

PURCHASING POLICY

CHAPTER 1 - GENERAL PROVISIONS

Section 1 - Title

This document shall be known as the James City County Purchasing Policy.

Section 2 - Organization

The James City County Purchasing Office is part of the Department of Financial and Management Services. It operates under the supervision of the Manager of the Department of Financial and Management Services. The Purchasing Director supervises all Purchasing Office operations.

Section 3 - Responsibility

The Purchasing Office, through the Purchasing Director, is responsible for managing all County procurement activity and implementing this Purchasing Policy. The Office shall utilize modern purchasing and supply management techniques and ensure all procurement activity complies with applicable laws and generally accepted professional standards. The Purchasing Director provides methods to handle delegated purchasing authority.

Section 4 - Duties

The Purchasing Director shall prepare and maintain a Purchasing Manual containing detailed rules and regulations consistent with this Policy and the laws of the Commonwealth of Virginia governing the operations of County purchasing. The Purchasing Director shall propose amendments to the James City County Purchasing Manual for approval by the Manager of the Department of Financial and Management Services.

The Purchasing Director shall coordinate purchasing procedures among departments by becoming acquainted with the needs of each, assisting in the preparation of specifications, locating the sources of needed products or services and providing follow-up after delivery. Purchasing shall review the quality, quantity, and kind of goods and services requested and recommend alternatives, if appropriate.

The Purchasing Director shall act as the County's representative on matters pertaining to purchasing as defined within this Policy and the James City County Purchasing Manual.

The Purchasing Director shall ensure procurement actions are properly documented and maintain all related records.

The Purchasing Director shall pursue the implementation of a fully automated and integrated purchasing system, including use of electronic media for vendor communications, solicitation, distribution, and e-commerce activities.

Section 5 - Cooperative Procurement

The County may participate in, sponsor, conduct, or administer a cooperative procurement agreement with one or more public bodies or agencies of the United States for the purpose of combining requirements to increase efficiency or reduce administrative expenses. Nothing herein shall prohibit the assessment or payment by direct or indirect means of any administrative fee that shall allow for participation in any such arrangement.

Section 6 - Definitions

Best Value means the overall combination of quality, price, and various elements of required goods and services that in total are optimal relative to the County's needs. Purchasing shall use best value bid evaluation when procuring certain goods and nonprofessional services when it is in the best interests of the County to allow factors other than price to be considered in making an award. The factors to be used in making the award and the numerical weighting for each factor are predetermined in a solicitation. Best value bid evaluation factors may include any of the following or other factors determined to be relevant by the Purchasing Director.

- Quality of the good or service;
- Operational costs incurred by the County if the bid is accepted;
- Life-cycle costing;
- Reliability of delivery and implementation schedules;
- Maximum facilitation of data exchange and systems integration; Warranties, guarantees, and return policy;
- Vendor financial stability;
- Consistency of proposed solution with County's planning documents and strategic direction;
- Quality and effectiveness of the business solution and approach;
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- Prior record of vendor performance;
- Vendor expertise with projects of similar scope and complexity;
- Consideration of potential product acceptance by all user groups;
- Proven development methodologies and tools; and
- Innovative use of current technologies and quality results.

Competitive Sealed Bidding is a formal method of selecting the lowest responsive and responsible bidder. It includes the issuance of a written Invitation for Bid (IFB), public notice, a public bid opening, and evaluation based on the requirements set forth in the IFB. The Purchasing Director may elect for prequalification of bidders or include a statement of any requisite qualifications of potential contractors in the IFB. Multiple awards may be made when so specified in the IFB. An IFB may be issued to vendors electronically. Bids may be submitted electronically if specifically authorized in the IFB.

Competitive Negotiation is a formal method of selecting the top rated offeror. It includes the issuance of a Request for Proposals (RFP), public notice, evaluation based on the criteria set forth in the RFP and allows negotiation with the top rated offeror. Any unique capabilities or qualifications required of the contractor shall be set forth in the RFP. An RFP may be issued to vendors electronically. Offers may be submitted electronically if specifically authorized in the RFP.

Construction shall mean building, altering, repairing, improving, or demolishing any structure, building, road, drainage or sanitary facility, and any draining, dredging, excavation, grading, or similar work upon real property.

Construction Management contract shall mean a contract in which a party is retained by the owner to coordinate and administer contracts for construction services for the benefit of the owner, and may also include, if provided in the contract, the furnishing of construction services to the owner.

Design-build contract shall mean a contract between a public body and another party in which the party contracting with the public body agrees to both design and build the structure, roadway or other item specified in the contract.

