

Onslow County Administrative Policy Manual

# Purchasing & Contracting

Policy and Procedure Guide

Revised May 2018 (Approved by Board of Commissioners on May 21, 2018)

# Onslow County Administrative Policy Manual

## Purchasing & Contracting - Policy and Procedure Guide

Revised May 2018

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### Section 1 – General Information

#### 1.1 Forward

This purchasing policy and procedures manual is intended for use as a guide to the County of Onslow's purchasing methods and practices. When used properly and with common sense, the policies and procedures established herein will enable the County to obtain needed materials, equipment, supplies and services efficiently and economically. It also provides for application of all North Carolina General Statutory provisions pertaining to local governmental purchasing.

The understanding and cooperation of all employees is essential if the County is to obtain the maximum value for each tax dollar spent. While this manual does not answer all questions related to purchasing, it does provide the foundation for a sound centralized purchasing system.

The basic goals of the County's purchasing program are:

- To comply with the legal requirements of public purchasing and procurement.
- To assure vendors that impartial and equal treatment is offered to all that wish to do business with the County.
- To receive maximum value for each dollar spent by awarding purchase orders to the lowest responsible, responsive bidder, taking into consideration quality, performance, technical support, delivery schedule, past performance and other relevant factors.
- To provide County departments the required goods, equipment, and services at the time and place needed and in the proper quantity and quality.
- To professionally administer the search for sources of supplies, the development of new sources, the selection of suppliers and negotiations.
- To promote good and effective vendor relations, cultivated by informed and fair buying practices and strict adherence to ethical standards.

If the policies and procedures established in this manual are followed, each department can efficiently manage, control and plan its available resources to meet present and future departmental needs and help the County to meet these goals. Should there be any question(s) pertaining to the policies and procedures in this manual, contact the Purchasing Department.

The purchasing process is an ever-changing process due to new technology and tools available to the purchasing profession. Therefore, this manual shall be reviewed and revised periodically to keep current with continued developments as they pertain to the purchasing process.

The Board of Onslow County Commissioners has approved the policies contained within this manual. Therefore, the governing body shall approve any and all policy changes prior to their becoming effective. However, the administrative procedures contained within this manual are administrative and may be changed as necessary at staff level.

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### 1.2 Overview

#### 1.2.1 Centralized Purchasing

It is the policy of the County of Onslow that the Purchasing Department provides centralized procurement services for the County.

The main purpose of the centralized purchasing is to provide for a uniform and systematic method of purchasing the necessary goods and services required by the County departments and to define the responsibilities of the Purchasing Director.

The department provides technical assistance to all County agencies in areas of standardization, specifications, cost reduction, and product and price information. The department ensures that all purchasing requirements and limitations imposed by state law are adhered to properly and economically. In addition, the department administers several County-wide programs such as the fuel procurement program, the leased copier program, equipment maintenance and the procurement card program.

#### 1.2.2 Program Administration

The Purchasing Director shall administer an effective centralized purchasing program for the County by:

- Carrying out the policy directives of the Board of Commissioners and the procedures established;
- Controlling and reducing the cost of purchasing supplies, materials, equipment, and services;
- Contractual assistance with construction and repair projects;
- Administering County-wide programs established by the department such as fuel procurement, procurement card program, leased copier program, and equipment maintenance program;
- Providing timely, effective, and efficient service to County departments and divisions, and to vendors doing business with the County;
- Maintaining open communications with departmental representatives and the public in general;
- Encouraging free and open competition in the bid process.

#### 1.2.3 Competitive Bidding

The County shall obtain competitive bids on all purchases as required by North Carolina General Statutes. When economically feasible, competitive bids are to be obtained, regardless of the dollar amount, whenever it is deemed to be in the best interest of the County.

#### 1.2.4 Budget Ordinance

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The County Manager, Purchasing Director, and Purchasing Department shall adhere to the policies and procedures approved by the Board of Commissioners in each annual budget ordinance. Each annual budget ordinance shall be automatically incorporated herein.

### 1.3 Code of Conduct

#### **Purpose**

To establish a standard written code of conduct.

#### **Code**

All procurement activities must be conducted according to applicable laws, rules, regulations, and policies of certain federal funding, Onslow County, and the State of North Carolina, specifically General Statute 14-234.

All procurement activities must maintain integrity at all times, keep free from any personal obligations to vendors or contractors and respect their confidence.

No employee or officer of Onslow County shall participate in the award or administration of a federal, state, or locally funded project or purchase if that person, that person's spouse, any member of that person's immediate family, or an organization which employs or is about to employ the person, the person's spouse, or a member of the person's immediate family has a financial or other interest in the company selected for award.

Any County employee having knowledge of or a reason to know of a potential personal interest or upon the discovery of a potential personal interest has an affirmative duty to disclose such personal interest to the department head. Any attempts by any person, firm or corporation to influence the decision of a County employee with regard to County business must be reported to the County Manager.

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### Section 2 – Bidding Process

#### 2.1 Competitive Bidding Methods

##### I. Purpose

The purpose of this policy is to define the County's position regarding competition and to describe the methods used for competitive bidding.

##### II. Policy

It is the policy of the Purchasing Department to prepare specifications that will ensure competitive bids whenever possible. Because competition is critical to public purchasing, it is essential that specifications be developed to ensure a sufficient number of competitive bids will be received. Specifications shall be as simple as possible while maintaining the degree of exactness required to meet the requirements of goods being requested. Specifications utilizing a brand name must include the term "or approved equal" to avoid being restrictive and eliminating fair competition from the bidding process. Well-written specifications will ensure that the Purchasing Department is able to procure what is needed, when it is needed, at the lowest possible cost.

The Purchasing Director will determine which purchasing method will be most advantageous to the County and will ensure that all state laws and local policies are met.

##### III. Procedure

Competitive Sealed Bids: Formal bid requirements shall be met by use of the sealed bid process unless an "Exception to the Bidding Requirement" as described under 143-129(e) is used. The Purchasing Director may utilize the methods for formal competitive bids or may determine other appropriate methods for soliciting sealed bids. Bids shall be advertised and shall include the time, date, and place for opening of bids and where bids may be obtained.

Request for Quotations: Informal bids may be secured by the solicitation of quotes from prospective vendors by utilizing a Request for Quotation form. These documents may be submitted to the vendor via mail, electronic mail or by fax. The document may be returned by mail, fax, or email with the authorized vendor signature.

Reverse Auction: An alternative method to receive competitive bids is a Reverse Auction. A reverse auction is an authorized method to secure competitive bids in both the formal and informal range for the purchase of apparatus, supplies, materials or equipment. A reverse auction can be used for informal construction but not formal. For purposes of this policy, reverse auction means a real-time purchasing process in which bidders compete to provide goods at the lowest selling price in an open and interactive environment. To conduct a reverse auction, the Purchasing Director may use a third party.



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### 2.2 Informal Bids

#### I. Purpose

The purpose is to provide a uniform procedure for obtaining bids for the purchase or lease-purchase of apparatus, supplies, materials, or equipment and for construction or repair work which are classified as **Informal Bids** as referred to by N.C.G.S. 143-131.

#### II. Policy

It is the policy of the Purchasing Department to obtain all **Informal Bids** as described in N.C.G.S. 143-131 in writing. In accordance with N.C.G.S. 143-131, informal bids are required for *purchase contracts* costing \$30,000 to the formal limit of \$90,000; and *construction or repair work* costing \$30,000 up to the formal limit of \$500,000. The use of a registered architect or engineer is required for certain construction or repair projects in the informal range (N.C.G.S. 133-1.1(a)).

Bids may be obtained by utilizing any one of the competitive bidding methods described in this policy if the Purchasing Director deems it to be in the best interest of the County. Bids may be received by fax, email, or regular mail.

All contracts shall be awarded to the lowest responsible, responsive bidder, taking into consideration quality, performance, and the time specified in the bids for the performance of the contract.

Bid tabulations shall **not** be subject to public inspection until the contract has been *awarded* (N.C.G.S. 143-131).

#### III. Procedure

1. The requesting department must submit an online requisition to the Purchasing Department.
2. Written quotes secured by the department shall be scanned and attached to the online requisition or hardcopies may be submitted to the Purchasing Department with the requisition number clearly identified on the quote.
3. If quotes have not been secured by the department, the Purchasing Department will determine which competitive bidding method will be in the best interest of the County.
4. The Purchasing Department will review the specifications submitted by the requesting department.
5. Bid is solicited with the following information provided to all vendors:
  - Quotation Number
  - Current Date
  - Date and time quotes are due back to the County
  - Detailed description and quantity of articles or work desired
  - Requesting department

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### 2.2 Informal Bids - Continued

#### III. Procedure - Continued

6. No advertisement for informal bids is required; however, the Purchasing Director may advertise as he/she deems appropriate.
7. Quotations are due on the date and time specified and will be tabulated and evaluated in a timely manner.
8. Bids are coordinated with the requesting department to ensure that specifications are met and that sufficient funds are available before the award is made.
9. The requisition is approved by the authorized official in accordance with the Contract Award and Execution procedures contained within this policy.
10. The Purchasing Department will issue a purchase order to encumber the funds and process the order.

### 2.3 Formal Bids

#### I. Purpose

The purpose is to describe the County's policy for the purchase or lease-purchase of apparatus, supplies, materials, or equipment, and for construction or repair work which must be secured through the competitive bid process governed by N.C.G.S. 143-129, which are classified as **Formal Bids**.

#### II. Policy

A **formal bid** is required when:

1. The expenditure is \$90,000 or more for the purchase of apparatus, supplies, materials, and/or equipment.
2. The *estimated* expenditure is \$500,000 or more for construction and/or repair projects.

In accordance with N.C.G.S. 133-1.1(a), the use of a registered architect or engineer is required for the following work:

- Nonstructural Work \$300,000 *and above*
- Structural repair or new construction \$135,000 *and above*
- Repair work affecting life safety systems \$100,000 *and above*

#### III. Procedure

1. The requesting department shall contact the Purchasing Department authorizing the purchase, construction or repair work.

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### 2.3 Formal Bids - Continued

#### III. Procedure - Continued

2. The Purchasing Director or a designated representative will review and modify (as needed) the specifications submitted by the requesting department to develop specifications. If motorized equipment is being requested, the Vehicle Maintenance Supervisor will assist in the development of the specifications. The ITS Director will assist in the development of specifications for computer or technology equipment.
3. Specifications for certain construction or repair projects shall be prepared by a licensed architect/engineer firm as defined in GS 133-1.1. If requested, the Purchasing Director will provide the front-end documentation to the architect/engineer firm engaged to prepare such specifications.
4. The Purchasing Director will review the specification documents prepared by the licensed architect/engineer firm to ensure all state and local requirements have been met.
5. The Purchasing Director shall solicit bids utilizing one of the authorized competitive sealed bid methods which best fits the County's needs. The Purchasing Director shall ensure that all state and local requirements are met, including advertising, bonding requirements, pre-bid conference, sealed bids, minimum number of bids (construction and repair), maintaining records, and public opening of bids.
6. For equipment purchases, consideration will be given to conduct a pre-bid conference with potential suppliers if the specifications are complex or if the nature and size of the purchase warrants a pre-bid conference.
7. For construction projects estimated to cost \$500,000 or more, it is the County's policy to conduct a pre-bid conference for the purpose of explaining the County's requirements for the project and to answer any technical questions relating to the project.
8. For construction projects estimated to cost \$500,000 or more the County may, but is not required, to pre-qualify its contractors.
9. The bid shall be advertised by electronic means or in a newspaper of general circulation in Onslow County at least seven (7) full days elapsing between the day the ad appears and the bid opening date.
10. Sealed bids are received and opened in public at the time, place and date specified in the advertisement. Bids received after the advertised time and date shall not be considered. Three bids are required only for construction or repair contracts in the formal range. For construction or repair contracts, if three bids are not received, a second advertisement shall be made, after which a contract may be awarded even if fewer than three bids are received. No minimum number of bids is required for purchase contracts.

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### 2.3 Formal Bids – Continued

#### III. Procedure - Continued

11. The Purchasing Director and the requesting department shall review all bids to ensure that the specifications have been met.
12. The Purchasing Director shall recommend award of contracts to the lowest responsible bidder or bidders, taking into consideration quality, performance and the time specified in the proposals for the performance of the contract.
13. The Purchasing Director is authorized to reject bids and re-advertise to receive bids.
14. Use of the County's contracts is required for all construction projects. Contracts are prepared for review by all concerned (Purchasing Director, County Attorney, and the Finance Officer). Standard Form Contracts by an architect or engineer are not recommended but may be utilized **only** after review and approval by the County Attorney.
15. An agenda action form is prepared by the requesting department and submitted for the Board of Commissioners' consideration. The Board of Commissioners shall approve or disapprove contract as appropriate.
16. If approved, a purchase order is issued along with other contractual documentation that may be required such as the Contract, Notice of Award, Notice to Proceed, etc.

### 2.4 Exceptions to the Formal Bidding Requirements

N.C.G.S. 143-129(e) lists the Exceptions in which the **formal** bidding requirements do not apply. The County of Onslow may utilize the following purchasing options rather than pursuing competitive bidding. Formal bidding is not required if any of these procedures are used. The Purchasing Director is responsible for gathering information to document the basis for the use of any exception to the competitive bidding requirements. The County Manager, with the Purchasing Director, will determine whether any of the following exceptions is appropriate for a purchase or group of purchases.

Exceptions that apply to **purchase contracts** only:

- Purchases from other governmental agencies
- Competitive group purchasing
- Purchase of gasoline, diesel fuel, alcohol fuel, motor oil, fuel oil, or natural gas. These purchases are subject to informal bidding requirements G.S. 143-131.
- Sole Source (must have letter from manufacturer and requires board approval)
- Information technology goods or services purchased through the State Office of Information Technology or under request for proposals.
- Purchase of *used* apparatus, supplies, materials, or equipment. For purposes of this exception, remanufactured, refabricated or demo apparatus, supplies, materials, or equipment.

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### 2.4 Exceptions to the Formal Bidding Requirements – Continued

- Purchases from contracts established by the State or any agency of the State, if the contractor is willing to extend to a political subdivision of the State the same or more favorable prices, terms, and conditions as established in the State contract.
- Purchases of apparatus, supplies, materials, or equipment from contracts established by the United States of America or any federal agency, if the contractor is willing to extend to a political subdivision of the State the same or more favorable prices, terms, and conditions as established in the federal contract.

Exceptions that apply to **purchase contracts** only – Continued:

- Equipment is **not** included in the exception. A demo item is one that is used for demonstration and is sold by the manufacturer or retailer at a discount.
- “Piggybacking” or Previously Bid *Purchase* Contracts (requires governing board approval at a regular meeting upon 10 days’ public notice)
- Purchase of goods and services from nonprofit work centers for the blind and severely disabled

Exceptions that apply to **construction or repair contracts** only:

- Change Order Work
- Construction Manager at Risk projects (Qualification Based Selection is required)
- Design-Build Services (Qualification Based Selection is required)
- Public-Private Partnership Construction Services (Qualification Based Selection is required)
- Force account work (note: limitations apply)
- Projects using unemployment-relief labor paid for in whole or in part with state or federal funds.
- Contracts with North Carolina Department of Transportation for street construction and repair

Exceptions that apply to **both** construction and purchase contracts:

- Special emergency involving health and safety of the people, or their property
- Guaranteed energy savings contracts, which are governed by Article 3B of Chapter 143 of the General Statutes
- Solid waste management facilities

#### 2.4.1 Contracts Not Subject to Bidding Requirements

Contracts that are not subject to bidding requirements are:

1. Service contracts (including demolition)
2. Contracts for the purchase of *real* property
3. Contracts for the lease of personal property (unless the option to purchase is included in the lease)

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The above-mentioned contracts are not subject to bidding because they do not fall within the categories of apparatus, supplies, material or equipment; and construction or repair projects. However, service contracts should be made under conditions which encourage competition with potential bidders.

### 2.5 Professional Services

#### I. Purpose

The purpose of this policy is to describe the procedures for the selection of professional service firms in accordance with the N.C.G.S. 143-64.31 and the exemption process as described in N.C.G.S. 143-64.32. Professional services include architectural, engineering, surveying, construction manager-at-risk services, design-build services, and public-private partnership construction services.

#### II. Policy

It is the policy of the County to select firms for professional services through the qualification-based selection process. Requirements for professional services must be “announced” and providers must be selected based on demonstrated competence and qualifications for the type of professional services required without regard to fee.

The County shall use “good faith efforts” to notify minority firms of the opportunity to submit qualifications for consideration.

The County may request **unit price** information at the time qualifications are received, and thereafter negotiate a lump sum contract for those services at a fair and reasonable fee with the best qualified firm.

If a contract cannot be negotiated with the best qualified firm, negotiations with that firm shall be terminated and initiated with the next best qualified firm.

The County Manager may exempt particular projects from the qualified-based selection process in which the estimated professional fee is in an amount less than \$50,000.

#### III. Procedure

1. The requesting Department shall provide a scope of services to the Purchasing Director.
2. The Purchasing Director will prepare a Request for Qualification package and solicit to firms having the competency to perform the required work.
3. The Purchasing Director shall use good faith efforts to contact minority firms to participate.

