

MEETING AGENDA

Androscoggin County Commissioners
2nd Floor Conference Room
June 3, 2020
5:15 p.m.



I. **Call Meeting to Order** Time: _____

II. **Pledge of Allegiance**

III. **Roll Call** Commissioners Absent: _____

IV. **Accept and Approve with a Waiver of Reading the Minutes**

A*	Meeting Dates: May 20, 2020	
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V. **Review and Approval of all Bills, Part-Time Deputies Payroll**

A*	Warrants # 2038, 2039, Payroll.	
B*	Corrections Warrants # 1974J, 1975J.	

VI. **Reports** **Notes:**

A	M.C.C.A.	
B	Central/Western Maine Workforce Board	
C	Sheriff, Jail, Communications Reports	
D	Administrator's Report	

VII. **Comments from the Public** **Notes:**

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VIII. **New Business** **Notes:**

A*	Purchasing & Procurement Policy	
B*	Sub-Award Policy	

IX. **Discussion Items (Commissioners Only)**

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X. **Future Agenda Items (Commissioners Only)**

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XI. **Executive Session**

A	Pursuant to Title 1 M.R.S.A. Section 405(6) Subsection (C).	
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XII. **Adjourn** Time: _____

• Next Commissioners' Meeting: June 17, 2020 - 5:15 p.m.

* Action Required

PURCHASING POLICIES AND PROCEDURES FOR THE PROCUREMENT OF SUPPLIES, EQUIPMENT, CONSTRUCTION AND SERVICES

Overview

THE POLICIES DESCRIBED IN THIS SECTION APPLY TO ALL PURCHASES MADE BY THE COUNTY OF ANDROSCOGGIN.

It is the policy of The County of Androscoggin to follow a practice of ethical, responsible and reasonable procedures related to purchasing, agreements and contracts, and related forms of commitment. The policies in this section describe the principles and procedures that all staff shall adhere to in the completion of their designated responsibilities.

Responsibility for Purchasing

All department heads shall have the authority to initiate purchases on behalf of their department, within the guidelines described in this policies manual. In addition, department directors may delegate purchasing authority to responsible individuals within their department. **Department directors shall inform the accounting department of all individuals that may initiate purchases or prepare purchase orders. The accounting department shall maintain a current list of all authorized purchasers of The County of Androscoggin.**

Code of Conduct in Purchasing

Ethical conduct in managing the County's purchasing activities is absolutely essential. Staff must always be mindful that they represent the Commissioners and the County of Androscoggin and share a professional trust with other staff and the general management.

- Staff shall discourage the offer of, and decline, individual gifts or gratuities of value in any way that might influence the purchase of supplies, equipment, and/or services.
- Staff shall notify their immediate supervisor if they are offered such gifts.
- No officer, commissioner, employee, or agent shall participate in the selection or administration of a contractor if a real or apparent conflict of interest would be involved. Such a conflict would arise if an officer, commissioner, employee or agent, or any member of his or her immediate family, his or her spouse or partner, or an organization that employs or is about to employ any of the parties indicated herein, has a financial or other interest in the vendor selected.

- Officers, commissioners, employees, and agents shall neither solicit nor accept gratuities, favors, or anything of monetary value from vendors or parties to sub-agreements.
- Unsolicited gifts with a value of \$25 or less may be accepted with the approval of the County Administrator.

Non-Discrimination Policy

All vendors/contractors who are the recipients of Organization funds, or who propose to perform any work or furnish any goods under agreements with The County of Androscoggin shall agree to these important principles:

1. Vendors/Contractors will not discriminate against any employee or applicant for employment because of race, religion, color, sexual orientation or national origin, except where religion, sex, or national origin is a bona fide occupational qualification reasonably necessary to the normal operation of the vendors/contractors.
2. Vendors/contractors agree to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this non-discrimination clause. Notices, advertisement and solicitations placed in accordance with Federal law, rule or regulation shall be deemed sufficient for meeting the intent of this section.

Use of Purchase Orders

The County of Androscoggin does have a formal purchase order system and purchase orders should be used when possible. Purchase orders should be used for the following purchases.

- When charging more than \$100 on the credit card or with a vendor with whom the county does not have an established credit account.
- When charging more than \$250 on Amazon.
- When charging more than \$500 with current vendor.

