

PATRICK COUNTY
BOARD OF SUPERVISORS
PROCUREMENT POLICY

I. INTRODUCTION:

This policy sets forth the legal authority and responsibility for the purchasing process.

II. PURPOSE:

The purpose of this policy is to ensure that:

- (a) The "County" obtains high quality goods and services at reasonable costs;
- (b) All procurement procedures are conducted in a fair and impartial manner without impropriety or appearance of impropriety;
- (c) All qualified vendors are given access to County business;
- (d) No offeror is arbitrarily or capriciously excluded;
- (e) Competition is maximized and specifications reflect the procurement needs of the County rather than being drafted to favor a particular vendor;
- (f) The rules governing procurement are made clear in advance of the competition; and
- (g) The County and vendors freely exchange information concerning what is sought to be procured and what is offered.

Public purchasing has a responsibility to the general public to ensure that procurements are accomplished in accordance with the intent of the laws enacted by the appropriate legislative body. The intent of the Virginia General Assembly is set forth in the Virginia Public Procurement Act (Code of Virginia, §2.2-4300 *et seq.*, 1950, as amended). The County intends, through this policy, to assure the best quality and price for products and services; to protect the assets and funds of the County; and to maintain above-board relations with all suppliers within the Procurement Laws and Business Ethics as dictated by federal, state, and county governments. Therefore, the following Policy for purchasing is hereby adopted by the Patrick County Board of Supervisors effective July 1, 2015.

III. GENERAL PROVISIONS:

A. Application.

This Policy applies to all contracts for goods, services, insurance and construction entered into by the County. This Policy is established by official action of the Patrick County Board of Supervisors. All provisions of this Policy are in conformance with Chapter 43, §2.2-4300 *et seq.* of the Virginia Code, 1950, as amended.

When the procurement involves the expenditure of state or federal assistance or contract funds, the procurement shall be conducted in accordance with any applicable mandatory federal laws and regulations which are not reflected in this Policy.

When this Policy does not specifically address a procurement issue, the issue may be resolved in accordance with the applicable section of the Commonwealth of Virginia's law and current policy.

B. Effective Date.

Contracts entered into prior to passage of this Policy shall continue to be governed by the purchasing ordinance and regulations of the County and Commonwealth of Virginia in effect at the time those contracts were executed.

C. Severability.

If any provision of this Policy or any application thereof is held invalid, such invalidity shall not affect other provisions or applications of this Policy which can be given effect without the invalid provision or application, and to this end the provisions of this Policy are declared to be severable.

D. Definitions.

1. Brand Name Specification. A specification by manufacturers' names and catalog numbers.
2. Brand Name or Equal Specification. A brand name specification to describe the standard of quality, performance, and other characteristics needed to meet the County's requirements and which provides for the submission of equivalent products.
3. Capital Asset. Land, improvements to land, easements, buildings, building improvements, machinery, equipment, works of art and historical treasures, infrastructure, and all other tangible or intangible assets that are used in operations and that have initial useful lives extending beyond one year.
4. Capital Improvement Projects. Acquisitions or construction of major equipment or facilities with a useful life of 10 or more years.
5. Confidential Information. Any information which is available to an employee only because of the employee's status as an employee of the County and which is not a matter of public knowledge or available to the public on request.
6. Construction. Building, altering, repairing, improving or demolishing any structure, building, and any draining, dredging, excavation, grading, or similar work upon real property.
7. Goods. All material, equipment, supplies, printing and automated data processing hardware and software.
8. Governing Body. Patrick County Board of Supervisors.
9. Informality. A minor defect or variation of a bid or proposal from the exact requirements of the Invitation to Bid, or the Request for Proposal, which does not affect the price, quality, or delivery schedule for the goods, services or construction being procured.