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### 2.5 Professional Services – Continued

#### III. Procedure - Continued

4. If a department prefers to exempt certain professional services, the department or division head must provide the Purchasing Director reasons for exemption.
5. If exempt, the Purchasing Director shall complete an Exemption Form and forward to the County Manager for consideration of approval.
6. If approved, a copy of the Exemption Form will be sent back to the Department. The Exemption Form shall be scanned and attached to the online requisition.

#### 2.5.1 Exemption Form

##### EXEMPTION FORM

#### **ARCHITECTURAL, ENGINEERING, SURVEYING, CONSTRUCTION MANAGER AT RISK SERVICES, DESIGN-BUILD SERVICES, AND PUBLIC-PRIVATE PARTNERSHIP CONSTRUCTION SERVICES**

**WHEREAS**, G.S. 143-64.31 requires the initial solicitation and evaluation of firms to perform architectural, engineering, surveying, construction management-at-risk services, design-build services, and public-private partnership construction services (collectively “design services”) to be based on qualifications and without regard to fee; and

**WHEREAS**, the County of Onslow proposes to enter into one or more contracts for such design services for work on **[Name of Project]** and;

**WHEREAS**, G.S. 143-64.32 authorizes units of local government to exempt contracts for design services from the qualifications-based selection requirements of G.S. 143-64.32 if the estimated fee is less than \$50,000; and

**WHEREAS**, the estimated fee for design services for the above-described project is less than \$50,000.

**NOW, THEREFORE, THE COUNTY MANAGER FINDS:**

The above described project is hereby made exempt from the provisions of N.C.G.S. 143-64.31.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

\_\_\_\_\_  
County Manager

\_\_\_\_\_  
Attest

**PLEASE FORWARD ORIGINAL TO PURCHASING**

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### 2.6 M/WBE Requirements

#### I. Purpose

To explain the County's policy with regard to non-discrimination in purchasing practices and outline procedures to be utilized to ensure that purchasing practices will provide opportunities for participation by Minority/Women's Business Enterprises (M/WBE's).

#### II. Policy

It is the policy of Onslow County to provide minority and women-owned businesses equal opportunity to participate in all aspects of County procurement relating to building construction and repair contracts in accordance with the County's Minority Business Plan.

For the purpose of this policy, "Minority Business" is defined by statute as a business that is at least 51 percent owned by one or more ethnic minorities or socially and economically disadvantaged individuals.

For building construction projects of \$300,000 or more, advertisement shall be published in a minority newspaper.

#### III. Procedure

1. The Purchasing Director is responsible for reviewing and ensuring that M/WBE's are provided with an opportunity to participate in the bid process. Each member of the Purchasing and Contracting Department is required to make efforts to involve M/WBE's in this process.
2. For building construction and repair projects costing \$300,000 or more, a verifiable goal of 10% for participation is required. Good faith efforts to encourage participation by minority businesses shall be made by the County and the architectural and/or engineering firm.
3. **For building construction and repair projects costing \$300,000 or more, the Purchasing Director or architect/engineer is required to advertise the project in a minority newspaper such as the *Greater Diversity News* or the *Carolinian*.**
4. For building construction projects of \$30,000 up to \$300,000, "good faith efforts" for participation are encouraged. The Purchasing Department will solicit participation by minority business enterprises and will maintain a record of contractors solicited and efforts to recruit minority participation.
5. The County is required to submit a quarterly report to the State Department of Administration, Historically Underutilized Business (HUB) program on the number of minority, women and handicapped vendors that the County has used for each individual building project. This required reporting applies to building construction projects costing \$30,000 or more regardless of the funding source. In addition, good faith efforts shall also be reported.

HUB vendors are registered with the Division of Purchase and Contract and can be found on the Purchase and Contract Home Page: <http://www.doa.state.nc.us/PandC>



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Revised May 2018

### 2.7 Advertising for Bids

#### I. Purpose

The purpose of advertising bids is to inform the public of bidding opportunities and to meet certain statutory requirements.

#### II. Policy

N.C.G.S. 143-129 requires that formal bids be advertised in a newspaper having general circulation, or by electronic means, or both.

The Purchasing Director or its authorized designee shall advertise either electronically or in a local newspaper, whichever is determined to be most efficient and effective. Newspaper advertisements shall appear “at least one time and at least seven full days before the time specified for the opening of bids in a newspaper having general circulation in the jurisdiction that is seeking bids.” Electronic advertisements shall appear electronically at least seven days prior to the bid opening date.

For *building* construction projects of \$300,000 or more, in addition to our local newspaper having general circulation, the advertisement shall also be published in a minority newspaper.

#### III. Procedure

1. Advertisement is prepared and shall contain the following information:

- Time and place where plans and specifications can be obtained;
- Time and place for opening of the bids/proposals;
- The County reserves the right to reject any and/or all bids/proposals;
- On construction projects, a notice that bidders must be properly licensed as required under Chapter 87 of the N.C.G.S.

2. Bids for the purchase of apparatus, supplies, material or equipment should be advertised for opening Tuesday through Thursday, any time between the hours of 10:00 AM and 4:00 PM. Bids for construction projects will not be opened before 2:00 PM. Time and dates will be provided both in the advertisement and specifications.

3. For construction or repair projects utilizing the dual bidding process, multi-prime bids will be received, but not opened, one hour before single prime bids are due.

4. Legal notices may be advertised over the name of the County Manager, the Purchasing Director or its authorized designee. Construction bids may be advertised over the name of an architectural/engineering firm.

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### 2.8 Bid Opening Procedures

#### I. Purpose

These procedures are to set forth a uniform method of opening sealed bids.

#### II. Policy

It is the County's policy that *all* sealed bids in the formal range and/or all sealed bids in the informal range, if utilizing the sealed bid method, be opened in public in the Purchasing Department unless otherwise authorized.

It is also the County's policy that the bid opening, evaluation, and award process be governed by the standards of openness and impartiality.

#### III. Procedure

1. All formal bids shall be sealed upon receipt until bids are opened publicly and read aloud.
2. All informal sealed bids shall remain sealed until the deadline for bids has expired.
3. Formal bids shall be opened in public and read aloud at the time and place specified in the advertisement for bids. Normally, all formal bids are opened in the office of the Purchasing Director by the Purchasing Director or by the architectural and/or engineering firm.
4. For construction or repair projects utilizing the dual bidding process, separate prime bids will be received, **but not opened**, one hour before single prime bids are due.
5. Formal bids for construction or repair projects *must* be accompanied by a five percent (5%) bid deposit in the form of cash, cashier's check, certified check or a bid bond executed by a Surety licensed in the State of North Carolina. Personal or company checks will not be accepted. Facsimile bid bonds are not acceptable. The County may, at its discretion, require bid deposits on informal construction projects whenever it deems necessary.
6. Bids submitted without the proper bid deposit, as required by statute, will not be considered. This also applies to construction or repair projects where the County is requiring a bid deposit on an informal bid.
7. Bids received after the time designated for the opening shall not be accepted. If a bid is received after the official bid opening date and time, the bid will not be opened. A notation on the outside of the bid package stating the date and time received will be noted and the bid will be placed in the bid file. Bid will be returned to vendor/contractor upon request.
8. Three bids are required for *construction or repair contracts in the formal range*. If three bids are not received for formal construction and repair projects, a second advertisement must be made, after which a contract may be awarded even if fewer than three bids are received. No minimum number of bids is required for *purchase* contracts.
9. All formal bids are subject to public inspection once they are opened and a bid tabulation will be made available to interested parties.

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### 2.8 Bid Opening Procedures - Continued

#### III. Procedure - Continued

10. Informal bids are not subject to public inspection until after **contract award**.
11. It is a practice of the Purchasing Department that only bid prices will be discussed at the bid opening. Bids will not be evaluated at this time.
12. Bids are evaluated for compliance to specifications by the Purchasing Director and the responsible department/division head or designated representative. Bids will be awarded to the lowest responsible, responsive bidder or bidders taking into consideration quality, performance and the time specified in the proposals for the performance of the contract.

### 2.9 Bid Deposit/Bid Bond

#### I. Purpose

To explain when a bid deposit/bid bond is required and how it is processed.

#### II. Policy

1. N.C.G.S. 143-129 states that “no (formal) proposal for *construction or repair* work may be considered or accepted unless at the time of its filing it is accompanied by a bid deposit equal to not less than five percent (5%) of the proposal.” The bid deposit may be cash, cashier’s check, or a certified check.

In lieu of making the cash deposit as above provided, bidder may submit an **original** bid bond executed by a corporate Surety **licensed** under the laws of North Carolina to execute such bonds. Faxed or copied Bid Bond will **not** be accepted.

2. Bid deposits are not required for purchase contracts; however, the County may require a bid deposit on *any* purchase contract, service, or any informal construction or repair project as it deems necessary.
3. Bid Deposit: If the successful bidder fails to execute the contract within 10 days after the contract award or fails to give satisfactory Surety (required bonds), the bid deposit may be retained by the County.
4. Bid Bond: If the successful bidder fails to execute the contract within 10 days after the award or fails to give satisfactory notice, the Purchasing Director will notify the Surety.

#### III. Procedure

1. Bids for which a deposit is required must be accompanied by a five percent (5%) bid deposit in the form of cash, cashier’s check, certified check or bid bond executed by a Surety **licensed** in North Carolina. A company check or personal check is not acceptable.
2. If the proper bid deposit is not enclosed, the bid will not be considered.

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### 2.9 Bid Deposit/Bid Bond - Continued

#### III. Procedure - Continued

3. Facsimile bid bonds are not acceptable.
4. Bid deposits in the form of cash, cashier's check, or certified checks are deposited by the Finance Department on the day of bid opening.
5. Bid bonds are retained in the Purchasing Department.
6. Upon the award of the contract, a request for refund for each deposit is submitted to the Finance Department by the Purchasing Department.
7. A check or cash deposit is returned to the unsuccessful bidder(s) as soon as possible after the contract is awarded. Bid bonds are not returned as they are non-negotiable.
8. A check or cash deposit is returned to the successful bidder after the contract has been executed by the successful bidder and the County is in receipt of the performance and payment bond. Bid bonds are filed with the bid as they are non-negotiable.

### 2.10 Award of Contracts

#### I. Purpose

To describe who is authorized to award and execute contracts on behalf of the County.

#### II. Policy

It is the County's policy to award all contracts in accordance with North Carolina General Statutes and County policy.

All contracts shall be awarded to the lowest responsible, responsive bidder, or bidders, taking into consideration quality, performance and the time specified in the proposals for the performance of the contract or receipt of goods or services.

The dividing of contracts to evade these provisions is prohibited.

All contracts shall be executed in accordance with the "Summary of Contract Award and Execution Procedures."

The Assistant County Manager for Consolidated Human Services is authorized to sign contracts on behalf of the Consolidated Human Services Agency that do not involve funding (non-monetary contracts).

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### 2.10 Award of Contracts - Continued

#### III. Procedure

Contracts are awarded and signed in accordance with the “Summary of Contract Award and Execution Procedures” below.

#### 2.10.1 Summary of Contract Award and Execution Procedures

Payments For	Amounts
Purchase of apparatus, supplies, materials and equipment	Up to \$29,999 *PD \$30,000 + *CM
IT Related Purchases	Up to \$29,999 *IT \$30,000 + *CM
Construction or Repair	Up to \$29,999 *PD \$30,000-\$499,999 *CM \$500,000+ *BOC
Change Orders	Up to \$99,999 *CM \$100,000+ *BOC
Services IT Related Services	Up to \$29,999 *PD Up to \$29,999 *IT \$30,000 - \$149,999 *CM \$150,000+ *BOC
Leases <b>(one year or less)</b> Applies when County is Lessor Over 1 year require BOC approval	Up to \$29,999 *PD \$30,000-\$99,999 *CM \$100,000+ *BOC

\*PD – Purchasing Director

\*IT – IT Director

\*CM – County Manager

\*BOC – Board of Commissioners

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### 2.11 Performance and Payment Bond

#### I. Purpose

This policy is to explain when a performance and payment bond is required and how it is processed.

#### II. Policy

1. N.C.G.S. 143-129(c) requires a performance and payment bond when the sum of all contracts for a construction or repair project exceed \$300,000. The successful bidder must provide performance and payment bonds for the full amount of each contract exceeding \$50,000. In place of bonds, the contractor may provide cash, certified checks or governmental securities.
2. N.C.G.S. 143-129 further provides that for construction projects involving a single contract, the performance and payment bond is not required unless the contract exceeds \$300,000.
3. The County may require a performance and payment bond on construction projects costing less than \$300,000, certain purchase contracts, or services if it is in the best interest of the County to do so.

#### III. Procedure

1. The performance and payment bond must be the full amount of the contract in the form of a bond by a Surety licensed in North Carolina, cash, certified check or government securities.
2. Facsimile (faxed) or emailed bonds are **not** acceptable.
3. Bonds in the form of cash or certified check are deposited by the Finance Department on the day of receipt. When government securities are used as a bond, the Finance Department will properly secure them.
4. Bonds provided by a Surety **licensed** in North Carolina are retained in the Purchasing Department. A power of attorney will accompany all bonds pertaining to this section.
5. Upon completion and/or acceptance of the construction project, a request for a check for each bond deposit is submitted to the Finance Department by the Purchasing Department.
6. The refund or government securities are returned to the contractor once the contract has been completed and accepted by the County. Bonds are not returned as they are non-negotiable.

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### 2.12 Expenditures Requiring Board of Commissioners Approval

#### I. Purpose

This policy is to define which expenditures and the procedures that require the Board of Commissioners approval.

#### II. Policy

It is the County's policy to obtain the Board of Commissioners approval on the following expenditures:

- All expenditures as required under "Award and Execution of Contract"
- \$100,000+ Leases (one year or less)
- All leases over one year, regardless of dollar amount, when County is Lessor
- Sole Source purchases as required by N.C.G.S. 143-129(e)(6)

**Dividing of contracts to evade these provisions is prohibited.**

#### III. Procedure

1. The requesting department shall submit an online requisition.
2. The requesting department shall prepare an Agenda Action Form.
3. Two (2) original contracts (if required) shall be prepared in accordance with the County Contract Control Manual.
4. The **original** packet which consist of 1) the requisition, 2) agenda action form and 3) contracts (already reviewed and approved by County attorney) are to be forwarded to the Purchasing Director.
5. The Department will drop all items electronically into the Agenda Folders created by Administration.
6. Upon review of the Purchasing Director, the board packet shall be submitted to the Finance Officer for approval based on funds available.
7. The board packet will then be forwarded to the Clerk to the Board of Commissioners for the documents to be incorporated in the agenda.

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### 2.13 Vendor Relationships

#### I. Purpose

To make the County's policy in developing relationships with vendors and contractors known.

#### II. Policy

It is the County's policy to maintain and practice the highest possible standards of business ethics, professional courtesy, and competence in dealing with vendors and contractors.

#### III. Procedure

All vendors will be provided an opportunity to submit prices on a competitive basis. All County representatives delegated to provide purchasing functions will:

- Keep competition open and fair;
- Prepare complete, logical, and non-restrictive specifications for vendors;
- Observe truthfulness in all transactions and remain free from obligation to all vendors;
- Demonstrate loyalty to the County by diligently following the lawful instructions of the employer;
- Avoid the intent and appearance of unethical or compromising practice in relationships, actions, and communications;
- Refrain from any private business or professional activity that would create a conflict between personal interests and the interests of the County;
- Promote positive vendor relationships through courtesy and impartiality in all phases of the procurement phase;
- Adhere to County policy and the North Carolina General Statutes.

All vendors who wish to do business with the County should first contact the Purchasing Department. If the Purchasing Department determines that the vendor has a product or service that the County has a need for, the vendor will be added to the appropriate bidder list. The Purchasing Department may also make arrangements for the vendor to meet with the user department personnel.

Vendors must complete a vendor form and provide it to the Finance Department. **Orders shall not be placed with a vendor until the vendor form is received and a vendor number has been assigned.**

Vendors are selected based on their ability to provide the needed products and services. The Purchasing Department maintains a list of vendors of various products and services. Before a purchase is made, these vendors normally are given an opportunity to furnish a price quotation.

Preference will be given to bidders **only** when identical bids are involved. In the case of identical bids, preference will be given to vendors owned by residents of Onslow County.



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### 2.13 Vendor Relationships – Continued

#### III. Procedure - Continued

It is unlawful for vendors to make gifts or give favors to Purchasing Department employees or any other County employee except under limited circumstances. Such circumstances are set forth in N.C.G.S. 133-32 and include honorariums for participation in meetings, items of nominal value, meals furnished at banquets. It is also unlawful for Purchasing Department employees or any other County employee to accept such gifts and favors. Purchasing Department employees as well as all County employees are expected to comply with all applicable laws and policies, and vendors are expected to abide by these laws and policies as well.

It is the policy of the County that a County employee, officer, or agent of the County may not be contracted for the same type of work that the individual performs as their regular duties.