Required Solicitation of Quotations from Vendors

Purchases less than the aggregate of \$2,500 for labor, equipment, supplies or services purchased, leased or contracted for may be awarded without soliciting competitive quotations if the price is considered reasonable and purchases are distributed among qualified vendors.

Purchase decisions in the amount of \$2,500 and less than \$10,000 for labor, equipment, supplies or services purchased, leased or contracted for must have oral price or rate quotations documented and must be obtained by at least three qualified sources, if possible.

Purchase decisions exceeding \$10,000 for labor, equipment, supplies or services purchased, leased or contracted for shall be made only after receiving whenever possible, written quotations from at least three (3) vendors from Request for Bids or Request for Proposals. Specific selections shall be recommended, to the Commissioners for approval with written quotations attached for review. Recommendations shall be based on consideration of all applicable criteria as described under "Evaluation of Alternative Vendors" below. A copy of RFB or RFP, Proposal scoring grids including who participated in the scoring and Proposal and contract of winning bid is required for documentation. Sealed bids shall be utilized when required by a Federal awarding agency.

Except as otherwise provided by law, competitively awarded orders, grants or contracts made by the County of Androscoggin must be awarded to the best-value bidder, taking into consideration the qualities of the goods or services to be supplied, their conformity with the specifications, the purposes for which they are required, the date of delivery and the best interest of the County. If the bidder that was initially awarded the order, grant or contract does not perform, the County of Androscoggin may cancel the order, grant or contract and award a new order, grant or contract to the 2nd best-value bidder. The order, grant or contract may not be awarded to a bidder that the County of Androscoggin determined was not in compliance at the time the initial bid was submitted.

Any purchases of \$100,000 or more of tangible personal property, except for public utility purchases, as defined in Title 36, section 1752 of the Maine State Statutes subsection 17, or emergency purchases pursuant to subsection 2, paragraph B, may be made only from a person who is registered as a seller pursuant to Title 36, section 1754-B. (Maine State Statutes section 1825-B).

Solicitations for goods and services (requests for proposals) should provide for all of the following:

1. A clear and accurate description of the technical requirements for the material, product or service to be procured. In competitive procurements, such a description shall not contain features, which unduly restrict competition.
2. Requirements which the bidder/offeror must fulfill and all other factors to be used in evaluating bids or proposals (see the next section entitled "Evaluation of Alternative Vendors" for required criteria)
3. A description, whenever practicable, of technical requirements in terms of functions to be performed or performance required, including the range of acceptable characteristics or minimum acceptable standards.

4. The specific features of "brand name or equal" descriptions that bidders are required to meet when such items are included in the solicitations.
5. The acceptance, to the extent practicable and economically feasible, of products and services dimensioned in the metric system of measurement.
6. Preference, to the extent practicable and economically feasible, for products and services that conserve natural resources and protect the environment and are energy efficient.
7. A description of the proper format, if any, in which proposals must be submitted, including the name of the County of Androscoggin person to whom proposals should be sent.
8. The date by which proposals are due.
9. Required delivery or performance dates/schedules.
10. Clear indications of the quantity(ies) requested and unit(s) of measure.

Extensions of Due Dates and Receipt of Late Proposals

Solicitations should provide for sufficient time to permit the preparation and submission of offers before the specified due date. However, in the event that a prospective offeror requests an extension to a due date specified in a solicitation, and such an extension is both justified and compatible with the requirements of the County of Androscoggin an extension may be granted by the purchasing representative.

Vendor proposals are considered late if received after the due date and time specified in the solicitation. All such late proposals shall be marked "Late Proposal" on the outside of the envelope and retained, unopened, in the procurement folder. Vendors that submit late proposals shall be sent a letter notifying them that their proposal was late and could not be considered for award.

Evaluation of Alternative Vendors

Alternative vendors shall be evaluated on a scale that considers the following criteria:

1. Adequacy of the proposed methodology of the vendor
2. Skill and experience of key personnel
3. Demonstrated company experience
4. Other technical specifications (designated by department requesting proposals)
5. Compliance with administrative requirements of the request for proposal (format, due date, etc.)
6. Vendor's financial stability
7. Vendor's demonstrated commitment to the nonprofit sector
8. Results of communications with references supplied by vendor

9. Ability/commitment to meeting time deadlines
10. Cost
11. Minority- or women-owned business status of vendor
12. Other criteria (to be specified by department requesting proposal)

Not all of the preceding criteria may apply in each purchasing scenario. However, in each situation requiring consideration of alternative vendors, the department responsible for the purchase shall establish the relative importance of each criterion prior to requesting proposals and shall evaluate each proposal on the basis of the criteria and weighting that have been determined.