10. Invitation for Bid. All documents, whether attached or incorporated by reference, used for solicitation of competitive sealed bids. Also referred to as "IFB."
11. Nonprofessional Services. Any services not specifically identified as professional services within this policy, or by the Virginia Public Procurement Act, as amended.
12. Professional Services. Work performed by an independent contractor within the scope of the practice of accounting, actuarial services, architecture, land surveying, landscape architecture, law, dentistry, medicine, optometry, pharmacy, or professional engineering.
13. Public Body. 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.
14. Purchasing Agent. The official in charge of procurement as designated by the Patrick County Board of Supervisors, presently the County Administrator.
15. Request for Proposals. All documents, whether attached or incorporated by reference, utilized for soliciting proposals. Also referred to as "RFP."
16. Responsible Bidder or Offeror. A bidder or offeror that 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 pre-qualified, if required.
17. Responsive Bidder. A bidder that has submitted a bid which conforms in all material respects to the Invitation for Bid.
18. Services. Any work performed by an independent contractor which does not consist primarily of acquisition of equipment or materials, or the rental of equipment, materials and supplies.
19. Supplies, Materials, Equipment and Commodities. Any goods or articles which will be used by or furnished to any department of the County.
20. Using Departments. All departments, agencies, boards and commissions of the County, including unified support services, and offices supported from funds approved by the County.

IV. PURCHASING AUTHORITY:

A. Establishment and Appointment.

All purchasing activities shall be taken under the direction and supervision of the Purchasing Agent in accordance with the provisions in this policy. The County Administrator shall be the Purchasing Agent for the County and shall serve as such at the pleasure of the Patrick County Board of Supervisors.

B. Authority of the Purchasing Agent.

The Purchasing Agent, as authorized by the Patrick County Board of Supervisors, shall have administrative responsibility for all purchasing for the County and shall serve as the principal public purchasing official for the County. This individual shall be

responsible for the procurement of goods, services, insurance, and construction in accordance with this Policy, and the establishment of regulations providing a foundation for an efficient and compliant procurement system to meet the needs of the County.

C. Delegation.

The Purchasing Agent, as authorized by the Patrick County Board of Supervisors, may delegate purchasing authority to the County staff, to purchase supplies, equipment, services, or construction items.

D. Revisory Authority.

The Purchasing Agent will work with the originating Department to revise any purchase specifications which, in the Purchasing Agent's professional opinion, appear to restrict competition, in order to avoid any potential bid protests and maximize competition.

V. COOPERATIVE PROCUREMENT

Conditions for Use.

Pursuant to the authority granted by § 2.2-4304 of the Virginia Code, 1950, as amended. The County may enter into cooperative procurement agreements for the purpose of combining requirements to increase efficiency or reduce administrative expenses in the procurement process.

All cooperative procurement contracts entered into or used by the County shall be based on procurement principles contained in this policy.

Except as otherwise prohibited in § 2.2-4304 of the Virginia Code, 1950, as amended, the County may participate in or purchase goods and services through contracts awarded by other governmental bodies when it is determined that: (i) the cooperative procurement is in the best interest of the County; (ii) the cooperative procurement is based on competitive procurement principles, and (iii) the cooperative procurement includes cooperative language within the original solicitation inclusive of addenda.

VI. CONTRACT FORMATION AND METHODS OF SOURCE SELECTION

A. Competitive Sealed Bidding.

1. Conditions for Use. All contracts with non-governmental contractors for the purchase or lease of goods, or for the purchase of services (other than professional services), insurance, or construction in excess of One Hundred Thousand Dollars (\$100,000) shall be awarded after competitive sealed bidding, or by such other procedures required or authorized by this Policy.

The competitive sealed bidding dollar amount level shall automatically change pursuant to future lawful and active State levels.

