

Yellow Medicine County  
ALF- Contracting and Bid Laws  
Contracting Process  
FYE 12-31-11

**Purpose:** It is County policy to purchase goods and services in the most professional, ethical, legal, and efficient manner possible; insuring quality, considering standardization, reasonable terms, and best value to the taxpayers of the County. This document, along with County Policy 503 – Purchasing and Contract Protocol and Authority, delineates the protocols and authority related to contracting for Yellow Medicine County.

**Source:** County Administrator, Road and Bridge, Human Services, and County Finance Manager

**Conclusion:** Contracts and purchases are initiated at the department head level.

### **Administration**

#### **Purchasing Philosophy**

Department heads need both flexibility and accountability in purchasing for their departments. Excessive restrictions create an atmosphere of micromanagement while too liberal a policy invites abuse and a lack of accountability. The intent of this policy is to provide a framework that allows department heads to operate as efficiently and economically as possible, within state statute, while allowing for oversight on their larger purchases. This document delineates the protocols and authority related to the purchasing of goods and services for Yellow Medicine County. It shall be followed by all County employees and officials.

It is County policy to purchase goods and services in the most professional, ethical, legal, and efficient manner possible; insuring quality, considering standardization, reasonable terms, and best value to the taxpayers of the County.

#### **Ethical Practices**

No elected official, employee, or immediate family member of an elected official or employee should have a financial interest, directly or indirectly, in any contract or purchase order for goods or services used by the County. Elected officials and employees should not accept or receive, directly or indirectly, from a vendor any promise, obligation, or contract for future reward or compensation. Any violation of this section may be a gross misdemeanor. (M.S. 471.87)

If an employee purchases or contracts for goods or services contrary to County policy, the purchase shall be void. In accordance with State laws, the Department Head shall be personally liable for the cost of the order or contract. If the order or contract has already been paid for out of County funds, the amount may be recovered by appropriate action.

#### **Responsibilities of Persons Who Purchase**

Department Heads who supervise the purchase of goods and services on behalf of the County have the following responsibilities:

- 1) Follow County policies when purchasing items within their scope of responsibility.
- 2) Properly document purchases.

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- 3) Maintain vendor histories/records.
- 4) Provide information on estimated costs for budget purposes and solicit bids, estimates, or quotations.
- 5) Determine if the purchase of an item through any Cooperative Purchasing Venture (CPV) is beneficial to the County.
- 6) Submit a Property Acquisition/Disposal Record to the Finance Manager for all capital purchases to ensure proper asset documentation and binding of insurance coverage.

### **Purchasing Protocol**

Budgeted funds must be available before a purchase commitment is made. If sufficient funds are not available, a reallocation or additional appropriation request must be submitted.

Contracts - All written contracts, regardless of amount, require County Board approval. Written contracts for less than \$10,000 in goods and/or services, and already included in the departmental budget, will be treated as consent agenda items. All other written contracts will be regular agenda items.

Purchases of less than \$5,000 – If the amount of the purchase is \$5,000 or less, the purchase may be made either by quotation or by direct negotiation. If practicable, at least two quotations should be obtained and kept on file for a period of at least one year. The following steps should be considered for quotations:

- 1) Specifications should be drafted by the Department Head or designee.
- 2) Specifications should be provided to at least 2 vendors.
- 3) Upon receipt of the quotations, an award should be made by the Department Head or designee.

Purchases from \$5,000 to \$25,000 – The same protocol as stated in 503.404 will be followed with the additional requirement of County Board approval.

Purchases from \$25,000 to \$100,000 – If the amount of the purchase is between \$25,000 and \$100,000 the purchase may be awarded through either a sealed bid process or by quotation. If the purchase is made by quotation, at least two quotes should be obtained when possible and kept on file for a period of at least one year. If sealed bids are used, the process outlined in 503.406 must be used. A recommendation must then be presented to the County Board for action.