After a vendor has been selected and approved by the department director, the final selection shall be approved by the County Administrator and the Commissioners (if over \$10,000) prior to entering into a contract.

Affirmative Consideration of Minority, Small Business Women-Owned Businesses and Labor Surplus Area Firms

Positive efforts shall be made by the County of Androscoggin to utilize small businesses, minority-owned firms, women's business enterprises and labor surplus area firms, whenever possible. The following steps shall be taken in furtherance of this goal:

1. Ensure that small business, minority-owned firms, women's business enterprises and labor surplus area firms are used to the fullest extent practicable.
2. Make information on forthcoming opportunities available and arrange time frames for purchases and contracts to encourage and facilitate participation by small business, minority-owned firms women's business enterprises and labor surplus area firms.
3. Consider in the contract process whether firms competing for larger contracts tend to subcontract with small businesses, minority-owned firms and women's business enterprises.
4. Encourage contracting with consortiums of small businesses, minority owned firms women's business enterprises and labor surplus area firms when a contract is too large for one of these firms to handle individually.
5. Use the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Department of Commerce's Minority Business Development Agency in the minority-owned firms and women's business enterprises.

Special Purchasing Conditions

Emergencies:

Where equipment, materials, parts, and/or services are needed, quotations will not be necessary if the health, welfare, safety, etc., of staff and protection of County property is involved.

Single Distributor/Source:

Where there is only one (1) source for merchandise or services needed and no other source can meet the stated needs or specifications, quotations will not be necessary.

Federally-Funded Programs:

Purchases that will be charged to programs funded with federal awards may be subject to additional policies. ¹

Other Exclusions to Policy:

Exceptions to this policy can be made for purchases using non-federal or state funds which are unrestricted with approval from the County Administrator.

Procurement Procedures for Federal and State Grants

The following are the County of Androscoggin's additional procurement procedures specifically for federal and state grants:

1. The County of Androscoggin shall avoid purchasing items that are not necessary or duplicative for the performance of the activities required by a Federal award. (2 CFR PART 200 - UNIFORM GUIDANCE_44(1))
2. Where appropriate, an analysis shall be made of lease and purchase alternatives to determine which would be the most economical and practical procurement for the Federal government. (2 CFR PART 200 - UNIFORM GUIDANCE_44(2)) This analysis should only be made when both lease and purchase alternatives are available to the program.
3. Purchasers are encouraged to enter into state and local inter-governmental or inter-entity agreements where appropriate for procurement of use of common or shared goods and services.

¹ Other more restrictive standards may also apply in special circumstances. Refer to OMB Uniform Guidance for more details.

4. Purchases are encouraged to use Federal excess and surplus property in lieu of purchasing new equipment and property whenever such use is feasible and reduces project costs.
5. Some form of cost or price analysis shall be made for every procurement. Price analysis may be made in various ways, including comparison of price quotations submitted or market prices. Cost analysis is the review and evaluation of each element of cost to determine reasonableness, allocability, and allowability. (2 CFR PART 200 - UNIFORM GUIDANCE_45)
6. Documentation of the cost and price analysis associated with each procurement decision in excess of \$150,000 shall be retained in the procurement files pertaining to each Federal award. (2 CFR PART 200 - UNIFORM GUIDANCE_46)
7. The County of Androscoggin will maintain records sufficient to detail the history of procurement including;
 - a.. Rationale for the method of procurement
 - b. Selection of contract type
 - c. Contractor selection or rejection; and
 - d. The basis for the contract price.
8. The County of Androscoggin shall make all procurement files available for inspection upon request by a Federal awarding agency.
9. All contracts with vendors shall require the vendor to certify in writing that it has not been suspended or disbarred from doing business with any Federal agency. The County of Androscoggin will verify using the SAM website.
10. The County of Androscoggin shall not utilize the "cost-plus-a-percentage-of-costs method of contracting. (2 CFR PART 200 - UNIFORM GUIDANCE_44(3)(c))

All staff members with the authority to approve purchases will receive a copy of and be familiar with 2 CFR PART 200.400-475 - UNIFORM GUIDANCE, federal cost principles.

