discounts, date of performance, transportation terms, and all other agreements pertinent to the purchase and its execution by the vendor.
54. Quotation: A statement of the market price of one or more commodities; the price specified to a correspondent.
55. Receiving: The act that physically receives shipments from a carrier.
56. Request for Proposal (RFP): All documents utilized for soliciting competitive proposals. A solicitation method used for requirements exceeding authorized limits when it is expected that negotiations with one or more bidders may be required with respect to any aspect of the requirement, or other factors will be considered in the selection of the contractor in addition to price or only one source is being solicited.
57. Request for Qualifications (RFQ): A document used for soliciting qualifications and experience data from eligible persons or groups offering to render professional services. These professional services require high ethical standards, competency, and integrity in areas such as architecture, engineering, finance, medicine, and law.
58. Requisition: Any document whereby a user department requests that a purchase be made for a specified need.
59. Responsive Bidder: One who has submitted a bid that conforms in all material aspects to the invitation to bid.
60. Sealed Bids / Proposals: Written proposals or bids that are submitted in response to an invitation to bid or request for proposal, by potential vendors before a certain date. The bid or proposal is submitted in a sealed envelope to prevent dissemination of its contents before the deadline for the submission.
61. Services: Any work performed by an independent contractor wherein the service rendered does not consist primarily of acquisition of equipment or materials, the rental of equipment or materials, or supplies.
62. Sole Source Procurement: An award for a commodity, available from one supplier, usually because of its technological, specialized, or unique character.
63. Specifications: Any description of the physical or functional characteristics of a supply, service or construction item. It may include a description of any requirement for inspecting, testing, or preparing a supply, service, or construction item.
64. Standardization: The making, causing, or adapting of items to conform to recognized qualifications.
65. Subcontractor: Any business that holds an agreement or purchase order to perform part of the work or to make or furnish any article or service required for the performance of a County or County-funded prime contract, or subcontract there under.
66. Suspension: The disqualification of any person or business to receive invitations for bid, or request for proposals, or to be awarded a contract by the County or any other governmental body thereof, for a temporary period pending the completion of an investigation and any legal proceedings that may ensue.
67. Termination for Cause: Action by which the purchasing entity, in accordance with contract provisions, unilaterally cancels all or part of the contract work due to the contractor's failure to perform in accordance with the terms of the contract
68. Termination for Convenience: Action by which the purchasing entity, in accordance with contract provisions, unilaterally cancels all or part of the work in the best interest of the agency, and with no reflection on the contractor's performance.

69. Unconcealed Damage: Damage visible upon arrival of the shipment and indicated on the receipt returned to the carrier.
70. User Department: Any department that utilizes supplies, services, insurance, construction or any other item procured under these rules.
71. Vendor List: A list of suppliers of various goods and services from whom bids, proposals and quotations can be solicited.



# APPENDIX D

## HAMILTON COUNTY DBE POLICY

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### UTILIZATION GUIDELINES

#### A. HAMILTON COUNTY GOVERNMENT GUIDELINES ON DISADVANTAGED BUSINESS ENTERPRISE UTILIZATION IN FEDERAL, STATE AND LOCAL PROGRAMS

As used in these Guidelines, “Disadvantaged Business Enterprises (DBEs)” shall mean a for-profit small business concern:

1. That is at least 51 percent owned by one or more individuals who are both socially and economically disadvantaged or, in the case of a corporation, in which 51 percent of the stock is owned by one or more such individuals; and
2. Whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it.

“Socially and economically disadvantaged individual means any individual who is a citizen (or lawfully admitted permanent resident) of the United States and who is:

1. Any individual who is a recipient and is found to be a socially and economically disadvantaged individual on a case-by-case basis.
2. Any individual in the following groups, members of which are rebuttably presumed to be socially and economically disadvantaged:
  - a. “Black Americans”, which includes persons having origins in any of the Black racial groups of Africa;
  - b. “Hispanic Americans”, which includes persons of Mexican, Puerto Rican, Cuban, Dominican, Central or South American, or other Spanish or Portuguese culture or origin, regardless of race;
  - c. “Native Americans”, which includes persons who are American Indians, Eskimos, Aleuts, or Native Hawaiians;
  - d. “Asian-Pacific Americans”, which includes persons whose origins are from Japan, China, Taiwan, Korea, Burma (Myanmar), Vietnam, Laos, Cambodia (Kampuchea), Thailand, Malaysia, Indonesia, the Philippines, Brunei, Samoa, Guam, the U.S. Trust Territories of the Pacific Islands (Republic of Palau), the Commonwealth of the Northern Marianas Islands, Macao, Fiji, Tonga, Kiribati, Juvalu, Nauru, Federated State of Micronesia, or Hong Kong;
  - e. “Subcontinent Asian Americans”, which includes persons whose origins are from India, Pakistan, Bangladesh, Bhutan, the Maldives Islands, Nepal or Sri Lanka; and / or
  - f. “Women”.

