

OFFICE OF THE COUNTY ADMINISTRATOR600 West Fourth Street
Davenport, Iowa 52801-1003Office: (563) 326-8702
Email: david.farmer@scottcountyiowa.gov
www.scottcountyiowa.govItem 9
9-14-21

Date: September 7, 2021

To: Mahesh Sharma, County Administrator

From: David Farmer, Director of Budget & Administrative Service, CPA, MPA

Re: Local Preference Bidding - Update

Administration completed an analysis of vendor payments from May 2019 – April 2020. This time period reflects normal purchasing generally before the COVID-19 pandemic started. This represents all vendors of Scott County, Scott County Library, Scott County EMA, SECC, County Assessor, Davenport Assessor, the Eastern Iowa Mental Health and Disability Services Fiscal Agent, and other fiduciary funds. It excludes disbursements of expense reimbursements to employees, taxes and other employee benefits.

The following table further dissects the Scott County spending over the 12 month period:

Purchasing Within:	Spend	Average Dollar Amount	Number of Different Vendors
All vendors, excluding payroll / benefits	\$41,227,486	\$28,810	1,431
6 County Region (Scott, Clinton, Muscatine, Rock Island, Henry and Mercer)	\$22,371,191	\$31,959	700
Purchases outside of 6 county area	\$18,856,295	\$25,795	731
Scott County only	\$14,340,894	\$25,747	557

Analysis of Items to Scott County Board Approval (Purchases over \$15,000)

Fiscal Year	Agenda Items over \$15,000	% of items with local vendor responding	Awarded to Local Vendor, if responding
2020-2021	45	53%; 24 out of 45	79%; 19 out of 24
2019-2020	55	65%; 36 out of 55	72%; 26 out of 36
2018-2019	60	60%; 36 out of 60	89%; 31 out of 36
2017-2018	56	43%; 24 out of 56	71%; 17 out of 24
2016-2017	78	53%; 41 out of 78	76%; 31 out of 41
	294	55%; 161 out of 294	77%; 124 out of 161

Notes / Observations:

For purposes of analysis of board action items, “local vendor” is defined as a mailing vendor address within the six county region defined above.

55% of agenda items had a least one local vendor respond to services.

77% of awards that had a local vendor respond, the purchase was awarded to the local vendor.

Items that generally did not have a local vendor included: IT or specialized equipment, specialized consulting services, snow / ice salt, pavement marking, bridge steel, aerial mapping. Some contracts are recurring contracts and thus if there were no local quotes in one year, it reoccurred in future year.

Fiscal Year	Non –Local Award if locals Responded	Would Local Bidding Preference change result	Notes of non-application of policy:	Additional Costs if awarded base on local preference:
2020-2021	5	0	2 Rescinded; 1 Technical; 2 Costs	
2019-2020	8	2	3 Technical Specifications; 5 Price Difference Gap	\$2,544; Vehicles
2018-2019	5	0	1 Professional Services; 4 Price Gap	
2017-2018	7	1	1 Professional Services; 5 Price Gap	\$200; Professional Services
2016-2017	10	4	1 Technical Specification; 5 Price Gap	\$7,181; 1 Contract Vehicles, 3 Contracts Specialized equipment

The May 13, 2021 proposed resolution suggests applying a discount to the contracts based on bids / quotes. Rather than a discount applied on the proposed contract to the vendor, the thresholds were applied as an evaluation tool, thus the local vendor may still be higher than the low bid / quote, but retain their proposed costing structure.

The May 13, 2021 proposed resolution referenced bidders and did not differentiate on professional services which by current policy are evaluated on ability to perform the work, responsiveness, past performance, references and price. In addition the department may take into consideration reputation, business and financial capabilities. In applying the proposed resolution to the analysis, the contract was only evaluated on price and none of the above capabilities.

The application of the preference tool, may have changed 7 board awards of services out of 35 awarded to out of county vendors. The 7 contracts amount to \$9,925 of potential additional cost to the County: 3 specialized equipment; 1 new professional service; and 3 vehicle purchases.