Provisions Included in All Contracts (2 CFR PART 200 - UNIFORM GUIDANCE Appendix II)

The County of Androscoggin includes all of the following provisions, as applicable, in all contracts charged to Federal awards (including small purchases) with vendors and sub-grants to grantees:

1. **Contracts** for more than the simplified acquisition threshold currently set at \$150,000, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council as authorized by 41 U.S.C. 1908, must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.
2. All contracts in excess of \$150,000 must address termination for cause and for convenience by the non-Federal entity including the manner by which it will be effected and the basis for settlement.
3. **Equal Employment Opportunity:** All contracts shall contain a provision requiring compliance with E.O. 11246, "Equal Employment Opportunity," as amended by E.O. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and as supplemented by regulations at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, and Department of Labor."
4. **Davis-Bacon Act, as amended (40 U.S.C. 276a to a-7):** If included in the Federal agency's grant program legislation, all construction contracts of more than \$2,000 awarded by the County of Androscoggin and its sub-recipients shall include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 276a to a-7) and as supplemented by Department of Labor regulations (29 CFR part 5, "Labor Standards Provisions Applicable to Contracts Governing Federally Financed and Assisted Construction"). Under this Act, contractors are required to pay wages to laborers and mechanics at a rate not less than the minimum wages specified in a wage determination made by the Secretary of Labor. In addition, contractors shall be required to pay wages not less than once a week. The County of Androscoggin will place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation and the award of a contract shall be conditioned upon the acceptance of the wage determination. The County of Androscoggin shall also obtain reports from contractors on a weekly basis in order to monitor compliance with the Davis-Bacon Act. The County of Androscoggin shall report all suspected or reported violations to the Federal awarding agency.
5. **Contract Work Hours and Safety Standards Act (40 U.S.C. 327-333):** All contracts awarded by the County of Androscoggin in excess of \$2,000 for construction contracts and in excess of \$100,000 for other contracts that involve the employment of mechanics or laborers shall include a provision for compliance with Sections 102 and 107 of the Contract Works Hours and Safety Standards Act (40 U.S.C. 327-333), as supplemented by Department of Labor regulations (29 CFR part 5). Under Section 102 of the Act, each contractor is required to compute wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than 1-1/2 times the basic rate of pay for all hours worked in excess of 40 hours in the work week. Section 107 of the Act is applicable to construction work and provides that no laborer or mechanic shall be required to work in surroundings or under working conditions that are

unsanitary, hazardous, or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

6. **Clean Air Act (42 U.S.C. 7401 et seq.) and the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), as amended:** Contracts and sub-grants of amounts in excess of \$100,000 shall contain a provision that requires the recipient to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401 et seq.) and the Federal Water Pollution Control Act, as amended (33 U.S.C. 1251 et seq.). Violations shall be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).
7. **Byrd Anti-Lobbying Amendment (31 U.S.C. 1352):** For all contracts or sub-grants of \$100,000 or more, the County of Androscoggin shall obtain from the contractor or sub-grantee a certification that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Likewise, since each tier provides such certifications to the tier above it, the County of Androscoggin shall provide such certifications in all situations in which it acts as a sub-recipient of a sub-grant of \$100,000 or more.
8. **Debarment and Suspension (E.O.s 12549 and 12689):** For all contracts in excess of the small purchase threshold fixed at 41 U.S.C. 403(11) (\$150,000 in 2015), the County of Androscoggin shall obtain from the contractor a certification that neither the contractor nor any of its principal employees are listed on the General Services Administration's *List of Parties Excluded from Federal Procurement or Non-procurement Programs*.
9. **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(42 U.S.C. 6201)

Right to Audit Clause

The County of Androscoggin requires a "Right to Audit" clause in all contracts between the Agency and vendors that either:

1. Take any form of temporary possession of assets directed for the Agency, or
2. Process data that will be used in any financial function of the Agency.

This Right to Audit clause shall permit access to and review of all documentation and processes relating to the vendor's operations that apply to the County of Androscoggin, as well as all documents maintained or processed on behalf of the County of Androscoggin, for a period of three years. The clause shall state that such audit procedures may be performed by the County of Androscoggin employees or any outside auditor or contractor designated by the Agency.

