

Robeson County



**Purchasing Manual
2003**

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Section I: General Policy Statement:
The Robeson County Board of Commissioners, hereinafter referred to as the Board, hereby declares it shall be the duty of the Board, through the office of the County Finance Director, to provide for the purchasing for the different departments of Robeson County Government, hereinafter referred to as the County, in order to assure the needed quality at the least expense to the County, prevent waste and duplication in purchasing, and obtain the advantages of larger quantities.

Section II: Purchasing Agent Designated:
To implement the General Policy Statement of Section I, the Board hereby directs the County Manager to designate the Purchasing Agent for the County, whose duty it shall be to superintend the purchasing of materials, supplies, equipment, and contracts for the County. The County Manager or his/her designee shall establish such rules and regulations as may be necessary to fulfill the duties of Purchasing Agent, subject to the provisions of this policy as adopted by the Board.

Section III: Functions of the Purchasing Agent:
Pursuant to the provisions of this policy, applicable provisions of State law, and such rules and regulations consistent herewith as may be established by the Board, the Purchasing Agent shall:
(A). Purchase or lease for the use of the Counties supplies, materials, equipment, constructions, and contractual services of the needed quality, quantity at the least expense to the County.
*Contractual services of Health and Social Services may be delegated to that particular department manager, subject to review by the County Manager.
(B). Supervise and coordinate the work and activities relating to the acquisition and disposal of all tangible personal property by and for the County and to perform such duties in connection therewith as may be required by the Finance Director and Board.

Section IV: Duties and Responsibilities of the Purchasing Agent
The Purchasing Agent shall have the following duties and responsibilities:
(A). To establish, after consultations with the Finance Director and the department managers, and enforce the standard specifications for materials, supplies, and equipment required by the County.
(B). To prescribe the time and process of preparing requisitions for such materials, supplies, and the equipment and the future period which such requisitions are to cover.

- (C). To inspect or cause to be inspected all deliveries of such materials, supplies, and equipment and to cause tests to be made when necessary to insure quality, quantity, and conformance with specifications.
- (D). To receive completed forms from the department manager for all transfers or trade-in supplies. These are all subject to the approval of the Purchasing Agent.
- (E). To perform such duties with respect to the letting of contracts for purchases as provided in Sections XIV and XVI.
- (F). To be responsible for receiving bids on purchases for most items needed in departmental operations.
- (G). If the low bidder on a contract is not chosen, the Purchasing Agent must justify, in writing to the County Manager, why the low bid was not selected.

Section V:

Duties and Responsibilities of the Finance Director:

It is the duty of the Finance Director to assure the Purchasing Agent and the Board that sufficient funds are available to cover all purchases. This will be accomplished by way of the pre-audit certificate (GS 159-29 (a)) requires that any contract or agreement requiring payment of money, and any purchase order for supplies or materials include on its face "a certificate stating that the (contract, agreement, or purchase order) has been pre-audited to assure compliance" with the two pre-audit requirements. It must be signed by the Finance Director, or in her absence, the County Manager. Only these people will be approved for this purpose by the Board. Any finance officer giving a false certificate is personally liable for any sums illegally committed or disbursed thereby (GS 159-29(e)).

Section VI:

Duties and Responsibilities of the Department Managers:

- (A). The department manager or designee will be responsible for all requisitions for their department.
- (B). The department manager will be responsible for following the purchasing and reporting procedures as directed by the Finance Director.
- (C). The department manager will be responsible for carrying out the procedures set forth by the Finance Director for control and safeguarding of items in "Fixed Assets" inventory.
- (D). The department manager will be responsible for submitting to the Purchasing Agent the requisitions for supplies, materials, equipment, and contractual services as required for their operations.
- (E). The department manager will be responsible for seeing that funds are available in the existing budget to cover all expenditures.
- (F). For purchases in excess of one hundred dollars (\$100.00), a purchase order will be required. Purchases will include building, grounds, and equipment maintenance.