County employees, officers, or agents of the County may not participate in contracts in which any member of their immediate family, business partner, or any organization serves as an officer, director, trustee, or employee having a financial interest.

### 2.14 Pre-Qualification – Capital Improvement Projects

#### I. Purpose

The purpose of this prequalification process is to impartially evaluate a contractor, and to properly determine by its responsible business practices, work experience, manpower, and equipment that it is qualified to bid on a construction project, including prime contracts awarded by construction managers pursuant to the Construction Manager at Risk (“CM at Risk”) process. The award of contracts should be the result of open competition in bidding; impartiality in the selection of contractors; integrity in business practices; and skillful and safe performance of public contracts.

#### II. Policy

Prequalification is not required for all capital improvement projects.

The Bid Agent shall be responsible for prequalifying individual contractors to bid on construction projects when the County believes prequalification is preferred. Prequalification is limited to construction or repair projects (regardless of cost) that are bid under the single-prime, separate-prime (multi-prime), or dual bidding methods. A bidder shall be deemed nonresponsive if it submits a bid on a construction project subject to prequalification for which it has not been accepted for prequalification in accordance with this policy.

Prequalification is prohibited for contracts for architectural, engineering, surveying, construction management at risk services, design-build services, and public-private partnership construction services.

The Construction Manager at Risk shall use the process outlined in this policy for the

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### 2.14 Pre-Qualification – Capital Improvement Projects – Continued

prequalification of first tier prime contractors on CM at Risk projects. The construction manager and the County shall jointly develop the assessment tool and criteria for each CM at Risk project, including the prequalification scoring values and minimum requirement score.

Notwithstanding the fact that a contractor was prequalified, the County reserves the right to reject a contractor's bid if it is determined that the contractor has not submitted the lowest responsible and responsive bid. The prequalification of the contractor shall not preclude the County from subsequently concluding that the contractor is not a responsible bidder pursuant to G.S.143-129. The prequalification of a contractor for a project shall only apply to the individual project. All construction and repair contracts shall be awarded to the lowest responsive and responsible bidder, taking into consideration quality, performance, and the time specified in the bids for the performance of the contract.

**ORGANIZATIONS AFFECTED:** All Departments.

### III. Definitions

**Bid Agent** – Person assigned the responsibility to prepare the request for qualification, bid, and contract documents, advertise bids and proposals, and open bids for contracts under the direction of the Project Manager. The Bid Agent may be a professional services consultant retained by the County under an approved contract, the County Manager or designee, the Purchasing Director, or a department head responsible for the project.

**Project Director** – Employee of the department responsible for a construction, repair, or purchasing project requiring a contract who shall be assigned the responsibility for managing the project and representing the department in matters relating to the project.

**Construction Manager at Risk** – A person, corporation, or entity that provides construction management at risk services. May also be referred to as Construction Manager.

**Prequalification** - A process of evaluating and determining whether potential bidders have the skill, judgment, integrity, sufficient financial resources, and ability necessary to the faithful performance of a contract for construction or repair work.

**Purchasing Director** – Person in the Purchasing Department responsible for the overall conduct or oversight of all procurement activities of the County.

### IV. Procedure

1. Each prospective bidder on contracts identified for prequalification by the Bid Agent and all CM at Risk projects shall submit an application on the approved prequalification application form in order to become prequalified.

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### 2.14 Pre-Qualification – Capital Improvement Projects – Continued

2. The approved prequalification application form will require information to be provided on the ownership of the firm, experience of firm's personnel, any affiliations with other construction firms, bonding capacity, financial resources, the type of work performed by the firm, and other objective criteria rationally related to the particular contract to be awarded.
3. The Bid Agent shall ensure that applications prepared for the projects comply with this policy and State law. The application is to be submitted by the deadline established in the notice of prequalification. The notice must be posted on the County's website for a minimum of two weeks for any construction project estimated to be \$30,000 or more. The act of submitting the application does not permit the firm to submit a bid. Incomplete applications will be rejected or returned for further detail or correction in the sole discretion of the County.

#### V. Application

1. The application shall, at a minimum, address the following items:
  - a. **Organizational Structure** – The firm shall provide a list of all owners, officers, partners, or individuals authorized to represent or conduct business for or sign legal documents for the firm. This list must include the full legal name, typed or printed in a clear, legible form. Firms experiencing changes in ownership, organizational structure, or material changes in assets must inform the Bid Agent prior to the award of a contract. Failure of the firm to comply with this requirement may result in the termination of any contract awarded by the County.
  - b. **Classification** – The firm shall indicate the type(s) of work the firm's workforce and equipment normally perform, licensure, and other pertinent information.
  - c. **Experience** – The firm shall furnish a history documenting experience with projects of similar size, scope, or complexity involving the type(s) of work for which prequalification is requested.
  - d. **Financial** – Firms will be required to provide a minimum of one year of complete audited financial statements from the most current period available.
  - e. **Litigation/Claims** – The firm will be required to submit information regarding its litigation history, including litigation with owners and subcontractors.
  - f. **Timeliness** - Firms must provide information on its success at completing projects on time, including the payment of liquidated damages.
  - g. **Capacity** - Firms shall demonstrate sufficient bonding capacity, insurance and resources for the project. Firms must provide relevant information on the personnel that will

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### 2.14 Pre-Qualification – Capital Improvement Projects – Continued

be directly responsible for the work, including the location of the office that will be primarily responsible for work.

- h. **Safety** - Firms shall also demonstrate an acceptable safety history. Firms must provide copies of any complaints, safety violations or reports from the North Carolina Qualifications Board, OSHA, or any other regulating agency associated with any construction project.
- i. **Legal Authorization** –The Applicant must provide a copy of their North Carolina Contractor’s License, or provide a statement indicating that they are able to acquire one before submitting a bid on a project. If a statement is required, the Applicant shall identify the states in which they are licensed for this type of work.

#### VI. Review of Application – County Bid Projects

1. **Prequalification Committee** – The Project Manager shall establish a Prequalification Committee for each project to review and score applications submitted by the firms to determine the prequalification eligibility.
2. **Review of Applications** – The Prequalification Committee shall use an objective assessment process and criteria for that specific project. The prequalification criteria shall not require the firm to have previously been awarded a construction or repair project by the County. The prequalification criteria used by the Prequalification Committee shall include prequalification scoring values and the minimum required score to be prequalified for the project. The Prequalification Committee shall approve or deny the applications in accordance with the prequalification criteria and scoring system.
3. **Notice of Decision** – The firms shall be promptly notified in writing of the Prequalification Committee’s decision via e-mail and first-class mail. The notification to a contractor determined not to be prequalified shall include the reason(s) for denial. Notice shall be provided prior to the advertisement of bids for the project and with sufficient time for the firm to protest the denial of prequalification.

#### VII. Review of Application – CM at Risk Projects

1. **Prequalification Committee** - The Construction Manager and the Project Manager shall agree upon the members of the Construction Manager’s Prequalification Committee. The Prequalification Committee will review prequalification applications submitted by the firms and will determine prequalification eligibility for the CM at Risk project.
2. **Review of Applications** – The Prequalification Committee and the Project Manager shall agree upon an objective assessment process. The Construction Manager and the Project Manager shall develop prequalification criteria, including prequalification scoring values and the minimum required score to be prequalified for the project. The prequalification criteria shall not require the firm to have previously been awarded a construction or repair

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### 2.14 Pre-Qualification – Capital Improvement Projects – Continued

project by the Construction Manager or the County. The Prequalification Committee shall approve or deny the applications in accordance with the prequalification criteria and scoring system.

3. **Notice of Decision** – The firms shall be promptly notified of the Prequalification Committee’s decision via e-mail and first-class mail. The notification to a contractor determined not to be prequalified shall include the reason(s) for denial. Notice shall be provided prior to the advertisement of bids for the project and with sufficient time for the firm to protest the denial of prequalification.

#### VIII. Protest Procedures

1. **Protest Procedure** – The protest procedure is as follows:

- a. The firm may protest the denial of prequalification. A written protest must be received by the Purchasing Director, or designee, within two business days of notice of denial. The written protest shall clearly identify the project and the Project Director, clearly articulate the reasons for the protest, and attach any documents or additional information in support of the firm’s position. The Purchasing Director, or designee, will contact the firm and set up a date and time to discuss the protest. If upon review, the Purchasing Director, or designee, determines that the firm meets the criteria for prequalification, the firm shall be notified that it is prequalified to bid on the project and allowed to participate in the bid process. If the Purchasing Director, or designee, upholds the denial, the firm shall be notified in writing by e-mail and first-class mail.
- b. If the firm desires further review after receiving the decision of the Purchasing Director, the firm may request an administrative review and final decision by the County Manager, or designee. A written request for administrative review must be received by the County Manager, or designee, within two business days of the firm’s receipt of the decision from the Purchasing Director, or designee. The request for administrative review shall clearly identify the project and the Project Manager, clearly articulate the reasons for the review, and attach any documents or additional information in support of the firm’s position. The County Manager, or designee, will contact the firm and set up a date and time for the administrative review. If, upon review, the County Manager, or designee, determines that the firm meets the criteria for prequalification, the firm shall be notified that it is prequalified to bid on the project and allowed to participate in the bid process. If the County Manager, or designee, upholds the denial, the firm shall be notified in writing by e-mail and first-class mail.

2. **General Rules for Protests** – Firms submitting applications shall be provided an e-mail address for communication with the Purchasing Director during the protest process. The firm shall provide at least two e-mail addresses for use by the Purchasing Director

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### **2.14 Pre-Qualification – Capital Improvement Projects – Continued**

in communicating with the firm. The bid opening cannot occur until the protest process is completed. The bid opening must be scheduled in order to allow sufficient time for a bidder that is prequalified as a result of a protest to submit a bid on that project.

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### Section 3 – Purchasing Procedures

#### 3.1 Requisitions

##### I. Purpose

The purpose of the requisition is to initiate the procurement of all supplies, equipment, materials, and/or other repairs and services being requesting by the County departments.

##### II. Policy

Upon receipt of the online requisition, the proper bid and ordering procedures shall be followed in accordance to this manual.

All Information Technology (IT) related requisitions shall be forwarded to the IT Director for processing and approval.

A purchase order will be issued for the purpose of procurement of the supplies, equipment, materials, repairs, and/or services unless the item(s) are ordered with a procurement card. A contract will be prepared for certain services.

##### III. Procedure

1. The requesting department shall submit a requisition online and attach all associated backup documentation to the requisition by scanning and uploading the information. All associated backup information includes written quotes, emails, contracts, proposals, etc.

2. The Purchasing Department will determine the proper bid procedures, if required.

Note: The procedures to be utilized for the online requisition program are outlined in the latest edition of the user manual. User manuals are available on the County's intranet site.

#### 3.2 Purchase Orders

##### I. Purpose

The purchase order serves as authorization to the vendor to furnish goods and services to the County. It is also used to encumber funds for purchases and is the instrument used to pre-audit certain contracts.

##### II. Policy

A purchase order will not be issued without receiving an approved requisition from the ordering department. The Purchasing Director, or designee, and the Finance Officer, or Deputy Finance Officer, must authorize all purchase orders.

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### 3.2 Purchase Orders – Continued

#### III. Procedure

1. The purchase order is generated by the Purchasing Department once the online requisition has been processed and the general ledger coding has been approved by Finance.
2. Purchase Orders may be distributed electronically or printed out.
3. The purchase order will contain:
  - Purchase order number
  - Vendor number
  - Vendor name and address
  - Department name and address
  - Description of item(s) or services ordered
  - Units ordered
  - Unit price, total price or extension
  - Funding code
  - Date
  - Date delivery required
  - Freight information (F.O.B.)
  - Terms
  - PO total
  - Pre-audited statement
  - Signatures: Finance Officer & Purchasing Director
4. The purchase order is distributed as follows:
  - A. **Vendor copy** – The white copy of purchase order shall be mailed to the vendor unless otherwise noted by the department. The white vendor copy of the purchase order may be returned to the department **if requested** on the requisition by stating “Do Not Mail.” It will be the department’s responsibility to place the order once they receive the purchase order.
5. Departments may inquire electronically in the financial software system for all purchase order information.
6. **Receiving**: After items are received and verified, the department must receive the items in the financial software system by recording the quantity(ies) received or by dollar amount for blanket/open purchase orders. Receipts must also be signed, dated and scanned into the financial software system. Original receipts are forwarded to Accounts Payable.



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### 3.3 Blanket Purchase Orders

#### I. Purpose

This procedure is used to provide a purchasing tool for obtaining purchases when the amount of paperwork involved makes it impractical to use regular purchasing procedures.

#### II. Policy

The Purchasing Director and department head will work together to use these procedures when it appears to be in the County's best interest.

This procedure shall not be used to avoid the competitive bidding process.

The Purchasing Director shall be the final authority on the use of this tool for the procurement process.

#### III. Procedure

1. The requesting department will submit an online requisition to include the name of vendor, the description of each item(s) or services to be purchased, and dollar amount anticipated to be purchased. A justification for the blanket purchase order shall be included in the "Notes" section of the online requisition.
2. Purchasing Director, or designee, will review all requests.

The criteria for determining when this procedure is considered desirable are as follows:

- A. The vendor(s) concerned must be willing to accept a blanket purchase order.
  - B. This procedure will normally be restricted to the following commodities:
    - Items being purchased under a Term Contract
    - Repair materials and supplies
    - Food items, groceries, meats, etc.
    - Hardware, general to include bolts, nuts, rivets, etc.
    - Automotive supplies and parts, general
  - C. The blanket purchase order procedure is not intended to be used where a purchase can be planned and competitive prices obtained, nor for capital purchases.
3. If approved, purchase order will be issued and distributed in the same manner as regular purchase orders.
  4. Maximum expenditure amount authorized on purchase order shall not be exceeded.

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### 3.3 Blanket Purchase Orders – Continued

#### III. Procedure - Continued

5. Employees who use this procedure must provide their name and refer to the purchase order number when placing orders with suppliers. When picking up supplies from a vendor, the employee must show their County identification card and a copy of the purchase order.
6. A sales ticket (receipt) must be obtained each time an item(s) is purchased off the blanket purchase order.
7. The purchase amount (subtotal amount (**not** including sales tax) from receipt **plus** any shipping charges) is recorded and maintained by the department to maintain a balance remaining.
8. The department must receive (receipt) the purchase in the financial software system by the dollar amount, to include shipping costs (less sales tax). In addition, the original signed receipt is to be scanned into the financial software system as an Attachment.
9. The original receipt should be forwarded to Accounts Payable in Finance. All receipts should be signed and dated by the employee that received the goods/services. The Purchase Order Number must also be written on the receipt.

### 3.4 Orders

#### I. Purpose

This procedure describes how orders are placed and processed by departments with the County.

#### II. Policy

It is the County's policy that all orders be placed by purchase order or in accordance with the Procurement Card Policy.

**Orders shall not be placed by any employee prior to receipt of a purchase order unless utilizing a County-issued procurement card. Failure to comply with the policy and procedures contained herein will cause an employee to be personally liable for any funds obligated for the purchase as provided for in N.C.G.S. 159-28.**

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### 3.4 Orders – Continued

#### III. Procedure

##### 3.4.1 How, When, and Where to Place

To place an order, a requisition is submitted as described under the requisition procedure. **All** orders should be received by Purchasing in sufficient time for competitive bids to be obtained. The time it takes the Purchasing Department to process an order depends on many factors; however, an order will normally be issued as follows:

- Requests not requiring written quotations 3 days
- Requests requiring written quotations 14 days
- Formal bids 45-60 days

All quotes obtained by departments must be scanned into the requisition as an Attachment in the financial software system.

Originals quotes are not required to be sent to the Purchasing Department unless the quote requires a signature by an authorized County representative.

##### 3.4.2 Receiving, Signing, and Expediting

When an order is received, it must be checked carefully to ensure that it agrees with the purchase order, delivery ticket, and the item(s) received meet specifications. Delivery tickets should be signed only by the person(s) authorized to do so by his or her department head.

If everything is in order, the receiving copy of the purchase order should be completed following the “Receiving” procedures outlined in the “Purchase Order” section.

If a discrepancy with the order occurs, the requesting Department shall contact the vendor immediately.

The quantity and condition of item(s) received must be checked carefully before the delivery ticket is signed. If damaged goods are received, the delivery ticket should be noted and the Department should notify the vendor immediately.

The requesting department may expedite the order by contacting the vendor if necessary.

##### 3.4.3 Returned and Partial Shipments

Restocking charges, if applicable, will be the responsibility of the ordering department. Partial shipments are those where only part of an order is received. Partial payments

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### 3.4 Orders – Continued

#### III. Procedure - Continued

may be made for partial shipments using the steps authorized in the “Purchase Order” procedure section.

#### 3.4.4 Cancellation Orders

When a purchase order is to be cancelled, the department requesting the cancellation shall cancel the order by contacting the vendor. Written confirmation from vendor acknowledging cancellation of order is highly recommended.

If a contract accompanied the purchase order, the department shall send a written notice of cancellation referencing the contract date and term. A confirmation receipt is highly recommended.

The department shall contact Accounts Payable to release and cancel the purchase order in the financial software system.