Emergency shall be deemed to exist when a breakdown in machinery and/or a threatened termination of essential services or a dangerous condition develops, or when any unforeseen circumstances arise causing curtailment or diminution of essential services.

Firm shall mean any individual, partnership, corporation, association, or other legal entity permitted by law to practice in the Commonwealth of Virginia; or any other individual, firm partnership, corporation, association, or other legal entity qualified to perform professional services.

Goods shall mean all material, equipment, supplies, printing, and automated data processing hardware and software.

Informality shall mean a minor defect or variation of a bid or proposal from the exact requirements of the IFB or RFP which does not affect the price, quality, quantity, or delivery schedule for the goods, services, or construction being procured.

Nonprofessional services shall mean any service not specifically identified below as a professional or consultant service.

Procurement transaction shall mean all functions that pertain to the obtaining of any goods, services, or construction, including description of requirements, selection and solicitation of sources, preparation and award of contracts, and all phases of contract administration.

Professional or consultant services shall mean work performed by an independent contractor within the practice of accounting, actuarial services, architecture, land surveying,

landscape architecture, law, dentistry, medicine, optometry, pharmacy, or professional engineering. Professional services shall be procured by competitive negotiation.

Public body shall mean any legislative, executive, or judicial body, agency, office, department, authority, post, commission, committee, institution, board, or political subdivision created by law to exercise some sovereign power or to perform some governmental duty and empowered by law to undertake the activities described in this policy. Public body shall include any metropolitan planning organization or planning district commission which operates exclusively within the Commonwealth of Virginia.

Public contract shall mean an agreement between a public body and a nongovernmental source that is enforceable in a court of law.

Public or County employee shall mean any person employed by the County, including elected officials or appointed members of governing bodies.

Responsible bidder or Responsible offeror shall mean an individual, company, firm, corporation, partnership, or other organization who has the capability in all respects to perform fully the contract requirements and the moral and business integrity and reliability which will assure good faith performance and who has been prequalified if required.

Responsive bidder shall mean shall mean an individual, company, firm, corporation, partnership, or other organization who has submitted a bid which conforms in all material respects to the Invitation for Bids.

Services shall mean any work performed by an independent contractor wherein the services rendered do not consist primarily of acquisition of equipment or materials or the rental of equipment, materials, and supplies.

Surplus property shall mean any property that exceeds the requirements of the entire County.

Targeted business shall mean businesses that are small, locally-owned, locally-operated, or owned by a woman or minority.

Virginia Public Procurement Act shall mean those portions of the Code of Virginia, 1950, as amended designated as the Virginia Public Procurement Act.

CHAPTER 2 - PURCHASING POLICIES

Section 1 - Compliance

All James City County procurement transactions shall comply with the Code of Virginia, the James City County Purchasing Policy, and the James City County Purchasing Manual. Fiscal partners of the County, organizations that utilize the County as their fiscal or purchasing agent, and County Departments/Constitutional Officers exempt from regular purchasing requirements

through special provisions of the Virginia Public Procurement Act and/or other sections of the Code of Virginia will be subject to this compliance policy if the procurement is handled through the James City County Purchasing Office. The James City County Purchasing Office encourages the adoption of this Policy by the governing bodies/individuals of the aforementioned entities.

Section 2 - Purchasing Methods

1-Use of Competitive Sealed Bidding or Competitive Negotiation

Unless otherwise authorized by law or provided for in this Policy or the James City County Purchasing Manual, all County contracts with nongovernmental contractors for the purchase or lease of goods, or for the purchases of services, insurance or construction shall be awarded after competitive sealed bidding or competitive negotiation.

2-Competitive Sealed Bidding and Competitive Negotiation

Whenever the County seeks to procure a good or service estimated to cost more than \$50,000, an Invitation to Bid or a Request for Proposals shall be issued. Best value concepts may not be considered when procuring construction or professional services. Purchases shall not be split to avoid the \$50,000 limit. An Invitation to Bid shall either be advertised in a newspaper of general circulation or posted in a designated public area at least ten days prior to the date bids are due. A Request for Proposals shall be advertised once in a newspaper of general circulation in James City County at least ten days prior to the date proposals are due. Responses to Formal Sealed Bids and Proposals are secured unopened until the date and time specified in the advertisement.

The Purchasing Director shall have the authority to waive informalities in bids/proposals, reject all bids/proposals, parts of all bids/proposals, or all bids/proposals for any one or more good or service included in a solicitation when in the Director's judgment the public interest may thereby be served. The Purchasing Director shall determine the responsibility of a bid or proposal and responsiveness of a bid.

3- Construction Management / Design Build Services Procurement Method

A. In addition to competitive bidding and competitive negotiations, the County may enter into a contract for construction on a fixed price or not-to-exceed price design-build or construction management basis consistent with this Policy and law.

