

Monmouth County Purchasing Procedures



Finance and Purchasing Laws

- **Finance Laws:** Local Authorities Fiscal Control Act N.J.S.A 40A:5A-1 et seq., Technical Accounting Directive No. 1 and Administrative code 5:30-5.1.
- **Procurement Laws:** Local Public Contracts Law N.J.S.A. 40A:11-1 et seq., Administrative Code N.J.A.C. 5:34-1 et seq.
- **Yellow Book - SPECIAL EDITION GOODS AND SERVICES BID SPECIFICATIONS: A GUIDE FOR NEW JERSEY LOCAL PUBLIC AGENCIES.** Qualified Purchasing Agent Program, Procurement First Edition: November 1995, Second Edition: January 2005, Special Third Edition: April 2018, Fourth Edition: Fall 2018; 4th Ed. Ver. 2: Spring 2019
- **Laws outside the Local Public Contracts Law** that must be followed:
 - Pay to Play Law N.J.S.A. 19:44A-20.13 et seq.
 - Business Registration Act P.L. 2004, c.57.
 - Prevailing Wage N.J.S.A. 34:11-56.25 et seq.
 - Public Works Contractor Registration Act N.J.S.A. 34:11-56.48 et seq.
 - Equal Employment Opportunities N.J.S.A 10:5-31 et seq
 - Anti-Discrimination in Employment N.J.S.A. 10:2-1
 - Americans with Disability Act 42 U.S.C. § 12101
 - Records Retention N.J.S.A. 52:15C-14(d)

Encumbrances

- It is illegal to purchase or obligate funding without first encumbering the funds and having a valid purchase order.
- NO goods or services can be ordered without a PURCHASE ORDER!
- A Purchase Order is a contract.
- State law generally prohibits the making of payments in advance.
- In public purchasing all contracts for the provision of goods or performance of services should be in writing.
- The most preferred form of agreement for public entities is the firm fixed price agreement.

Forms

- **Requisition** – the using department or agency uses to request goods or services it seeks to purchase
- **Purchase Order** – used to authorize the vendor to provide goods or perform services. (PO is a contract)
- **Bid Proposal/Quote** – used to solicit bids/receive bids or receive quotes from vendors.
- **Receiving Report** – packing slip, goods received by department; used to close the Purchase Order and authorize for payment.
- **Voucher** – basis for payment; services were delivered satisfactorily.

Types of Procurement

Informals – Quotes for Goods and Services

- \$6,600 requires only one quote
- \$6,601 - \$17,499 two or more suggested vendors/quotes
- \$17,500 and \$43,999 is considered a Window Contract under the political contribution “Pay to Play” Law and will require a resolution authorized by the Monmouth County Commissioners
- Does not have to be advertised
- Can be negotiated

Formals – Sealed Bids for Goods and Services

- Advertised no less than 10 days in official newspaper and on website. Solid Waste no less than 60days.
- Addendum 7 business days, advertised in official newspaper and on website
- **Cannot be negotiated**
- Bid limit can be changed every fifth year – the Governor, in consultation with the Department of the Treasury shall no later than March 1st of every fifth year adjust the bid threshold. Adjustment shall become effective on July 1st of the year in which it is made.
- Current bid limit of \$44,000.00
- In addition, the using Division shall advise if the goods and/or services will be funded at all by a Federal grant or funding. Note the use of Federal grants shall result in the inclusion of a debarment and suspension provision pursuant to a Federal Executive Order (specifically, EO 12549 and EO 12689).

Types of Procurement continued

Proposals – Request for Proposals (RFP), for those services that are exempt from bidding, such as lawyers, architects and engineers.

