
DAKOTA COUNTY POLICIES AND PROCEDURES MANUAL

Policy 2751 Solicitation, Grant and Contract

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Department: Financial Services

Board or Administrative: Board

Related Policies: Policy 2740 Procurement; Policy 2002 Budget Compliance; Policy 3041 Conflict of Interest;
Policy 3080 Position Control

POLICY STATEMENT

It is the policy of Dakota County to engage in solicitation, grant and contracting using cost-effective, efficient processes and procedures that bring best overall value to the County and are in compliance with all applicable laws. This policy provides direction from the Dakota County Board of Commissioners on the County's solicitation, grant and contracting procedures. This policy should be read in conjunction with [Policy 2740 Procurement Policy](#), [Policy 2002 Budget Compliance](#), [Policy 3041 Conflict of Interest](#) and [Policy 3080 Position Control](#). This policy applies to all contracts entered into on or after the effective date of the Dakota County Board of Commissioners resolution authorizing this policy and rescinding the previous policy.

DEFINITIONS

Contract: a written document that establishes the rights and responsibilities of two or more parties and includes the consideration for each party to enter into the contract. Contracts include all County agreements, no matter what they are called, for the procurement of commodities, materials, equipment, real or personal property, labor, work, services or construction, including an amendment to or extension of a contract. While a purchase order is a contract, it is distinguishable from other written contracts by the brevity and commercial nature of its terms and the application of Article Two of the Uniform Commercial Code to supplement its written terms.

Cooperative purchasing: a contract for the purchase of supplies, materials, or equipment in accordance with Minn. Stat. § [471.345, subd. 15](#), by utilizing contracts that are available through the State of Minnesota Cooperative Purchasing Venture or through a national municipal association's purchasing alliance or cooperative created by a joint powers agreement that purchases items from more than one source on the basis of competitive bids or competitive quotations. Contract estimated to exceed \$25,000 must consider the availability, price and quality of supplies, materials, or equipment available through the State Cooperative Purchasing Venture before purchasing through another source.

County Board Authorized Contract: a contract that is brought forward by a request for board action and authorized by the Dakota County Board of Commissioners.

County Manager: Dakota County Manager or designee.

Emergency procurement: a procurement necessitated by a sudden unexpected turn of events (e.g., riots, fires, floods, accidents or any circumstances or cause beyond the control of the County in the normal conduct of its business) where the delay caused by using a normal competitive solicitation

process would create an immediate danger to the public health, safety, welfare, or other substantial loss to the County.

Grant agreement: a written contract between two parties, through which the grantor gives a sum of money to the grantee on condition the grantee uses the money for the specific purposes of the grant, often to benefit a third party that is not a party to the grant agreement.

Joint powers agreement: a written agreement governed by Minn. Stat. § [471.59](#) where two or more governmental units work together by agreement to exercise any power common to them; or a written agreement between governmental units where one unit performs a service or activity on behalf of another unit(s).

Organizational conflict of interest: a conflict of interest that exists when, because of existing or planned activities or because of relationships with other persons, a contractor is unable or potentially unable to render impartial assistance or advice to the County, or the contractor's objectivity in performing the contract work is or might be otherwise impaired, or the contractor has an unfair competitive advantage.

Public notice: see, Policy 8851 Publication of Notices.

Real property refers to land, buildings, permanent fixtures, or permanently installed equipment attached to land or buildings, and easements.

Request for Bids refers to the document requesting responders to submit a bid to the County. Request for Bids must be in compliance with all applicable laws governing published notice and advertising.

Request for Information refers to a written request to potential responders to provide information about their goods or services for comparative purposes.

Request for Proposals refers to the document requesting responders to submit proposals to the County when a bid is not required by law or this policy and is not advantageous to the County. The County is not required to select the lowest cost proposal but may take into consideration all relevant criteria that will result in the best overall value to the County. Request for Proposals must be in compliance with all applicable laws that require published notice or advertising.

Request for Qualifications refers to a written request to potential responders to describe their qualifications to provide specified services.

Scope of services refers to the detailed description of the services to be performed by the contractor under the contract. The scope of services in a contract may be described by incorporating the request and response into the contract as exhibits, or by a separate statement of work or project plan.

Sealed bid refers to a bid that is sealed by the bidder prior to submission to the County and which will not be opened until the date and time for the bid opening.

Solicitation means the act of offering to purchase goods and/or services through a competitive process, whether through Request for Bids, Request for Proposals, Request for Qualifications, Request for Information, quotes or any other means.

State of Minnesota Cooperative Purchasing Venture is a cooperative purchasing agreement as authorized by Minn. Stat. § [16C.03](#), subd.10 for the provision of goods, services, construction, and

utilities.