B. Competitive Negotiation – Construction Management / Design Build Services

1. Determination

a. The County may enter into a contract for construction on a fixed price or not-to-exceed price design-build or construction management basis in accordance with the Virginia Public Procurement Act (VPPA) §2.2-4308. Prior to issuing a Request for Proposal for any design-build or construction management project, the Purchasing Director will document that a) the design-build or construction management contract is more advantageous than a competitive sealed bid construction contract, b) there is a benefit to

the County by using a design-build or construction management contract, and c) competitive sealed bidding is not practical or fiscally advantageous.

2. Evaluation Committee

a. The Purchasing Director shall appoint an Evaluation Committee which will include a licensed professional engineer or architect with professional competence appropriate to the proposed project. The licensed professional engineer or architect shall advise the County regarding the use of design-build or construction management project and will assist with the preparation of the Request for Proposal consistent with this Policy for competitive negotiation of non-professional services, and will assist in the evaluation of proposals. The licensed professional engineer or architect services may be provided under a professional services contract by a qualified person or firm.

3. Selection, Evaluation and Award of Construction Management or Design- Build Contracts.

a) Design Requirements. The Request for Proposal shall include and define the criteria of the construction project in the areas such as site plans; floor plans; exterior elevations; basic building envelope materials; fire protection information plans; structural, mechanical (HVAC), and electrical systems; special telecommunications; and may define such other requirements as the County determines appropriate for the particular construction project.

b) Selection, Evaluation and Award Factors. Proposal evaluation factors and other source selection criteria shall be included in the Request for Proposal for the specific design-build or construction management project.

c) Selection shall be made of two or more offerors deemed to be fully qualified and best suited among those submitting proposals, on the basis of the factors involved in the Request for Proposal, including price if so stated in the Request for Proposal. Negotiations shall then be conducted with each of the offerors so selected. After negotiations have been conducted with each offeror so selected, the County shall select the fully qualified offeror which, in its opinion, has made the best value proposal in response to the Request for Proposals, and shall award the contract to that offeror. When the terms and conditions of multiple awards are so stated in the RFP, awards may be made to more than one offeror. Should the County determine in writing and in its sole discretion that only one offeror is fully qualified, or that one offeror is clearly more highly qualified than the others under consideration, a contract may be negotiated and awarded to that offeror.

Trade secrets or proprietary information provided by an offeror in response to a request for qualifications or a request for proposals shall not be disclosed to the public or to competitors, provided the offeror has invoked protection pursuant to the Code of Virginia § 2.2-4342(F).

d) The Purchasing Director may promulgate such additional procedures, not inconsistent with the provisions of this section and consistent with the procedures for the procurement of nonprofessional services through competitive negotiations, as deemed necessary and appropriate to effect the selection and evaluation of offerors and the award of design-build and construction management contracts.

4-Sole Source

Sole source procurement is authorized when there is only one source practicably available for the required goods or services. Competition is not available in a sole source situation; thus distinguishing it from a situation where the product required is restricted to the manufacturer(s)

stipulated, but is sold through distributors and competition between them can be obtained. Sole source justification based solely on a single vendor's capability to deliver in the least amount of time is not appropriate since availability alone is not a valid basis for determining a sole source procurement. All sole source procurements require Purchasing Director approval.

5-Emergency

In case of an emergency, as defined herein, a contract may be awarded without competitive sealed bidding or competitive negotiation; however, such procurement shall be made with such competition as is practical under the circumstances. Except as provided below, approval by the Purchasing Director shall be required for all emergency purchases. If an emergency occurs at a time other than regular County business hours, the Department Manager may purchase the required goods or services in an amount not to exceed \$50,000. Emergency procurements over \$50,000 shall be approved by the County Administrator or designee. The Department Manager shall, not later than the next business day, submit a requisition, tabulation of bids received (if any), delivery record, and a brief explanation of the emergency.

6-Small Purchases

Any procurement not expected to exceed \$50,000 in expenditure of public funds, from any source, may be made in accordance with the following small purchase limits. Procurements up to \$2,500 may be made upon receipt of one written or verbal quote or proposal. Solicitation of three quotes or proposals are required for purchases of \$2,500 - \$10,000. Solicitation of three written quotes or proposals are required for purchases of \$10,001 - \$50,000.

Award shall be made to the lowest responsive and responsible vendor that supplies a quote or to the offeror which made the best proposal. Procurement requirements shall not be artificially divided so as to constitute a small purchase under this policy. Similar items or services may be combined for formal competition at the Purchasing Director's discretion.