2. Pre-Qualification of Bidders. Bidders may be pre-qualified prior to any solicitation of bids, whether for goods, services, insurance or construction. The pre-qualification process shall be consistent with the provisions of § 2.2-4317 of the Virginia Code, 1950, as amended. The application form used in such process shall set forth the criteria upon which the qualifications of prospective contractors will be evaluated. The application form shall request of prospective contractors only such information as is appropriate for an objective evaluation of all prospective contractors pursuant to such criteria. Such form shall allow the prospective contractor seeking pre-qualification to request, by checking the appropriate box, that all information voluntarily submitted by the contractor be considered a trade secret or proprietary information subject to the requirements of § 2.2-4342 of the Virginia Code, 1950, as amended. In all instances in which pre-qualification of potential contractors is required for construction projects, advance notice shall be given of the deadline for the submission of pre-qualification applications. The deadline for submission shall be sufficiently in advance of the date set for the submission of bids for such construction so as to allow the procedures set forth in the provisions of § 2.2-4317 of the Virginia Code, 1950, as amended, to be accomplished.

3. Public Notice of Invitation for Bid (IFB). Public notice of the Invitation for Bid shall be posted in a public area in the County Administration Building and on the County's website (www.co.patrick.va.us), at least ten (10) days prior to the last day set for the receipt of bids. The County shall publish the Invitation to Bid in a newspaper of general circulation.

The posting shall include a general description of the proposed purchase or sale and where solicitation documents may be obtained.

Sealed bids shall also be solicited from prospective suppliers who have requested their names to be added to a "vendor bidders list" which the Finance Department shall maintain. Invitations sent to vendors on the "vendor bidders list" shall be limited to commodities that are similar in character and ordinarily handled by the trade group to which the invitations are sent. Placement on the "vendor bidders list" is no guarantee of solicitation for bids and/or quotes. It is the vendor's responsibility to notify the County of changes that need to be noted on the vendor bidder's list, such as mailing or physical address, phone numbers, email addresses, contact person, etc.

4. Use of Brand Names. Unless otherwise provided in the Invitation for Bid, the name of a certain brand, make or manufacturer does not restrict bidders to the specific brand name, make or manufacturer, but rather conveys the general style, type, character, and quality of the articles desired, and any article which is determined to be the equal of that specified, considering quality, workmanship, economy of operation, and suitability for the purpose intended, shall be accepted. The County has the sole authority in deciding what is accepted as an equal.
5. Cancellation, Rejection of Bids, and Waiver of Informalities. An Invitation for Bid, a

Request for Proposal, any other solicitation, or any and all bids or proposals may be canceled or rejected in whole or in part. The reasons for cancellation shall be made part of the contract file. Informalities may be waived when the determination is made that it is in the best interest of the County to do so.

6. Bid Opening. All bids must be opened with at least two (2) County employees present. Bid openings are open to the public.
7. Negotiation with Lowest Responsible Bidder. Unless canceled or rejected, a responsive bid from the lowest responsible bidder shall be accepted as submitted, except that if the bid from the lowest responsible bidder exceeds available funds, or is not deemed to be in the best interest of county citizens. Negotiation may commence with the apparent low bidder to obtain a contract price within available funds; however, such negotiation may be undertaken only under conditions and procedures described in writing prior to issuance of the Invitation for Bid and summarized therein.
8. Withdrawal of Bid Due to Error.
 - a. A bidder for a construction contract may withdraw his bid from consideration if the price bid was substantially lower than the other bids due solely to a mistake therein, provided the bid was submitted in good faith, and the mistake was a clerical mistake as opposed to a judgment mistake, and was actually due to an unintentional arithmetic error or an unintentional omission of a quantity of work, labor or material made directly in the compilation of a bid, which unintentional arithmetic error or unintentional omission can be clearly shown by objective evidence drawn from inspection of original work papers, documents and materials used in the preparation of the bid sought to be withdrawn.

The following procedure for bid withdrawal must be stated in the Invitation for Bids. The bidder shall give notice in writing of his claim of right to withdraw his bid within two (2) business days after the conclusion of the bid opening procedure and shall submit original work papers with such notice. The work papers, documents and materials may be considered trade secrets or proprietary information subject to the conditions of § 2.2-4342(F) of the Virginia Code, 1950, as amended. The mistake shall be proved only from the original work papers, documents and materials delivered as required herein.