Purchases over \$100,000 - If the amount of the purchase is estimated to exceed \$100,000, sealed bids shall be solicited by public notice, unless the purchase is through a bid obtained by the State of Minnesota and available to counties. The following steps should be considered for sealed bids:

- 1) Specifications shall be drawn by the Department Head or designee. Specifications are available for public inspection at the applicable department office.
- 2) Authorization shall be requested from the County Board to advertise for bids by the Department Head or designee.
- 3) The bid solicitation shall be published in the official County newspaper. When sealed bids are solicited, an advertisement shall be placed in the legal newspaper for two weeks

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for purchases of property or for work and labor and for three weeks for the construction or repair of roads, bridges or buildings (MN Statute 375.21). The advertisement shall state at a minimum where the location of the bid specification can be picked up and dropped off, a deadline date for submission of bids, the date and time the bids will be opened, the bid documents required for consideration, and any bid bond if applicable. In addition, proposals and specifications may be sent to the names listed on any prospective vendor's list maintained by the department.

- 4) Bids shall be properly dated and stamped.
- 5) Bids shall be opened, reviewed, and awarded at a specific time and date as prescribed by the County Board. The applicable department head will present the board with the bids from vendors. Next, the applicable department head will make a recommendation to the Board on the bids as submitted. Once the board has given approval the applicable department head will send all bidders the results of the County Board's decision on the bids.
- 6) Bids may be accepted or rejected for any reason or no reason. If no satisfactory bid is received, the Board may re-advertise.
- 7) It is the intent of Yellow Medicine County to award the contract to the lowest responsible bidder or bidders meeting the specifications and/or minimum qualifications. The County Board shall have the right to waive any informalities or irregularity in any bid or bids received. Award recommendations to the County Board will be based on, but not limited to, the following general criteria:
  - a) adherence to all conditions and requirements of bid specifications
  - b) total bid price including any discounts, unit price or extended price
  - c) good faith of the bidder to meet the County's requirements
  - d) experience of the bidder
  - e) evaluation of the bidder's ability to service the County's needs
  - f) financial responsibility of the bidder
  - g) prior knowledge of and experience with the bidder, in terms of past performances
  - h) needs and requirements of the County
  - i) experience with products involved
  - j) size and location of the bidder
  - k) quantity and quality of merchandise offered
  - l) product appearance
  - m) overall completeness of product line offered
  - n) ability of meeting completion and delivery requirements
  - o) the successful bidder agrees to comply with the Data Practice Act

Use of Cooperative Purchasing Venture – The County, on an annual basis, reviews its membership in the Cooperative Purchasing Venture (CPV) administered by the Minnesota State Department of Administration. Use of CPV is discretionary.

### **Bid and Quotation Specifications**

Preparation – Written specifications should be prepared with the following criteria in mind:

- 1) Conformance to acceptable industry-wide standards.
- 2) Clear, definite, and concise.

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- 3) Describe the performance requirements, rather than its formulation, description, or design.
- 4) Framed to permit, to the extent possible, free and full competition.
- 5) Consider cost, length, and terms of any warranty provisions, reliability and maintenance costs, and repurchase value of the equipment after a specified number of years.
- 6) Should not exclude all but one type or kind except when permitted by law.
- 7) Should not call for features or for a level of quality not needed for the intended use, except in cases where such features or the level of quality are essential for some future consideration or result in overall economic advantage to the County.
- 8) If an error in the specification is found, the County reserves the right to correct the specification with notification to all bidders, or the County may, in its sole discretion, cancel the bid call. The county may waive any minor irregularity or error which it finds, in the best interest of the County.
- 9) Any changes to specifications must be mailed to all who are known by the applicable department head to have received the specification. Any interested respondents shall promptly notify the applicable department head of any ambiguity, inconsistency or error in writing, which may be discovered upon examination of the specification. Clarification or interpretation of the specification shall only be made by the applicable department head or County Board.
- 10) The County Board may require that a bidder provide a bid bond or other security at an amount satisfactory to the Board as a proposal guaranty that the bidder will enter into a contract if its bid is accepted.