7-Purchasing Card

Selected County personnel may be issued Purchasing Cards to use for small purchases and emergency procurements. The competition requirements for small and emergency purchases shall apply. All Purchasing Card transactions shall conform to the James City County Purchasing Card Policy and Procedures. The Purchasing Card Policy and Procedures are part of the James City County Purchasing Manual.

Section 3 - Prequalification

Prospective contractors may be prequalified for particular types of goods, services, insurance or construction and consideration of bids or proposals limited to prequalified contractors. Any prequalification procedures shall be established in writing and sufficiently in advance of their implementation to allow potential contractors a fair opportunity to complete the process.

The Purchasing Director may deny prequalification to any contractor only upon finding one of the following:

- a) The contractor does not have sufficient financial ability to perform the contract that would result from such procurement. If a bond is required to ensure performance of a contract, evidence that the contractor can acquire a surety bond from a corporation included on the United States Treasury list of acceptable surety corporations in the amount and type required by the County shall be sufficient to establish the financial ability of such contractor to perform the contract resulting from such procurement.
- b) The contractor does not have appropriate experience to perform the construction project in question.
- c) The contractor or any officer, director or owner thereof has had judgments entered against him within the past ten years for the breach of contracts for governmental or nongovernmental construction, including, but not limited to, design-build or construction management.
- d) The contractor has been in substantial noncompliance with the terms and conditions of prior construction contracts with the County without good cause. If the County has not contracted with a contractor in any prior construction contracts, the County may deny prequalification if the contractor has been in substantial noncompliance with the terms and conditions of comparable construction contracts with another public body without good cause. The County may not utilize this provision to deny prequalification unless the facts underlying such substantial noncompliance were documented in writing in the prior construction project file and such information relating thereto given to the contractor at that time, with the opportunity to respond.
- e) The contractor or any officer, director, owner, project manager, procurement manager or chief financial officer thereof has been convicted within the past ten years of a crime related to governmental or nongovernmental construction or contracting, including, but not limited to, a violation of (i) Article 6 (§ 2.2-4367 et seq.) of the Virginia Public Procurement Act, (ii) the Virginia Governmental Frauds Act (Virginia Code § 18.2-498.1 et seq.), (iii) Chapter 4.2 (§ 59.1-68.6 et seq.) of Title 59.1 of the Virginia Code, or (iv) any substantially similar law of the United States or another state.
- f) The contractor or any officer, director or owner thereof is currently debarred pursuant to an established debarment procedure from bidding or contracting by any public body, agency of another state or agency of the federal government.
- g) The contractor failed to provide to the County in a timely manner any information requested by the County relevant to items a) through f) above.

Section 4- Contract Approval Authority

Authorization by the Purchasing Director shall be required for contracts if the amount is \$50,000 or less. Authorization by the County Administrator shall be required for awards over \$50,000 up

to \$100,000. Authorization by the Board of Supervisors shall be required for the award of all contracts over \$100,000.

Section 5- Authority to Amend or Terminate a Contract

Any James City County contract that includes provisions for modification of the contract during performance may be amended by the Purchasing Director. Any single or cumulative increase to a fixed price contract that would result in a new contract amount over \$50,000 requires written approval of the County Administrator. Any single or cumulative increase to a fixed-price contract greater than twenty-five percent of the original contract or \$50,000, whichever is greater, requires written approval of the Board of Supervisors.

The Purchasing Director may terminate any contract for convenience, cause, or non-appropriation of funds in accordance with the contract terms and conditions after consultation with the Office of the County Attorney.

Section 6- Preferences and Tie Bids

In accordance with the Code of Virginia, James City County does not grant preferences or set-asides except in the case of tie bids. If all bids are for the same total amount or unit price (including authorized discounts and delivery times) and if the public interest will not permit the delay of re-advertisement for bids, the Purchasing Director shall be authorized to award the contract to the resident James City County tie bidder whose firm has its principal place of business in the County, or if there be none, to the resident Virginia tie bidder, or if there be none, to one of the tie bidders by drawing lots.

Section 7- Vendor Outreach

The Purchasing Office is the County's main contact point with vendors. As such, the Office will pursue outreach activities that may include developing specialized publications, attending/hosting trade fairs, and encouraging vendor visits with Office staff.

Section 8- Anti-discrimination

James City County conforms, as applicable, to the provisions of the Federal Civil Rights Act of 1964, as amended; the Virginia Fair Employment Contracting Act of 1975, as amended; the Virginians with Disabilities Act; the Americans With Disabilities Act, and Sections 2.2-4310 and 2.2-4311 of the Virginia Public Procurement Act. All bidders/offerors who submit bids/proposals to the County are required to certify they conform to these same anti-discrimination requirements.

