

PROCUREMENT POLICY

**GEAUGA COUNTY BOARD OF COMMISSIONERS
470 CENTER ST BLDG 4
CHARDON OHIO 44024**

**Approved May 15, 2018
Supplement to
Geauga County Personnel Policy & Procedure Manual**

PROCUREMENT

All purchases made by any Geauga County government office must be in accordance with the Ohio Revised Code (ORC).All claims against the county must be paid by warrant drawn upon the county treasury by the county auditor (ORC 321.15). Payments may be made by the county auditor by electronic warrant authorizing direct deposit for payment of county obligations provided the county complies with rules adopted by the State Auditor (ORC 9.37). Payment of most claims must be approved by the board of commissioners before the county auditor may issue a warrant (ORC 307.55(A)). Exceptions include instances where the amount owed is fixed by law or is allowed by another officer or court, including a payment of a county mental health board or county DD board. The county auditor may question the validity of certain expenditures for which a proper order or voucher and evidentiary matter is presented. The auditor may request evidentiary matter which includes original invoices, receipts, bills and checks, and legible copies of contracts. If the auditor continues to refuse to issue a warrant for an expenditure that the board, officer or court determines is valid, a writ of mandamus may be sought to compel the auditor to pay the claim (ORC 319.16).

AUDITORS CERTIFICATION

After the tax budget and appropriation measure are adopted, funds are available for expenditure. The means by which such expenditures are made, and restrictions on such expenditures, are set forth in ORC Section 5705.41 (D). No contract can be made, or expenditure ordered unless there is attached a certificate of the county auditor stating that the amount that is required to meet the contract has been lawfully appropriated and is in the treasury or in the process of collection to the credit of the appropriate fund, free from encumbrances. If a contract is a continuing contract to be performed in whole or in part in an ensuing fiscal year, such certification is necessary only for the amount required for the current fiscal year. It is this provision of the law that makes a purchase order system helpful. In addition, where a contract is entered into on a per unit basis, it is necessary to certify to the auditor an estimate of the total amount to come due on the contract, and a certification by the auditor as to the availability of funds to cover this estimate or so much of this portion as will come due in the current fiscal year. Any contract entered into without such a certificate is void, and no payment may be made on the contract. However, if the auditor prepares a certificate stating that at the time of the execution of the contract and at the time his certificate is executed, a sufficient sum appropriated for the purpose of the contract is in the treasury or in the process of collection to the credit of the appropriate fund, and not encumbered, the commissioners may authorize the issuance of a warrant in payment of the amounts due upon the contract. This is frequently referred to as a “then and now certificate”. If the amount due is less than \$100, the county auditor may authorize a bill to be paid without the approval of the county commissioners, if the expenditure is otherwise valid. Annually, county commissioners may adopt a resolution exempting county purchases of up to \$1000 from the certificate of availability of funds requirement. The commissioners’ resolution must state the dollar amount that will be exempted from the certificate of availability of funds requirement, and

whether the exemption applies to all purchases, to one or more specific classes of purchases, or to the purchase of one or more items. The procedure for adopting such a resolution includes the following:

- 1) Commissioners must give written notice to the county auditor that they intend to adopt such a resolution.
- 2) Commissioners cannot adopt any such resolution sooner than 15 days after giving the county auditor written notice.
- 3) The notice must include the dollar amount proposed for exemption and whether the exemption applies to all purchases, one or more specific classes of purchases, or to one or more specific items.
- 4) The auditor has 15 days from receiving the notice to review and comment on the proposal.

If the commissioners adopt a resolution increasing the certificate of availability of funds threshold, any person authorized to make a purchase must file a written or electronic document with the county auditor within three business days or other time specified by the commissioners stating the purpose and amount of the expenditure, date of purchase, name of vendor and any additional information prescribed by the State Auditor. A purchase order system may be used to meet the requirements of this law.

BLANKET CERTIFICATES

ORC Section 5705.41 (D), also authorizes the county auditor to issue "blanket certificates" in amounts not in excess of an amount established by resolution of the commissioners and not extending beyond the end of the fiscal year. Where such a certificate has been issued, purchases may be made, orders for payment issued, and obligations incurred, provided that the aggregate total of such sums, entered into for the specified purpose from the indicated fund, does not exceed the sum certified. An itemized statement of expenditures incurred and payments made must be presented to the county auditor before another certificate may be issued. Only one blanket certificate may be outstanding at a given time in a single line item appropriation under this type of blanket certificate.

Purchase Orders (PO)

- Require PO that is uniquely numbered, identifiable and traceable, requires Auditor's certificate/encumbrance of funds
- Commissioners may request three written quotes for purchases anticipated to cost less than \$50,000.00
- County Office/Department sources the purchase
- PO may be sent to vendor
- Goods are received
- PO/receipt documents/invoice matched
- Payment made

COMPETITION

All procurement transactions will be conducted in a manner providing full and open competition consistent with applicable standards, rules and laws. Some of the situations considered to be restrictive include but are not limited to:

- 1) Placing unreasonable requirements on firms in order for them to qualify to do the business,
- 2) requiring unnecessary experience and excessive bonding,
- 3) Non-competitive pricing practices between firms or between affiliated companies,
- 4) Non-competitive awards to consultants that are on retainer contracts.
- 5) Organizational conflicts of interest.
- 6) Specifying only "brand name" product instead of allowing "an equal" product to be offered and describing the performance of other relevant requirements of procurement, and
- 7) Any arbitrary action in the procurement process.

Notwithstanding the above, the Geauga County Board of Commissioners will make a positive effort to utilize small and minority-owned businesses, women's business enterprises and labor surplus area firms when they are potential resources for supplies, equipment, construction, and services. Said efforts will include assuring that small and minority-owned businesses and women's business enterprises will be solicited whenever they are a potential resource, by developing delivery schedules which will encourage participation by small and minority-owned businesses and women's business enterprises, and by dividing total contract requirements into small tasks or quantities to permit said businesses participation when economically feasible. Separation will not be done to avoid competitive bidding requirements.

COMPETITIVE BIDDING

The Geauga County Board of Commissioners will utilize the four (4) methods of procurement. They are

- 1) Small purchase procedures;
- 2) Competitive sealed bidding
- 3) Competitive sealed proposals; and
- 4) Non-competitive proposals.

As provided for in this plan, the county will promote open and free competition in all procurement transactions regardless of the specific procurement method employed. All procurement will be made in compliance with ORC Section 307 and other applicable law.

Small Purchase Procedures

For purchases where price is the overriding factor and which involves standardized products or services (e.g., office equipment and supplies) and where the aggregate acquisition costs are greater than \$2,500 but do not exceed the small purchase threshold of \$ 50,000.00 the county may use relatively simple and informal procurement methods by obtaining price or rate quotations from an adequate number of qualified sources but not less than three sources.