Restrictive Specifications – Some latitude is permissible in specifying features of certain items. While it is not necessary to prepare specifications in a manner that every conceivable manufacturer could compete, the County must be able to demonstrate a clear reason for any restrictive specifications. If a minimum standard for wages with respect to the employees of a contractor is desired by the County or is required for compliance with State or Federal laws, the specification should include such a prevailing wage rate unless otherwise provided in any applicable Federal law. (M.S. 177.42)

Professional Services – Purchasing professional services creates a different relationship than normally exists in a buyer-seller transaction. The purchasing protocol needs to take into consideration qualifications, character, and mutual trust. For these reasons, qualifications, competency, and availability of the most qualified firms must be considered initially and independent of cost. Procuring professional services consists of three major elements:

- 1) Submittal of proposals;
- 2) Review of proposals submitted and selection of preferred proposal; and
- 3) Negotiation of price.

For purposes of this policy, professional services include at least the following:

- 1) Architectural and engineering services;
- 2) Personnel consultation;
- 3) Technology consultation;
- 4) Legal services (beyond that provided by the County Attorney);

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- 5) Financial consultation; and
- 6) Insurance consultation.

Documentation of Purchasing Process – Proper documentation of the purchasing process is necessary for accountability. Persons making purchasing decisions should be able to provide proof of compliance with the purchasing policy and State law.

The bidder receiving the award shall indemnify and hold harmless the County, its officers and employees from and against all claims, damages, losses, and expenses, including, but not limited to, attorney's fees arising out of or resulting from the performance of the contract. The contractor shall take all reasonable precautions to prevent damage, loss of injury to self or County employees, and all persons at or around the site under their care.

Application for payment may be made in the form of a standard invoice. Applications shall contain a detailed itemized list of goods and services furnished against the specification.

The County Board may require insurance coverage with the county named as an additional insured. A copy of the insurance certificate must be submitted with the bid.

### **Road & Bridge**

#### **Administration**

When expenses for a project or from a company will be between \$25,000 and \$100,000 the purchase may be awarded through either a sealed bid process or by quotation. When the contract will have expenses that will total more than \$100,000 the contract will be bid out.

County Engineer will start the contracting process. This will start by creating plans and \or specifications for the contract. County Engineer will request County Board approval to advertise the project.

An advertisement is placed in the legal newspaper for a period of at least three weeks plus 10 days. The advertisement states where the location of the bid specification can be picked up and dropped off, a deadline date for submission of bids, the date and time the bids will be opened, a summary of the major contract item quantities, the bid documents required for consideration, and any bid bond if applicable.

Specifications are available for public inspection at the office of the County Engineer, located at the County Highway Department in Granite Falls, during normal business office hours. Addenda are any graphics or written instruments issued by the County, prior to the date and time set for submissions, which modify or interpret the specifications by additions, deletions, clarifications, or corrections. Such addenda are mailed to all who are known by the Engineer's office to have received the plans and\or specifications. Any interested respondents shall promptly notify the Engineer's office of any ambiguity, inconsistency or error in writing, which may be discovered upon examination of the specification. Clarification or interpretation of the specification shall only be made by the Engineer's office. No further interpretations, correction or change shall be

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allowed. Any interlineations, alterations, or erasures shall be initialed by the respondent. If an error in the specification is found, the County reserves the right to correct the specification with notification to all bidders, or the County may, in its sole discretion, cancel the bid call. The county may waive any minor irregularity or error which it finds, in the best interest of the County.

Bids submitted shall not be modified or changed in any way after the submission of the bid. Typographical errors that affect the bid may be considered by the County Board only if the Board agrees prior to bid award. Attachments to the bid qualifying or amplifying the bid will be considered by the County Engineer's Office. The County Board may reject any amplified or qualified bid. The bid may be accepted or rejected for any reason or no reason.

The County Board may require that a bidder provide a bid bond or other security at an amount satisfactory to the Board as a proposal guaranty that the bidder will enter into a contract if its bid is accepted.