Hamilton County shall provide Disadvantaged Business Enterprises (DBEs) with the maximum equitable opportunity to participate in the performance of construction contracts and / or subcontracts, and the providing of goods and services financed in whole or in part with federal, state or county funds. Hamilton

County's annual goal shall be to award DBEs at least 10% of the funds expended for contracted construction projects. In addition, Hamilton County's annual goal shall be to award DBEs at least 10% of the funds expended for goods and services.

Hamilton County has adopted certain Purchasing Rules that govern the County's purchase of all goods and services. The adoption of this DBE Plan in no way is intended to circumvent those Purchasing Rules, but is designed to encourage DBE participation in the County's purchase of said goods and services pursuant to those Purchasing Rules.

Hamilton County Government will coordinate with the State of Tennessee, U.S. Government, and other agencies to identify qualified DBEs. These DBEs will be offered opportunities to participate in bidding and contracting with Hamilton County for all types of services such as construction and purchase of materials and services. To that end, Hamilton County will set and enforce program goals through its Implementation Plan. Additionally, Hamilton County will set and enforce program goals as specified in 49 CFR 26 – Title 49 and other applicable federal and state laws, rules and procedures.

## B. EQUITABLE OPPORTUNITY TECHNIQUES

Hamilton County has established the following techniques to provide Disadvantaged Business Enterprises with an opportunity to compete for and be awarded contracts and subcontracts. Hamilton County has developed affirmative action techniques to facilitate Disadvantaged Business Enterprises' participation in contracting activities. These techniques include:

1. Providing guidance and technical assistance to DBEs in overcoming barriers, including, but not limited to the inability to obtain bonding and financing, and encouraging partnerships and / or joint ventures between DBEs and non-DBEs. All partnerships and joint ventures shall be evidenced by a written and notarized agreement acceptable to Hamilton County.
2. Providing information and communication programs on contracting procedures and specific contracting opportunities by the use of seminars, newsletters, email and communication on the Hamilton County Website.
3. Providing the assistance of a liaison officer for this program under the direction of the Office of the County Mayor. This liaison officer will maintain a monitoring mechanism to verify work committed to DBEs at contract award is actually performed by the DBEs.
4. Publishing a signed and dated DBE Policy Statement expressing a commitment by Hamilton County to the DBE program. This statement will be circulated throughout Hamilton County Government and in the DBE and non-DBE business community.
5. Obtaining and making available the TDOT, SBA, and any other approved lists maintained by federal and state agencies containing the names, addresses and telephone numbers of certified DBE contractors for bidding on prime contracts and bidding or quoting subcontracts on all federal, state, or county assisted projects.
6. Including the following policy statement on behalf of the contractor in all contracts awarded by Hamilton County:

The contractor, sub recipient or subcontractor shall not discriminate on the basis of race, color, national origin, age, physical disability, or sex in the performance of this contract. The contractor shall carry out applicable government regulations in the award and administration of

governmentally-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as Hamilton County deems appropriate.

### C. CONSTRUCTION CONTRACT PROVISIONS

As to construction contracts Hamilton County will provide for the following:

1. Construction contracts will include a clause to require prime contractors to pay subcontractors for satisfactory performance of their contracts no later than fifteen (15) days from receipt of each payment Hamilton County makes to the prime contractor. This clause will also require the prompt payment of retainage by the prime contractor to all subcontractors within fifteen (15) days after the prime contractor is paid upon the entire project being satisfactorily completed. Satisfactory completion means that the work has been inspected and all required certifications have been submitted and accepted as complete by the prime contractor, architect / engineer, and Hamilton County.
  - a. This contract will provide for appropriate penalties for failure to comply, the terms and conditions of which Hamilton County sets.
  - b. This contract will provide that any delay or postponement of payment among parties may take place only for good cause, with Hamilton County's prior written approval.
  - c. This contract will contain a clause that requires prime contractors to include in their subcontracts language providing that prime contractors and subcontractors will use appropriate binding alternative dispute resolution mechanisms to resolve payment disputes. (Hamilton County may specify the nature of such mechanisms).
  - d. This contract may include other mechanisms, consistent with this part and applicable state and local law, that provide DBEs and other sub-contractors are fully and promptly paid.
2. Hamilton County will award a construction contract only to the lowest and best bidder who is responsive and makes good faith efforts to participate in the County's commitment to include and increase the use of DBEs. "Good faith efforts" shall be defined as a bidder showing that it took all necessary and reasonable steps to involve DBE participation of at least 10% of the contract bid and those other methods consistent with state and federal guidelines. Hamilton County will consider the quantity, quality and intensity of the different kinds of efforts the bidder has made. The efforts employed by the bidder should be those that one could reasonably expect a bidder to take if the bidder were actively and aggressively trying to obtain DBE participation. Hamilton County reserves the right to refuse any and all bidders who fail to comply with these procedures.

The County must determine that a bidder has made good faith efforts if the bidder does either of the following things:

- a. Documents that it made adequate good faith efforts to meet the goal, even though it did not succeed in obtaining enough DBE participation to do so. If the bidder does document adequate good faith efforts acceptable to the County, Hamilton County will not then deny award of the contract on the basis that the bidder failed to meet the goal.

- b. For purpose of this Plan, documentation shall include the amount of the dollar value of the work to be performed by the DBE toward the desired goals; the cost of supplies and materials to be obtained by the DBE for the work of the contract; an estimate of supplies and / or equipment to be leased by the DBE; the entire amount of fees or commissions charged by the DBE firm for providing a bona fide service such as professional, technical consultant or management service and materials and supplies purchased from a DBE supplier. The DBE must perform or exercise responsibility for at least 30% of the labor required to perform its contract.
- 3. In Hamilton County solicitations for federal, state, or local financially assisted construction contracts for which a contract goal has been established, the County will require the following:
  - a. Award of the contract will be conditioned on meeting the requirements of this section; and,
  - b. The apparent lowest and best bidder will be required to submit within 72 hours of the bid opening and prior to the recommendation of the bid to be awarded the following information to the County.
    - i. The names and addresses of DBE firms that submitted bids as well as those that will participate in the contract; and
    - ii. a description of the work that each DBE will perform; and
    - iii. the dollar amount of the participation of each DBE firm involved; and
    - iv. written documentation of the bidder's commitment to use a DBE subcontractor whose participation it submits to meet a contract goal; and
    - v. written confirmation from the DBE that it is participating, and to the extent specified, in the contract as provided in the prime contractor's commitment; or
    - vi. documentation that it made adequate good faith efforts to meet the goal.
- 4. Hamilton County must make sure all information is complete and accurate and adequately documents the bidder's good faith efforts before committing the County to the performance of the contract by the bidder.
- 5. Pursuant to this DBE Plan if Hamilton County determines that the apparent successful bidder has failed to meet the DBE requirements, the County will provide the bidder an opportunity to meet the County's goal within ten (10) calendar days after the bid opening. Upon said bidder's submission of adequate documentation evidencing its attempts to comply with the County's stated goal, the bid will then be submitted for consideration before the final awarding of the contract.
- 6. The requirements of this section shall apply to DBE bidders for prime contracts. In determining whether a DBE bidder for a prime contract has met a contract goal, the County shall count the work the DBE has committed to performing with its own forces as well as the work that it has committed to be performed by DBE subcontractors and DBE suppliers.

#### D. PRE-CONTRACT AWARD APPEALS PROCEDURE

The following shall apply to construction contracts only:

- 1. As part of its DBE program, Hamilton County will establish an internal committee composed of representatives of the County's Architect / Engineer, Departments of Public Works, Operating, and

Development, the Title VI Director, County Attorney, and the Chairman of the County Commission or their designee. This committee shall resolve each dispute and ensure prompt payment to all contractors and subcontractors. The above-designated internal committee shall give a written report of its activities and decisions to the County Mayor and County Commission semi-annually.

2. As part of this consideration and prior to awarding the bid to another bidder that evidences its compliance with the County's stated goal, the original bidder will be given the opportunity to provide written documentation or argument concerning the issue of whether it met the stated goal or made adequate good faith efforts to do so.
3. The original apparent successful bidder must have the opportunity to meet in person with the committee to discuss the issue of whether it met the goal or made adequate good faith efforts to do so.
4. The committee will send the original bidder a written decision on reconsideration, explaining the basis for finding that the original bidder did or did not meet the goal or made adequate good faith efforts to do so.
5. The result of this process cannot be administratively appealed to any federal or state agency.