Competitive Sealed Bids (ORC 307.86 - 307.91)

- 1) Anything to be purchased, leased, leased with an option or agreement to purchase, or constructed at a cost in excess of \$50,000.00, shall be obtained through competitive bidding unless otherwise provided under R.C.; 307.86.
- 2) Services of an accountant, architect, attorneys at law, physician, professional engineer, construction project manager, consultant, surveyor, or appraiser do not need to be competitively bid but other procedures set forth under R.C. 153.65 et. seq., and other section of the Revised Code, may apply.
- 3) Competitive bidding is not required under R.C. 307.86(A) when;
 - a) An emergency exists as voted unanimously by the Board of County Commissioners and cost is less than \$50,000.
 - b) Actual physical damage to structures, radio communication, or computers.

This method of procurement requires the product or service to be completely described in the bid specifications, bids to be sealed and bids to be opened publicly. To be feasible, these conditions must be present: a complete, adequate, and realistic specification or purchase description, known as the Invitation to Bid (ITB), is available; two or more responsible suppliers are willing and able to compete and; the procurement lends itself to a firm fixed price contract and the selection of the bidder can be made, principally on the basis of price.

When competitive sealed bidding/formal advertising is used, the following requirements

will apply:

- 1) Bids will be solicited from an adequate number of known suppliers or vendors. The ITB will be provided to known suppliers of the product or service to be procured. Depending on the dollar amount, the bid solicitation will be publicly advertised for the prescribed time period. For more complex contracts, the time frame for advertising the procurement may be longer.
- 2) The ITB, including specification and pertinent attachments will clearly define the items or services needed in order for bidders to properly respond. A bid is considered responsive when it does not deviate from the requirements of the ITB. Minimum requirements include price, expected quantities, delivery schedule, and quality. Any attempt to modify minimum requirements could make the bid unresponsive.
- 3) All bids will be opened publicly at the time and place stated in the ITB.
- 4) A firm-fixed-price contract award will be made in writing to the lowest and best bidder as long as the bid conforms to the ITB specifications and other bid documents.
- 5) Any or all bids may be rejected.

Competitive Bidding Notice (ORC 307.87)

Notice shall be published once a week for not less than two consecutive weeks preceding the day of the opening of bids in a newspaper of general circulation within the county for any purchase, lease, lease with option or agreement to purchase, or construction contract in excess of fifty thousand dollars. The contracting authority may also cause notice to be inserted in trade papers or other publications designated by it or to be distributed by electronic means, including posting the notice on the contracting authority's internet site on the world wide web. If the contracting authority posts the notice on that location on the world wide web, it may eliminate the second notice otherwise required to be published in a newspaper of general circulation within the county provided the first notice meets the requirements of R.C. 307.87(A)(1)-(4).

Notice must include and state:

- 1) General description of the subject of the proposed contract and the time and place where the plans and specifications may be obtained or inspected.
- 2) Time and place where bids will be opened.

- 3) Time and place for filing bids.
- 4) The terms of the proposed purchase.
- 5) The conditions under which bids will be received.
- 6) Any existence of a preference system
- 7) In addition, the notice must be posted on a public bulletin board at the office of the commissioners for at least two weeks prior to the bid opening (ORC 307.87).
- 8) The newspaper ad must list the Internet site if the contracting authority posts the notice on the authority's internet site on the world wide web

Bid Openings and Bid Bonds (ORC 307.88)

Bids submitted shall be in the form prescribed by the County and filed in the manner and at the time and place mentioned in the notice and shall contain the full name of each person submitting the bid.

If the bid is over \$50,000 and is not for a public improvement project, the notice must specify that the bid must be submitted with a bond or a certified check, cashier's check, or money order of an amount not to exceed five percent of the bid. This bid bond is to guarantee execution of the contract if the bidder is selected. If the bid is for a public improvement project, then the bid bond requirements of ORC Section 153.54 apply.

The Board of County Commissioners by a unanimous vote of the entire board may permit a contracting authority to exempt a bond from any or all of the requirements of ORC Section 153.54 if the estimated cost is \$100,000 or less. If the board exempts a bid from any but not all of those requirements, the bid notice shall state the specific bid guaranty requirements that apply. If the board exempts a bid from all requirements the notice shall state that none of the requirements of ORC section 153.54 apply.

Performance Bonds (ORC 307.89)

When a bid is accepted for a contract other than for the construction, demolition, alteration, repair, or reconstructions of an improvement, the contracting authority shall, as a condition of entering into a contract with the successful bidder, require faithful performance of all things to be done under the contract and may require, as a condition to entering a purchase contract, lease, or lease with option or agreement to purchase, the bond provided for by Section 153.57 of the Revised Code with good and sufficient surety in an amount not to exceed the amount of the bid.

Acceptance, Rejection and Award of Bids (ORC 307.90)

The award of all contracts subject to sections 307.86 to 307.92 shall be made to the lowest and best bidder. Ordinarily, the discretion of the Board of Commissioners will not be disturbed by the courts short of a showing of an abuse of discretion, fraud or bad faith. (See *State ex rel. Executone of Northwest Ohio v Commissioners of Lucas County* (1984), 12 Ohio St. 3d 60.)

Per ORC Section 9.312 (C.) a county may adopt the alternate award criteria of "Lowest Responsive and Responsible Bidder." The contracting authority may also reject all bids.

Certification of Funds Availability and Auditor's Role (ORC 5705.41)

Requirements for Expenditure of Funds at County Level

- 1) Funds must properly be appropriated for that purpose. (ORC 5705.41 (b))
- 2) Proper warrants must be drawn against an appropriated fund. (ORC 5705.41 (c.))
- 3) Certificates of the fiscal officer (County Auditor) must be attached (affixed) to expenditures before a contract can be signed, or any order made. The certificate states the amount required to meet the obligation in the fiscal year in which the contract is made has been lawfully appropriated for such purposes and the funds are in the treasury or in process of collection to the credit of an appropriated fund free from any previous encumbrance. (ORC 5705.41 (d))
- 4) Any contract entered into without an Auditor's certificate is void. No warrant shall be issued in payment of amount due thereon. (ORC 5705.41 (d))
- 5) However, if there was no certificate, payments can be made, if the Auditor certifies that funds were available in the treasury or during collection at the time they entered the contract.
- 6) When contracts and leases extend beyond the fiscal year, the auditor shall make a certification for the amounts required to meet the obligation of the contract or lease maturing in that fiscal year. The remaining unfulfilled portion shall be included in the annual appropriation measure for the next year as a fixed charge.