#### 3.4.5 Change Orders for Construction Contracts

- A. Change Orders are necessary to cover additional work beyond the scope of work defined in the original contract documents. Change Orders are also necessary for any changes affecting a contract that require an addition or deletion of work, which may or may not increase or reduce the contract cost.
- B. Change Orders must be in writing and apply to all construction contracts to include both informal and formal construction projects.
- C. The contractor, architect, engineer, or the County may initiate a Change Order.
- D. The contractor must provide a detailed breakdown of the proposed price increase, or decrease, to demonstrate there are no omissions or unwarranted extras built into the changed price.
- E. Change Orders may be submitted on either an AIA change order document or a County generated change order form. Three (3) originals of the Change Order must be submitted with appropriate signatures for processing.
- F. If additional funding is required, the Pre-audit Statement shall appear on Change Order.

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### 3.4 Orders – Continued

#### III. Procedure - Continued

G. Change Order approvals are as follows:

1. The County Manager is authorized to execute change orders to contracts that are minor changes which will not affect an increase in price. The County Manager may delegate approval of Change Orders to the Purchasing Director or the Project Manager for construction contracts that do NOT increase the contract cost.
2. In addition, the County Manager is authorized to execute change orders on construction projects in amounts up to \$99,999 providing that sufficient funds are available to cover any increase cost of the contract. All parties must agree upon such change.
3. All Change Orders \$100,000 and above require Board approval. In addition, any change orders in which funds are not available within the project's budget require Board approval.

H. No Change Orders shall be processed until adequate funding has been approved by the appropriate authority and funds are in place. A Purchase Order shall accompany all Change Order requests if additional funding is required.

I. Distribution of the final approved Change Order will be as follows:

1. Purchasing Department (original)
2. Architect/Engineer (if applicable, original)
3. Contractor (original)
4. Finance Department (electronic copy)

\*Note: The fully executed Change Order shall also be scanned into Purchase Order in the financial software system.

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### 3.5 Central Warehouse

#### I. Purpose

The warehouse provides a single location for receiving, stocking, and distributing a vast number of commonly used goods. For economy, speed, and control purposes the warehouse maintains a stockroom of goods including office supplies, janitorial supplies, medical supplies, and other frequently used items. In addition, the warehouse serves as the central depository for all County surplus items.

#### II. Policy

All County departments are required to order supplies from the warehouse if the item is carried in the warehouse.

All County departments shall turn in surplus items to the warehouse. Surplus items are items that are no longer needed by a department regardless of condition.

Inventory Adjustments: A list of expired inventory items or items no longer needed shall be provided to the Finance Department by the Purchasing Department prior to the end of each fiscal year.

The central warehouse is a function of the Purchasing Department and is directed by the Purchasing Director.

#### III. Procedure

##### Requesting Items from the Warehouse:

1. Requisition is keyed into the financial software system by the requesting department.
2. Order is pulled by warehouse staff.
3. Items are charged out to the appropriate department by warehouse staff.
4. Items are delivered to the departments by warehouse staff or can be picked up by requesting department.

The warehouse maintains an updated inventory listing of all items that may be obtained from stock. Item(s) can be returned to stock by contacting the warehouse. When calling to request a return, the date of the issue and item stock number are needed. Item will be returned to the warehouse by department or picked up upon request. The return of inventory items must be within the same fiscal year that the item was issued out.

##### Turning in surplus:

1. A Transfer of Equipment form is completed by the department in duplicate.
2. Copy of form is attached to surplus item.
3. Original form is provided to warehouse staff upon delivery.
4. Surplus item is delivered to warehouse.

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### Section 4 – Special Procedures

#### 4.1 Bid Protest Procedures

##### I. Purpose

To establish a written bid protest procedure.

##### II. Procedure

Any party which is a prospective bidder, offeror, or contractor that may be aggrieved by the solicitation must submit a written protest within five (5) calendar days prior to the opening of the Request for Bid and/or the Request for Proposal.

Any party which is an actual bidder, offeror, or contractor that may be aggrieved by the award of a contract, must submit a written protest within five (5) days of County transmitting via fax or email the announcement of intent to award.

The protest must be addressed to the office of the Onslow County Purchasing Director and must include all the following information:

1. Name, address, telephone number, facsimile number and e-mail of the protester.
2. Signature of the protester or authorized agent.
3. The bid name and bid number.
4. A detailed statement of the legal and factual grounds of protest including copies of relevant documents.
5. Any supporting exhibits, evidence, or documents to substantiate any claims.
6. All information establishing that the protester is an interested party for the purpose of filing a protest.
7. The form of relief requested.

After careful consideration of all relevant information, and consultation with the County Attorney, the Purchasing Director shall make a written decision.

A decision of the Purchasing Director may be appealed to the Finance Officer. This appeal must be in writing and be delivered to the office of the Finance Officer within seven (7) calendar days of the date of the Purchasing Director faxed or emailed the decision.

The Finance Officer will then have seven (7) calendar days to render a decision. This decision may be appealed to the County Manager within seven (7) calendar days of the date of the Finance Officer faxed or emailed decision.

The County Manger will then have seven (7) days to render a final decision.

Any and all costs incurred by a protesting party in connection with a protest shall be the sole responsibility of the protesting party.

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### 4.2 Capital Assets

#### I. Purpose

The purpose of this policy is to have accounting controls and physical control (inventory) over the County's sizable investment in capital assets.

In addition, North Carolina General Statute implies and Generally Accepted Accounting Principles (GAAP) require that a capital asset accounting inventory system be maintained to safeguard its assets.

#### II. Policy

For accounting purposes, capital assets are defined as items of tangible property, both real and personal property. The property shall have a value of \$5,000 or more; or technology equipment valued at \$1,500 or more and a useful life of at least two (2) years, plus costs directly associated with acquisition. All weapons, *regardless of the cost*, shall be classified as a capital asset.

Charitable contributions of capital asset items are permitted. Any department receiving a donated capital asset should notify the Finance or Purchasing Department upon receipt of the asset.

#### III. Procedure

1. Each month, the Finance Department will prepare a data input sheet for each item to be picked up as an asset. Note: Proprietary fund assets are picked up annually. The data input sheet normally contains the following information:
  - Class of equipment
  - Fund
  - Department
  - Description
  - Location
  - Depreciation status (non, fully or depreciable)
  - General location
  - Serial number
  - Quantity
  - Total cost (all cost associated with the purchase)
  - Original Fund Source (local, state, federal, donation, seized)
2. The Purchasing Department will assign an Asset Control Number to each asset. This number is used to identify the asset and is imprinted on a silver and black property tag stating "Property of Onslow County."
3. The Purchasing Department will pick up (add) the asset to the financial accounting system. In addition, the Purchasing Department will transfer assets to other County departments and delete assets that have been disposed of.



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### 4.2 Capital Assets - Continued

#### III. Procedure

4. Upon completion of the data entry cycle, the Finance Department will reconcile each fund and make appropriate journal entries.
5. Upon completion of the reconciliation of funds, the Purchasing Department will affix the property tag to each item when possible. The property tag shall be placed near the manufacturer's data plate and/or serial number. All other property tags shall be placed where the tag is visible for inventory purposes.
6. Both the Purchasing Department and the Finance Department have the responsibility to maintain and update the capital asset records. The capital assets record keeping system should list and summarize all capital assets owned, providing accurate historical costs, and list the location of each asset.
7. The Purchasing Department is responsible for physical aspects of property control. Such control will include:
  - Physically tagging of County assets with property tags
  - Coordinating the transfer of property between departments
  - Controlling property determined to be excess or unusable
8. The Finance Department is responsible for fiscal aspects of property control. Fiscal Control includes:
  - Providing property information to the Purchasing Department such as the cost and date paid. This will include copy of invoice, check, and receiving record.
  - Reconciliation of all property categories to the general ledger.
  - Preparation of all journal entries related to property control and depreciation where it applies.
  - Maintenance of all supporting documentation related to property control.
9. Each department head is responsible for the capital asset items within their department. It is the duty of the department head to notify the Purchasing Director if a capital asset item is lost, stolen, broken beyond repair or being transferred to another County department. Broken or non-repairable capital asset items are not to be discarded or destroyed. Instead, they are to be reported as surplus property and returned to the Purchasing Department warehouse facility for disposal.

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### 4.3 Emergency Purchase Orders

#### I. Purpose

This policy is used to define an emergency purchase order.

#### II. Policy

**Emergency shall be defined as an “existing, immediate and present condition” and one where the life and welfare of the general public is in danger.**

If harm to the public can be averted through temporary measures while proper bidding is being conducted, then the emergency exception cannot be used to avoid bidding.

All emergency requests, that would normally require bidding in accordance with statutes, are to be approved by the County Manager.

Emergency award of contract may be delegated to the County Manager upon notification to the Board.

#### III. Procedure

Requests for emergency purchase orders must be made to the Purchasing Director by a department head or designee.

The Purchasing Director will notify the County Manager and request verbal approval to proceed.

If approved by the County Manager, a department representative will submit an online Requisition describing the item(s) or service(s) to be supplied. The ordering department will contact the Purchasing Department with the requisition number.

The Purchasing Department will provide either a hard copy of the purchase order or a purchase order number to be given to the vendor as authorization to supply the item(s) or service(s) required.

If a purchase order number is provided versus a hard copy of the purchase order, the following notation must be on the purchase order when issued: Confirming Purchase Order, DO NOT DUPLICATE.

Requisition is sent to County Manager for signature authorizing the emergency purchase.

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### 4.4 Environmental Purchasing & Recycling

#### I. Purpose

The purpose of this policy is to support the purchase of recycled and environmentally preferred products in order to minimize environmental impacts relating to the work of County employees and the citizens of the County. In addition, to recycle all materials that would otherwise become solid waste and return them to the economic mainstream in the form of raw material for new, reused, or reconstituted materials.

#### II. Policy

To purchase environmentally friendly products when practical and economically feasible that have a lesser impact on human health and the environment when compared with competing products.

To recycle as many items as possible to conserve energy consumption and cost. Items to be recycled instead of discarded include but are not limited to: scrap metals, pallets, aluminum cans, plastics, white and mixed paper, toner cartridges, batteries, cardboard, etc.

#### III. Procedure

1. Evaluate and procure recycled products whenever economically feasible.
2. Research information about environmentally preferred and or recycled products.
3. Develop specifications used in bidding to include recycled materials or environmental alternatives where feasible.
4. Practice waste prevention whenever possible by recycling paper, toner cartridges, batteries, cardboard, etc.
5. Reclaim and sell all scrap metals, computers, and other products that do not sell as surplus.

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### 4.5 Fuel Procurement Card

#### I. Purpose

To purchase gasoline and diesel fuel to operate County-owned vehicles and equipment using County-issued fuel procurement cards.

#### II. Policy

1. It is the policy of Onslow County that the fuel procurement cards be used for the procurement of gasoline and diesel fuel for all *County-owned* vehicles and equipment only. Personal charges, cash advances, business travel, and fuel while utilizing privately owned vehicles, or any other expenses, are not permitted with the fuel procurement card.
2. The Purchasing Department will be the designated "Program Administrator." The program administrator will coordinate and control card issuance and card cancellation. The program administrator will be responsible for communication with the card vendor regarding the names of those who will be authorized to use the cards, issue cards, monthly billing documentation, payment transmittal data, and to insure reconciliation of statements.

#### III. Procedure

1. Terms: **For the purpose of this policy, the following terms are herein defined:**

"Statement" – The "statement" is the documentation received from the vendor outlining the specific purchases by individual departmental cards. The statement will specify each vehicle and equipment by department detailing each transaction that was processed.

"Charge Ticket" – The "charge ticket" is the receipt received from the vendor who has provided the goods being purchased. The charge ticket will include pertinent information with respect to nature of the transaction, product, quantity, unit price, total price, and card information.

"Product" - Product is defined as being 87 Octane Gasoline or Diesel Fuel.

2. Card Issuance, Cancellation and Charges: **Fuel procurement cards will be issued to Department Heads. Department heads are required to set-up internal controls within their departments.**

One (1) card will be assigned to each vehicle. Each fuel card will have the vehicle number (asset number) and the department code which will be the account number.

A limited amount of cards may be assigned to departments for the purpose of purchasing fuel/diesel for equipment such as lawnmowers and other pieces of equipment.

Upon the vehicle being surplus or transferred to another department, the card must be returned to the program administrator immediately. Upon receipt of new vehicles/equipment requiring this type of service, the program administrator shall obtain new cards as required for issuance.

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### 4.5 Fuel Procurement Card – Continued

#### III. Procedure – Continued

3. Security: Authorized use of the fuel procurement card is limited to personnel who are on the County's authorized driving roster. This applies only for county-owned vehicles or equipment in the execution of County business. The card is not to be utilized for privately owned vehicles and/or for equipment. The fuel procurement card is not to be utilized to procure products for any vehicle other than the vehicle to which it is designated for. If a card is lost or damaged, the card user shall notify his/her department head immediately. The department head, or designee, shall then notify the program administrator immediately, providing such information as the date and area of the loss, and the card number so that the appropriate action may be taken to cancel the card and obtain a replacement card.

4. General Requirements for Card Usage:

#### **To use the card, the card user must:**

- Identify a supplier that provides the product required. A list of approved fuel suppliers under this program is available by contacting the Purchasing Department. All approved suppliers are approved both within the County and out of County.
- The transaction can be made electronically at the pump or inside the vendor facility. A charge ticket (receipt) at the time of purchase will be obtained by the card user for all transactions. This charge ticket shall be signed by the card user and returned to the department head or assigned designee for statement reconciliation.
- At the time of transaction, the card user shall input or provide the supplier with the mileage on the vehicle odometer, less tenths, and a Personal Identification Number (PIN) which will be verified electronically for the authorization to complete the transaction.

The PIN must be a six (6) digit number. The PIN shall be the card user's employee identification number. If the employee's identification number is less than six (6) digits, then the employee must prefix the employee identification number with zeros (0) so that the number consists of a six (6) digit PIN.

Example: Employee's identification number is 2134. It is noted that this employee's identification number consists of only four digits. Therefore, two zeros must be added as a prefix, whereby the number reads as 002134.

- The card user shall submit to the department head, or designee, all charge tickets pertaining to the purchase. These charge tickets shall be signed and verified as to the purchase to assist the department head, or designee, in the reconciliation of the monthly charge card statement.

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### 4.5 Fuel Procurement Card – Continued

#### III. Procedure – Continued

5. Reconciliation of the Charge and Statement: At the end of each billing cycle, department heads or authorized designees will receive a summary statement for the department from the Purchasing Department with all transactions that occurred during the billing cycle. Each department head shall be responsible for reconciling the monthly charge card statements. It shall be the responsibility of the Department Head, or authorized designee, to ensure that discrepancies are reported to the program administrator so that the discrepancy may be negotiated with the service provider. Adjustments will be credited on later billing statements.

The reconciliation will consist of verifying and matching the charge tickets to the monthly charge statement for each transaction. Upon completion of the reconciliation process, the statement and the charge tickets shall be forwarded to the program administrator within five (5) working days of the date of receipt. The program administrator shall maintain this documentation for a period of three (3) years.

If a discrepancy exists, the program administrator shall be notified with the submittal of the reconciled monthly charge statement of the discrepancy by means of a memorandum detailing the discrepancy. The program administrator will attempt to resolve the issue directly with the service provider. If no discrepancies are found, and the statement is valid, the department head, or designee, shall date and sign the charge statement prior to submission to the program administrator.

6. Deletion of Card Users: The Purchasing Department shall print a termination report periodically to assist in maintaining an up to date authorized card user data file with our service provider.
7. Failure to Follow Procedures:

**Card user's failure to follow these procedures may result in the following:**

- Revocation of the procurement card privilege by the user.
- Card user reimbursement to the County for unauthorized purchases.
- Appropriate disciplinary action as outlined in the Onslow County Personnel Policy.

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### 4.5 Fuel Procurement Card – Continued

#### 4.5.1 Steps to Use Fuel Card

Always follow instructions on pin pad

##### Using Card at Pump

1. Select credit on pin pad
2. Input driver number, press enter
3. Input odometer, press enter
4. Pump fuel
5. Receipt issued at pump

##### Using Card Inside Store

1. Pump fuel
2. Present card to Clerk
3. Clerk will run card and give employee pin pad
4. Enter driver number, press enter
5. Enter odometer, press enter
6. Sign receipt and receive copy

### 4.6 Lease or Rental of County Owned Property

#### I. Purpose

To establish certain guidelines for the lease or rental of County-owned property which has been determined to be of no use to the County for the term of the lease.