- Services as defined in the law
- Advertised 10 days in official newspaper or website
- Can be negotiated
- Award of contract must be advertised

Competitive Contracting – Request for Proposals under NJSA 40A:11-4.1 through 11-4.5

- Governing body must approve by resolution to use the Competitive Contracting process.
- Advertised in official newspaper and on website for at least 20 days
- Cannot be negotiated
- Evaluation Criteria must be in procurement
- Procurement administered by Administrator, Purchasing Agent or Counsel
- Formal award memo must be issued 48 hours prior to award
- Award of contract must be advertised

Types of Procurement continued

Emergencies and “Exigencies”

- Must affect the public health, safety and welfare.
- Governing body **MUST** adopt rules or regulations as appropriate to the contracting unit to ensure there is procedure for determining the emergency
- FAILURE TO PLAN IS NOT AN EMERGENCY

Cooperatives

- Cooperative Pricing (most popular of all cooperatives)
 - Lead agency advertises for bids; awards a master contract to the vendor providing for its own needs and for the prices to be extended to registered members; notifies the approved members of the contract awarded.
 - Registered members then contract directly with the vendor for their own needs, subject to the specifications in the master contract. The lead agency in a cooperative pricing system does not bear any contractual responsibility to the vendor, except with respect to those items which it orders for its own needs.
- Joint Purchasing
- Regional Cooperative
- Commodity Resale
- County Cooperative Contract Purchasing
- State Contract is considered a cooperative
- National Co-ops

Types of Procurement continued

Sole Source Purchases

- Purchase of goods and services are the result of soliciting and negotiating with only one source. **NOT RECOGNIZED BY NEW JERSEY PROCURMENT LAW**

Proprietary

- Goods or services of a specialized nature, that may be made or marketed by a person or persons having the exclusive right to make or sell them. When a need for such goods or services are needed, they must be certified in writing by the governing body of the contracting unit to be necessary for the conduct of its affairs.

Bid, Quote and Pay to Play Thresholds

Pursuant to N.J.S.A. 40A:11-3(c) and 18A:18A-3(b), the State Treasurer has exercised her authority to adjust bid thresholds for contracting units subject to the Local Public Contracts Law and the Public-School Contracts Law. These adjustments became effective on July 1, 2020. The Monmouth County Commissioners adopted Resolution # 2020-0445 authorizing an increase to the County's bid threshold from \$40,000 to \$44,000.

THRESHOLDS:

- \$44,000 – Bid Threshold (this threshold is by commodity)
- \$17,500 – “Pay to Play” Law Threshold (this threshold is by vendor)
- \$6,600 – Quotation Threshold and NJ Business Registration requirement

Quotes

You must determine the estimated total cost of the Goods (Commodity), Service, Professional Service, or Project.

- If the total cost is **less** than **\$6,600**, you need only provide **ONE** vendor. Purchasing Informal section will confirm the estimate.
 - If the estimated cost is between **\$6,601 and \$17,500**, please provide **TWO** or more suggested vendors. Purchasing Informal section will send out a Request for Quotation (RFQ).
 - If the estimated cost is between **\$17,500 and \$44,000**, please provide **THREE** or more suggested vendors. The purchase is considered a **Window Contract under the political contribution “Pay to Play” Law** and will require a resolution authorized by the Monmouth County Commissioners.
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- Quotes may be solicited by telephone or email but please try to **confirm in writing**. If a vendor says they cannot furnish the item – it is still considered a quote. (please obtain in writing).
 - The contract shall be made to a vendor whose response is most advantageous, price and other factors considered.
 - Quotes can be negotiated.

State Contracts (Cooperative)

- All state contracts must have a quote attached from the State Contract Vendor – this quote shall include the State Contract number.
- By law, 1NJCP (State Cooperative Number) must also be on all Purchase Orders plus the actual State Contract number.
- State Contract Website: <https://www.njstart.gov>

Bidding Process

- Set by law, the bid limit is \$44,000. This is determined by aggregation.
- Aggregation means the sums expended or to be expended for the provision or performance of any goods or services in connection with the same immediate purpose or task or the furnishing of similar goods or services. When calculating the amount purchased in the previous contract year, the calculation shall be based on the **period of 12 consecutive months** following the award of a contract. This amount is calculated County-Wide not by Department.
- Under no circumstance shall a contracting unit avoid bidding by knowingly miscalculating estimates, taking advantage of differences between contract year and fiscal year, or using another mechanism intended to intentionally avoid public bidding.