Competitive Sealed Proposals (R.C. 307.862)

In lieu of competitive bidding, a county contracting authority may use competitive sealed proposals when it determines that the use of competitive sealed proposals would be advantageous to the county and it complies with ORC Section 307.862. Competitive sealed proposals may not be used for any public improvement project. A competitive sealed proposal entails the use of a request for proposal and may be advantageous to a contracting authority when it is proposing to purchase supplies or services of a qualitative rather than quantitative nature. In order to use competitive sealed proposals, a contracting authority must do the following:

- 1) Develop factors and criteria to evaluate each proposal, specify the relative importance of each factor in writing, and describe the evaluation procedures that will be used when awarding a contract.
- 2) Solicit proposals through a request for proposals (RFP).
- 3) Give notice of the RFP in the same manner as required for competitive bidding (ORC 307.87).
- 4) Maintain the confidentiality of any proposals the contracting authority receives until after the award of a contract.
- 5) Rank each proposal using the factors and criteria used in item one above.

- 6) If necessary, conduct discussions with vendors for the purpose of ensuring a full understanding of and responsiveness to the requirements specified in the RFP. Information derived by the contracting authority from such discussions must be kept confidential to the extent permitted by law.
- 7) Negotiate with the vendor who submits the proposal that the contracting authority determines is most advantageous to the county based on the rankings performed by the county and any discussions with vendors. Only one vendor may be negotiated with at one time.

In addition to the steps outlined above, a county contracting authority must at least include the following information in an RFP:

- 1) The name and address of the county agency requesting supplies, services, or both.
- 2) Instructions for vendors to follow when submitting proposals.
- 3) Name, title, telephone number, and other information for a county contact person to whom questions concerning the RFP may be directed.
- 4) A description of the scope of work a vendor is to perform or supplies to be purchased, including the quantity of supplies or services to be purchased, requirements regarding the inspection and acceptance of supplies and services, and a delivery schedule for each supply or service.
- 5) Factors and criteria for evaluating proposals.
- 6) Any terms and conditions on the award of a contract, including any requirement for a bond and the amount of the bond.
- 7) The date, time and place for delivery of a proposal.
- 8) Any documents that the contracting authority incorporates by reference and the location of such documents.
- 9) A statement that the contracting authority reserves the right to reject any proposal for any of the following reasons:
 - a) Failure to meet the terms and conditions of the RFP;
 - b) Submitting a proposal with prices that are excessive or that exceed available funds;
 - c) That the county reserves the right to reject the proposal, in whole or in part, if the county determines the proposal is not in the best interest of the county;
 - d) That the county reserves the right to conduct discussions with vendors for purposes of clarification or correction regarding a proposal.
- 10) Any partial or multiple party awards and what parts of a contract might be subject to partial or multiple party awards.
- 11) Any other information that the contracting authority considers appropriate.

After complying with these requirements, the county contracting authority may negotiate with the vendor whose proposal is determined to be most advantageous to the county. If the county

cannot reach an agreement with the vendor with the highest ranked proposal, then they may terminate negotiations with the vendor and proceed to negotiate with the vendor whose proposal is ranked the next most advantageous until a contract is negotiated. The vendor may also withdraw at any point prior to the award of a contract. Contracts may be awarded in whole or in part to one or more vendors consistent with the RFP. Successful vendors must be notified in writing of the contract award and this information must be made available to the public. All unsuccessful vendors must be notified by the county.

Noncompetitive Proposals

The county may use noncompetitive proposals if the award of a contract is specifically exempted under small purchase procedure, competitive sealed bidding or competitive proposals.

Exceptions to Competitive Bidding

- 1) Any supplies, services, materials, and equipment purchased through contracts entered into by the Department of Administrative Services (ORC 125.04(B)), the Department of Transportation, a regional planning commission (ORC 713.23(D)), or a council of governments
- 2) The county contracting authority as defined in ORC 307.92 may use competitive sealed proposals (a request for proposal process) when the contracting authority determines that the use of this process would be advantageous to the county and the contracting authority complies with ORC 307.862.
- 3) Services of usually recognized professions including accountants, architects, attorneys, physicians, appraisers and consultants. Design professionals such as professional engineers, architects, landscape architects, and surveyors as well as the services of construction managers must generally be procured through a qualifications based selection process (ORC 153.65, 9.33).
- 4) The county auditor may contract with persons or firms to assist in real estate appraisal work without competitive bidding (ORC 5713.01).
- 5) Suppliers of replacement or supplemental parts for products or equipment owned or leased by the county where the source is limited to a single supplier.
- 6) Suppliers of services related to information technology, such as programming services, that are proprietary or limited to a single source.
- 7) Purchases from other governmental contracting authorities.
- 8) Purchase of public social services by county department of human services under ORC Section 329.04.
- 9.)Purchases made by a public children services agency consisting of social services, programs, or ancillary services that provide case management, prevention, or treatment service for children at risk of being or alleged to be abused, neglected, or dependent (ORC 307.92, 5153.16).

- 10) Services of emergency medical service organizations under a contract made by the board of county commissioners with a joint emergency medical services district (ORC 307.05).
- 11) Purchases of supplies and services of the severely handicapped (ORC 125.60 to 125.6012).
- 12) Purchase of program services by a Developmental Disabilities (DD) board under ORC Section 5126.05. Services included under this exemption are direct and ancillary client services, day care, case management, and residential and family resource services.
- 13) Purchase of criminal justice services, social services programs, family services, or workforce development activities from non-profit organizations that are funded with federal funds or by state grants.
- 14) Programs or services that provide case management, treatment, or prevention services to any felony or misdemeanor delinquent, unruly youth, or status offender under the supervision of the juvenile court, including community residential care, day treatment, services to children in their home or electronic monitoring (ORC 5139.34, 5139.41-5139.46).
- 15) Group insurance programs when the program is agreed to by the county and union and benefits are provided by a jointly administered health and welfare trust fund (ORC 305.171(C)).
- 16) The transfer of land and granting of leases, easements and rights to county owned land to governmental bodies, public utilities, and to certain non-profit corporations (ORC 307.09).
- 17) The transfer of personal property by the county to any political subdivision of the state or to the state or federal government (ORC 307.10).
- 18) A community improvement corporation, if designated by the county commissioners, may sell or lease county land to encourage development if the sale will stabilize the economy, provide employment opportunities for residents of the county and assist in the development of industrial, commercial, distribution, and research activities within the county (ORC 1724.10, OAG 88-037).
- 19) The purchase of real estate.
- 20) The sale, lease and rental of county real property.
- 21) Leases or leases with the option to purchase correctional facilities for not more than 40 years (ORC 307.022).
- 22) Leasing back real property for use as correctional facilities that the county had formerly sold, leased, granted easements to or licenses for a private entity (ORC 307.022).