#### II. Policy

1. The Purchasing Director will process and coordinate with the department head and the County Attorney all requests to lease or rent County-owned property.
2. The Purchasing Director and County Manager are authorized to execute some leases of one year or less; Refer to “Summary of Contract Award and Execution.”
3. Leases with a term over one year require Board approval.
4. Leases over one year require a public notice which shall be advertised at least 10 days before the said meeting date where the Board is to consider the lease.
5. The County may not lease property for more than 10 years. Leases for terms of more than 10 years shall be treated as a sale of property.
6. All leases or rental of property shall be made in compliance with **North Carolina General Statute 160A-272.**

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## Purchasing & Contracting - Policy and Procedure Guide

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### 4.6 Lease or Rental of County-Owned Property – Continued

#### III. Procedure

##### Leases with a term of one year or less

1. Offers to lease County owned land shall be in writing.
2. A lease shall be prepared using the template leases on the Intranet.
3. The offer letter and two original leases shall be submitted to the Purchasing Director.
4. Leases one year or less do not require public notice; however, if the Purchasing Director or County Manager deems it to be in the best interest of the County to advertise the lease to generate more interest, he/she may do so.
5. Leases are approved in accordance with “Summary of Contract Award and Execution” policy.

##### Leases with a term over one year

1. Once an offer has been received in writing expressing an interest to lease County-owned property for more than a one year term, the requesting department will prepare a lease using the County’s template leases and also prepare an Agenda Action Form. The lease and Agenda Action Form shall be submitted to the Purchasing Department.
2. Upon receipt of the Agenda Action Form and the lease, the Purchasing Department shall submit a public notice (advertisement) stating the Board’s intention to authorize the lease. The notice must describe the property, state the annual rental or lease payments, and announce the Board’s intention to authorize the lease at its next regular meeting. Notice must be placed 10 full days before date of board meeting.
3. The Agenda Action Form and lease agreement shall be routed through the County Attorney’s office for review and approval.
4. The Agenda Action Form and lease agreement shall be sent to Administration to be placed on the next agenda for Board of Commissioners’ consideration.



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### 4.7 Procurement Card Policy

#### I. Purpose

The purpose of this policy is to provide a procedure for the management and official use of procurement cards for small dollar value purchases in order to increase efficiency, decrease cycling time, and dramatically reduce paper work by reducing the number of requisitions and purchase orders, and reducing the number of checks written.

#### II. Policy

It shall be the policy of Onslow County that procurement cards may be used for official County purchases for small dollar value purchases of \$500.00 or less per transaction, unless otherwise authorized. The \$500.00 limit includes any and all applicable sales tax.

The single transaction limit for travel and training related expenses is authorized up to \$1,500.00 per transaction.

The procurement card may be used by the Onslow County Finance Office or by the Purchasing Director as an alternative method for paying invoices. The procurement card may also be used by the Purchasing Department when a vendor does not accept purchase orders, regardless of the transaction amount.

The procurement card may also be used by the Purchasing Warehouse staff and Vehicle Maintenance staff to order inventory stock. If used for these purposes, the transaction limit shall not apply.

It is the responsibility of each department head to ensure funds are available within the existing budget for all procurement card purchases.

#### III. Procedure

Cardholders are required to timely satisfy all procedures identified herein in order to avoid past due transactions from appearing on statements and/or cards being rejected due to credit limits being exceeded.

##### Issuance of procurement card

- a. The department head will make a recommendation as to the purchase authority of each employee identified to receive a card and shall sign the enrollment form indicating the employee's purchasing limit recommendations.
- b. The Purchasing Department and Finance Officer (or Deputy Finance Officer) will review the enrollment form and, when approved, process the form for issuance of a procurement card to the employee.
- c. Prior to issuance of card, the employee must sign the cardholder agreement which identifies the proper use of the procurement card.

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### 4.7 Procurement Card Policy – Continued

- d. It shall be the responsibility of the department head/division manager to take custody of the procurement card when an employee is terminated, and to return the card to the Purchasing Department for cancellation.

#### Use of procurement card

- a. The procurement card is to be used in the conduct of official County business only.
- b. Cardholder will retain vendor's receipts, record of telephone orders, and/or copies of mail orders and other relevant documents for future reconciliation of the procurement card statement.
- c. The cardholder will contact the Purchasing Department on any disputed transactions. Any unresolved disputes shall be referred to the Purchasing Department.

#### Payment of procurement card charges

- a. The department/division will ensure that sufficient funds are available and unencumbered to pay for all purchases. Any purchase made in violation of this section will be the liability of the individual making the purchase.
- b. All receipts must be signed by the cardholder.
- c. On a weekly basis, the cardholder, or designee, will reconcile transactions in the financial software system and attach signed receipts to all transactions. It is the department's responsibility to assign the correct account number to each transaction within the financial software system and provide a detailed description.
- d. Original receipts will be held until the monthly statement is received by cardholder.
- e. Cardholder will reconcile monthly statement by verifying receipts and attaching the receipts in order by transaction.
- f. Cardholder will sign the statement as correct under "cardholder's signature."
- g. The **department head** will review the reconciled statement, and approve the purchases by signing the statement under "manager's signature." The department heads review and signature **cannot be delegated**.
- h. The signed statement will be forwarded with signed receipts to the Purchasing Department.
- i. Employee absences should be anticipated by management and arrangements shall be put in place so that the processing of payments will not be delayed.

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### 4.7 Procurement Card Policy – Continued

The Department shall notify the Purchasing Department immediately should a cardholder terminate employment with the County.

**Procurement Cards may not be used for:**

- a. Non-business/personal purchases
- b. Items available in the warehouse inventory supply.
- c. Computer hardware and computer software (unless approved and ordered by the IT Director)
- d. Fuel purchases except in emergency situations
- e. Entertainment
- f. Ammunition/Weapons
- g. Prescription Drugs
- h. Alcoholic beverages
- i. Cash Advances
- j. Items and services not authorized by the normal purchase order process.
- k. Leases
- l. Legal Services
- m. Insurance
- n. Tax Reportable Services (1099)

**Other restrictions:**

- Purchases that in any way violate County policy.
- Cardholder shall not split a purchase with another cardholder, nor shall employees split a single purchase into separate transactions to circumvent the purchasing limit assigned to the card.
- The procurement card shall not be used by or shared with any other employee or third person.
- Any other purchases that exceed the limits of this policy.

An employee guilty of wrongful use of the procurement card shall be subject to disciplinary action, up to and including termination.

The Administrative Procedures shall be established by the Purchasing Department and the Finance Department. These procedures may be amended as necessary without Board approval in order to administer the procurement card program.

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### 4.7.1 New Cardholder Enrollment Form

#### ONSLow COUNTY PROCUREMENT CARD NEW CARDHOLDER ENROLLMENT FORM

Department Head to complete Sections I, II, & III prior to submitting to Purchasing Department.

#### I. EMPLOYEE/CARDHOLDER INFORMATION: Please use Legal Name

Name: \_\_\_\_\_ Employee Number: \_\_\_\_\_  
Department: \_\_\_\_\_ Division: \_\_\_\_\_  
Work Phone #: \_\_\_\_\_ Date of Birth: (month/day) \_\_\_\_\_

#### II. CARD LIMIT: PLEASE CHOOSE ONE LEVEL

	TRANSACTION	MONTHLY
Level 1 _____	\$150	\$1000
Level 2 _____	\$250	\$2500
Level 3 _____	\$250	\$5000
Level 4 _____	\$500	\$5000
Level 5 _____	\$500	\$7500

#### III. RECOMMENDATION

Justification:

\_\_\_\_\_  
\_\_\_\_\_

Department Head Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Administrator Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Finance Officer \_\_\_\_\_ Date: \_\_\_\_\_

#### IV. CARDHOLDER'S AGREEMENT

- I have received and read a copy of the Onslow County Procurement Card Policy.
- I understand that I am being entrusted with a valuable purchasing tool and will be making financial commitments on behalf of the County and will strive to obtain the best value for the County.
- I agree to use this card for approved official purchases only and agree not to make personal purchases.

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- I understand that my personal credit will not be affected by any use of the Onslow County procurement card.
- I will not permit another person to use the Onslow County procurement card issued to me. Any such purchases made with my card will be considered to be made by me and my responsibility.
- I understand that the use of the card for personal and non-work related purchases will require reimbursement to the County; I agree to allow the County to set-off any such amounts against any funds or compensation owed to me by the County. I understand that abuse of the privileges and use of this card may result in disciplinary action, to include termination.
- I understand that the County will review my use of this card and the related reports and take appropriate action on any discrepancies.
- I agree to follow the established Policies and Procedures for the use of the Procurement Cards. I understand that failure to do so may result in either revocation of my privileges or other disciplinary actions, including termination of employment.
- I agree to return my card and arrange for a new one to be issued if I transfer to another department within the County.
- I agree to return the card immediately upon request by the Procurement Card Administrator or upon termination of employment.
- If the card is lost or stolen, I agree to notify Bank of America and the Procurement Card Administrator within 24 hours.
- I understand that I am personally liable for all expenditures made by use of this card and agree to reimburse the County for any item purchased in violation of County policy or North Carolina General Statutes.

I have been given a copy of the Onslow County Procurement Card Policy, reviewed it, and understand the stipulations and regulations of participating in this program.

I have read, understand, and agree to the conditions above.

Employee Printed Name: \_\_\_\_\_

Employee Signature: \_\_\_\_\_

Date: \_\_\_\_\_

### V. CARD RECEIPT

Card Account Number: \_\_\_\_\_

Expiration Date: \_\_\_\_\_

Date Issued to Cardholder: \_\_\_\_\_

Cardholder's Signature: \_\_\_\_\_

(Serves as acknowledgement of receipt of credit card)

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### 4.8 Surplus – Real Property

#### 4.8.1 Declaring Real Property as Surplus

##### I. Purpose

To establish procedures for declaring real property as surplus. Surplus is “any County-owned property that the continued use of is uneconomical or inefficient; or which serves no useful governmental function or further use to the County.”

##### II. Policy

It is a policy of the County that the County Manager shall review and evaluate all real property owned by the County periodically to determine if it is of use to the County before declaring it surplus.

##### III. Procedure

1. The Purchasing Director will provide the County Manager a list of real property, owned by the County, that generally meets the definition of “surplus.”
2. The following information will be provided to the County Manager to aid in his/her deliberation:
  - Parcel Tax ID #
  - Tax Property Record Card
  - Current Tax Value
  - Costs already incurred in acquiring the property
  - Zoning Classification
  - Photographs/Aerial overview
  - Other applicable available information (if any)
3. The County Manager will review each such parcel, consider all relevant feasible uses of such parcel, and consider whether the property has the capacity to serve a public use.
4. If the County Manager agrees to declare the real property as surplus, the Purchasing Director will advertise the real property electronically (County website).

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## Purchasing & Contracting - Policy and Procedure Guide

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### 4.8 Surplus – Real Property

#### 4.8.2 Sale or Disposal of Real Property

##### I. Purpose

To establish a policy and procedure that meets or exceeds the statutory guidelines for the sale or disposition of real property.

##### II. Policy

It is the policy of Onslow County that all real property be declared surplus prior to disposition or sale of real property.

All offers must be in writing. The minimum offer amount for surplus real property acquired through foreclosure must be in an amount that meets or exceeds the County's bid at the foreclosure sale plus costs incurred by the County post-sale related to the property or the current tax value, whichever is less. All offers meeting the minimum offer amount must be presented to the Board of Commissioners for consideration.

After the real property has been declared surplus, and of no further use to the County, the County may sell or dispose of the real property by the approved "Methods of sale; limitations" as described in G.S. 160A-266.

The sale of real property, regardless of the dollar amount, must always be sold using a competitive procedure. The three basic competitive sales procedures are:

- Advertisement for Sealed Bids (G.S. 160A-268)
- Negotiated Offer, Advertisement and Upset Bids (G.S. 160A-269)
- Public or Electronic Auction (G.S. 160A-270)

The Board shall identify and authorize the method of sale or disposal method to be utilized. The Board has the right to withdraw the property from sale at any time, and the right to accept or reject all bids.

County officials, employees, their spouses, children, grandchildren, and parents are prohibited from bidding on purchasing surplus County real property under this policy.

Federal Grant Funds: Any real property that the County wishes to dispose of that was acquired in whole, or in part, with state or federal grant funds must satisfy any conditions imposed by such grants prior to the sale of the property.

##### III. Procedure

1. All offers received shall be in writing.

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## Purchasing & Contracting - Policy and Procedure Guide

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### 4.8 Surplus – Real Property – Continued

#### 4.8.2 Sale of Disposal of Real Property – Continued

##### III. Procedure – Continued

2. All offers shall be accompanied by a minimum five percent (5%) bid deposit. Bid deposits must be in the form of cash, cashier's check, or certified check.
3. Bid deposits shall be submitted to the Finance Department.
4. All offers will be presented to the Board of Commissioners with the following information to aid in their deliberations:
  - Parcel Tax ID #
  - Tax Property Record Card
  - Current Tax Value
  - Parcel Map
  - Area Map
5. If the Board of Commissioners accepts the offer, the Board shall authorize the Purchasing Director to conduct the sale.
6. Depending on the authorized method sale, one of the following competitive procedures will begin:

##### Advertisement for Sealed Bids (G.S. 160A-268)

- Sale is advertised one time, published in a local newspaper and/or electronically advertised at least 30 days before bid opening;
- Sealed bids are received and opened in public on the official time and date; no offers will be received or considered after the official time and date;
- All offers are reported to the Board of Commissioners;
- The property shall be sold to the highest responsible bidder;
- Board has the right to accept or reject the offer.

##### Negotiated Offer, Advertisement and Upset Bids (G.S. 160A-269)

- Offer is advertised, either in a local newspaper, and/or electronically, and potential bidders are given 10 days to submit a higher bid;
- Upset bids must raise the original bid by an amount at least ten percent (10%) of the first \$1,000 of that bid and five percent (5%) of the remainder;
- All upset bids shall be accompanied by a minimum 5% bid deposit based on the amount of the new upset bid;
- The highest upset bid becomes the new offer, the new offer is published, and the process is repeated;



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### 4.8 Surplus – Real Property – Continued

#### 4.8.2 Sale of Disposal of Real Property – Continued

##### III. Procedure – Continued

- Once no upset bid is received within the 10-day period from date of publication, the Purchasing Department will present the high bid to the Board of Commissioners;
- Board has the right to accept or reject the offer.

##### Electronic Auction: (Real Property) (G.S. 160A-270)

- The Purchasing Department will prepare a Resolution “Authorizing Electronic Sale” to present to the Board of Commissioners;
- The Resolution shall describe the property being sold, specify date, time, place and terms of sale, and state that any offer or bid must be accepted and confirmed by the Board before the sale will be effective. In addition, the electronic address of where bids can be submitted must be included.
- Notice is published/advertised one time, either published in a local newspaper and/or advertised electronically, at least 30 days before the start of the sale;
- Auction is held electronically;
- After bids have been received and auction closes, the highest bid shall be reported to the Board.
- The Board will accept or reject the bid within 30 days after the bid is reported.

##### Public Auction (Real Property) (G.S. 160A-270)

- The Purchasing Department will prepare a Resolution “Authorizing Public Auction Sale” to present to the Board of Commissioners;
- The Resolution shall describe the property being sold, specify date, time, place and terms of sale, and state that any offer or bid must be accepted and confirmed by the Board before the sale will be effective.
- Notice is published/advertised one time, either published in a local newspaper and/or advertised electronically, at least 30 days before sale;
- Auction is held by a County representative or auctioneer;
- Live auction is held;
- After bids have been received and auction closes, the highest bid shall be reported to the Board
- The Board will accept or reject the bid within 30 days after the bid is reported.

7. All sales for real property must be sent back to the Board of Commissioners for final approval.

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### 4.8 Surplus – Real Property – Continued

#### 4.8.2 Sale of Disposal of Real Property – Continued

##### III. Procedure – Continued

8. If the successful bidder does not make final payment within 30 days, the County may declare the bid deposit as forfeit, place the deposit into the general fund, and place the property for sale as provided above.
9. All Property shall be sold “AS IS” with no guarantee or warranty as to condition, title or suitability for any purpose.
10. All real property will be transferred to the successful purchaser or bidder by a NC Special Warranty Deed.
11. Bid deposits shall be refunded to all unsuccessful bidders.
12. Property shall be removed from County capital listing upon final payment and title transfer.

# Onslow County Administrative Policy Manual

## Purchasing & Contracting - Policy and Procedure Guide

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### 4.9 Surplus – Personal Property

#### 4.9.1 Declaring Personal Property as Surplus

##### I. Purpose

To establish procedures for declaring personal property as surplus. Surplus is defined as “any County-owned property that the continued use of is uneconomical or inefficient; or which serves no useful governmental function or further use to the County.”

##### II. Policy

The Purchasing Director, with approval of the County Manager, has the authority to declare personal property as surplus providing:

- Any one item or group of similar items has a fair market value of less than thirty thousand dollars (\$30,000); and
- The property is no longer necessary for the conduct of public business; and
- Sound property management principles and financial consideration indicated that the interests of the County would best be served by disposing of the property.

If the above conditions do not apply, the personal property to be declared surplus shall be presented to the Board of Commissioners for their consideration.

##### III. Procedure

###### **County Manager Approval (items under \$30,000):**

1. The Purchasing Director will provide to the County Manager a list of personal property owned by the County that generally meets the definition of “surplus.”
2. The County Manager shall review and evaluate the list, consider all relevant feasible uses of the property and consider whether the property has the capacity to serve a public use.
3. The County Manager will notify the Purchasing Director of his or her decision as to whether the list of items has been declared surplus.