Section VII: Contracts Requiring Formal Bids (GS 143-129)

(A). Formal bids will be required for all construction and repair contracts that meet or exceed \$300,000.

(B). Formal bids will be required for all purchases or lease purchases of apparatus, supplies, material or equipment that will meet or exceed \$90,000 (GS 153A-165 and 160A-19).

EXCEPTIONS:

1. Purchase of gasoline, diesel fuel, alcohol fuel, motor oil or fuel oil. These may be purchased after receiving informal bids, regardless of the size of expenditures.
 2. Purchases made under a state contract if the local government has become a party to the contract (GS 143-149 and 129).
 3. In cases of emergency involving the health and safety of people or their property.
 4. Contracts with the United States or any of its agencies, or any governmental unit or agency within the United States, for the purchase, lease, or other acquisition of any apparatus, supplies, materials or equipment.
 5. Projects that use unemployment-relief labor paid for in whole or in part from state or federal funds.
 6. A construction project that will not cost more than \$125,000, with the total cost of labor not to exceed \$50,000, the work which is done by forces of the county (GS 143-135).
 7. Contracts with the NC Department of Transportation for street construction and repair (GS 136-41.3).
- (C) The contract must be awarded by the Robeson County Board of Commissioners.
- (D) Dividing contracts to evade these provisions is prohibited (GS 143-133).

Section VIII: Preparing Specifications

(A). If a building project requiring the expenditure of \$300,000 or more is involved, GS 143-128 requires:

1. Separate prime (multi-prime) including HVAC, plumbing, electrical, general.
2. Single prime without concurrent separate prime bids.
3. Dual bidding (Multi and single prime) the County may award either method.
4. Construction management at risk.
5. Alternative methods authorized by the State Building Commission.

The County must annually report to the NC Department of Administration by April 1, the effectiveness of these five methods (by project).

Section IX:

Advertising for Bids:

The request for bids must appear in a newspaper having general circulation within Robeson County (see GS 1-597). The advertisement must be published once at least one week before the time specified for the opening of the bids. The advertisement must contain the following information: the time and place where plans and specifications may be obtained; the time and place for the opening of the proposals; a clause that will read, "...The Robeson County Board of Board of Commissioners reserves the right to reject any or all proposals" (GS 148-129). On certain construction contracts, a notice that bidders must be properly licensed under Chapter 87, General Statutes of North Carolina will be required (GS 87-15).

Section X:

Contents of the Bid; Bid Bond:

- (A) The bid must contain an offer in accordance with the specifications.
- (B) No proposal shall be considered or accepted unless, at the time of its filing, it is accompanied by a deposit equal to not less than five percent (5%) of the proposal. (In the case of bids on purchase contracts under \$300,000, the governing body may waive the bid deposit requirement. The deposit requirement for bids on construction and repair contracts may not be waived) (GS 143-129).
- (C) The bid deposit may be in the form of:
1. Cash
 2. Cashier's Check
 3. Certified Check
 4. A bid bond issued by a surety licensed in North Carolina
- (D) This deposit shall be retained if the successful bidder fails to execute the contract within 10 days after the award, or fails to give satisfactory surety as required within (GS 143-129).
- (E) A bid or surety bond may not be required for the purchase of apparatus supplies or equipment (GS 143-129).

Section XI:

Number of Bids Required:

If the contract is for construction or repairs and the estimated cost is \$300,000 or more, the contract shall not be awarded unless at least three competitive bids have been received from reputable and qualified contractors regularly engaged in their respective lines of endeavor (GS 143-132). (Does not apply to purchases). If fewer than three bids are received, a second

advertisement of the proposal should be made. The second advertisement should be conducted the same as the first advertisement was conducted. After this second advertisement, the award may be made even though only one or two bids have been received (GS 143-129).