SELECTION PROCEDURES

- 1) The county will utilize the following selection procedures for the procurement of supplies, equipment, and services:

a) Solicitation of offers, whether by competitive sealed bids or competitive negotiations shall;

i) Incorporate a clear and accurate description of technical requirements for the materials, product, or service to be procured. In competitive procurement, this description will not contain features which unduly restrict competition. The description may include a statement of the qualitative nature of the material, product, or service to be procured, and when necessary, shall set forth those minimum essential characteristics and standards to which the product must conform to satisfy its intended use. Detailed product specifications will be avoided if at all possible. When it is impractical or uneconomical to make a clear and accurate description of technical requirements, a brand name or equal description may be used as a means to define performance or other conspicuous requirements of a procurement. Specific features of the brand name, which must be met of offerors, will be clearly stated.

b) Clearly set forth all requirements which offerors must fulfill and all other factors to be used in evaluating bids or proposals.

(2) Awards will be made only to contractors who possess the potential ability to perform successfully under the terms and conditions of a proposed procurement. Consideration will be given to such matters as contractor's integrity, record of past performance, and financial and technical resources.

b) When appropriate or otherwise required under provision of ORC Sections 307.88, 307.9, 153.54, and 153.57, the county will require vendors to carry a bond in the amount of the contract.

RECORD KEEPING

The county will maintain pertinent records regarding all procurement. The size and type of procurement will determine the type of information recorded and maintained in file. Records of very small purchases not formally advertised will include the name of the vendor, itemized list of

items purchased, the total cost, the date of purchase and the grant project to which the expense was charged. For larger purchases requiring more complex procurement methods, records will be retained to document the following when applicable:

- 1) Copies of published advertisements for bids or proposals.
- 2) Copies of all respondent's replies.
- 3) County's basis for contractor selection or rejection, if appropriate.
- 4) Copies of letters sent to known providers advising them of the goods and service sought.
- 5) Identification of date, time and place bids or proposals were opened.
- 6) Documentation that all bidding requirements pursuant to ORC 307.87 were followed.

CONTRACTS IN GENERAL

Authority to contract is specified through various sections of the Ohio Revised Code .

Contract requirements:

No contract entered into by the board of county commissioners shall be valid unless it has been assented to in a regular or special session of the board, and entered in the minutes of its proceedings by the County Auditor or the Clerk of the Board. (ORC 305.25)

Funds must be lawfully appropriated for such purposes and a certificate attached as to the availability of funds free from any previous encumbrances. (ORC 5705.41)

Unlawful interest in a public contract is prohibited (ORC 2921.42)

Contract Cost and Price Analysis

The county may perform a cost or price analysis in connection with every procurement action including contract modification. The method and degree of analysis is dependent on the facts surrounding the particular procurement situation. A cost analysis may be done when the bidder is required to submit the elements of the estimate cost, (e.g. under professional consulting and architectural engineering services contracts). A cost analysis may be done when adequate price competition is lacking, and for sole source procurements, including contract modification or change orders, unless price reasonableness can be established on the basis of catalog or market price of commercial product sold in substantial quantities to the general public or based on prices set by law or regulation. A price analysis may be used in all other instances to determine the reasonableness of the proposed contract price.

The county may negotiate profit as a separate element of the price for each contract in which there is no price competition and in cases where cost analysis is performed, except that government entities are prohibited by law from receiving a profit. To establish a fair and reasonable profit,

consideration will be given to the complexity of the work to be performed, the risk borne by the contractor, the contractor's investment, the amount of subcontracting, the quality of its record of past performance, and industry profit rates in the surrounding geographical area for similar work.

State Purchasing Contracts

A county may not access state purchasing contracts when competitive bidding by the county has already occurred unless the state purchasing contract has the same terms, conditions, and specifications at a lower price.

To participate in state purchasing contracts, a certified copy of a resolution by the board of county commissioners must be filed with the Department of Administrative Services (DAS) office of state purchasing. The resolution must request that the county be authorized to participate in purchasing contracts, agree that the county is bound by terms and conditions set by DAS, and agree that the county will directly pay the vendor under each purchase contract.

Geographic Preference

For purchases made in whole or in part with federal funds, or with state or local funds required for match, the county may be required to conduct procurement in a manner that prohibits the use of statutorily or administratively imposed in-state or local geographical preferences in evaluation of bids, or proposals, except in those cases where applicable federal statutes expressly mandate or encourage geographical preference. Nothing in this section preempts state licensing laws. When contracting for architectural and engineering (A/E) services, geographical location may be a selection criteria provided its application leaves an appropriate number of qualified firms given the nature and size of the project, to compete for the contract.

Debarment and Suspension

The county must ensure that no contracts are entered into with or purchases made from a person or entity which is disbarred or suspended or is otherwise ineligible for participation in federal assistance programs under Executive Order 12549, debarment and suspension, and other applicable regulations and statutes.

Monitoring

It will be the policy of the county to closely monitor all contracts to

ensure compliance with all terms, conditions, and specifications.

The monitoring process will involve careful review of contract terms prior to finalizing the agreement. In agreements providing for the delivery of supplies, equipment, or materials, such items will be carefully checked and counted prior to acceptance. In agreements requiring services to be provided to the agency, a staff member will be assigned the responsibility to assure the quantity and quality of service contracted for is rendered.

Legal disputes arising out of contracted procurement will be referred to the County Prosecutor if efforts to resolve the problem at the department level are unsuccessful.

The fiscal person in a department or office, along with the staff person responsible for contract monitoring, shall be informed about contract limitations and termination dates. A monitoring sheet or similar system will be utilized to avoid inappropriate payments. All procurement will be reviewed and approved by employee supervisors. The department director or his/her designee will authorize payment of all vouchers and the fiscal person in the department will review vouchers for completeness and alert the department director to any improprieties. All vouchers and invoices will then be forwarded to the county commissioners for review and approval and then sent to the county auditor for final approval and payment. These efforts are employed to avoid improper or unnecessary payments and to assure all provisions of local, state and federal law are followed.

Before purchasing any equipment, due consideration may be given to lease, rental, and purchase alternatives to determine, consistent with prudent business judgment, which would be the most economical and practical procurement. In making this determination, due consideration will be given to useful life of the equipment to the program for which it is being purchased, technology obsolescence, maintenance considerations, purchase price versus lease or rental cost and any other matters considered by management to be warranted under the circumstances.

Contract Provisions

The county contracts may be required to contain the provisions in this subsection for contracts involving federal awards. Federal agencies are permitted to require changes, remedies, changed conditions, access and record retention, suspension of work, and other

clauses approved by the office of federal procurement policy.