###### **Board of Commissioners Approval (items over \$30,000):**

1. The requesting department shall prepare an Agenda Action Form describing the property and defining the reason for turning the property in as surplus.
2. The Agenda Action Form shall be forwarded to the Purchasing Director for review. The Purchasing Director will forward to the County Attorney for review.
3. Upon review of the County Attorney, the Agenda Action Form shall be forwarded to Administration to be placed on the next agenda for the Board of Commissioners to consider.

# Onslow County Administrative Policy Manual

## Purchasing & Contracting - Policy and Procedure Guide

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### 4.9 Surplus – Personal Property – Continued

#### 4.9.2 Sale of Disposal of Personal Property

##### I. Purpose

To establish a policy and procedure that meets or exceeds the statutory guidelines for the sale or disposition of personal property that has been turned in by the County departments.

##### II. Policy

1. The Purchasing Department will process all personal property sales for the County subsequent to obtaining approval from the County Manager or from the Board of Commissioners, if required.
2. The Purchasing Director may dispose of any such surplus personal property, with or without notice and minimum waiting period, by any means which he or she judges reasonable to yield the highest attainable sale price in money or other consideration, including but not limited to the methods of sale described below:
  - Auction: Electronic or Public
  - Negotiated Offer, Advertisement, and Upset Bid
  - Private Negotiation and Sale (only if under \$30,000)
  - Advertisement for Sealed Bids
  - Property Exchanges
  - Trade-ins (when specifications are prepared)
3. All sales shall be conducted in compliance with the North Carolina General Statutes 160A-266 through 270.
4. Surplus property may be conveyed to other *units of government*. Other governmental units consist of a city, County, school unit, fire district, the State, or any other public district, water authority, department, agency, board, commission or institution.
5. Surplus property may only be donated to individuals, organizations, or nonprofit organization as authorized under N.C.G.S. 160A, Article 12.
6. Sale of surplus property to County employees is not prohibited except in those instances where there is deemed to be a conflict of interest. The presence of conflict of interest will be ruled on by the Purchasing Director; however, the County Manager shall have the final authority in these decisions.
7. The disposal of recyclable items and real property is not covered under this policy.
8. Federal Grant Funds: Any personal property that the County wishes to dispose of that was acquired in whole, or in part, with state or federal grant funds must satisfy any conditions imposed by such grants prior to the sale of the property.

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## Purchasing & Contracting - Policy and Procedure Guide

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### 4.9 Surplus – Personal Property – Continued

#### 4.9.2 Sale or Disposal of Personal Property – Continued

##### III. Procedure

1. Personal surplus property stored at the warehouse will be made available to other County departments prior to being sold or disposed.
2. Depending on the determined method sale, one of the following competitive procedures will begin:

##### Private Sale (G.S. 160A-266(b) (under \$30,000)

- Price is negotiated with interested buyer. Price shall be the reasonable fair market value for the property.

##### Private Sale (G.S. 160A-267) (over \$30,000)

- Not Authorized for personal property

##### Sealed Bids (G.S. 160A-268)

- Sale is advertised one time, published in a local newspaper and/or electronically advertised;
- Sealed bids are received on the official time and date; no offers will be received or considered after the official time and date;
- Property is sold to the highest responsible bidder

##### Upset Bids (G.S. 160A-269)

- Offer is advertised, either in a local newspaper and/or electronically, and potential bidders are given 10 days to submit a higher bid;
- Upset bids must raise the original bid by an amount at least ten percent (10%) of the first \$1,000 of that bid and five percent (5%) of the remainder;
- All upset bids shall be accompanied by a minimum 5% bid deposit based on the amount of the new upset bid;
- The highest upset bid becomes the new offer, the new offer is published, and the process is repeated;
- Once no upset bid is received within the 10-day period from date of publication, the County may sell the property to the last published offeror.

##### Electronic Auction: (Personal Property over \$30,000) (G.S. 160A-270)

- The Purchasing Department will prepare a Resolution “Authorizing Electronic Sale” to present to the Board of Commissioners;
- The Resolution shall describe the property being sold, specify date, time, place and terms of sale, and state that any offer or bid must be accepted and confirmed by the Board before the sale will be effective. In addition, the electronic address of where bids can be submitted must be included.

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## Purchasing & Contracting - Policy and Procedure Guide

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### 4.9 Surplus – Personal Property – Continued

#### 4.9.2 Sale or Disposal of Personal Property – Continued

- Notice is published/advertised one time, either published in a local newspaper and/or advertised electronically, at least 10 days before the start of the sale;
- Auction is held electronically;

#### Property Exchanges (G.S. 160A-271)

- County may exchange real or personal property belonging to the County for other property by private negotiation if the County received a full and fair consideration in exchange for its property.
- Resolution authorizing the exchange must be approved by the Board
- 10-day notice prior to board meeting

Trade-Ins: Trade-ins ONLY apply for purchases where bid *specifications have been prepared* and the vendor is offering a trade in allowance. This does not apply to surplus property. Therefore, this cannot be used when purchasing off the NC State Contract, cooperative purchasing programs, or other “exceptions to the Bidding” as described under 143-129(e). The items being traded in would still need to be declared surplus.

#### III. Procedure - Continued

3. The surplus property shall be sold to the party who tenders the highest offer, or exchanged for any property or services useful to the County if greater value may be obtained in that manner, and the Purchasing Director is hereby authorized to execute and deliver any applicable title document.
4. The Purchasing Department is responsible for collecting and depositing money received from any sale.
5. The County has the right to withdraw property from sale at any time and the right to accept or reject all offers or bids.
6. If no offers are received within a reasonable time, the Purchasing Director may retain the property, obtain any reasonably available salvage value, or cause it to be disposed of as waste material.
7. If the successful bidder does not make final payment within 30 days, the County may declare the bid deposit (if required) as forfeit, and place the property for sale as provided above.

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## Purchasing & Contracting - Policy and Procedure Guide

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### 4.9 Surplus – Personal Property – Continued

#### 4.9.2 Sale or Disposal of Personal Property – Continued

8. All Property shall be sold “AS IS” with no guarantee or warranty as to condition, title, or suitability for any purpose.
9. Property shall be removed from County capital assets listing upon final payment and title transfer.
10. The Purchasing Director shall keep a record of all items sold and shall be reported on a semiannual basis to the Board of Commissioners. The report shall describe the property sold or exchanged, to whom it was sold or with whom exchanged, and the amount of money or other consideration received for each sale.

# Onslow County Administrative Policy Manual

## Purchasing & Contracting - Policy and Procedure Guide

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### 4.10 Term Contracts

#### I. Purpose

To expedite the procurement process by establishing an agreement with a vendor, or vendors, to sell routinely purchased items to the County at a predetermined price for a set amount of time.

#### II. Policy

If a term contract exists for specific items that are utilized by a department, the department is required to purchase these items from the established term contract.

An exception to this requirement can occur if the item or an equivalent item can be purchased at a lower cost.

The Purchasing Department is encouraged to use term contracts whenever it is in the best interest of the County to reduce costs.

#### III. Procedure

1. The Purchasing Department shall work in conjunction with the department head, or designee, in establishing term contracts.
2. The Purchasing Department may incorporate the use of a term contract in the bidding specifications.
3. The following term contract information shall be provided to the using department(s) by the Purchasing Department:
  - \* Name of commodity or service
  - \* Term of contract (normally one year)
  - \* Vendor name, address, phone number, and point of contact
  - \* Vendor number
  - \* Brand name and item number of products
  - \* Unit prices /unit of measure
  - \* Method of order
4. Purchase orders must be issued to encumber the funds prior to ordering any item(s) from the term contract unless the order is placed using a County-issued procurement card.

**Note:** The Purchasing Director may utilize the State of North Carolina, State Term Contract whenever possible for procurement of capital and non-capital materials, supplies, or equipment. This system expedites the procurement process, offers pricing generally lower than quotes by formal and informal bids, and satisfies North Carolina General Statutes.

Departments can access all the term contracts at the Division of Purchase and Contract home page at: <http://www.doa.state.nc.us/PandC>



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## Purchasing & Contracting - Policy and Procedure Guide

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### 4.11 Procurement Procedures with Federal Funds

#### I. Purpose

The purpose of this policy is to establish guidelines that meet or exceed the procurement requirements for the purchase of goods (apparatus, supplies, materials, and equipment), services, and construction or repair projects when federal funds are being used in whole or in part to pay for the cost of the contract.

#### II. Policy

**A. Application of Policy.** This policy applies to contracts for purchases, services, and construction or repair work funded with federal financial assistance (direct or reimbursed) which includes, but is not limited to, direct grants, USDA grants and loans, CDBG funds, FEMA disaster assistance grants, and the Highway Planning, Research, and Construction Program. The requirements of this Policy also apply to any subrecipient of the funds.

All federally funded projects, loans, grants, and sub-grants, whether funded in part or wholly, are subject to the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for federal awards (Uniform Guidance) codified at 2 C.F.R. Part 200 unless otherwise directed in writing by the federal agency or state pass-through agency that awarded the funds.

**B. Compliance with Federal Law.** All procurement activities involving the expenditure of federal funds must be conducted in compliance with the Procurement Standards codified in 2 C.F.R. §200.317 through §200-326 unless otherwise directed in writing by the federal agency or state pass-through agency that awarded the funds. The County of Onslow will follow all applicable local, state, and federal procurement requirements when expending federal funds. Should the County of Onslow have more stringent requirements, the most restrictive requirement shall apply so long as it is consistent with state and federal law

**C. Contract Award.** When bids are required by law, or otherwise solicited by the County, all contracts shall be awarded only to the lowest responsive responsible bidder possessing the ability to perform successfully under the terms and conditions of the contract. Consideration shall be given to contractor integrity, compliance with public policy, record of past performance, and financial and technical resources.

**D. No Evasion.** No contract may be divided to bring the cost under bid thresholds or to evade any requirements under this policy or state and federal law.

**E. Contract Requirements.** All contracts paid for in whole or in part with federal funds shall be in writing. The written contract must include or incorporate by reference the provisions required under 2 C.F.R Section § 200.326 and as provided for under 2 C.F.R. Part 200, Appendix II.

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## Purchasing & Contracting - Policy and Procedure Guide

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### 4.11 Procurement Procedures with Federal Funds - Continued

- F. **Contractor's Conflict of Interest.** Designers, suppliers, and contractors that assist in the development or drafting of specifications, requirements, statements of work, invitation for bids or requests for proposals shall be excluded from competing for such requirements.
- G. **Approval and Modification.** The Administrative procedures contained in the Policy are administrative and may be changed as necessary at the staff level to comply with state and federal law.

#### III. Procedures:

**General:** The administrative procedures contained within this policy are administrative and may be changed as necessary at staff level to comply with the federal Procurement Standards within this Policy. However, any policy changes must be approved by the governing body prior to becoming effective.

Either the Purchasing Department or the Requesting Department shall procure all contracts in accordance with the requirements of this Section of the Policy.

#### **General Procurement Standards and Procedures:**

- A. **Necessity.** Purchases *must be necessary* to perform the scope of work and must avoid acquisition of unnecessary or duplicative items (no stock-piling). The Purchasing Department and/or the Requesting Department should check with the federal surplus property agency prior to buying *new* items when feasible and less expensive. Strategic sourcing should be considered with other departments and/or agencies who have similar needs to consolidate procurements and services to obtain better pricing.
- B. **Clear Specifications.** The Purchasing Department will ensure that all solicitations incorporate a clear and accurate description of the technical requirements for the materials, products, or services to be procured, and shall include all other requirements which bidders must fulfill and all other factors to be used in evaluating bids or proposals. Technical requirements must not contain features that restrict competition.
- C. **Notice of Federal Funding.** All bid solicitations must acknowledge the use of federal funding for the contract. In addition, all prospective bidders or offerors must acknowledge that funding is contingent upon compliance with all terms and conditions of the funding award.
- D. **Compliance by Contractors.** All solicitations should inform prospective contractors that they will need to comply with all applicable federal laws, regulations, executive orders, FEMA requirements, and terms and conditions of the funding award.
- E. **Fixed Price.** Solicitations must state that the bidders shall submit bids on a fixed price basis and that the contract shall be awarded on this basis unless otherwise provided for in this Policy. Cost plus percentage of cost contracts are *prohibited*. Time and materials contracts are prohibited *in most circumstances*. Time and Materials (Cost-Plus) contracts will not be

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## Purchasing & Contracting - Policy and Procedure Guide

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### 4.11 Procurement Procedures with Federal Funds - Continued

used unless no other form of contract is suitable and the contract includes a “Not to Exceed” amount. A Time and materials contract shall not be awarded without the express written permission of the federal agency or state pass-through agency that awarded the funds.

- F. **Use of Brand Names.** When possible, performance or functional specifications are preferred to allow for more competition leaving the determination of how to reach the required result to the contractor. Brand names may be used only when it is impractical or uneconomical to write a clear and accurate description of the requirement(s). When a brand name is listed, it is used as reference only and “or equal” must be included in the description.
- G. **Lease versus Purchase.** Under certain circumstances, it may be necessary to perform an analysis of lease versus purchase alternatives to determine the most economical approach. Note: This comparison is necessary for most FEMA financial assistance programs following an emergency or major disaster declaration.
- H. **Dividing Contract for M/WBE Participation.** If economically feasible, procurements may be divided into smaller components to allow maximum participation of small and minority businesses and women business enterprises. The procurement cannot be divided to bring the cost under bid thresholds or to evade any requirements under this Policy.
- I. **Documentation.** Documentation must be maintained by the Purchasing Department and/or the Requesting Department detailing the history of all procurements. The documentation should include procurement method used, contract type, basis for contractor selection, price, sources solicited, public notices, cost analysis, bid documents, addenda, amendments, contractor’s responsiveness, notice of award, copies of notices to unsuccessful bidders or offerors, record of protests or disputes, bond documents, notice to proceed, purchase order, and contract. All documentation relating to the award of any contract must be made available to the granting agency upon request.
- J. **Cost Estimate.** For all procurements costing \$150,000 or more, the Purchasing Department and/or Requesting Department shall develop an estimate of the cost of the procurement prior to soliciting bids. Cost estimates may be developed by reviewing prior contract costs, online review of similar products or services, or other means by which a good faith cost estimate may be obtained. Cost estimates for construction and repair contracts may be developed by the project designer.
- K. **Contract Requirements.** The Requesting Department must prepare a written contract incorporating the provisions referenced in Section II. C. “Contract Award” of this Policy.
- L. **Debarment.** No contract shall be awarded to a contractor included on the federally debarred bidder’s list. Prior to preparing the contract, the Purchasing Department or the Requesting Department must verify that the contractor is not on the federally debarred bidder’s list.

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### 4.11 Procurement Procedures with Federal Funds - Continued

- M. **Contractor Oversight.** The Requesting Department receiving the federal funding must maintain oversight of the contract to ensure that contractor is performing in accordance with the contract terms, conditions, and specifications.
- N. **Open Competition.** Solicitations shall be prepared in a way to be fair and provide open competition. The County shall not restrict competition by imposing unreasonable requirements on bidders, including but not limited to unnecessary supplier experience, excessive or unnecessary bonding; specifying a brand name without allowing for “or equal” products, or other unnecessary requirement that have the effect of the restricting competition.
- O. **Geographic Preference.** No contract shall be awarded on the basis of a geographic preference.
- P. **Pre-Qualification.** If time allows, contractors for construction and repair projects will be prequalified in accordance with the County’s Pre-Qualification for Capital Improvement Projects (Section 2.14 of the Onslow County Purchasing Policy and Procedure manual. Protests for denial of prequalification will be in accordance with the pre-qualification policy.
- Q. **Protests and Disputes.** Bid protests and disputes will be in accordance of Section 4 - Special Procedures 4.1 “Bid Protest Procedures”.

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## Purchasing & Contracting - Policy and Procedure Guide

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### 4.11 Procurement Procedures with Federal Funds - Continued

#### IV. Specific Procurement Procedures

Either the Purchasing Department or the Requesting Department shall solicit bids in accordance with the requirements under this Section of the Policy based on the type and cost of the contract.