Bidding Process continued

- Resolution authorizing to go out to bid is required
- A properly executed requisition must be submitted to start the process.
- Sufficient funding must be appropriated for the good or service.
- Technical specifications for the goods or services you need, must also be attached to the requisition. PURCHASING DOES NOT WRITE TECHNICAL SPECIFICATIONS. If necessary, Purchasing will secure a specification writer.
- It is the Department's responsibility to make sure the specifications are correct.
- A using Department representative should attend all pre-bids and bid openings. After the bid's opening date, the Department Head must review bids and make a written recommendation for award to the Division of Purchasing Director.
- By law, no bid openings are allowed on Mondays or the day after a State and Federal Holiday.
- The Purchasing Division will list all bid(s) to be awarded on a Commissioner meeting agenda.

Pay to Play

- The Law requires that all contracts with a value over \$17,500 , **by vendor**, be awarded pursuant to a “fair and open” or “non-fair and open” process and is **not linked to the county’s bid threshold**.
- This includes contracts over \$17,500 that are exempt from bidding. Countywide, once the vendor reaches the amount of \$17,500 Pay to Play takes effect.
- It does not apply to contracts with the following:
 - Other government agencies
 - Banks, insurance companies and regulated public utility services.
 - Nonprofit entities

The Meaning of Pay to Play

- **“Fair and Open”** contracts permits a vendor to make reportable political contributions to the political party and candidate committees represented by people on the Board of Commissioners and Row Offices. Fair and Open purchases (bid exceptions only) (must be advertised on the website for at least 10 days) and opened in public.
- **“Non-Fair and Open”** contracts **PROHIBITS** a vendor from making political contributions to political party and candidate committees represented by people on the Commissioner Board and Row Offices **one year before and during the life** of the contract. Non-Fair and Open purchases are **NOT** advertised and are **NOT** opened in public.
- Reportable contributions are, per Election Law Enforcement Commission, more than \$300 per year to local candidate or local political party committee.

Non-Fair and Open

- In order to award a non-fair and open contract the vendor must certify that they did not make a “reportable contribution” in the previous year, nor will they make reportable contributions during the term of the contract to a political party and candidate committees represented by people on the Board of Commissioners and Row Offices.
- The vendor must complete the **Business Entity Disclosure Certification Form, 271 Political Contribution Disclosure Form and the Stockholder Disclosure Certification.** It is the responsibility of the Purchasing Division to make sure these forms are filled out and returned. **The law states these forms must be submitted 10 days prior to the award of contract.**
- Must be awarded by resolution at a Commissioner meeting.

Purchasing Policy Procedures: Requirements for Requisitions

- All requisitions are created electronically via an in-house program called MCP. The using Department initiates the requisition and it is filtered through a chain of approvals. i.e. Supervisor, Department Head, Finance, CFO, and Purchasing.
- All requisitions are required to have the following information:
 - All Required Signatures
 - Vendor Identification
 - Business Registration Certificate (BRC)
 - Funding Account Line Number
 - Description of Goods or Services
 - Quotes attached
 - Specifications attached
 - State Contract or Co-op Number (if applicable)
 - Past PO number or Resolution number (if applicable)
 - Any applicable notes

Blanket Purchase Orders

- A blanket purchase order must be done for all recurring expenses. Those expenses could include utilities, rent, office supplies, etc.
- You can issue change orders to increase or decrease the purchase order throughout the year.
- **You need to make sure you do not order anything without having enough money on your purchase order!!**

Computer Equipment, Software and Copiers

All requisitions, no matter the amount, for personal computers (laptops, I-Pads/tablets, desktop printers, servers, computer hardware and software licenses) and copiers will be submitted for approval to the **Information Technology Director**.