- 1) Administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as may be appropriate.
- 2) Termination for cause and for convenience by the county including the manner by which it will be effected and the basis for settlement. (All contracts in excess of \$10,000)
- 3) Compliance with Executive Order 11246 of September 24, 1965, entitled "Equal Employment Opportunity," as amended by Executive Order 11375 of October 13, 1967, and as supplemented in department of labor regulations (41 C.F.R. Chapter 60). (All construction contracts awarded in excess of \$10,000 by grantees and their contractors or sub-grantees).
- 4) Compliance with the Copeland "Anti-Kickback" act (18 U.S.C. 874) as supplemented in department of labor regulations (29 C.F.R. Part 5).
- 5) Compliance with the Davis-Bacon act (40 U.S.C. 276a-7) as supplemented by department of labor regulations (29 C.F.R. Part 5). Compliance with Sections 103 and 107 of the Contract Work Hours and Safety Standards act (40 U.S.C. 327-330) as supplemented by department of labor regulations (29 C.F.R. Part 5).
- 6) Notice of awarding agency requirements and regulations pertaining to patent rights with respect to any discovery or invention which arises or is developed in the course of or under such contract.
- 7) Notice of awarding agency requirements and regulations pertaining to reporting.
- 8) Awarding agency requirements and regulations pertaining to copyrights and rights in data.
- 9) (IO) Access by the federal grantor agency, the comptroller general of the United States, or any of their duly authorized representatives to any books, documents, papers, and record of the contractor which are directly pertinent to that specific contract for purposes of making audit, examination, excerpts, and transcriptions.
- 10) Compliance with all applicable standards, orders, or requirements issued under section 306 of the Clean Air Act (42 U.S.C. 1857 (h)). Section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order I 1738, and environmental protection

agency regulations (40 C.F.R. part 5).

- 11) Mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94-163, 89 Stat.871)
- 12) Retention of procurement records for a seven year period.

Construction Contracts (ORC 153.01 to 153.60)

Bidding Requirements:

Except for contracts made with a construction manager at risk, with a design-build firm, or with a general contracting firm, or unless otherwise authorized by law, the county shall require separate and distinct bids to be made for furnishing such materials or doing such work, or both, in their discretion, for each of the following branches or classes of work to be performed, and all work kindred thereto, entering into the improvement:

- 1) Plumbing and gas fitting; Steam and hot-water heating, ventilating apparatus, and steam-power plant; Electrical equipment.(R.C. 153.50(B)).
- 2) Every contract for the construction, alteration, or repair of any public building or public work shall contain provisions that state the contractor or subcontractor agrees not to discriminate in hiring or supervision of employees because of race, creed, sex, disability or color. (ORC 153.59)
- 3) Prevailing wage laws of the State of Ohio must be complied with. New construction with total overall project cost fairly estimated to be more than \$250,000 and any reconstruction, enlargement, alteration, repair, remodeling, renovation, or painting of any public improvement more than \$75,000 fall under the prevailing wage law thresholds. These dollar thresholds are adjusted biennially by the Director of the Ohio Dept. of Commerce.
- 4) A construction contract must be awarded within sixty (60) days of the bid opening.
- 5) A formal "Notice to Commence" must be given to a successful contractor on public improvement projects. (ORC 1311.252)
- 6) Change orders shall be approved by the Board of Commissioners

Construction Managers (ORC 9.33 to 9.333)

A construction manager means a person with substantial discretion and authority to plan, coordinate, manage, and direct all phases of a project. This is not the same individual who provides the professional design services or actually works on the project. For every construction management contract, the county shall evaluate the proposals submitted and may hold discussions with individual construction managers to explore their proposals, the scope and

nature of the services they would provide, and the various technical approaches they may take regarding the project. After the evaluation the county shall:

- 1) Select and rank no fewer than three construction managers it considers most qualified, unless the county determines in writing there are less than three available. .
- 2) Negotiate a contract with the construction manager ranked most qualified to perform the required services at a compensation determined in writing to be fair and reasonable. Negotiations shall be directed toward a mutual understanding of the essential requirements involved and determining that the construction manager will make available the necessary resources to perform the services within the required time.
- 3) Upon failure to negotiate a contract with the most qualified, the negotiations will end in writing. This process is continued with the construction managers ranked next most qualified in order until a contract is negotiated.
- 4) If the county fails to negotiate a contract with any of the construction managers selected, the county may select and rank additional construction managers, based on their qualifications, and negotiations may continue as with the construction managers selected and ranked initially until a contract is negotiated.
- 5) Before entering into a contract a letter of credit pursuant to ORC Chapter 1305 , a surety bond pursuant to ORC sections 153.54 and 153.57 , a certified check or cashier's check equal to the value of the contract, or other reasonable satisfactory financial assurance is required. The county may waive this requirement for good cause. R.C. 9.333(A).

Professional Design Services (ORC 153.65 to 153.71)

Professional design services are services within the scope of practice of an architect or landscape architect registered under ORC Chapter 4703 or a professional engineer or surveyor registered under ORC Chapter 4733. Each county planning to contract for professional design services shall encourage professional design firms to submit a statement of qualifications and update the statements at regular intervals. When planning to contract for these services, there shall be a public announcement of all contracts available.

The announcements shall:

- 1) Be uniform and consistent and sufficiently in advance of the time responses are due, so an adequate opportunity to submit a statement of interest in the project can be made.
- 2) Include a general description of the project, a statement of the specific professional design services required, and a description of the qualifications required.
- 3) Say how qualified firms may submit statements for consideration.
- 4) Be sent to each professional design firm that has a current statement of qualifications on file and is qualified; architects, landscape architects, engineer, and surveyor trade associations;, the news media; and any publications considered appropriate by the county .R.C. 153.67.

The county may require firms to maintain qualifications on file based on the factors listed in ORC section 153.65 (D). Any person rendering professional design services to the county shall maintain professional liability insurance. The requirement may be waived for good cause, or the county may require other assurances of financial responsibility. R.C. 153.70.

Rules; Exemptions:

- 1) The county may adopt, amend, or rescind rules, in accordance with ORC Chapter 119 to implement ORC sections 153.66 to 153.70.
- 2) ORC Sections 153.66 to 153.70 do not apply to any project with estimated professional design fees less than \$50,000 when certain requirements are met; any project determined in writing by the public authority head to be an emergency requiring immediate action.

County Electronic Commerce

Under the Uniform Electronic Transactions Act and related statutes, any “county office” may decide to conduct certain county business by “electronic” means with “electronic records” and “electronic signatures”. The following definitions are critical to understanding this law:

- 1) “County office” means any officer, department, board, commission, agency, court or other instrumentality of a county.
- 2) “Electronic” is defined as relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.
- 3) “Electronic record” is defined as a record created, generated, sent, communicated, received, or stored by electronic means.
- 4) “Electronic signature” means an electronic sound, symbol, or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record (ORC 1306.01 and ORC 304.01).