The proposed policy was not applied to several contracts due to quote recessions, technical specifications, or the pricing tool would not have changed the recommended bid / quote:

Fiscal Year	Award Changes	Recessions	Technical Aspect	Bid / Quote Gap Would Not Change Recommendation
2020-2021	0	2	1	2
2019-2020	2		3	5
2018-2019	0		1	4
2017-2018	1		1	5
2016-2017	4		1	5
Total	7	2	7	21

Additional considerations:

- The policy defines a “Local Bidder” shall be defined as any business with a principal place of business and significant employee presence in Scott, Clinton, or Muscatine Counties in Iowa, Rock Island, Henry and Mercer counties in Illinois. Additional staff time will be necessary to qualify a vendor as having a “principal place of business” or “significant employee presence” to differentiate from resellers of product developed elsewhere or insignificant employees within the six-county region. The above analysis was primarily completed via mailing address of the vendor. Additional definition of these terms may be necessary to avoid challenges and the application of approved policy.
- The additional staff cost to assess purchases in real time at the time of purchase, obtain additional quotes specifically geared to Scott County or to reject all proposals and wait on a local response was not fully evaluated. Time and effort costs to evaluate a purchase may exceed cost differential for a vendor without clear definition of a qualified responder, bid, or quote.
- Further assessment would be required to apply a local bidder preference to quotes for professional services.
- An analysis of the economic impact of dollars spent within the six county region was not completed. A consideration of such analysis would likely consider the profit margin on the dollar spent on said product and if the dollar would be re-invested in the local economy.
- The Iowa Local Option Sales Tax is a formula driven to not differentiate between individual city municipalities but by County. There are no reciprocal tax agreements of sales taxes between Iowa and Illinois, or individual Iowa counties.
- Clinton County does not have a local preference purchase requirement in their purchase policies. Muscatine County will consider purchases of goods and services by a business owned by a County resident and which is located within the County when the cost of the good an service and other consideration of the purchase are relatively equal. Additional county guidance, federal guidance, and state guidance are within the appendix to the memorandum. Any policy change by Scott County would not necessarily create a reciprocal agreement by counter-part counties, and thus may impact the quote / bids of vendors within Scott County and increase the estimated costs for service.

County comparison of public purchasing policies. A sample of policies was obtained from other county governments within the state of Iowa.

Scott County: Whenever feasible, all purchases, leases and contracts for goods, supplies, materials, equipment and services required for public use shall be on an equal and competitive basis. All acquisitions or purchases for like item purchases are to be awarded to the lowest responsible bidder. In determining the lowest responsible bidder consideration shall be given to the vendor's price, conformance with specifications in all material respects, and past performance. In addition, the Purchasing Division may take into consideration reputation, business, and financial capabilities.

Utilization of professional services shall be awarded based on consideration of factors including, but not limited to, ability to perform work, responsiveness, past performance, references, and price. In addition, the department may take into consideration reputation, business, and financial capabilities.

All parties involved shall comply with all applicable laws and regulations pertaining to their employment practices, and shall not discriminate in providing services on the basis of race, color, creed, national origin, sex, handicapped condition or religious affiliation.

The County shall comply with the state preference law as it relates to Iowa products.

In accordance with Iowa Code, Chapter 73, whenever possible, all requests for bids and all proposals for expenditure of public funds must be made in general terms so that no brand or trade names are specified. Also, all requests must contain this statement: "By virtue of statutory authority, a preference will be given to products and provisions grown and coal produced within the State of Iowa."

Polk County: "The Polk County board of supervisors and the procurement office retain discretion in applying preference in purchasing goods and services from vendors who produce goods, provide services or maintain an office in Polk County. Preference may also be given to suppliers of goods and services who maintain facilities in Iowa, but outside of Polk County. Further it shall be the policy of Polk County to actively solicit and seek out local vendors of goods and services and to encourage said vendors to stock and supply Polk County and Iowa made products."

"Geographic location of offices and / or manufacturing facilities in Polk County and the state of Iowa may be selection criteria in the purchase of goods and services for the county. In the event that a known supplier is in the geographic area, a competitive process (for goods and services over \$5,000 in total project costs) must still be conducted to verify the fair market value of the local vendors' quote(s)(see Polk County Board of Supervisors Vendor Preference Policy Statement Section above)"

Award Criteria stated in advance.

No threshold is listed.

"Governmental Grants and Funding Sources (Non-Polk County) – In the event that grants and/ or any public funding sources become available outside of Polk County funds, the Procurement Office will have the authority to waive the county procurement rules in order to follow the specific funding agency rules only for that specific project in order to be eligible for funding. The Procurement Supervisor and / or assigned Procurement staff will work with the funding agency to determine what rules and regulations must be followed and will have the responsibility to author and all documents and administer all processes from initial research through vendor award."

<https://www.polkcountyiowa.gov/media/mc1lemx0/procurement-purchasing-internal-policy-and-manual.pdf>

Linn County: GSA or other approved purchasing consortium pricing may be used as a quote in an RFP or RFQ. Additional quotes should be obtained.