Copiers will have generic specifications created by the Information Technology Department for an apples-to-apples comparison when RFQ's are submitted.

Any computer items (hardware or software) and copiers being purchased off any the NJ State Contracts will follow the assigned Method of Operation established by the State.

Vehicle Purchases

- Requisition must be sent to the County Administrator for approval.
- Requisition must state if the vehicle(s) is new or a replacement. If it is a replacement the vehicle(s) vin# or ID # must be listed on the requisition.
- Proper funding account lines must be used for purchase.
- Attach all necessary specifications, quotes, etc. to the requisition and specify if the purchase is being made under a State Contract or a Co-op and supply the contract number.
- Requisition must obtain all necessary signatures.
- All purchases over \$17,500 must be listed on a Commissioner agenda for approval.

Emergency Purchases

- An actual or imminent emergency must exist requiring the immediate delivery of the goods or services. **The emergency must directly affect the public health, safety or welfare.**
- The emergency purchasing procedure may not be used unless the need for the goods or services could not have been reasonably foreseen or the need for such goods or services has arisen despite a good faith effort to plan.
- You must follow the County's Emergency procedures and contact the **County Administrator** when an emergency arises.
- Only the **County Administrator** can determine whether the circumstances meet the legal definition of an emergency.
- Quotations/proposals are not required, but if practical to obtain you should do so.

Emergency Purchases continued

- Emergency Purchases which are over the Pay to Play threshold of \$17,500.00 must be listed on the next Commissioner Agenda to ratify the award of the emergency contract.
- The Emergency Purchase Form must be completed and signed by the Division Director initiating the request and County Administrator.
- **Failure to plan does not constitute an emergency.**

Helpful Tips

- Make sure you know when your various contracts will expire and prepare well in advance next steps.
- Make sure you have sufficient funds in your account before submitting a requisition, or amendment and that you are using the appropriate funding line.
- Purchase Orders that were awarded on a Commissioner meeting can only be released after contracts are signed. County Counsel can authorize an early release of the Purchase Order if proper documentation is in place prior to signing of contract.
- In the State of New Jersey there is no such thing as a “**sole source vendor**”.
- All agreements from vendors must be reviewed by County Counsel for either the signature of the Commissioner Director or the County Administrator.



Reminders

- State Contracts and Co-op's will **not** require a resolution **under** \$44,000
- A **valid** Business Registration Certificate **is required** for any good or service of \$6,600 **or more**
- Prevailing Wage is required for **any** Public Work job (emergencies included) of \$2,000 and over
- For any Good or Service that the estimated cost is **\$44,000** or more and is **not** on a State Contract or Co-op, the method of procurement will have to be one of following and **will require a resolution**:
 1. **Request Formal Bid (RFB)** – (will require a motion to authorize 1st)
 2. **Request For Proposals/Fair and Open Process (RFP)** – (bid exceptions only)
 3. **Competitive Contract (CC)** – (will require a motion to authorize 1st)
 4. **Non-Fair and Open Process** – (subject to Pay to Play Law and bid exceptions only)
 5. **REPORTING TO THE STATE COMPTROLLER**

As of July 1, 2020, all “contracting units” as defined pursuant to **N.J.S.A. 52:15C-10(a)** shall notify the Office of the State Comptroller of contracts that meet or exceed the below thresholds as follows:

1. For contracts involving consideration or an expenditure of more than **\$2,500,000** but less than **\$12,500,000**, **no later than 20 business days after the contract award**;
2. For contracts involving consideration or an expenditure of **\$12,500,000** or more, **not less than 30 days prior to public advertisement or other public or private solicitation**; and
3. For contracts issued pursuant to an **emergency** or public exigency involving consideration or an expenditure of more than **\$2,500,000**, **no later than 30 business days after the award of a contract**.