Whenever the law requires any information, document or record to be filed with a county office, the law states that a filing made by electronic record has the same force and effect as a paper filing provided the county office has agreed to the electronic filing and the filing is made in accordance with applicable rules or an applicable agreement (ORC 304.03). Prior to using electronic records and electronic signatures, a county office must adopt security procedures for the purpose of verifying the authenticity of any person submitting an electronic record or providing an electronic signature or for detecting changes or errors in the information in an electronic record (ORC 304.02). While conducting a county audit, the State Auditor is required to “inquire into the method, accuracy, and effectiveness of any security procedure” adopted by a county office that uses electronic records and electronic signatures under the “Uniform Electronic Transactions Act” (ORC 117.111).

Use of electronic records and electronic signatures by any county office is permitted, but not required by the law (ORC 304.04). If a county has adopted a credit card acceptance

policy for the payment of county expenses and permits specified county offices to accept payment by credit card (ORC 301.28), then any specified county office wishing to conduct electronic transactions may utilize that policy to accept payment of county expenses by credit card. The county auditor may establish procedures necessary to allow for the registration of dogs and kennels via the internet and the payment of dog registration fees by financial transaction devices or via the internet. (R.C. 955.013)

STANDARDS OF CONDUCT

All employees of the Geauga County Board of Commissioners shall maintain prudent judgment in procurement matters involving the county. Employees shall not abuse their positions as public employees while making decisions to award contracts to individuals or firms. Should a conflict of interest exist with an employee responsible for awarding contracts, the employee must immediately notify his or her superior. It shall be the policy of the county to relieve said employee of further involvement with the procurement negotiations. Furthermore, no employee of the county will participate in the selection, award or administration of a contract when any of the following has a financial interest in that contract:

- 1) The employee or agent.
- 2) Any member of his or her immediate family.
- 3) His or her partner.
- 4) An organization in which any of the above is an officer, director, or employee
- 5) A person or organization with whom any of the above is negotiating or has any arrangements concerning prospective employment.

County employees shall neither solicit nor accept gratuities, or favors or anything of monetary value from contractors or potential contractors. Employees must immediately inform their department director of any offers of monetary value from contractors or potential contractors. The Board of County Commissioners will enforce this rule to the maximum extent within the legal and practical capacity available under law. Depending upon the severity of the offense, penalties shall include verbal or written reprimand, and/or suspension or termination of employment and/or referral to the county prosecutor for further legal action at the discretion of the department director

Unlawful Interest in Public Contract Prohibited (ORC 2921.42)

State law generally prohibits any “public official” from knowingly doing any of the following:

- 1) Authorize, or use the authority or influence of his office to secure authorization of a public contract in which the official, a member of his family, or any of his business associates has an interest.
- 2) Authorize, or use the authority or influence of his office, to secure the investment of public funds in any security in which the official, a member of his family or business associate has an interest.
- 3) During his term of office or for one year thereafter, occupy any position of profit in the performance of a public contract authorized by the official or a legislative body, board or commission on which the official served at the time of authorization, unless the contract was let by competitive bidding to the lowest and best bidder.
- 4) Have an interest in the profits or benefits of a public contract entered into by or for the use of the political subdivision with which the official is connected.
- 5) Have an interest in the profits or benefits of a public contract that is not let by competitive bidding if required by law and involves more than \$150.

A “public official” is defined, in part, as any elected or appointed officer, or employee, or agent of the state or any political subdivision, employed on either a temporary or permanent basis (ORC 2921.01(A)). A “public contract” (ORC 2921.42(I)) is defined as:

- 1) The purchase or acquisition, or a contract for the purchase or acquisition, of property or services by or for the use of the state, any political subdivision of the state or any instrumentality of the state or a political subdivision; or
- 2) A contract for the design, construction, alteration, repair, or maintenance of any public property.

County officials, and their family members and business associates may own shares of stock or bonds in corporations that do business with a county provided that the shares or ownership interest in the debt of a corporation does not exceed 5% of the total stock of the corporation and the person in question provides full public disclosure of his financial interest. The official would be prohibited from participating, in any way, in the award of contracts to the company, even when the interest is disclosed. The law also permits officials, family members and business associates to have an interest in a public contract if the official meets a four-part exception. Some of the important aspects of the exception are that the supplies or services are necessary, are unobtainable elsewhere at a lower price or obtained as part of a continuous course of business, and are acquired in an arm’s length transaction, in which the official does not participate, on

terms favorable to the county.. The Ethics Commission provides advisory opinions to public officials on the ethics law and offenses against justice and public administration law. The Ohio Ethics Commission maintains a website at <http://www.ethics.ohio.gov/>.

FINDINGS FOR RECOVERY

Ohio law (ORC 9.24) prohibits any county from awarding a contract for goods, services, or construction, paid for in whole or in part with state funds, to any person against whom a finding for recovery has been issued by the State Auditor, if that finding is unresolved. Finding for recovery means a determination by the State Auditor that public money has been illegally expended, has been collected but not accounted for, or is due but has not been collected. A finding for recovery also includes a determination that public property has been converted or is misappropriated. A finding for recovery is unresolved unless one of the following criteria applies:

- 1) The money identified in the finding for recovery is paid in full to the political subdivision or state agency .
- 2) The debtor has entered into a repayment plan that is approved by the Attorney General and the county to whom the money is owed. This may include withholding payment to a debtor for goods, services or construction provided to the county.
- 3) The Attorney General waives a repayment plan described above for good cause.
- 4) The debtor and the county to whom the money identified in the finding for recovery is owed have agreed to a payment plan established through an enforceable settlement agreement.
- 5) The county, with the concurrence of the Attorney General, certify that all of the following are true:
 - a) Essential services the county is seeking from the debtor cannot be provided by any other person;
 - b) Awarding a contract to the debtor for essential service is in the best interest of the county; and
 - c.) Good faith efforts have been made to collect the money identified in the finding for recovery.
- 6) The debtor is contesting the finding for recovery and a final determination on the action has not been reached.

Before awarding a contract for goods, services or construction, paid for in whole or part with state funds, the county must verify that the person does not appear in a database maintained by the State Auditor. The provisions of this law do not apply in the circumstances and to companies or agreements described below:

- 1) The cost of the contract is less than \$25,000.
- 2) The aggregate cost of multiple contracts entered into by the government and the

person within the previous fiscal year does not exceed \$50,000.

3) The contract is a renewal of a contract previously entered into and is renewed pursuant to that preceding contract.

4) The contract is an employment contract.

Bidders' Statement of Personal Property Tax Delinquency

After the award of any bid, and prior to the time the contract is entered into, the bidder must submit to the county auditor a statement affirmed under oath that the person with whom the contract is to be made was not charged at the time the bid was submitted with any delinquent personal property taxes. A copy of this statement must be incorporated into the contract, and no payment can be made if the contract does not contain the statement (ORC 5719.042).