Section 9- Assistance To Targeted Businesses

The County shall undertake every reasonable effort to increase the opportunity for participation in the procurement process by targeted businesses. To this end, the Purchasing Office shall:

1. Make targeted businesses aware of the County's procurement policies. Any targeted business seeking assistance in understanding or completing any bids or proposals should seek the assistance of the Purchasing Department.
2. Participate in training seminars for the purpose of informing targeted business bidders of the procurement opportunities and procedures.
3. Participate in local and regional targeted business purchasing fairs.
4. Cooperate with the Department of Minority Business Enterprise, the United States Small Business Administration, and other public or private agencies.

Section 10- Debarment Or Suspension

Debarment is the County's exclusion of certain individuals or firms from contracting with the County for a specified period of time. The Purchasing Director may debar a person or company from consideration for awards or contracts for a period up to three (3) years upon a finding of cause that the vendor has engaged in any of the following activities.

1. Unsatisfactory performance on a contract with a public body, including but not limited to, failure to comply with contract terms and conditions or to meet specification/scope of services requirements.
2. Offering any gift, gratuity, favor, or advantage to any County employee who exercises official responsibility for procurement transactions.
3. Failing to disclose a condition constituting a conflict of interest by any officer, director, owner, or partner of the vendor in a contract or purchase order awarded by the County.
4. Conviction of any officer, director, owner, partner, or agent of the vendor of any criminal offense involving public contracting.
5. Court judgment finding a violation of Federal or State antitrust laws.
6. Conviction of any criminal offense, or a judgment in civil litigation, which indicates a lack of moral or business integrity.
7. Abandonment of performance or termination for default on any other James City County project.
8. Default on any surety bond or written guaranty on which James City County is an obligee.
9. The filing of a bankruptcy petition, by, against, or regarding the contractor.

10. Any other cause that the Purchasing Director determines to be so serious and compelling as to affect responsibility as a contractor, such as debarment by another governmental entity for any cause listed herein, or prior reprimands.

The Purchasing Director may suspend a person or company from consideration for award or contracts for a period up to three months upon a finding of probable cause that might lead to debarment.

In debarring or suspending any individual or firm from contracting with the County, the Purchasing Director shall follow all applicable procedures outlined herein and in the James City County Purchasing Manual.

Section 11- Excess and Surplus Property

The Purchasing Director shall be responsible for:

1. Redistribution of serviceable excess personal property.
2. Disposal of surplus County personal property through sealed bid, auction, trade-in, or fixed price sales. Some personal property may also be disposed of by junking, sale as scrap metal, or cannibalization.
3. Disposal of unclaimed property in the custody of the Police Department in accordance with the Code of Virginia Sections 15.2-1719, 15.2-1720 and 15.2-1721.

Surplus County property may be donated to charitable and other non-County activities where appropriate. The Purchasing Director shall evaluate the request for donation and first determine whether the requested item is needed by any County agency. Other factors to be considered in the evaluation are availability of the requested item, serviceability, compatibility to the intended use and potential benefits to the County, including public relations and goodwill.

Section 12- Public Purchasing Ethics

All James City County procurement is subject to and will be conducted in accordance with the Virginia Public Procurement Act, the State and Local Conflict of Interests Act, and the Governmental Frauds Act.

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Targeted business shall mean businesses that are small, locally-owned, locally-operated, or owned by a woman or minority.

~~**Value Engineering** shall mean review of a project's architectural and engineering drawings and specifications by an independent team of engineers and/or architects. The independent team makes recommendations that focus on achieving like performance at reduced costs. Value engineering must be applied as early in the design cycle as feasible to achieve maximum benefits. For large construction projects, value engineering studies are performed during the schematic stage and then at approximately the 30-40 percent design stage.~~

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2-Competitive Sealed Bidding and Competitive Negotiation

Whenever the County seeks to procure a good or service estimated to cost more than ~~\$30,000~~ **\$50,000**, an Invitation to Bid or a Request for Proposals shall be issued. Best value concepts may not be considered when procuring construction or professional services. Purchases shall not be split to avoid the ~~\$30,000~~ **\$50,000** limit. An Invitation to Bid shall either be advertised in a newspaper of general circulation or posted in a designated public area at least ten days prior to the date bids are due. A Request for Proposals shall be advertised once in a newspaper of general circulation in James City County at least ten days prior to the date proposals are due. Responses to Formal Sealed Bids and Proposals are secured unopened until the date and time specified in the advertisement.

The Purchasing Director shall have the authority to waive informalities in bids/proposals, reject all bids/proposals, parts of all bids/proposals, or all bids/proposals for any one or more good or service included in a solicitation when in the Director's judgment the public interest may thereby be served. The Purchasing Director shall determine the responsibility **of a bid or proposal** and responsiveness of a bid.