Yellow Medicine County is very strict about the time bids are received. If a bid is received after the stated time, the bid will be returned unopened regardless of the reason. Properly identified bids, which have been received on time, will be publicly opened and read aloud at the time noted on the bid invitation. Bidders are welcome to attend the bid opening. All bid openings will take place in the Board Room of the Yellow Medicine County Courthouse or at the County Highway Department Offices in Granite Falls, Minnesota. It is the intent of Yellow Medicine County to award the contract to the lowest responsible bidder or bidders that are qualified and can meet the specifications. The County Board shall have the right to waive any informalities or irregularity in any bid or bids received. Award recommendations to the County Board will be based on, but not limited to, the following general criteria;

- a) adherence to all conditions and requirements of bid specifications
- b) total bid price including any discounts, unit price or extended price
- c) good faith of the bidder to meet the County's requirements
- d) experience of the bidder
- e) evaluation of the bidder's ability to service the County's needs
- f) financial responsibility of the bidder
- g) prior knowledge of and experience with the bidder, in terms of past performances
- h) needs and requirements of the County
- i) experience with products involved
- j) size and location of the bidder
- k) quantity and quality of merchandise offered
- l) product appearance
- m) overall completeness of product line offered
- n) ability of meeting completion and delivery requirements
- o) the successful bidder agrees to comply with the Data Practice Act

The bids are received by the Engineer's office. The sealed bids will be held in a secure location until the date and time that they will be opened and read aloud as noted in the advertisement for the sealed bids.

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The County Engineer will request Board action to accept the bids from contractors (vendors). The bid tabulations will be submitted at a regular board meeting. Engineer will have reviewed the bids for appropriateness and make a recommendation to the County Board.

The Engineer will request Board action to determine the bidder who will be awarded the contract. Once the board has given approval Engineer will send all bidders the results of the bids. The contract is signed by both parties and submitted to the County Attorney for his\her approval and a copy will be kept on file for reference.

The Highway department uses the Costrite Costing System. The Costrite system requires a login name and password to obtain access. The only people with access to the system are the Highway Accountant and CPU out of Morris, Minnesota. There are different levels of access for the program. Each employee has access only to sections needed for the employee to complete his/her job. Login names are eight numeric and/or alpha characters in length; passwords are four to eight characters which can also be alpha and/or numeric. Passwords are updated periodically throughout the year; as a security measure, the Highway Accountant provides the new password to one employee in the Engineering department.

The Department maintains projects files by the contract number. The files include all major areas of the contract. The files include the specifications of the contract. The files include the advertisement that was placed in the legal paper and the construction bulletin or other widely circulated publication. Any permits that are required for the project are listed and progress on the permits will be noted. All bids that were received for the proposed project will be listed, along with the bid that was selected.

Many of the contracts for the Highway department are for amounts greater than \$100,000. Many of these contracts are for road construction. If the County purchases equipment off of an existing state contract, the department will not have to collect bids for the purchase.

The bidding process starts with the planning process. The Engineers plan and proposal will be created. This includes the bid specifications for the project. The plan for the contract must be reviewed and approved by the County Engineer, and if applicable, the County must get state and in some cases federal highway approval. The County must get state or federal approval when the job or contract will also affects the state or requires state aid or federal aid funds.

The next step is to advertise for bids. An advertisement must be placed in the legal newspaper and the *Construction Bulletin* as previously specified. Bids are then received from prospective companies. The sealed bids are sent to the County Engineer's Office where they are date and time stamped and kept secured. The County Engineer will open the bids at the advertised time and place, publicly reading them out loud.

The Engineering staff will review the bids for appropriateness and will also review and recalculate the bids for accuracy. The Engineering staff will then prepare a bid tab of all of the bidders and submit an abstract with a recommendation for the County Board's approval at a

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regularly scheduled meeting. The County Engineer will send a notice to the company or vendor with the bid that was accepted by the County Board.