#### Purchase Contracts

##### Service Contracts (except for A/E professional services)

##### Construction/Repair/Facility Improvement/Renovation

#### Up to Micro-purchase threshold as defined in 2 C.F.R. 200.67 (\$10,000 as of 6/21/2018):

Shall be procured using the Uniform Guidance “micro-purchase” procedure (2 C.F.R. §200.320(a))

#### Procedures are as follows:

- No bidding is required
- Price must be considered fair and reasonable
- To the extent practicable, purchases must be distributed among qualified suppliers
- Contract must be in writing (this could be in the form of a purchase order)

#### Purchase Contracts

##### Service Contracts (except for A/E Professional Services)

#### \$10,000 up to \$90,000:

Shall be procured using the Uniform Guidance “small-purchase” procedure (2 C.F.R. §200.320(b))

#### Procedures are as follows:

- Cost or price analysis is NOT required prior to soliciting bids
- Obtain **written** price quotes from an adequate number of suppliers or sources (which shall not be less than two (2) quotes)  
Check specific grant as some agencies may require more than two (2) quotes
- Take affirmative steps to solicit price quotes from M/WBE vendors and suppliers as required under 2 C.F.R. §200.321
- Award contract as a Fixed Price. A Not to Exceed basis is permissible for service contracts only where obtaining a fixed price is not feasible.
- Award to lowest responsive, responsible bidder
- Contract must be in writing (purchase contracts may be in the form of a purchase order; service contracts and construction repair require use of contract template)
- **Cannot** use a cooperative purchasing program as an Exception to the Bidding

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## Purchasing & Contracting - Policy and Procedure Guide

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### 4.11 Procurement Procedures with Federal Funds - Continued

#### IV. Specific Procurement Procedures - Continued

##### Service Contracts (\$90,000 up to \$250,000)

##### Purchase Contracts (\$90,000 and above)

Shall be procured using a combination of the most restrictive requirements of the Uniform Guidance “Sealed Bid” procedure (2 C.F.R. §200.320(c)) and state formal bidding procedures (G.S. 143-129)

##### Procedures are as follows:

- Cost or price analysis is required prior to soliciting bids
- Complete specifications or purchase description must be available to all bidders
- Public Advertisement: (Electronic Advertising is authorized)
  - Legal notice must reserve to the governing board the right to reject any or all bids only for “sound documented reasons.”
- Take affirmative steps to solicit price quotes from M/WBE vendors and suppliers as required under 2 C.F.R. § 200.321.
- Solicit from adequate number of known suppliers
- Bids must be submitted sealed
- Public Bid Opening
- Must have two (2) sealed bids submitted
- Bids may only be rejected for “sound *documented* reasons”
- Award contract as a fixed-price. A Not to Exceed basis is permissible for *service contracts only* where obtaining a fixed price is not feasible.
- Award to lowest, responsive, responsible bidder
- Contract must be in writing (purchase contracts may be in the form of a purchase order; service contracts and construction repair require use of contract template)
- **Cannot** use a cooperative purchasing program as an Exception to the Bidding
- Governing board approval is not required (per local policy, governing board has delegated award authority to County Manager)

##### Service Contracts (except for A/E Professional Services)

##### \$250,000 and above

Shall be procured using the Uniform Guidance “competitive proposal” procedure (2 C.F.R. § 200.320(d)) when the “sealed bid” procedure is not appropriate for the particular type of service being sought.

*Note: RFP’s (Competitive Proposals) can **only** be used when conditions are not appropriate for the use of sealed bids such as service contracts. This can be used for all types of contracts \$150,000 and over.*

##### Procedures are as follows for *competitive proposal* method:

- Publicly advertised. Formal advertisement in a newspaper is not required so long as the method of advertisement will solicit proposals from an “adequate number” of qualified firms.

# Onslow County Administrative Policy Manual

## Purchasing & Contracting - Policy and Procedure Guide

Revised May 2018

### 4.11 Procurement Procedures with Federal Funds - Continued

#### IV. Specific Procurement Procedures - Continued

- Solicit from adequate number of qualified firms
- Take affirmative steps to solicit price quotes from M/WBE vendors and suppliers as provided under 2 C.F.R. § 200.321.
- Identify evaluation criteria and relative importance of each criteria (criteria weight) in the RFP.
- All responses must be considered to the maximum extent practical.
- Must have a written method for conducting technical evaluations of proposals and selecting the winning firm.
- Award the contract to the responsible firm with most advantageous proposal taking into account price and other factors identified in the RFP.
- Governing board approval is required per local policy.
- Award the contract on a fixed-price or cost-reimbursement basis
- Must have written contract with federal contract provisions included
- **Cannot** use a cooperative purchasing program as an Exception to the Bidding

#### Construction/Repair/Facility Improvement/Renovation

##### **\$10,000 up to \$250,000:**

Shall be procured using the Uniform Guidance “small purchase” procedure (2 C.F.R. § 200.320(b))

##### **Procedures are as follows:**

- Cost or price analysis is not required prior to soliciting bids, although price estimates may be provided by the project designer.
- Take affirmative steps to solicit price quotes from M/WBE vendors and suppliers as required under 2 C.F.R. § 200.321.
- Obtain written price quotes from an adequate number of suppliers or sources (typically means two (2) however, verify with granting agency)
- Award Contract on a fixed-price or not to exceed basis
- Award to lowest responsive, responsible bidder
- Governing Board approval is not required
- Must have written contract with federal contract provisions included

# Onslow County Administrative Policy Manual

## Purchasing & Contracting - Policy and Procedure Guide

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### 4.11 Procurement Procedures with Federal Funds - Continued

#### IV. Specific Procurement Procedures - Continued

##### Construction/Repair/Facility Improvement/Renovation

##### **\$250,000 up to \$500,000:**

Shall be procured using the Uniform Guidance “sealed bid” procedure (2 C.F.R. § 200.320(c))

##### **Procedures are as follows:**

- Cost or price analysis is required prior to soliciting bids (this cost estimate may be provided by the project designer).
- Complete specifications must be made available to all bidders
- Public Advertisement: Advertise the bid solicitation for a period of time sufficient to give bidders notice of opportunity to submit bids (formal advertisement in a newspaper is not required so long as other means of advertising will provide sufficient notice of the opportunity to bid). The advertisement must state the date, time, and location of the public bid opening, and indicate where specifications may be obtained
- Solicit from adequate number of known suppliers
- Take affirmative steps to solicit price quotes from M/WBE vendors and suppliers as required under 2 C.F.R. § 200.321.
- Bids must be submitted sealed
- Public Bid Opening
- Must have two (2) sealed bids submitted prior to opening
- 5% Bid Bond (a bid that does not contain a bid bond cannot be counted toward the two (2) bid requirement
- Performance and Payment Bonds for 100% of contract price
- Bids may only be rejected for “sound *documented* reasons”
- Contract awarded on firm-fixed price basis
- Award to lowest responsive, responsible bidder
- Must have written contract with federal contract provisions included
- Governing Board approval is not required

##### **\* Building Projects over \$300,000**

##### **Note: Construction or repair contracts involving a building \$300,000 and above must also include:**

1. Formal HUB (historically underutilized business) participation required under G.S. 143-128.2, including local government outreach efforts and bidder good faith efforts shall apply.
2. Separate specifications shall be drawn for the HVAC, electrical, plumbing, and general construction work as required under G.S. 143-128(a).
3. The project shall be bid using a statutorily authorized bidding method (separate-prime, single-prime, or dual bidding) as required under G.S. 143-129(a1).



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## Purchasing & Contracting - Policy and Procedure Guide

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### 4.11 Procurement Procedures with Federal Funds - Continued

#### IV. Specific Procurement Procedures - Continued

##### Construction/Repair/Facility Improvement/Renovation

###### **\$500,000 and above:**

Shall be procured using a combination of the most restrictive requirements of the Uniform Guidance "sealed bid" procedure (2 C.F.R. § 200.320(c)) and state formal bidding procedures (G.S. 143-129)

###### **Procedures are as follows:**

- Cost or price analysis is required prior to soliciting bids (this cost estimate may be provided by the project designer).
- Complete specifications must be made available to all bidders
- Separate specifications shall be drawn for the HVAC, electrical, plumbing, and general construction work as required under G.S. 143-128(a).
- The project shall be bid using a statutorily authorized bidding method (separate-prime, single-prime, or dual bidding) as required under G.S. 143-129(a1).
- Public Advertisement: (Electronic Advertising is authorized)
  - Legal notice must reserve to the governing board the right to reject any or all bids only for "sound documented reasons."
- Solicit from adequate number of known suppliers
- Take affirmative steps to solicit price quotes from M/WBE vendors and suppliers as required under 2 C.F.R. § 200.321.
- Good Faith MBE Requirements/Affidavits must be submitted
- Bids must be submitted sealed and in paper form.
- Public Bid Opening
- Must have three (3) sealed bids submitted before opening
- 5% Bid Bond (a bid that does not contain a bid bond cannot be counted toward the three (3) bid requirement)
- Performance and Payment Bonds for 100% of contract price
- Bids can only be rejected for "sound *documented* reasons"
- Contract awarded on firm-fixed Price basis
- Award to lowest, responsive, responsible bidder
- Must have written contract with federal contract provisions included
- Governing Board approval is required (cannot be delegated)
- Governing board may reject and all bids only for "sound documented reasons."

# Onslow County Administrative Policy Manual

## Purchasing & Contracting - Policy and Procedure Guide

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### 4.11 Procurement Procedures with Federal Funds - Continued

#### IV. Specific Procurement Procedures - Continued

##### Professional Services (Architectural and Engineering Services)

###### Under \$250,000

Shall be procured using the state "Mini-Brooks Act" requirements (G.S. 143-64.31)

###### Procedures are as follows:

- Issue a Request for Qualifications (RFQ) to solicit qualifications from qualified firms
- Advertisement: Solicit only - Newspaper is not required.
- Price (other than unit cost) shall not be solicited in the RFQ.
- Take affirmative steps to solicit price quotes from M/WBE vendors and suppliers as provided for under 2 C.F.R. § 200.321.
- Evaluate the qualifications of respondents based on the evaluation criteria developed by the Purchasing Department and/or Requesting Department.
- State licensure requirements apply
- Rank respondents based on qualifications and select the best qualified firm.
- Price cannot be a factor in the evaluation.
- Preference may be given to in-state (but not local) firms.
- Negotiate fair and reasonable compensation with the best qualified firm. If negotiations are not successfully, repeat negotiations with the second-best qualified firm.
- Award the contract to best qualified firm with whom fair and reasonable compensation has been successfully negotiated.
- Must be a fixed price or not to exceed contract type for services
- Governing board approval is not required.
- Must have written contract with federal contract provisions included

# Onslow County Administrative Policy Manual

## Purchasing & Contracting - Policy and Procedure Guide

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### 4.11 Procurement Procedures with Federal Funds - Continued

#### IV. Specific Procurement Procedures - Continued

##### Professional Services (Architectural and Engineering Services)

###### \$250,000 and over

Shall be procured shall be procured using the Uniform Guidance “**competitive proposal**” procedure (2 C.F.R. § 200.320(d)(5))

###### Procedures are as follows:

- Issue a Request for Qualifications (RFQ) to solicit qualifications from qualified firms
- Advertisement: Solicit only - Newspaper is not required).
- Price (other than unit cost) shall not be solicited in the RFQ.
- Take affirmative steps to solicit price quotes from M/WBE vendors and suppliers as provided for under 2 C.F.R. § 200.321.
- Identify the evaluation criteria and relative importance of each criteria (the criteria weight) in the RFQ.
- Proposals must be solicited from an “adequate number of qualified sources” (an individual federal grantor agency may issue guidance interpreting “adequate number”).
- Must have a written method for conducting technical evaluations of proposals and selecting the best qualified firm.
- Consider all responses to the publicized RFQ to the maximum extent practical.
- Evaluate qualifications of respondents based on the evaluation criteria developed by the Purchasing Department and/or Requesting Department
- Rank respondents based on qualifications and select the most qualified firm.
- Preference may be given to in-state (but not local) firms provided that granting the preference leaves an appropriate number of qualified firms to compete for the contract given the nature and size of the project.
- Price cannot be a factor in the initial selection of the most qualified firm.
- Negotiate fair and reasonable compensation with the best qualified firm. If negotiations are not successful, repeat negotiations with the second-best qualified firm.
- Award the contract to best qualified firm with whom fair and reasonable compensation has been successfully negotiated.
- State licensure requirements apply
- Must be a fixed price or not to exceed contract type for services
- Governing board approval is not required.
- Must have written contract with federal contract provisions included

**Note1: Geographic preference can be given (in-state) as long as there is an appropriate number of qualified firms given the size of the project**

# Onslow County Administrative Policy Manual

## Purchasing & Contracting - Policy and Procedure Guide

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### 4.11 Procurement Procedures with Federal Funds - Continued

#### IV. Specific Procurement Procedures - Continued

**Note 2:** RFQ process cannot be used for general consulting services or other services not defined by state law or PDAT Supplement, Section V-15 even if those services can be performed by an architectural or engineering firm.

#### V. Exceptions

Non-competitive contracts are allowed **only** under the following conditions and with the written approval of the federal agency or state pass-through agency that awarded the federal funds:

- A. Sole Source.** A contract may be awarded without competitive bidding when the item is available from only one source. The Purchasing Department and/or Requesting Department shall document the justification for and lack of available competition for the item. A sole source contract must be approved by the governing board.
- B. Public Exigency.** A contract may be awarded without competitive bidding when there is a public exigency. A public exigency exists when there is an imminent or actual threat to public health, safety, and welfare, and the need for the item will not permit the delay resulting from a competitive bidding.
- C. Inadequate Competition.** A contract may be awarded without competitive bidding when competition is determined to be inadequate after attempts to solicit bids from a number of sources as required under this Policy does not result in a qualified winning bidder.
- D. Federal Contract.** A contract may be awarded without competitive bidding when the purchase is made from a federal contract available on the U.S. General Services Administration schedules of contracts.
- E. Awarding Agency Approval.** A contract may be awarded without competitive bidding with the express written authorization of the federal agency or state pass-through agency that awarded the federal funds so long as awarding the contract without competition is consistent with state law.

# Onslow County Administrative Policy Manual

## Purchasing & Contracting - Policy and Procedure Guide

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### Section 4.12 Conflict of Interest: Use of Federal Funds

#### I. Purpose

The purpose of this policy is to establish conflicts of interest guidelines that meet or exceed the requirements under state law and local policy when procuring goods (apparatus, supplies, materials, and equipment), services, and construction or repair projects paid for in part or whole by federal funds and required under 2 C.F.R. § 200.318(c)(1).

#### II. Policy

This policy applies when procuring goods (apparatus, supplies, materials, and equipment), services, and construction or repair projects funded in part or whole with federal financial assistance (direct or reimbursed). This policy also applies to any subrecipient of the funds.

The employee responsible for managing the federal financial assistance award shall review the notice of award to identify any additional conflicts of interest prohibitions or requirements associated with the award, and shall notify all employees, officers, and agents, including subrecipients, of the requirements of this policy and any additional prohibitions or requirements.

**A. Conflicts of Interest.** In addition to the prohibition against self-benefiting from a public contract under G.S. 14-234, no officer, employee, or agent of the County of Onslow may participate in the selection, award, or administration of a contract supported by a federal award if he or she has a real or apparent conflict of interest. A real or apparent conflict exists when any of the following parties has a financial or other interest in or receives a tangible personal benefit from a firm considered for award of a contract:

1. the employee, officer, or agent,
2. any member of his or her immediate family,
3. his or her partner, or
4. an organization which employs or is about to employ any of these parties.

Any officer, employee, or agent with an actual, apparent, or potential conflict of interest as defined in this policy shall report the conflict to his or her immediate supervisor. Any such conflict shall be disclosed in writing to the federal award agency or pass-through entity in accordance with applicable Federal awarding agency policy.

**B. Gifts.** In addition to the prohibition against accepting gifts and favors from vendors and contractors under G.S. 133-32, officers, employees, and agents of the County of Onslow are prohibited from accepting or soliciting gifts, gratuities, favors, or anything of monetary value from contractors, suppliers, or parties to subcontracts. Items of nominal value such as promotional items, honorariums for participation in meetings, and meals furnished at banquets may be accepted. Any officer, employee or agent who knowingly accepts an item of nominal value shall report the item to his or her immediate supervisor.

# Onslow County Administrative Policy Manual

## Purchasing & Contracting - Policy and Procedure Guide

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### Section 4.12 Conflict of Interest: Use of Federal Funds - Continued

#### III. Violation

Employees violating this policy will be subject to discipline up to and including termination. Contractors violating this policy will result in termination of the contract and may not be eligible for future contract awards.

# Onslow County Administrative Policy Manual

## Purchasing & Contracting - Policy and Procedure Guide

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### Section 5 – Contract Control Policy

#### 5.1 Ethical Standards and Policies

County officials and employees are responsible for protecting the safety and welfare of the public's monies. All County officials and employees should endeavor to pursue a course of conduct that does not raise suspicion among the public. Therefore, they shall avoid acts which are improper or give the appearance of impropriety. This conduct is particularly important for County purchasing personnel and County departments and their staff who have the responsibility for procuring goods and services for their department.

County purchasing personnel along with County staff must adhere to the highest level of professionalism in discharging their official duties. The nature of purchasing functions makes it critical that everyone in the purchasing process remain independent and free from the perception of impropriety. Any erosion of public trust or any shadow of impropriety is detrimental to the integrity of the purchasing process. Consequently, the credibility of a purchasing program requires that a clear set of guidelines and rules be established. Such guidelines are designed to prevent actual and potential vendors from influencing County officers or employees in discharging their official duties. Furthermore, these guidelines will help prevent County officials' and employees' independent judgment from being compromised.

Therefore, with these principles in mind, the following policies and procedures should be adhered to by all County employees, contractors and potential contractors.