3- Construction Management / Design Build Services Procurement Method

A. In addition to competitive bidding and competitive negotiations, the County may enter into a contract for construction on a fixed price or not-to-exceed price design-build or construction management basis consistent with this Policy and law.

B. Competitive Negotiation – Construction Management / Design Build Services

1. Determination

a. The County may enter into a contract for construction on a fixed price or not-to-exceed price design-build or construction management basis in accordance with the Virginia Public Procurement Act (VPPA) §2.2-4308. Prior to issuing a Request for Proposal for any design-build or construction management project, the Purchasing Director will document that a) the design-build or construction management contract is more advantageous than a competitive sealed bid construction contract, b) there is a benefit to the County by using a design-build or construction management contract, and c) competitive sealed bidding is not practical or fiscally advantageous.

2. Evaluation Committee

a. The Purchasing Director shall appoint an Evaluation Committee which will include a licensed professional engineer or architect with professional competence appropriate to the proposed project. The licensed professional engineer or architect shall advise the County regarding the use of design-build or construction management project and will assist with the preparation of the Request for Proposal consistent with this Policy for competitive negotiation of non-professional services, and will assist in the evaluation of proposals. The licensed professional engineer or architect services may be provided under a professional services contract by a qualified person or firm.

3. Selection, Evaluation and Award of Construction Management or Design- Build Contracts.

a) Design Requirements. The Request for Proposal shall include and define the criteria of the construction project in the areas such as site plans; floor plans; exterior elevations; basic building envelope materials; fire protection information plans; structural, mechanical (HVAC), and electrical systems; special telecommunications; and may define such other requirements as the County determines appropriate for the particular construction project.

b) Selection, Evaluation and Award Factors. Proposal evaluation factors and other source selection criteria shall be included in the Request for Proposal for the specific design-build or construction management project.

c) Selection shall be made of two or more offerors deemed to be fully qualified and best suited among those submitting proposals, on the basis of the factors involved in the Request for Proposal, including price if so stated in the Request for Proposal. Negotiations shall then be conducted with each of the offerors so selected. After negotiations have been conducted with each offeror so selected, the County shall select the fully qualified offeror which, in its opinion, has made the best value proposal in response to the Request for Proposals, and shall award the contract to that offeror. When the terms and conditions of multiple awards are so stated in the RFP, awards may be made to more than one offeror. Should the County determine in writing and in its sole discretion that only one offeror is fully qualified, or that one offeror is clearly more highly qualified than the others under consideration, a contract may be negotiated and awarded to that offeror.

Trade secrets or proprietary information provided by an offeror in response to a request for qualifications or a request for proposals shall not be disclosed to the public or to competitors, provided the offeror has invoked protection pursuant to the Code of Virginia § 2.2-4342(F).

d) The Purchasing Director may promulgate such additional procedures, not inconsistent with the provisions of this section and consistent with the procedures for the procurement of nonprofessional

services through competitive negotiations, as deemed necessary and appropriate to effect the selection and evaluation of offerors and the award of design-build and construction management contracts.

4-Sole Source

Sole source procurement is authorized when there is only one source practicably available for the required goods or services. Competition is not available in a sole source situation; thus distinguishing it from a situation where the product required is restricted to the manufacturer(s) stipulated, but is sold through distributors and competition between them can be obtained. Sole source justification based solely on a single vendor's capability to deliver in the least amount of time is not appropriate since availability alone is not a valid basis for determining a sole source procurement. All sole source procurements require Purchasing Director approval.

5-Emergency

In case of an emergency, as defined herein, a contract may be awarded without competitive sealed bidding or competitive negotiation; however, such procurement shall be made with such competition as is practical under the circumstances. Except as provided below, approval by the Purchasing Director shall be required for all emergency purchases. If an emergency occurs at a time other than regular County business hours, the Department Manager may purchase the required goods or services in an amount not to exceed \$50,000. Emergency procurements over \$50,000 shall be approved by the County Administrator or designee. The Department Manager shall, not later than the next business day, submit a requisition, tabulation of bids received (if any), delivery record, and a brief explanation of the emergency.

6-Small Purchases

Any procurement not expected to exceed ~~\$30,000~~ \$50,000 in expenditure of public funds, from any source, may be made in accordance with the following small purchase limits as approved by the James City County Board of Supervisors on August 8, 2000. Procurements up to \$1,000 \$2,500 may be made upon receipt of one written or verbal quote or proposal. Solicitation of Three three phone quotes or proposals are required for purchases of \$1,001-\$5,000 \$2,500 - \$10,000. Solicitation of Three three written quotes or proposals are required for purchases of \$5,001-\$30,000. \$10,001 - \$50,000.