Section XII:

Construction Management at Risk Contracts:

(A). This permits the County to use construction management at risk services provided by licensed general contractors that provide construction management services for a project throughout the preconstruction and construction phases. The construction manager at risk guarantees the cost of the project. Construction management services include preparation and coordination of bid packages, scheduling, cost control, value engineering, evaluation, preconstruction services, and construction administration. The unit will still contract directly with an architect or engineer for design services.

(B). All bids received from subcontractors under construction at risk contracts must be opened publicly and become public record once opened. The construction manager at risk will act as a fiduciary of the unit in opening handling all bids. The construction manager at risk may perform a portion of the work only if:

- (1) no bids are received, the lowest bidder will not execute a contract for the work or the contractor defaults and no replacement can be found in a timely manner, and
- (2) the unit approves the construction manager at risk performing the services.

(C) The Construction manager at risk is subject to the same performance and payment bonds as other contractors.

(D). If a unit contracts with a construction manager at risk, the unit must report the following to the Department of Administration:

- (1) an explanation of why the construction manager at risk was selected,
- (2) the terms of the contract,
- (3) a list of construction managers at risk considered but not chosen and the fees they proposed,
- (4) the form of bidding used by the construction manager at risk.

Section XIII:

Opening of the Bids

All proposals shall be opened in public. The opening of a bid by anyone without the permission of the bidder prior to the time set for opening shall

constitute a misdemeanor (GS 143-129).

Section XIV: Awarding the Formal Bid Contract:

The award shall be made to the lowest responsible bidder, or bidders, taking into consideration quality, performance, and the time specified in the proposals for the performance of the contract (GS 143-129). All formal contracts must be executed in writing.

Section XV: Performance Bonds/Payment Bonds for Formal Bids:

When the total amount of construction contracts awarded for any one project exceed three hundred thousand dollars (\$300,000) a performance and payment bond as set forth in (A) and (B) is required by the contracting body from any contractor with a contract more than fifty thousand dollars (\$50,000). In the discretion of the contracting body, a performance and payment bond may be required on any construction contract as follows:

- (A). A performance bond in the amount of one hundred percent (100%) of the construction contract amount, conditioned upon the faithful performance of the contract in accordance with the plans, specifications and conditions of the contract. Such bond shall be solely for the protection of the contracting body which awarded the contract.
- (B). A payment bond in the amount of one hundred percent (100%) of the construction contract amount, conditioned upon the prompt payment for all labor or materials for which a contractor or subcontractor is liable. The payment bond shall be solely for the protection of the persons furnishing materials or performing labor for which a contractor or subcontractor is liable.
- (C) The performance bond and the payment bond shall be executed by one or more surety companies legally authorized to do business in the State of North Carolina and shall become effective upon the awarding of the construction contract (GS 44A-26). In place of the bonds, the contractor may deposit money or certified checks, or government securities for the full amount of the contract (GS 143-129). The bond requirements may be waived by the Board for Purchasing contract (GS 143-129). If the County Manager fails to take the performance bond, he shall be guilty of a misdemeanor (GS 44A-32).

Section XVI: Contracts Requiring Informal Bids: (GS 143-131)
The informal bid procedure must be followed on contracts for the following:
(A). Construction or repair work when expenditures of \$5,000 to \$300,000 are involved.
(B). Purchases or lease-purchases of apparatus, supplies, materials, or equipment when expenditures of \$5,000 to \$90,000 are involved (GS153A-165 and GS 160A-19).
(C). The informal bid procedure may be followed on purchases of gasoline, diesel fuel, alcohol fuel, motor oil, or fuel oil regardless of the size of the purchase.

All contracts or purchases shall be made after the informal bids have been secured. Dividing contracts or purchases in order to evade these provisions is prohibited (GS 143-133).

The informal contracting procedure need not be followed for purchases from the United States of America or any agency thereof, or any other governmental unit or agency thereof within the United States (GS 143-129).

Section XVII: Awarding the Informal Bid Contract:
All such contracts shall be awarded to the lowest responsible bidder, taking into consideration quality, performance, and the time specified in the bids for the performance of the contract (GS 143-120).