- b. Procedures for the withdrawal of bids for other than construction contracts may be established.
- c. No bid may be withdrawn under this section when the result would be the awarding of the contract on another bid of the same bidder or of another bidder in which the ownership of the withdrawing bidder is more than five percent (5%).
- d. If a bid is withdrawn under the authority of this section, the lowest remaining bid shall be deemed to be the low bid.

- e. No bidder who is permitted to withdraw a bid shall, for compensation, supply any material or labor to or perform any subcontract or other work agreement for the person or firm to whom the contract is awarded or otherwise benefit, directly or indirectly, from the performance of the project for which the withdrawn bid was submitted.
 - f. **The County shall notify the bidder in writing within five (5) business days of its decision regarding the bidder's request to withdraw its bid.** If withdrawal of a bid is denied under the provisions of this section, the bidder shall be notified in writing stating the reasons for the decision and award the contract to such bidder at the bid price, provided such bidder is a responsible and responsive bidder. At the same time that the notice is provided, The County shall return all work papers and copies thereof that have been submitted by the bidder.
9. Bid Award. Bids shall be awarded to the lowest responsive and responsible bidder. When the terms and conditions of the invitation for bid provide that multiple awards may be made, awards may be made to more than one bidder.

Unless canceled or rejected in accordance with Section VI (A.5) of this policy, a responsive bid from the lowest responsible bidder shall be accepted as submitted except as provided in Section VI (A.7) of this policy.

When the award is not given to the lowest bidder, a full and complete statement of the reasons for placing the order elsewhere shall be prepared and filed with the other papers relating to the transaction.

10. Tie Bids.

- a. In the case of a tie bid, preference shall be given to goods, services and construction produced in the County or provided by persons, firms or corporations having principal places of business in the County, if such a choice is available.
- b. Except as provided in subsection (a.) above, in the case of a tie bid, preference shall be given to goods, services and construction produced in Virginia or provided by Virginia persons, firms, or corporations, if such a choice is available.
- c. Whenever the lowest responsive and responsible bidder is a resident of any other state and such state under its laws allows a resident contractor of that state preference, a like preference may be allowed to the lowest responsible bidder who is a resident of Virginia.
- d. Notwithstanding the provisions of subsections (b.) and (c.), in the case of a tie bid in instances where goods are being offered, and existing price preferences have already been taken into account, preference shall be given to the bidder whose goods contain the greatest amount of recycled content.
- e. In the event that none of the foregoing provisions of this section resolve the tie, the tie is decided by lot, or the solicitation is cancelled and rebid.

11. Authority to Transact Business in Virginia. If required by law, any awarded bidder or offeror shall maintain a valid certificate of authority or registration to transact business in Virginia with the Virginia State Corporation Commission as required by Title 13.1 or Title 50 of the Virginia Code, 1950, as amended, during the term of the contract or any contract renewal. The contractor as awarded shall not allow registration to lapse at or its certificate of authority or registration to transact business in the Commonwealth of Virginia to be revoked or cancelled at any time during the term(s) of the contract. If the awarded contractor fails to remain in compliance with the provisions of this section, the contract may be voided at the sole discretion of the County.
12. Contract Pricing Arrangement. Except in case of an emergency affecting the public health, safety, or welfare, no contract shall be awarded on the basis of cost plus a percentage of cost. A policy or contract of insurance or prepaid coverage having a premium computed on the basis of claims paid or incurred, plus the insurance carrier's administrative costs and retention stated in whole or part as a percentage of such claims, shall not be prohibited by this section. Architect/engineer and similar contracts which are based on a percentage of construction cost shall not be prohibited by this section, providing the construction contract is not awarded by or to that architect/engineer or similar contracts.
13. Multi-Term Contracts.
 - a. Specified Period. Unless otherwise provided by law, a contract for goods, services or insurance may be entered into for any period of time deemed to be in the best interest of the County provided the term of the contract and conditions of renewal or extension, if any, are included in the solicitation and funds are available for the first fiscal period at the time of contracting. Payment and performance obligations for succeeding fiscal periods shall be subject to the availability and appropriation of funds.
 - b. Cancellation Due to Unavailability of Funds in Succeeding Fiscal Periods. When funds are not appropriated or otherwise made available to support continuation of performance in a subsequent fiscal period, the contract shall be canceled.
14. Modification of the Contract.
 - a. A contract may include provisions for modification of the contract during performance, but no fixed-price contract may be increased by more than twenty-five percent (25%) of the contract or \$50,000, whichever is greater, without the advance written approval of the Patrick County Board of Supervisors. In no event may the amount of any contract, without adequate consideration, be increased for any purpose, including, but not limited to, relief of an offeror from the consequences of an error in its bid or offer.
 - b. Nothing in this section shall prevent the County from placing greater