Award shall be made to the lowest responsive and responsible vendor that supplies a quote or to the offeror which made the best proposal. ~~If quotes are not obtained, a statement of the reasons why the quotations were not possible shall be recorded by the Purchasing Director.~~ Procurement requirements shall not be artificially divided so as to constitute a small purchase under this policy. Similar items or services may be combined for formal competition at the Purchasing Director's discretion.

7-Purchasing Card

Selected County personnel may be issued Purchasing Cards to use for small purchases and emergency procurements. The competition requirements for small and emergency purchases

shall apply. All Purchasing Card transactions shall conform to the James City County Purchasing Card Policy and Procedures. The Purchasing Card Policy and Procedures are part of the James City County Purchasing Manual.

Section 3 - Prequalification

Prospective contractors may be prequalified for particular types of goods, services, insurance or construction and consideration of bids or proposals limited to prequalified contractors. Any prequalification procedures shall be established in writing and sufficiently in advance of their implementation to allow potential contractors a fair opportunity to complete the process.

The Purchasing Director may deny prequalification to any contractor only upon finding one of the following:

- a) The contractor does not have sufficient financial ability to perform the contract that would result from such procurement. If a bond is required to ensure performance of a contract, evidence that the contractor can acquire a surety bond from a corporation included on the United States Treasury list of acceptable surety corporations in the amount and type required by the County shall be sufficient to establish the financial ability of such contractor to perform the contract resulting from such procurement.
- b) The contractor does not have appropriate experience to perform the construction project in question.
- c) The contractor or any officer, director or owner thereof has had judgments entered against him within the past ten years for the breach of contracts for governmental or nongovernmental construction, including, but not limited to, design-build or construction management.
- d) The contractor has been in substantial noncompliance with the terms and conditions of prior construction contracts with the County without good cause. If the County has not contracted with a contractor in any prior construction contracts, the County may deny prequalification if the contractor has been in substantial noncompliance with the terms and conditions of comparable construction contracts with another public body without good cause. The County may not utilize this provision to deny prequalification unless the facts underlying such substantial noncompliance were documented in writing in the prior construction project file and such information relating thereto given to the contractor at that time, with the opportunity to respond.
- e) The contractor or any officer, director, owner, project manager, procurement manager or chief financial officer thereof has been convicted within the past ten years of a crime related to governmental or nongovernmental construction or contracting, including, but not limited to, a violation of (i) ~~Title 11, Chapter 7, Article 4 of the Virginia Code (§ 11-72 et seq.)~~ **Article 6 (§ 2.2-4367 et seq.) of the Virginia Public Procurement Act**, (ii) the Virginia Governmental Frauds Act (Virginia Code § 18.2-498.1 et seq.), (iii) Chapter 4.2 (§ 59.1-68.6 et seq.) of Title 59.1 of the Virginia Code, or (iv) any substantially similar law of the United States or another state.

f) The contractor or any officer, director or owner thereof is currently debarred pursuant to an established debarment procedure from bidding or contracting by any public body, agency of another state or agency of the federal government.

g) The contractor failed to provide to the County in a timely manner any information requested by the County relevant to items a) through f) above.

Section 4 - Value Engineering

All projects with an estimated cost exceeding \$1,000,000 shall have an independent Value Engineering review unless it is waived, in writing, by the County Administrator. This requirement also includes projects overseen by another governing body but using County funds.

Section 5 4- Contract Approval Authority

Authorization by the Purchasing Director shall be required for contracts if the amount is \$50,000 or less. Authorization by the County Administrator shall be required for awards over \$50,000 up to \$100,000. Authorization by the Board of Supervisors shall be required for the award of all contracts over \$100,000.

Section 6 5- Authority to Amend or Terminate a Contract

Any James City County contract that includes provisions for modification of the contract during performance may be amended by the Purchasing Director. Any single or cumulative increase to a fixed price contract that would result in a new contract amount over \$50,000 requires written approval of the County Administrator. Any single or cumulative increase to a fixed-price contract greater than twenty-five percent of the original contract or \$50,000, whichever is greater, requires written approval of the Board of Supervisors.

The Purchasing Director may terminate any contract for convenience, cause, or non-appropriation of funds in accordance with the contract terms and conditions after consultation with the Office of the County Attorney.