Section XVIII: Performance Bonds for Informal Bids:
Deposits that are required for informal contracts will be the same as formal contract deposits. (see Section XV)

Section XIX: Awarding of Contracts for Purchased Services:
The County Manager has the authority to approve contracts for purchased services up to \$10,000 provided funds have been budgeted for the purpose of purchased services.

Section XX: Good Faith Efforts to Encourage Minority Participation:
For building projects paid for from State appropriations grants, and costing \$100,000 or more, Robeson County must have a 10% goal for minority participation in total value of work. For all other county building projects of \$300,000 or more, Robeson County has a 5% goal for minority participation in the total value of the work (GS 143-128.2).

Section XXI: Dispute Resolutions:
If there are disputes about a construction project involving the county, contractors, architects, engineers, etc., the county hereby adopts the resolution process of the State Building Commission (GS 143-135.26).

Section XXII: Purchase of Information Technology Goods and Services
Contracts for information technology may be entered into under a request for proposals procedure (GS 143-129 (a)). The contracts must be awarded based on specifications in the RFP. Robeson County may negotiate with the lowest responsible bidder to obtain the best possible contract. Negotiations shall not alter the contract beyond the scope of the original request. Proposals under this section shall not be subject to public inspection until a contract is awarded.

Section XXIII: Emergency Purchase Orders:
A department head may obtain an emergency purchase order (EPO) by contacting the Purchasing Agent and detailing the emergency. Justification for an EPO must be written on the requisition. An EPO will be authorized only when serious damage to programs through delay is imminent, and to protect the health and safety of the people and their property. The department manager will assure that funds are available in the departmental budget for all emergency purchases (GS 143-129).

Section XXIV: Conflict of Interest:
Interest of members, officers, or employees of the recipient, members of local governing body, or other public officials. No member, officer, or employee of the recipient or its agents, or member of the governing body of the locality in which this policy is situated, and no other public official of such locality or localities who exercises any functions or responsibilities with respect to this policy during his/her tenure or for one year thereafter, shall have any financial interest, direct or indirect, in any contract or sub-contract, or the proceeds thereof, for work to be performed in connection with the program assisted under this agreement. Immediate family members of said members, officers, employees, and officials are similarly barred from having any financial interest in the contract or subcontracts. The recipient shall incorporate, or cause to be incorporated, in all such contracts or sub-contracts, a provision prohibition such interest pursuant to the purpose of this section GS 14-234 contains a general prohibition against any public official's having interest in any contract to which the official is also a party in his/her capacity. Four types of transactions are exempt from this general prohibition if proper procedures are followed:

1. Doing business with a bank;
2. Doing business with a savings and loan association;

3. Doing business with a regulated utility; and
4. Doing business with needy persons who receive benefits under state or federal assistance programs.

In addition: elected city and county officials; elected school board members; and physicians, pharmacists, dentists, optometrists, veterinarians, or nurses who are members of social services, health, and area mental health boards in whose jurisdictions there is not town with a population of more than 7,500, are exempt from the prohibition for limited amounts if prescribed procedures are followed. Furthermore, the statute declares that owning 10% or less of the stock of a business entity or being employed by one does not, by itself, bring an individual under this prohibition.

Section XXV: Monetary Expenditure Limits:

The department managers for the County shall not make any purchase whose cost will exceed \$100.00 without acquiring a purchase order and following the appropriate channels. In the event anyone makes an unauthorized purchase, the County shall not be held liable or responsible. Any person responsible for unauthorized purchase shall be held personally liable for same and subject to the appropriate provision of State law.

The monetary limits for acquiring a purchase order are listed below:

<u>Position</u>	<u>From</u>	<u>To</u>
Department Manager	\$1	\$50
Purchasing Agent	\$50.00	\$5,000
County Manager	\$5,000	\$30,000
Board of Commissioners	\$30,000	\$Beyond