#### E. POST CONTRACT AWARD PROCEDURES

1. Hamilton County will require that a prime contractor not terminate for convenience a DBE subcontractor and then perform the work of the terminated subcontractor with a non-DBE, its own forces, or those of an affiliate without Hamilton County's prior written consent.
2. When a DBE subcontractor is terminated, or fails to complete its work on the contract for any reason, the County will require the prime contractor to make good faith efforts to find another DBE subcontractor to substitute for the original DBE. These good faith efforts will be directed at finding another DBE, where possible, to perform at least the same amount of work under the contract as the DBE that was terminated, to the extent needed to meet the contract goal Hamilton County established for the procurement.
3. The County will include in each prime contract a provision for appropriate administrative remedies that it will invoke if the prime contractor fails to comply with the requirements of this section.

#### F. PURCHASE OF OTHER GOODS AND SERVICES

Hamilton County is proactive in encouraging purchases of goods and services from DBEs. The County's Purchasing Department Staff will, within the context allowable by the County's Purchasing Rules, offer information to assist DBEs and other firms in proposing or bidding on county purchases of goods and services.

#### G. CERTIFICATION

In order for Hamilton County to assure DBE participation, it will require that DBEs become certified by an appropriate certifying agency, e.g., the Small Business Administration (SBA) and / or the Tennessee Department of Transportation (TDOT). Hamilton County and the appropriate agencies will provide the necessary forms for certification.

Certification by the Small Business Administration and other federal and state agencies is free.

#### H. FEDERAL GUIDELINES

*Title 49 Volume 1 – Part 1-99 of the Code of Federal Regulations:* This section contains the procedures used by the DBE liaison officer with regard to Hamilton County. This federal law applies to Hamilton County as a result of the receipt of Department of Transportation funding through the Tennessee Department of Transportation.

#### I. PERIODIC REVIEW

This plan will be reviewed and evaluated for its effectiveness and recommendation for continuation every three (3) years by Hamilton County.

[DBE Resolution #701-40 Approved on 7/18/2001 [Note: Retyped /Reformatted 12/08/15]]

# APPENDIX E

## TYPES OF SPECIFICATIONS

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Based on definitions provided by NIGP, User Departments should consult with Purchasing for guidance on the type of specification needed for a particular project.

1. **Brand-Name<sup>1</sup> (or Equivalent<sup>2</sup>) Specifications:** (1) A descriptive form of Specification whereby the commodity or product is described by a unique identifier specific to a particular seller or manufacturer that distinguishes it from its competition. It may be a name, term, symbol, design, or any combination thereof. The use of this type of specification should be limited unless the item is the only one which will satisfy the County's requirement or the brand name item is available through multiple distribution channels since this type of specification discourages competition. (2) Using one or more manufacturers' brand name, with identifying model numbers, to describe the standards of quality, performance, and other characteristics needed to meet the requirements of the Solicitation, and that invites Bids for equivalent products from any manufacturer. A requested single brand name tends to limit competition as vendors may not sell that particular brand and all other items will be excluded from further consideration.
2. **Combination Specifications:** Specifications that incorporate, to the degree necessary, the attributes of both design and performance specifications. This is probably the most common type of specification.
3. **Design Specifications:** A specification that establishes the characteristics an item must possess, including detail indicating how it is to be manufactured. May include engineering plans or drawings and blueprints. It tells the Contractor in prescriptive terms what they are to provide the Buyer.
4. **Performance Specifications:** A description of the desired outcome or intended use of a commodity and how the commodity will perform (e.g., number of items, distance to travel, time required).
5. **Qualified Products List Specifications:** A list of products identified by manufacturers' names and model numbers that are the only items that meet the minimum specifications as determined by the using entity. These products are used when quality is such a critical factor and testing so lengthy or expensive that the entity wants to stay with proven products. The list is prepared by testing products, either in the lab or in daily use. Items may be added to the list by the supplier demonstrating their quality by meeting specifications that have been defined by the using entity.
6. **Standard Specifications:** A specification that is to be used for all or most purchases of an item; describes all required physical and functional characteristics of products, services, or construction. Standardized specifications will usually be more complete and detailed than one-time specifications.