Section 7 6- Preferences and Tie Bids

In accordance with the Code of Virginia, James City County does not grant preferences or set-asides except in the case of tie bids. If all bids are for the same total amount or unit price (including authorized discounts and delivery times) and if the public interest will not permit the delay of re-advertisement for bids, the Purchasing Director shall be authorized to award the contract to the resident James City County tie bidder whose firm has its principal place of business in the County, or if there be none, to the resident Virginia tie bidder, or if there be none, to one of the tie bidders by drawing lots.

Section 8 7- Vendor Outreach

The Purchasing Office is the County's main contact point with vendors. As such, the Office will pursue outreach activities that may include developing specialized publications, attending/hosting trade fairs, and encouraging vendor visits with Office staff.

Section 9 8- Anti-discrimination

James City County conforms, as applicable, to the provisions of the Federal Civil Rights Act of 1964, as amended; the Virginia Fair Employment Contracting Act of 1975, as amended; the Virginians With Disabilities Act; the Americans With Disabilities Act, and Sections 11-44 and 11-51 2.2-4310 and 2.2-4311 of the Virginia Public Procurement Act. All bidders/offerors who submit bids/proposals to the County are required to certify they conform to these same anti-discrimination requirements.

Section 10 9- Assistance To Targeted Businesses

The County shall undertake every reasonable effort to increase the opportunity for participation in the procurement process by targeted businesses. To this end, the Purchasing Office shall:

1. Make targeted businesses aware of the County's procurement policies. Any targeted business seeking assistance in understanding or completing any bids or proposals should seek the assistance of the Purchasing Department.
2. Participate in training seminars for the purpose of informing targeted business bidders of the procurement opportunities and procedures.
3. Participate in local and regional targeted business purchasing fairs.
4. Cooperate with the Department of Minority Business Enterprise, the United States Small Business Administration, and other public or private agencies.

Section 11 10- Debarment Or Suspension

Debarment is the County's exclusion of certain individuals or firms from contracting with the County for a specified period of time. The Purchasing Director may debar a person or company from consideration for awards or contracts for a period up to three (3) years upon a finding of cause that the vendor has engaged in any of the following activities.

1. Unsatisfactory performance on a contract with a public body, including but not limited to, failure to comply with contract terms and conditions or to meet specification/scope of services requirements.
2. Offering any gift, gratuity, favor, or advantage to any County employee who exercises official responsibility for procurement transactions.
3. Failing to disclose a condition constituting a conflict of interest by any officer, director, owner, or partner of the vendor in a contract or purchase order awarded by the County.

4. Conviction of any officer, director, owner, partner, or agent of the vendor of any criminal offense involving public contracting.
5. Court judgment finding a violation of Federal or State antitrust laws.
6. Conviction of any criminal offense, or a judgment in civil litigation, which indicates a lack of moral or business integrity.
7. Abandonment of performance or termination for default on any other James City County project.
8. Default on any surety bond or written guaranty on which James City County is an obligee.
9. The filing of a bankruptcy petition, by, against, or regarding the contractor.
10. Any other cause that the Purchasing Director determines to be so serious and compelling as to affect responsibility as a contractor, such as debarment by another governmental entity for any cause listed herein, or prior reprimands.

The Purchasing Director may suspend a person or company from consideration for award or contracts for a period up to three months upon a finding of probable cause that might lead to debarment.

In debarring or suspending any individual or firm from contracting with the County, the Purchasing Director shall follow all applicable procedures outlined herein and in the James City County Purchasing Manual.

Section 12 11- Excess and Surplus Property

The Purchasing Director shall be responsible for:

1. Redistribution of serviceable excess personal property.
2. Disposal of surplus County personal property through sealed bid, auction, trade-in, or fixed price sales. Some personal property may also be disposed of by junking, sale as scrap metal, or cannibalization. ~~Sale of surplus personal property shall be based, wherever feasible, on competitive bids. If the amount of the sale is estimated to exceed \$5,000 for a single item, sealed bids shall, unless the Board of Supervisors shall provide otherwise, be solicited by public notice inserted at least once in a newspaper of countywide circulation and at least five calendar days before the final date of submitting bids.~~
3. Disposal of unclaimed property in the custody of the Police Department in accordance with the Code of Virginia Sections ~~15.1-133 and 15.1-133.01~~ 15.2-1719, 15.2-1720 and 15.2-1721.

Surplus County property may be donated to charitable and other non-County activities where appropriate. The Purchasing Director shall evaluate the request for donation and first determine

whether the requested item is needed by any County agency. Other factors to be considered in the evaluation are availability of the requested item, serviceability, compatibility to the intended use and potential benefits to the County, including public relations and goodwill.

Section 13.12- Public Purchasing Ethics

All James City County procurement is subject to and will be conducted in accordance with the Virginia Public Procurement Act, the State and Local Conflict of Interests Act, and the Governmental Frauds Act.