Data Processing and Radio Communications Equipment

Special leasing and contracting procedures have been established for the renewal of electronic data processing and radio communications equipment, systems and devices.

In this case, the equipment or service provider must submit a written bid to the county to include:

- 1) Terms by which the lease would be renewed,
- 2) Length of renewal, and
- 3) Cost of renewal.

After receiving this bid from the present provider, the county must then follow regular notice and advertising procedures to receive bids for a lease under the same terms and for the same period as provided in the bid of the lessor. The contract must still be awarded to the lowest and best bidder. The bid threshold for contracts let under this provision of law is \$50,000 per ORC Section 307.861.

Special Provisions for Election Ballots, Printing, and Ballots

Special provisions have been established for use of the board of elections when purchasing supplies, general printing, and ballot printing. These procedures are found in ORC Sections 3501.301 and 3505.13.

USE OF COUNTY HELD CREDIT CARDS

Ohio law gives county commissioners the option of using county held credit cards, or county procurement cards, or both with respect to various county offices, officials or purposes. The county commissioners may authorize any county official or employee to use a credit card that would be in the name of an officer or employee of a county appointing authority as determined by the county commissioners (ORC 301.27). A county credit card is defined to include gasoline and telephone credit cards but excludes any procurement card. The following provisions apply to such county held credit cards.

- 1) Application must be made to the county commissioners by the appointing authority for any officer or employee.
- 2) The credit card could be used for work-related travel, food, and lodging expenses; gasoline, oil and motor vehicle repair expenses; transportation expenses; telephone expenses; internet service provider expenses; and purchases for children for whom a public children services agency is providing temporary emergency care (ORC 301.27(B)(1)).
- 3) Credit cards are issued either in the name of a county appointing authority or in the name of a specified officer or employee..
- 4) The debt incurred is paid from funds appropriated for such purposes.
- 5) Any person who has been authorized to use a credit card must submit an estimate by the first day of each month of such expenses, unless the board has authorized an estimate for a period longer than one month. The board may dispense with the estimate requirement and instead limit the use of certain credit cards to the specific line item appropriation from which credit card expenses are to be paid. If a credit card is used for more than the amount authorized or appropriated, a county officer or employee is personally liable to the extent the authorized amount is exceeded. At the request of an appointing authority, the commissioners may authorize the additional expenditure based on the auditor's certification of available funds.
- 6) Any person who has been authorized to use a credit card who suspects that the card has been lost, stolen, or suspects unauthorized use must notify either the board or the appropriate appointing authority and the county auditor in writing of the loss, theft or unauthorized use.
- 7) Use of a county credit card for any use other than the purposes specifically authorized in ORC Section 301.27(B)(1) represents misuse of a credit card and is a criminal violation of ORC Section 2913.21.

SALE, LEASE AND RENTAL OF COUNTY REAL PROPERTY

The county may sell, lease and rent county property not needed for public use. County Commissioners may either sell the property to the highest responsible bidder after advertising once a week for four consecutive weeks or sell the property at public auction after giving at least 30 days public notice of the auction. County commissioners may reject any and all bids and may sell property as a tract or in parcels. Following are some major requirements of the law for leasing property.

- 1) No lease can be for a period of more than five years unless it is part of a lease purchase agreement. If this is the case, the lease cannot exceed 25 years.
- 2) Leases for up to 20 years are allowed when it is for retail stores, office space, or restaurants (ORC 307.09) located in a building bought to house county offices or in a parking facility bought to serve a building that houses county offices. The

lease can provide for renewal for lesser periods of time.

3) Leases for airports and related facilities are limited initially to not more than 25 years, with renewals not to exceed 60 years.

4) County commissioners may, by resolution, lease real property for offices, commercial use, airport facilities and other uses prescribed by ORC Section 307.09(A) without advertising for bids.

SALE OF PERSONAL PROPERTY AT PUBLIC AUCTION

When it is found that the county has personal property that is not needed or is obsolete and the value of the property to be sold is estimated to be in excess of \$ 2,500.00, the county commissioners may do either of the following:

1) Sell such property at a public auction or by sealed bid to the highest bidder. Notice of the time and place and manner of the sale must be published in a newspaper of general circulation in the county and posted in the offices of the county commissioners and county auditor 10 days before the sale (ORC 307.12(A)); or

2) Donate any motor vehicle that is not worth more than \$4500 to a federal tax exempt nonprofit organization for the purpose of meeting the transportation needs of participants in the Ohio works first program established under ORC Chapter 5107 and participants in the prevention, retention, and contingency program established under ORC Chapter 5108.

The sale of county personal property by public auction or by sealed bid is not required under any of the following circumstances:

1) When selecting the products of a recycling or resource recovery plant if the commissioners adopt a resolution to nullify this requirement (ORC 343.08).

2) If the estimated value of county personal property to be sold is less than \$2500, the commissioners may sell the property by private sale, without advertisement or public notification.

3) Regardless of the property's value, the commissioners may sell or donate county personal property, including motor vehicles to the federal government, the state, or any political subdivision of Ohio without advertisement or public notification.

4) When a county officer or department head determines that certain county personal property under the jurisdiction of that department head is not of immediate need and they so notify the commissioners, then the commissioners may lease that property to a municipal corporation, township, or other political subdivision on terms established by the commissioners under a contract.

5) If the commissioners determine that county personal property is obsolete and unfit for use and has no value, then they may discard or salvage the property.

6) Regardless of the property's value, county commissioners may sell county personal property by internet auction after adopting a resolution of intent which describes how the auctions will be conducted, number of days for bidding on the property, the name of a

representative or contact person for the auction, and the general terms and conditions of sale. Notice of the county's intent to sell unneeded, obsolete, or unfit property by internet auction must be published at least twice in a newspaper of general circulation in the county, must be posted in the offices of the county auditor and commissioners, and must be posted on the county's internet web site, if the county maintains a website.

Materials, machinery, tools, and other supplies under the jurisdiction of a county officer or department head that is sold or otherwise disposed of by the county should be removed, if listed, from the annual inventory which all county offices and departments are required to maintain and file with board of commissioners and county auditor on the second Monday of January of each year (ORC 305.18).