The Engineering staff prepares a contract and sends it to the contractor for signatures; the contractor returns the signed contracts along with performance bond, insurance certificate, and any other relative materials. The original contract, performance bond, insurance certificate, and any other relative materials are given to the County Attorney for final execution, along with the state (if applicable); the highway department will receive a signed original contract to keep on file. The highway department retains contract files. The contracts are filed sequentially by year, road number and project number.

The company will start working on the project with the Engineering Staff performing on-site project inspections. The Engineering Staff notes the project progress and the materials used on the project in the Project Diary; this includes dates, quantities, types of materials, and comments. All documentation in the Project Diary is dated and initialed by the staff member taking note. As the company finishes portions of the project, the Engineering Staff prepares a partial estimate for payment on work certified and completed and turns the estimate over to the Highway Accountant who recalculates the estimate to verify the amounts, completes the process for payment and construction in progress accounting in the Costrite system and the Access Database then interfaces the voucher (after signed approval by the County Engineer) to the IFS system which will generate a check to be mailed to the contractor from the Auditor/Treasurer's office. The company will either receive payment as a significant portion of the project is complete or once every 30 days, whichever is shorter. The entries made in the Project Diary and partial payment estimates are reviewed by more than one engineering staff member for accuracy. The payment request estimate is approved and signed by the Assistant County Engineer. The Contractor also signs the pay request estimate unless he/she has waived this requirement by filing the appropriate forms with the County Engineer.

When work on a project is completed the Engineering staff will prepare the final payment forms and submit them to the Contractor for review. If the project quantities shown are acceptable to the Contractor, he/she will sign and return the original documents to the County. The County Engineer will sign the final payment document and ensure that IC-134's have been certified by the State and received from the contractor and subcontractors along with any other pertinent documentation before final payment is made. The Payment request will then go to the County Board for approval and authorization for contract closure and final payment.

When a contract is a State Aid Contract, the County Engineer will request a 95% advance payment of the total state aid obligation/funding for the project. (No advances are allowed on Bridge Bonding or Federal Funds; with these types of funding, the County can only request reimbursement of what has been paid out). Once the project has been completed and a final payment has been made to the contractor, the County Engineer will send a final request for funds to the State. This request will include the total project costs and funding types along with any increases or decreases; the amount already received from the State; and the balance due from the State or the overpayment made. Overpayments are not paid back to the State; they are applied to the next applicable project, unless the overpayment resulted from liquidated damages. If there

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are liquidated damages, the County keeps the overage; it is not applied to another project nor returned to the State.

At year-end, a Contracts Payable amount will be calculated. The Contracts Payable amount consists of all contracted work certified but not yet paid for the projects in that year. This amount is usually the 5% retainer amount per contract. The Highway Accountant utilizes a separate Access database and the State Aid Finance's project ledger program for Delegated Contracts (Federal funding) in addition to the Cost Accounting program to track and keep a history of all construction-in-progress elements during each year. At year end Contracts Payable reports, State Aid Funding Analysis, and State Aid Receivable Analysis and Reports are processed in addition to other related fiscal reports needed by the County Finance Manager and by State Aid Finance. Individual Project Construction Reports are also compiled by the Engineering Staff and Highway Accountant for their Annual Report. These reports show specific line item preliminary costs, current year costs, and total project costs in addition to other pertinent information about the project.

### **Social Service Department**

The Social Service department does not have many contracts that they are required to bid out for. When the department does have a purchase that will require a bid, they will first have the County Attorney look over the specifications and contract. The Social Service Department will follow the contracting process found under "Administration".

### **Contracts Payable**

The County Fiscal Officer will read over and review the Board of Commissioner's minutes. She/he will note whenever the board approves building projects or capital asset projects. This is when a bid was obtained for the project and the contract has been rewarded.

A 'contract payable' analysis spreadsheet is kept by the County Fiscal Officer. This spreadsheet includes all Capital Asset Projects that have gone through the bidding process and a contract has been awarded to a vendor for that job. The County Fiscal Officer updates the spreadsheet with Board approved amendments and change orders to the original contract along with the payments made to each vendor.