restrictions on contract modifications.

15. Insurance. Vendors providing services will be required to carry adequate insurance to protect Patrick County from loss in case of accident, fire, theft, etc. throughout the term of the service contract. Proof of adequate insurance shall be furnished prior to acceptance of an award. The specific insurance requirements will be included in the Request for Proposal or Invitation for Bid.

B. Competitive Negotiation.

1. Competitive Negotiation for Goods or Services Other Than Professional Services.

a. Conditions for Use.

- 1) Upon a determination made in advance and set forth in writing that competitive sealed bidding is either not practicable or not fiscally advantageous to the public, goods, services, or insurance may be procured by competitive negotiation. The writing shall document the basis for this determination.

- b. Request for Proposal. The Purchasing Agent shall issue a written Request for Proposal indicating in general terms that which is sought to be procured, specifying the factors which will be used in evaluating the proposal and containing or incorporating by reference the other applicable contractual terms and conditions, including any unique capabilities or qualifications which will be required of the contractor.

- c. Public Notice. Public notice of the Request for Proposal shall be given at least ten (10) days prior to the date set for receipt of proposals by publication in a newspaper with general circulation in the County, posted in a public area in the County Administration Building and on the County's website (www.co.patrick.va.us). In addition, proposals may be solicited directly from potential contractors.

- d. Receipt of Proposals. Proposals shall not be made public and shall be handled so as to not permit disclosure of the contents of any proposal to competing offerors or the general public during the process of negotiation. At the time fixed for receipt of proposal responses, County Administration will read, and make available to the public on request, only the names of the offerors.

- e. Selection and Award. Selection shall be made of two (2) 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. Price shall be considered, but need not be the sole determining factor. Contracts shall be awarded to multiple offerors if so stated in the original Request for Proposals. Should it be determined that only one (1)

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.

2. Competitive Negotiation for Professional Services.

- a. Conditions for Use. Contracts for professional services, as defined in Section III (D.12) of this Policy, where the aggregate cost is expected to exceed Sixty Thousand Dollars (\$60,000), shall be entered into in the following manner:
- b. Request for Proposals. County Administration shall issue a written Request for Proposal indicating in general terms that which is sought to be procured, specifying the factors which will be used in evaluating the proposal and containing or incorporating by reference the other applicable contractual terms and conditions, including any unique capabilities or qualifications which will be required of the contractor.
- c. Public Notice. Public Notice of the Request for Proposal shall be given at least ten (10) days prior to the date set for receipt of proposals by publication in a newspaper of general circulation in the County, posted on the public notice board in the County Administration Building and on the County's website (www.co.patrick.va.us). In addition, proposals may be solicited directly from potential contractors.
- d. Selection and Award. The County shall engage in individual discussions with two (2) or more offerors deemed fully qualified, responsible and suitable on the basis of initial response and with emphasis on professional competence, to provide the required services. Repetitive informal interviews shall be permissible. The offerors shall be encouraged to elaborate on their qualifications and performance data or staff expertise pertinent to the proposed project, as well as alternative concepts. In addition, offerors shall be informed of any ranking criteria that will be used in the review of the professional competence of the offeror. At the discussion stage, the County may discuss non-binding estimates of total project costs, including, but not limited to, life-cycle costing, and where appropriate, non-binding estimates of prices for services.