SOURCE

The County's solicitation, grant and contract procedures are governed by several statutes. The statutes have been referenced and linked throughout this policy. In addition, this policy is governed by Dakota County Board Resolution No.18-485. The County Contract Manual provides staff with information, tools, and resources on contracting processes and procedures in Dakota County in alignment with County policies, County Board Resolutions, and all state and federal law.

GENERAL

1. **Legal compliance.** The County Board recognizes the importance of compliance with all laws, rules and regulations governing solicitation, grant and contract policies and procedures.

- a. All County procurement, sales, rental, leases and other agreements shall comply with applicable law and regulations.
- b. Contracts are subject to review and approval as to form as determined by the County Attorney. The Dakota County Attorney's Office will provide contract templates that have approved boilerplate provisions. Contracts are also subject to review and approval as determined by Risk Management.
- c. Each prospective and current County contractor shall be required to disclose any potential or actual organizational conflict of interest. In cases of potential or actual organizational conflict of interest, the County may pursue any one or combination of the following:
 - Disqualify the prospective contractor from the contract award;
 - If the contract has been awarded, terminate the contract;
 - Disqualify the prospective or current contractor from subsequent contracts if the organizational conflict of interest was not properly disclosed or was misrepresented; or
 - Mitigate or neutralize the potential or actual organizational conflict of interest as allowable by law.

If there is no potential or actual organizational conflict of interest that would prohibit a contract, but there is a question as to whether there may be an appearance of such a conflict, the contract shall be presented to the County Board for approval, regardless of the amount of the contract. The County Board shall have sole discretion to determine whether an appearance of a conflict of interest should bar a proposed contract not governed by the law applicable to competitive bidding.

- d. County staff must be in compliance with all law and rules regarding conflict of interest. The general authority is Minn. Stat. § [382.18](#) prohibiting interests in contracts, Minn. Stat. § [10A.07](#) regulating conflict of interest and Minn. Stat. § [10A.071](#) prohibiting the receiving and giving of certain gifts. County staff are subject to the County Conflict of Interest Policy 3041.
- e. Contracts and grants with all attachments and exhibits must be entered into the County's financial database (e.g., Superior Finance) and stored in the County's official repository (e.g., OnBase) with supporting documentation, including the contractor's Certificates of Insurance.
- f. All contracts must be in writing unless the County Attorney advises that a written contract is not legally required.

2. **Competition.** The County Board favors competition in connection with County procurements, sales, leases, rentals and other agreements to which Dakota County is a party.

a. Contracts as defined in Minn. Stat. §§ [375.21](#) and [471.345](#)

Contracts for work or labor, or to purchase furniture, fixtures, or other property, or to construct or repair roads, bridges or buildings, or the sale or purchase of supplies, materials, equipment or the rental thereof, or the construction, alteration, repair or maintenance of real or personal property, shall be made as follows:

If valued from \$1 through \$25,000

- In the open market, using any method to assure favorable pricing including, but not limited to, quotations, Request for Information, Request for Qualifications or through cooperative purchasing.

If valued from \$25,001 through \$175,000

- After soliciting three quotations when possible, or
- Through the State of Minnesota Cooperative Purchasing Venture, or
- Through any cooperative purchasing that secures contracts on the basis of competitive bids or quotes from more than one source.

If valued in excess of \$175,000

- After soliciting sealed bids by public notice of Request for Bids, or
- Through the State of Minnesota Cooperative Purchasing Venture, or
- Through any cooperative purchasing that secures contracts on the basis of competitive bids or quotes from more than one source.

b. Contracts funded in whole or in part with federal grant funds are subject to the Uniform Grant Guidance (UGG) procurement rules, including methods of procurement based on aggregate dollar amount purchases. The dollar values are as follows or as subsequently amended by the UGG:

Micro-purchases:

If valued from \$1 through \$10,000 for supplies or services

- Through the open market using any method to assure favorable pricing. When practicable, distribution should be equitably among all qualified suppliers.

If valued from \$1 through \$2,000 for construction subject to the Davis-Bacon Act (prevailing wage)

- Through the open market using any method to assure favorable pricing. When practicable, distribution should be equitable among all qualified suppliers.

Small purchases:

If valued from \$10,001 for supplies or services or \$2,001 for construction subject to the Davis-Bacon Act through \$175,000¹

- After soliciting three quotations when possible, or
- Through the State of Minnesota Cooperative Purchasing Venture, or
- Through any cooperative purchasing that secures contracts on the basis of competitive bids or quotes from more than one source.

¹ The UGG allows up to \$250,000 but purchases subject to Minn. Stat. § 471.345 require sealed bids if over \$175,000.

Sealed bids:

If valued in excess of \$175,000

- Through soliciting sealed bids or competitive proposals by public notice, or
- Through the State of Minnesota Cooperative Purchasing Venture, or
- Through any cooperative purchasing that secures contracts on the basis of competitive bids or quotes from more than one source.