SALE OF PARK LANDS

Parks and park lands that have been dedicated for public use but have remained unused and unimproved may be vacated and sold at public auction by the county commissioners upon petition of the majority of abutting landowners after publishing public notice of the petition for three consecutive weeks and holding a public hearing. Once park or park lands have been vacated county commissioners must offer such lands for sale at public auction to the highest and best bidder and must publish notice of their intent to sell such land for four consecutive weeks. Before acting on a petition to vacate parkland, county commissioners must notify by first class mail any political subdivision with the authority to acquire public parks or recreation areas that contain or adjoin the parkland in question that the political subdivision has 90 days in which to make an offer to the commissioners to buy or lease the parkland. If the county commissioners receive an acceptable offer in which the political subdivision agrees to use the land for park purposes, the county commissioners must accept the offer after publishing notice for three consecutive weeks and holding a public hearing (ORC 307.81, 307.82).

COUNTIES MAY PURCHASE SERVICES AND SUPPLIES THROUGH REVERSE AUCTIONS ON THE INTERNET

The law permits any county contracting authority (as defined in ORC 307.92), including a board of commissioners, to purchase services and supplies by competitive reverse auction over the internet. A competitive reverse auction is a procedure in which a county or other entity seeking to purchase supplies or services receives proposals from offerors via an open environment on the internet. The law defines supplies to include all property, except real property, including equipment, materials, other tangible assets, and insurance. The law prohibits the purchase of "supplies or services by reverse auction if the contract concerns the design, construction, alteration, repair, reconstruction, or demolition of a building, highway, road, street, alley, drainage system, water system, waterworks, ditch, sewer, sewage disposal plant, or any other structure or works of any kind." Services are defined to include any furnishing of labor, time or effort by a person that does not involve the delivery of a specific end product. A service may involve the delivery of a report only if the report is incidental to the primary service being

provided. Employment agreements or collective bargaining agreements are specifically excluded from the definition of service (ORC 9.314 (A)(4)(5)). Counties may purchase services or supplies through reverse auctions whenever the contracting authority determines that a reverse auction via the internet is advantageous to the county (ORC 9.314 (B)). The contract file must contain the basis upon which an award is made (ORC 9.314(E)). The law specifically provides that competitive reverse auctions satisfy any statutory requirement for competitive sealed bidding, however, it should be noted that reverse auctions may also be used when competitive sealed bidding or competitive sealed proposals are required (ORC 9.314(G)). In order to initiate reverse auctions, a county would first solicit proposals for supplies or services through a request for proposals (RFP), with notice provided according to rules adopted by the county (ORC 9.314(C)). The RFP should clearly state the relative importance of price as related to other factors,. As provided in the RFP and the rules, a county may conduct discussions with individuals and entities that it determines to be reasonably susceptible of being selected for an award. The purpose of such discussions is to ensure full understanding of and responsiveness to solicitation requirements. The county must accord all bidders fair and equal treatment with respect to opportunities for discussions related to the clarification, correction or revision of proposals (ORC 9.314(D)).

A county may consider addressing the following issues when adopting rules to implement reverse auctions:

- 1) The relative importance of price, past service record, and ability to deliver or perform.
2. The rationale for the program and its potential cost savings.
3. Notice procedures in print and electronic form for the reverse auction.
4. A procedure for providing vendors with fair and equal treatment with respect to any opportunity for clarification, correction, or revision of proposals.
5. Time periods during which each auction will be posted.
6. Procedures for the notification of current vendors of the planned use of reverse auctions.
7. Requirements for bid and performance bonds, if the county decides to use them. The law specifically authorizes a county to include within its rules a requirement for a performance bond or other form of financial security (ORC 9.314 (F)).

COUNTY ADMINISTRATOR CONTRACT AUTHORITY (ORC 305.30 (G)(H))

A county administrator may:

1. Contract on behalf of the board of commissioners within limits provided by resolution of the board. A resolution authorizing such action must specify the types of contracts that the county administrator may act on without further resolution of the board.
2. Allow and pay claims for goods received and services rendered within limits provided by a resolution of the board. The county department receiving those goods and services must certify their receipt before the administrator allows the claim.

QUALIFICATION BASED SELECTION PROCESS FOR DESIGN PROFESSIONALS AND CONSTRUCTION MANAGERS

State law requires any county to follow what is generally referred to as a qualifications based selection process when hiring a design professional. Professional design services mean the services of an architect or landscape architect or professional engineer or registered surveyor. Professional design firms (ORC 153.65(D)) are evaluated on the basis of qualifications. Qualifications are defined to include:

1. Competence of the design firm to perform the required services as indicated by the technical training, education, and experience of the firm's personnel, especially the personnel assigned to perform the services.
2. Ability of the firm in terms of its workload and availability of qualified personnel, equipment, and facilities to perform the required services competently and quickly.
3. Past performance of the firm as reflected by the evaluations of previous clients with respect to cost control, quality of work, and meeting of deadlines.
4. Any other factors as determined by the county.

Any public authority planning to contract for design services must encourage design firms to submit a statement of qualifications and update the statements at regular intervals (ORC 153.66)

The public authority must also publicly announce all contracts and the announcements must:

1. Be made in a uniform and consistent manner and sufficiently in advance so the firms have an adequate opportunity to submit a statement of interest in the project.
2. Include a general description of the project and the design services and qualifications required for the project.
3. Indicate how a design firm may submit a statement of qualifications.
4. Be sent to each design firm that has a current statement of qualifications on file and is qualified to perform the required services, or to design professional trade associations, the news media, and any other publications or media that the county considers appropriate (ORC 153.67).

Counties may establish prequalification requirements for design firms and may require such statements of qualifications to be maintained on file with the county (ORC 153.68).

Each county (ORC 153.69, ORC 9.332) planning to contract for the services of a design firm must evaluate the statements of qualifications submitted and may also hold discussions with firms to explore their qualifications or proposals, the scope and nature of the services to be provided, and the technical approaches they may take toward the project. Following this evaluation, the county must select and rank no fewer than three firms and then negotiate a contract with the one ranked most qualified. Contract negotiations must be directed toward:

1. Ensuring that the county and the firm have a mutual understanding of the services to be provided.

2. Determining that the firm or construction manager will provide the necessary personnel, equipment, and facilities to perform the services on time.

3. Agree upon compensation which is fair and reasonable, taking into account the value, scope, complexity, and nature of services. Counties are specifically prohibited from requiring any form of fee estimate prior to selecting and ranking design firms (ORC 153.691).

If negotiations fail with the firm ranked most qualified, then the county proceeds to the next most qualified for negotiations and so on until a contract is negotiated. If a contract is not negotiated with any of the firms selected, then the county must select and rank additional firms until a contract is negotiated.

Design firms must have a professional liability insurance policy for the professional design services rendered. The amount of insurance is determined by the county and the professional liability insurance may be waived by the county for good cause or the county may allow other assurances of financial responsibility (ORC 153.70).

The qualifications based selection process does not apply to any project with an estimated professional design fee of less than \$50,000, if certain requirements are met, or any project that is determined in writing by the county to be an emergency (ORC 153.71).