#### 5.2 Code of Ethics

The Purchasing Department personnel are committed to the following Code of Ethics:

- To conduct all purchasing activities according to applicable laws, rules, regulations, and policies of Onslow County and the State of North Carolina.
- To uphold the practices and principals of the professional purchaser.
- To conduct all purchasing activities in such a manner as to develop and maintain good public, vendor and internal relationships.
- To encourage fair and open competition by legitimate and ethical means.
- To extend honest, courteous and impartial treatment to all interested and qualified suppliers.
- To maintain purchasing integrity at all times, keep free from any personal obligations to vendors, and respect their confidence.
- To promote the goodwill of the Purchasing Department at all times.
- To respect purchasing authority at all times, and not use it for private advantage or gain.

This Code of Ethics is extended to all County personnel that have the responsibility for procuring goods and services for their department.

# Onslow County Administrative Policy Manual

## Purchasing & Contracting - Policy and Procedure Guide

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### 5.3 Introduction

This policy is written for County departments and their staff who have the responsibility for procuring goods and services for their department. The policy explains the contract approval process and protects the County's interest in the contracts and agreements to which it is a party.

### 5.4 Why Do I Need A Contract?

A contract is a legal instrument that protects the County's interests by clearly establishing the responsibility of all parties. The contract establishes the terms and conditions under which a service is to be performed or a good purchased.

### 5.5 When Do I Need A Contract?

Contracts are mandatory for services (\$1,000 and over) and all construction regardless of the dollar amount.

### 5.6 Where Do I Get One?

Template contracts are available for all departments to use on the County's intranet site under Forms/Purchasing. These templates have already been reviewed by the County Attorney. Exceptions to the use of the County's templates are (1) information technology hardware/software contracts, and (2) major construction projects.

### 5.7 Purpose

This policy exists to establish a uniform procedure for processing all contracts where the County is a party. For the purposes of this document, all agreements, memorandum of understanding or addendums will be referred to as "contracts." It is important to note that no matter what title is used, the legal implications are the same.

### 5.8 Definitions

**Approved as to Form:** Refers to the statement signed by the County Attorney that the document meets all legal requirements.

**Certificate of Insurance:** A certificate of insurance is a document issued by an insurance company that is used to verify the existence of insurance coverage. The document includes information such as the effective date of the policy, the type of insurance coverage purchased, and the dollar amount of applicable liability.

**Contract:** Any oral or written agreement that imposes an obligation, monetary or otherwise, on the parties involved. One party agrees to sell, deliver or provide a service while the other agrees to purchase the goods or service based on the terms and conditions within the contract.



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## Purchasing & Contracting - Policy and Procedure Guide

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### 5.8 Definitions - Continued

**Contract Routing Form:** A form used to ensure proper routing of the contract to ensure that all required information and documents accompany contracts. This does NOT replace an Agenda Action Form.

**Contract Package:** Consists of two originals of the contract, any attachments as required (i.e., Certificate of Insurance, Scope of Services, Contract Routing Form, Agenda Action Form, Requisition). The contract package must be complete before sending to the Purchasing Department.

**Template Contract:** Onslow County's form contracts, where the terms and conditions have been pre-approved by the Onslow County Attorney. Template contracts are posted on the County's intranet site under *Purchasing*.

**Deliverable:** A unit or increment of work required by the contract, including such items as goods, services, reports, or documents.

**Memorandum of Understanding:** See definition of "Contract."

**Non-appropriation clause:** A non-appropriation clause enables the County to terminate a contract or lease agreement at the end of the current appropriation period without further obligation or penalty. This may be done only in cases where the County was unable to obtain funding for future payment obligations on the contract.

**Pre-audit Certification:** Refers to the statement signed by the Finance Officer ensuring that the contract meets the pre-audit standards and that the funds for the contract are available or have been encumbered. The pre-audit process is required by North Carolina General Statutes Chapter 159.

**Purchase Order:** Encumbers budgeted funds and is evidence of the County's commitment to pay once goods are received and/or services are rendered. A Purchase Order is a form of contract for the **purchase of goods**; however, it does not replace a written formal agreement if applicable.

**Department:** The department initiating the contract/purchase request.

**Scope of Service:** Included as an "Attachment 1" of the contract that provides a detailed description of the services to be rendered under the contract. Services should be detailed, defining what the services/goods are, when and where the services will be rendered, and how much the services/goods will cost. All deliverables should be clearly defined by the requesting department.

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### 5.9 Types of Contracts

Contracts normally fall into the following categories:

- Service Contract
- Contract Amendment or Addendum
- Contract Extension
- Consulting Contract
- Professional Services Contract
- Construction Contract
- Purchase of Goods Contract
- Lease
- Grant (Purchasing does NOT review grants)
- Non-Standard Contracts

**Note:** All Memorandum of Understandings (MOU's) and Memorandum of Agreements (MOA's) or other interlocal agreements are processed through Administration, Legal, and the requesting department.

#### 5.9.1 Service Contracts

A written agreement for work or duties to be performed by an independent entrepreneur, business, company, corporation, or entity, where the process is more important than the product. Examples of services for this type of contract are janitorial, security, lawn care, demolition, etc.

#### 5.9.2 Contract Amendment or Addendum

A document that adds or deletes a portion of the original contract without changing or rewriting the entire contract. Amendments should be used infrequently as generally it is better to have a new contract.

#### 5.9.3 Contract Extension

An agreement used only to extend and/or renew the term of the original contract.

#### 5.9.4 Consulting Contract

An agreement with an independent contractor whose occupation is the rendering of such services. The contractor possesses specialized knowledge, experience, expertise and professional qualifications to investigate assigned problems or projects, and to provide counsel, review, analysis or advice.

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## Purchasing & Contracting - Policy and Procedure Guide

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### 5.9 Types of Contracts – Continued

#### 5.9.5 Professional Service

An agreement with an independent contractor or corporation who possesses specialized knowledge, experience, expertise and professional qualifications. Examples of these types of services are architectural, engineering, surveying services.

#### 5.9.6 Construction

A written agreement for work to be performed on an existing structure or the new structure being built for the County. Construction contracts can consist of any of the following:

- General conditions of the contract for construction
- Agreement between the Owner and the design professional (architect and/or engineer)
- Agreement between Owner and Contractor

#### 5.9.7 Purchase of Goods Contract

An agreement that specifies that act of buying or acquisition of goods. This type of contract is usually reserved for purchases of goods in the formal range ( $\geq$ \$90,000). A purchase order for goods is a legally binding contract.

#### 5.9.8 Lease

An agreement conveying use of property for a designated period of time in exchange for rental payment. Leases over one year must be approved by the Board of Commissioners. Leases of more than ten years must be treated as a sale and are subject to the upset bid process.

This section 5.9.8 applies only when the County is the Lessor.

#### 5.9.9 Grant

Funds provided by another government or agency with specific terms and conditions defined.

#### 5.9.10 Non-Standard/Vendor Contract

A contract provided by a vendor or contractor. County Attorney approval is required on all non-standard contracts. Certain information technology hardware/software contracts fit in this category.

#### 5.9.11 Inter-local Agreement

An agreement between two governmental entities or agencies. ***The initiating department must contact the County Attorney prior to initiating this type of agreement.***

# Onslow County Administrative Policy Manual

## Purchasing & Contracting - Policy and Procedure Guide

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### 5.9 Types of Contracts – Continued

#### 5.9.12 Memorandum of Understanding

An agreement between County departments, agencies, and/or County officials. Sometimes used in other contexts. ***The initiating department must contact the County Attorney prior to initiating this type of agreement.***

### 5.10 Policy

All contracts must go through the contract approval process. This policy serves as a tool to ensure the correct execution of contracts and to provide instruction and information necessary to assist in the process.

Contracts are mandatory for services (\$1,000 and over) and all construction or repair work regardless of the dollar amount. Contracts for the purchase of goods are required for all purchase contracts of \$90,000 and above.

A department may not permit a contractor to start work, and create an obligation on the part of the County, until the contract has been fully executed and the copies are in the possession of both the department, the County, and the Contractor.

### 5.11 Use of Template Contracts

Departments are required to use the pre-approved template contracts that are posted on the County's intranet site under *Forms/Purchasing*. Use of the pre-approved templates can be processed without the County Attorney's review unless the contract requires Board approval.

### 5.12 Exceptions to the Use of Template Contracts

Exceptions to the use of the County's template contracts may be (1) information technology hardware/software contracts or (2) major construction projects, or (3) other special situations as determined by the County Purchasing Director.

### 5.13 Review Process by the County Attorney

County Attorney review and approval is required for all non-standard contracts (a contract provided by a vendor) as well as contracts requiring Board approval. All contracts must follow the routing steps outlined by Procedures.

#### 5.13.1 Non-Standard/Vendor Contracts

Must include:

- Names of the parties

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## Purchasing & Contracting - Policy and Procedure Guide

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### 5.13.1 Non-Standard/Vendor Contracts – Continued

- The dates the agreement is effective and the date the contract ends or a termination date. A contract should never include an automatic renewal (evergreen) clause.
- Names and addresses where any notices need to be sent.
- Governing Law will be governed by the laws of the State of North Carolina. Any disputes or claims shall be brought in the General Court of Justice, County of Onslow, North Carolina.
- An adequate description of the project, including any specifications, nature of the services to be rendered, place of work, equipment to be provided and the purpose to be accomplished
- The responsibilities and obligations of the parties
- Payment terms and methods
- Insurance provisions (Certificate of Insurance must be attached)
- Indemnification Clause: “The contractor shall indemnify and hold harmless the County and its officials, agents, employees from and against all claims, damages, losses, and expenses resulting from performance of the contract.”
- Nondiscrimination Clause: “The contractor shall not discriminate against any employer or applicant for employment because of age, sex, race, creed, national origin, or disability.”
- Non-appropriation Clause: “This Agreement may be subject to the annual appropriation of funds by the Onslow County Commissioners. Notwithstanding any provision herein to the contrary, in the event that funds are not appropriated for this Agreement, the County shall be entitled to immediately terminate this Agreement, without penalty or liability, except the payment of all contract fees due under this Agreement up to and through the last day of service for the current fiscal year.”
- Procedures for early termination of the agreement (e.g. 30 or 60 days written notice).
- Pre-Audit Certification: “This instrument has been pre-audited in the manner required by the Local Government Budget and Fiscal Control Act.”

**Note:** The County cannot indemnify a vendor under NC law.

### 5.13.2 Contracts Requiring Board Approval

All contracts requiring Board approval must be reviewed by the County Attorney. Such contracts shall be submitted to Purchasing for routing to the County Attorney in accordance with the current “Agenda Deadline Schedule” prepared by Administration. Use of the fillable contract routing form is required.

## 5.14 Information Technology Contracts

All Information Technology related contracts must be reviewed and signed off by the Information Technology Director. If the County contract template is not used, the contract must be routed to the County Attorney for review by the Information Technology Director.

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### 5.15 Contract Records Management

Departments are responsible for managing their contracts and keeping track of renewal dates. Contract renewals must be made prior to the expiration of the existing contract. The Purchasing Department will maintain an electronic version of the contract only. An original will be maintained by the department.

### 5.16 Multi-Year Contracts

The County may enter into multi-year or continuing contracts that extend beyond the fiscal year in which the contract is entered. (Note: This is different from a contract that automatically renews [also known as an Evergreen Clause] which is prohibited.) The usual types of multi-year contracts are service agreements or leases. A non-appropriation clause must be included on all multi-year contracts.

### 5.17 Amendments

Contracts can be amended for the following reasons:

- Change in dates of the agreement
- Change in scope of work/services
- Change in compensation

If the original purchase or service contract required board approval, approval of any amendment to the contract requiring additional funds shall be at the discretion of the County Manager.

### 5.18 Change Orders

- Change Orders are used for construction contracts to make additions, deletions, or revisions of materials.
- Change Orders for construction contracts that increase the contract amount must be executed either by the County Manager or the Board of Commissioners (see Summary of Contract Award and Execution Procedures, Section 2.10.1).
- Approval of Change Orders for construction contracts that do NOT increase the contract cost may be delegated by the County Manager to the Purchasing Director or the Project Manager.

There may be an emergency situation in which work needs to be done immediately before the amendment or change order can be executed. When this occurs, the County Manager needs to be contacted for written approval and the Purchasing Director notified of the approval.

### 5.19 Pre-audit Certification

All contracts must be pre-audited and signed by the Finance Officer pursuant to Chapter 159 of the North Carolina General Statutes.

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### 5.20 Approval Authority

Department Heads and County employees do not have the authority to enter into contracts on behalf of the County. Only the Purchasing Director, the IT Director, County Manager, and the Board of County Commissioners are authorized to enter into contracts on behalf of the County. Any employee signing a contract without designated authority may be personally liable.

See “Summary of Contract Award and Execution of Contracts” for approval authority for the signing of contracts.

#### 5.20.1 Other Departmental and Agency’s Authority to Contract

Certain directors and agencies that are under the Onslow County Board of Commissioners’ budgetary authority have the legal ability to contract in the name of that agency, department or director; however, these agencies must still follow local policy as described above.

Department of Social Services: contracts as Name of the Current Director, Director on behalf of the Onslow County Department of Social Services.

Public Health: contracts as Name of the Current Director, in the official capacity as the Health Director, on behalf of the Onslow County Health Department.

Sheriff: is a constitutional officer and can contract in their name and official capacity.

County Attorney: is an appointed public official and can contract for legal and related services, in their official capacity.

### 5.21 Procedures

#### 5.21.1 What the Requesting Department Does

1. Select the appropriate type of contract using the County’s pre-approved templates posted on the intranet. *If you have difficulty selecting the type of contract to use, the Purchasing Department can assist.*
2. The Department is to prepare the contract and Scope of Services (Attachment 1) using the fillable forms on the Intranet.

**Note:** These templates may be modified from time to time at the recommendation of the County Attorney; therefore, always use a template posted on the intranet (do not use a previous contract that was saved on a computer).

3. Email the completed contract and Scope of Services to the Purchasing Director for review. Comments and recommended changes will be emailed back to the Department.

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### 5.21 Procedures – Continued

4. Contract Package - The contract package is prepared by the initiating department and consists of the following:

- Contract Routing Form
- Two (2) original contracts, unless otherwise required, (signed by contractor) with Scope of Services identified as “Attachment 1”
- Current Certificate of Insurance
- Requisition keyed in to Financial Software System
- Agenda Action Form (**only if contract requires Board approval**)

*The contract routing form should be filled out completely. Failure to do so may result in the contract being returned to the department and delay of execution.*

5. Forward completed contract package to the Purchasing Director.

#### 5.21.2 What the Purchasing Department Does

1. Upon receipt of the contract package, the Purchasing Department will ensure that the contract package is accurate and complete.
2. If the contract package is complete, the Purchasing Department will begin the review/approval process.
3. For construction contracts only, the Purchasing Department will verify that vendor is not listed on the debarred vendor site.
4. For construction contracts only, the Purchasing Department will verify that the insurance company is approved and licensed by the North Carolina Department of Insurance.
5. The Purchasing Department will verify the insurance limits on the Certificate of Insurance certificate (provided by the department) meet the contract insurance requirements.
6. For construction contracts only, the Purchasing Department will verify the general contractor's license through the NC Licensing Board.

#### 5.21.3 What the ITS Department Does

1. All Information Technology related contracts must be reviewed and signed off by the Information Technology Director. If the contract requires legal review, the IT Director shall forward the contract to the Attorney.



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### 5.21 Procedures – Continued

#### 5.21.4 What the Finance Department Does

- A. The Finance Officer verifies funds are available to cover the amount of the contract.
- B. The Finance Officer and/or the Deputy Finance Officer preaudits all contracts. The following statement must be included on all contracts creating an obligation for payment:

This instrument has been pre-audited in the manner required by the Local Government Budget and Fiscal Control Act.

\_\_\_\_\_  
Finance Officer

#### 5.21.5 What the County Attorney Does

- 1. The County Attorney reviews non-standard/vendor contracts, all construction contracts, and contracts that require Board Approval.
- 2. Complete contract packages should be sent to the Purchasing Department, and must contain a completed Contract Routing Form.
  - a. If the contract is a non-standard/vendor contract, the final approved contract will be signed by the County Manager, if applicable, and returned to the Purchasing Department.
  - b. If the contract requires Board approval, the contract shall follow the normal agenda process.

#### 5.21.6 Distribution of Contracts:

After contracts have been reviewed and approved, and a purchase order has been issued to encumber the funds the two (2) original contracts will be pre-audited by the Finance Officer. The contracts will be distributed as follows:

Original – Vendor/Contractor  
Original – Initiating Department

The Purchasing Department will scan the contract and attach it to the Purchase Order in the financial software system.

If the contract required Board of County Commissioners approval, a copy of the fully executed contract will be scanned and forwarded to Administration.

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### 5.22 Contract Performance

It is extremely important that the contractor perform to expected levels and that the goods purchased are as anticipated. When a department experiences a problem with a contractor, the department shall complete a Contract Performance Evaluation form.

The completed form shall be emailed to the Purchasing Department. The original form shall remain with the department.

The form will be filed and kept on record with the contract. This is an important way of monitoring performance and could be helpful with future contracts should the County get a contractor with several poor evaluations returned.

Contract Performance Evaluation forms are posted on the County's intranet site under *Forms/Purchasing*.