Proprietary information from competing offerors shall not be disclosed to the public or to competitors. At the conclusion of the discussions, and upon the basis of evaluation factors published in the request for proposal and all information developed in the selection process, the County shall select, in the order of preference, two or more offerors whose professional qualifications and proposed services are deemed the most meritorious. Negotiations shall then be conducted, beginning with the offeror ranked first. If a contract satisfactory and advantageous to the County can be negotiated at a price considered fair and reasonable, the award shall be made to that offeror. Otherwise, negotiations with the offeror ranked first shall be formally terminated and negotiations conducted with the offeror ranked second, and so on until such a contract can be negotiated at a fair

and reasonable price. 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 and suitable than the others under consideration, a contract may be negotiated and awarded to that offeror.

The dollar amount level for competitive negotiation for professional services shall automatically change pursuant to future lawful and active State levels.

C. Sole Source Procurement.

A contract may be awarded without competition when it is determined in writing, after conducting a good faith review of available sources, that there is only one source practicably available for the required good, service, insurance or construction item. Negotiations shall be conducted, as appropriate, to obtain the best price, delivery, and terms. A written notice shall be issued stating that only one source was determined to be practicably available, identify that which is being procured, the contractor selected and the date on which the contract will be awarded. For purchases exceeding One Hundred Thousand Dollars (\$100,000), a notice of sole source shall be posted in the County Administration Building and on the County's website (www.co.patrick.va.us) on the day of award or the decision to award is announced, whichever occurs first.

D. Emergency Purchases.

An emergency may arise in order to protect personal safety, life or property, such as, an occurrence of a serious, urgent and threatening nature that demands immediate action to avoid termination of essential services or a dangerous condition. In such cases, a Purchase Order or contract may be awarded by the Purchasing Agent without competitive bidding or competitive negotiation, however, such procurement shall be made with as much competition as is practicable under the circumstances. A written determination and justification establishing the basis for the emergency and for the selection of the particular contractor/vendor must be submitted by the requesting department to the Purchasing Agent prior to creating an obligation. The Purchasing Agent will approve or disapprove the purchase as an emergency procurement. The approved written determination shall become part of the procurement file. For purchases with a total cost in excess of One Hundred Thousand Dollars (\$100,000), a written notice, stating that the contract is being awarded, or has been awarded on an emergency basis shall be publicly posted in the County Administration Building, and on the County's website for ten (10) calendar days, beginning on the day of the award or the decision to award is announced, whichever occurs first, or as soon thereafter as is practicable.

Notwithstanding the foregoing, if an emergency occurs at times other than regular business hours, the concerned department may purchase directly the required goods or contractual services. The requesting Department shall, however, whenever practicable, secure competitive telephone bids and order delivery to be made by the lowest responsible bidder. The requesting department shall also, as soon as practicable, submit to the Purchasing Agent a tabulation of bids received, if any, a copy of the delivery record and a written explanation of the circumstances of the emergency.

E. Small Purchases.

Purchases where the estimated total cost of the materials, equipment, supplies, shipping, insurance, construction, or service are not expected to exceed One Hundred Thousand Dollars (\$100,000) may be awarded in accordance with procedures delineated in the most recently approved Purchasing Procedures/Regulations.