With respect to procurement of services with grant funds, regardless of dollar amount, departments must following the guidance in Policy No. FM-011, *Grant Administration*, as the Federal procurement requirements and mandated by CFR Section 200 are applicable to the procurement of both tangible goods and services.

Linn County gives no preference in vendor selection to any vendor based on location.

Linn County gives no preference in vendor selection to any vendor based on the union or non-union affiliation of the vendor.

Black Hawk County: Competitive bidding not required for professional service contracts.

No reference to preferences.

<https://www.blackhawkcounty.iowa.gov/DocumentCenter/View/845/Bidding-Requirements-and-Procedures-PDF>

Woodbury County: No preferences

file:///C:/Users/scad7002/Downloads/7d_2019_Woodbury_County_Procurement_Policy_03-26-19.pdf

Clinton County:

Competition: Clinton County will provide full and open competition; prohibit use of state and local geographical preferences; develop written procedures for procurement transactions to ensure competition is not restricted; and ensure that pre-qualified lists are current.

Muscatine County: Whenever feasible, all purchases, leases and contracts for goods, equipment and services required for public use shall be on an equal and competitive basis. All acquisitions are to be awarded to the lowest responsible bidder. In determining the lowest responsible bidder, consideration shall be given to price, conformance with specifications and past performance. In addition, reputation, business and financial capabilities may be taken into consideration. The County will also consider purchase of goods and services from a business owned by a County resident and which is located in within the County when the cost of good or service and other considerations of the purchase are relatively equal.

Federal Purchasing Guidance: Section 200.320 defines methods of procurement to be followed. Procurement method focuses on lowest qualified bidder or quotes for services. Section 200.321 describes the efforts to contract with small and minority businesses, women's' business enterprises and labor surplus area firms.

Iowa Chapter 26 (2021):

Public Improvement: mean a building or construction work that is constructed under the control of a governmental entity and for which either of the following applies: has been paid for in whole or in part with funds of the governmental entity; or a commitment has been made prior to construction by the governmental entity to pay for the building or construction work in whole or in part with funds of the governmental entity.

Excludes: 1) urban renewal demolition and low-rent housing projects; 2) industrial aid projects authorized under chapter 419; 3) emergency work or repair or maintenance work performed by

employees of a governmental entity; 4) a highway, bridge or culvert project; 5) City utility....6) rural water district under chapter 357A by its employees;

26.3 Competitive bids for public improvement contracts

1. If the estimated total cost of a public improvement exceeds the competitive bid threshold of one hundred thousand dollars or the adjusted competitive bid threshold established in section 314.1B, (\$139,000* 2021 amount) the governmental entity shall advertise for sealed bids for the proposed public improvements by posting a notice to bidders not less than thirteen days.....

26.4 Exemptions from competitive bids and quotations.

Architectural, landscape architectural, or engineering design services procured for a public improvement are not subject to 26.3 and 26.14

26.9 Award of contract

1. The contract for the public improvement must be awarded to the lowest responsive, responsible bidder. However, contract relating to public utilities or extensions or improvements thereof, as described in sections 384.80 through 384.94, may be awards by the city as it deems to be in the best interests of the city. This section shall not be construed to prohibit a governmental entity in the award of a contract for public improvement..... , in the award of a contract for a public improvement, an enhancement of payments upon early completion of the public improvement if the enhancement payments is included in the notice to bidders, the enhancement payments are competitively neutral to potential bidders, the enhancement payments are considered as a separate item in the public hearing on the award of contract, and the total value of the enhancement payments does not exceed ten percent of the value of the contract.

26.14 Competitive quotations for public improvement contracts.

Competitive quotes are required for the county for projects between \$67,000 and \$100,000 (\$103,000 since 2019).

26.16 Prequalification requirements prohibited

A governmental entity shall not by ordinance, rule, or any other action relating to contracts for public improvements for which competitive bids are required by this chapter impose any requirement that directly or indirectly restricts potential bidders to any predetermined class of bidders defined by experience on similar projects, size of company, union membership, or any other criteria. However a governmental entity shall require nonresident bidders to comply with section 73A.21, subsection 4.

“The public body involved in a public improvement shall require a nonresident bidder to specify on all project bid specifications and contract documents whether any preference as described in subsection 2 in in effect in the nonresident bidder’s state or county of domicile at the time of a bid submittal.”

Manufacturer’s requirements which call for certain installation experience or installer’s certification can still be included in project specifications, but if so, the specifications should clearly state that these are a requirement of the manufacturer.