Exceptions to the above consist of competitive proposals when sealed bids are not appropriate and noncompetitive proposals for sole source procurements, in cases of an emergency that does not allow for competitive proposals, upon authorization of the federal funding agency, or if after a number of attempts there is no adequate competition.

c. All other contracts, including contracts for professional services

- After soliciting Request for Proposals, Request for Information, Request for Qualifications or quotes, so far as practicable and reasonable, or
- Through the State of Minnesota Cooperative Purchasing Venture, or
- Through any cooperative purchasing that secures contracts on the basis of competitive bids or quotes from more than one source, or
- In the open market.

3. **Efficiency.** The County Board favors solicitation, grant and contract procedures that are based upon the principles of delegation and decentralization, when allowable. Notwithstanding the following delegations of authority, a county department should seek County Board approval if the circumstances so warrant.

- a. Solicitations may be issued by the County Manager when the funds for the proposed procurement are specifically included within the budget or capital improvement plan or capital equipment plan, without additional authorization from the County Board.
- b. All contracts valued at or less than \$100,000 may be approved and signed by the County Manager when funds for the contract are specifically included within the budget or Capital Improvement Program (CIP) or Capital Equipment Plan (CEP) or will be funded pursuant to the Budget Incentive Policy adopted in Resolution No. 93-715. All contracts valued at more than \$100,000, and contracts of any value for which the funds are not included within the budget or CIP or CEP and which will not be funded pursuant to the Budget Incentive Policy, require approval by resolution of the County Board.
- c. Joint powers agreements and cooperative purchasing agreements require approval by resolution of the County Board.
- d. Sales, leases, purchases, or other conveyances of an interest in real property where the County is a party require County Board approval by resolution.
- e. Contracts for the maintenance of computer hardware or software may be approved and signed by the County Manager, regardless of the value of the contract, when sufficient funds for the contract are included in the budget.
- f. An amendment to a County Board Authorized Contract for construction may be approved by the County Manager when:
 - the amendment does not materially alter the scope of services provided pursuant to the contract or County Board Authorized Contract; and

- the total combined amendments to the first County Board Authorized Contract do not exceed \$100,000 or 5% of the first County Board Authorized Contract, whichever is greater; and
 - the total combined amendments from the inception of the contract do not exceed \$250,000; and
 - there is sufficient funding in the CIP project budget for the contract amendment.
- g. An amendment to a County Board Authorized Contract, other than a construction contract, may be approved by the County Manager when:
- the amendment does not materially alter the scope of services provided pursuant to the contract or County Board Authorized Contract; and
 - the total combined amendments to the first County Board Authorized Contract do not exceed 10%; and
 - the total combined amendments from the inception of the contract do not exceed \$50,000; and
 - there is sufficient funding in the department line item budget or CIP or CEP or funded pursuant to the Budget Incentive Policy adopted in County Board Resolution No. 93-715.
- h. For grants that are included in the budget, the County Manager may apply for the grant, accept the grant, and sign the grant agreement. If the grant award exceeds the amount in the budget by \$100,000 or more, the grant requires approval by resolution of the County Board. The acceptance of a grant requiring the County to grant a declaration, restrictive covenant, or other encumbrance on real property requires approval by resolution of the County Board.
- i. For grants that are not included in the budget, the County Manager may apply for the grant, accept the grant, and sign the grant agreement where the grant amount does not exceed \$100,000 and the grant funds will only be used to support existing County programs and will not be used to increase the number of County FTEs, in accordance with Policy 3080, Position Control. The acceptance of a grant requiring the County to grant a declaration, restrictive covenant, or other encumbrance on real property requires approval by resolution of the County Board.
- j. For purposes of Section 3, paragraphs a, b, e, f, g, h, i, and j of this policy, the County Attorney and the County Sheriff have the same authority as the County Manager with respect to their respective offices.
- k. The County Manager may delegate authority under this policy by written delegations which specifically identify the authorities delegated, the individuals to whom authority is delegated, the duration of the delegation (not to exceed two years) and which are maintained on file with the Clerk to the Board.
4. **Emergency Authority.** The County Board recognizes that emergency procurement requires that County staff enter into agreements without complying with contract procedures. Therefore, the County Manager is authorized to enter into contracts for emergency procurement, consistent with the following:
- a. In the case of an emergency arising from breakage, damage, or decay to County property that cannot wait for the time required to advertise for bids, the repairs may be made without advertising for bids, provided that the contract(s) for the repairs be presented to the County Board for ratification at the next meeting of the County Board, regardless of the amount of the contract.

- b. In the case of an emergency which may put at risk the health or safety of County clients or citizens and that cannot be allowed to wait for the time required to secure County Board approval of a contract to procure services, the County Manager (i) may enter into a contract to make the procurement of services, provided that the contract be presented to the County Board for ratification at the next meeting of the County Board or (ii) may exercise the authority to advance funds to an agency already under contract pursuant to Resolution No. 97-679.

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Board Resolution or County Manager Signature: Res. 18-485