Small purchase procedures shall include but are not limited to the following provisions:

1. Purchases from nongovernmental sources where the estimated total cost of the goods or services are \$10,000 or greater but less than \$100,000 may be made after soliciting a minimum of three (3) written quotations.
2. Purchases from nongovernmental sources where the estimated total cost of the goods or services is \$1,000 or greater but less than \$10,000 may be made after soliciting a minimum of three (3) written, or documented verbal or telephonic quotations. Purchase orders are required for any purchase of a single item costing \$1,000 or more. Purchase orders are not required for Professional Services.
3. Purchases where the estimated total cost of the goods or services is less than \$1,000 may be made upon receipt of one (1) fair and reasonable price.
4. Purchase of used equipment, defined as equipment which has been previously owned and used where the estimated total cost is \$5,000 or greater but less than \$100,000, may be made after soliciting a minimum of two (2) written quotations; award shall be based on the offer deemed to be in the best interest of Patrick County. Prior to the award of a contract for used equipment, a person technically knowledgeable of the type of equipment sought shall document the condition of the equipment stating that this purchase would be in the best interest of the County as part of the purchase documentation; price reasonableness shall be considered in determining award.
5. Nothing in this section shall preclude requiring more stringent procedures for purchases made under the small purchase method.

F. Use of County Credit Cards for Small Purchases.

Small purchase of less than \$1,000 may be made with a County credit card. Purchases greater than \$1,000 must be approved by the Purchasing Agent prior to the purchase. Purchase orders are required for any purchase of a single item costing \$1,000 or more when made with the County credit card.

G. Exemptions and Exceptions.

The County may not enter into contracts without competition, except those exemptions outlined in §§2.2-4344 and 2.2-4346, Virginia Code, 1950, as amended. The County may enter into contracts without competitive sealed bidding or competitive negotiation

for insurance if purchased through an association of which Patrick County is a member, if the association was formed and is maintained for the purpose of promoting the interest and welfare of, and developing close relationships with, similar public bodies, provided such association has procured the insurance by use of competitive principles and provided that a determination is made in advance after reasonable notice to the public and set forth in writing that competitive sealed bidding and competitive negotiation are not fiscally advantageous to the public. The writing shall document the basis for this determination.

H. Exemptions to Competitive Procurement Requirements

1. Dues and Professional Licenses: Professional organization membership dues and fees to maintain professional licenses.
2. Honoraria/Entertainment: Payment for a service, such as authors, speakers, lecturers, musicians, and performing artists.
3. License Agreements: License agreements with the owner of the source code for existing software and/or manufacturer of sophisticated scientific equipment.
4. Perpetual Software Support: Competitively purchased software that requires annual support including upgrades to keep the product current, is considered both proprietary and perpetual, as support cannot be provided by anyone other than the source code or current program/software holder. For that reason, software support does not require the same competitive justification as other purchases so long as the original purchase is competitive and the same company provides the support, until that product/software is no longer utilized. Using Departments must verify that the pricing is fair and reasonable and that the product/software is still available through the current provider with each purchase.
5. Media Purchases: Advertisements and legal notices such as in newspapers, magazines, journals, radio, and television.
6. Other Agencies: purchases from the federal government, other states and their agencies or institutions, and public bodies. Care must be exercised to verify pricing as fair and reasonable.
7. Training:
 - a. Training provided by professional organization: Classes, workshops, or conferences provided by a professional organization rather than a training vendor or individual. This exemption is limited to organizations that are associated with professional accreditation or certification.
 - b. Specialized training: Training that is specialized, proprietary, and not typically

available to the general public for which competition is generally unavailable. Specialized technical training provided by a vendor for their equipment is included in this category. Justification must be prepared to document verification of exclusivity.

8. Books, printed materials, reprints and subscriptions: Books, printed materials, reprints, and subscriptions, pre-recorded audio and video material, when only available from the publisher/producer.
9. Dave Zinder of Zinder Technologies is the sole source provider for personal computers as he provides support. Mr. Zinder has an existing arrangement with a supplier to provide personal computers at prices lower than the amount they could be purchased for at a retail supplier.

I. Collusion Among Bidders.

More than one (1) bid from an individual, firm, partnership, corporation, or association under the same or different name will be rejected. Reasonable grounds for believing that a bidder is interested in more than one bid for the work contemplated will cause rejection of all bids in which the bidder is interested. Any or all bids may be rejected if there is any reason for believing that collusion exists among the bidders. Participants in such collusion may not be considered in future bids for the same work. Each bidder, as a condition of submitting a bid, shall certify that he is not a party to any collusive action as herein defined.

J. Contract Award Approval.

No contract resulting from a formally issued IFB or RFP that exceeds One Hundred Thousand Dollars (\$100,000) shall be awarded without the approval of the Patrick County Board of Supervisors.

K. Unauthorized Purchases.

1. Whenever any officer or employee of the County purchases or contracts for any supplies or services contrary to the provisions of this Policy, such purchases or contract shall be void and shall not be considered to be an obligation of the County.
2. Any County officer or employee making or approving a purchase contrary to the provisions of this Policy, shall be personally liable for the costs of such purchases or contract. If already paid out of County funds, the amount thereof in the name of the County, may be recovered by deduction from that person's compensation or an appropriate legal action instituted.

L. Public Access to Procurement Information.

Except as provided herein, all proceedings, records, contracts and other public records relating to procurement transactions shall be open to the inspection of any citizen, or any interested person, firm or corporation, in accordance with the Virginia Freedom of Information Act (§2.2-3700 *et seq.*, Virginia Code, 1950, as amended). Cost estimates

relating to a proposed transaction prepared by or for the County shall not be open to public inspection.

Any competitive sealed bidding bidder, upon request, shall be afforded the opportunity to inspect bid records within a reasonable time after the opening of all bids but prior to award, except in the event that the County decides not to accept any of the bids and to reopen the contract. Otherwise, bid records shall be open to public inspection only after award of the contract.

Any competitive negotiation offeror, upon request, shall be afforded the opportunity to inspect proposal records within a reasonable time after the evaluation and negotiations of proposals are completed but prior to award, except in the event the County decides not to accept any of the proposals or decides to reopen the contract. Subject to the provisions of this section, proposal records shall be open to public inspection after award of the contract.

Any inspection of procurement transaction records under this section shall be subject to reasonable restrictions to ensure the security and integrity of the records.

Pursuant to §2.2-4342 of the Virginia Code, 1950, as amended, trade secrets or proprietary information submitted by a bidder, offeror or contractor in connection with a procurement transaction or pre-qualification application shall not be subject to public disclosure under the Virginia Freedom of Information Act (§ 2.2-3700 *et seq.*, Virginia Code, 1950, as amended); however, the bidder, offeror or contractor must invoke the protections of this section prior to or upon submission of the data or other materials, and must identify the data or other materials to be protected and state the reasons why protection is necessary.

M. Employment Discrimination by Contractor Prohibited.

Every contract of over \$10,000 shall include the provisions contained in subsections (1) and (2) below:

1. During the performance of this contract, the contractor agrees as follows:
 - a. The contractor will not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, age, disability, or other basis prohibited by state or federal law relating to discrimination in employment, except where there is a *bona fide* occupational qualification reasonably necessary to the normal operation of the contractor. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.
 - b. The contractor, in all solicitations or advertisements for employees placed by or on behalf of the contractor, will state that such contractor is an Equal Opportunity Employer.

- c. Notices, advertisements and solicitations placed in accordance with federal law, rule or regulation shall be deemed sufficient for the purpose of meeting the requirements of this section.
- 2. The contractor will include the provisions of the foregoing paragraphs a, b and c in every subcontract or purchase order of over \$10,000 so that the provisions will be binding upon each subcontractor or vendor.

N. Drug-Free Workplace

During the performance of any contract with Patrick County, the contractor agrees to (i) provide a drug-free workplace for the Contractor's employees; (ii) post in conspicuous places, available to employees and applicants for employment, a statement notifying employees that the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana is prohibited in the Contractor's workplace and specifying the actions that will be taken against employees for violations of such prohibition; (iii) state in all solicitations or advertisements for employees placed by or on behalf of the Contractor that the Contractor maintains a drug-free workplace; and (iv) include the provisions of the foregoing clauses in every subcontract or purchase order of over \$10,000, so that the provisions will be binding upon each subcontractor or vendor.