Vendor Files and Required Documentation

The Accounting Department shall create a vendor folder for each new vendor from whom the County of Androscoggin purchases goods or services.

A Form W-9 is required before a new vendor will be set up in the Accounting system. No payments will be made to a vendor without a W-9 form on file, unless authorized by the Finance Manager. In which case the Accounting Department shall mail a blank Form W-9 to new vendors and request that the vendor complete and sign the W-9 (or provide equivalent, substitute information) and return it in the postage-paid envelope provided.

Vendors who do not comply with this request may be subject to backup withholding and/or penalties in accordance with the Internal Revenue Service rules.

Completed, signed Forms W-9 or substitute documentation shall be filed in the Accounts Payable Department. All eligible vendors shall be issued a Form 1099 at the end of each calendar year in accordance with the policies described in the section of this manual on "Government Returns."

Receipt and Acceptance of Goods

A department staff or designated individual shall inspect all goods received. Upon receipt of any item from a vendor, the following actions shall immediately be taken:

1. Review bill of lading for correct delivery point
2. Verify the quantity of boxes/containers with the bill of lading
3. Examine boxes/containers for exterior damage and note on the bill of lading any discrepancies (missing or damaged boxes/containers, etc.)
4. Sign and date the bill of lading
5. Remove the packing slip from each box/container
6. Compare the description and quantity of goods per the purchase order to the packing slip
7. Examine goods for physical damage
8. Count or weigh items, if appropriate, and record the counts on the purchase order

This inspection must be performed in a timely manner to facilitate prompt return of goods and/or communication with vendors.

The person receiving and accepting goods should be separate from the person's responsible for the purchasing and bill-paying.

SUBAWARD POLICY

I. Summary

As the prime recipient of a sponsored program or program award, the County of Androscoggin is accountable to the federal or non-federal sponsor for the subrecipient's actions with respect to compliance with Office of Management and Budget Cost Principles, 2 CFR 200 and administrative compliance matters. Therefore, the County must monitor the subrecipients' activities in order to provide reasonable assurance that subrecipients administer subaward funding in compliance with sponsor requirements.

II. Who is Affected by this Policy

This policy applies to all sponsored projects and programs. It should be understood by all employees involved in Federal and/or State grants.

III. Definitions

Contract - In accordance with the Office of Management and Budget Uniform Guidance, a Contract is a legal instrument by which a non-Federal entity purchases property or services needed to carry out the project or program under a Federal award. The term as used in this part does not include a legal instrument, even if the non-Federal entity considers it a contract, when the substance of the transaction meets the definition of a Federal award or subaward.

Contractor - In accordance with the Office of Management and Budget Uniform Guidance, a Contractor is an entity that receives a contract as defined in Section 200.22 Contract.

Pass-through entity - In accordance with Office of Management and Budget Uniform Guidance, a pass-through entity is a non-federal entity that provides a subaward to a subrecipient to carry out part of a Federal program.

Subaward -In accordance with Office of Management and Budget Uniform Guidance, a Subaward is an award provided by a pass-through entity to a subrecipient for the subrecipient to carry out part of a Federal award received by the pass-through entity. It does not include payments to a contractor or payments to an individual that is a beneficiary of a Federal program. A subaward may be provided through any form of legal agreement, including an agreement that the pass-through entity considers a contract.

Subrecipient – In accordance with Office of Management and Budget Uniform Guidance, a Subrecipient is a non-Federal entity that receives a subaward from a pass-through entity to carry out part of a Federal program; but does not include an individual that is a beneficiary of such program. A subrecipient may also be a recipient of other Federal awards directly from a Federal awarding agency.

IV. Policy

The County of Androscoggin follows the requirements found in Office of Management and Budget Uniform Guidance, to distinguish subawards from other procurement actions. In determining whether an agreement between the County and another non-Federal entity cast the latter as a subrecipient or contractor, the substance of the relationship is more important than the form of the agreement. All of the characteristics listed below may not be present in all cases, and the County must use judgement in classifying each agreement as a subaward or a procurement contract.

Characteristics which support the classification of the non-Federal entity as a subrecipient include when the non-Federal entity:

1. Determines who is eligible to receive what Federal assistance;
2. Has its performance measured in relation to whether objectives of a Federal program were met;
3. Has responsibility for programmatic decision making;
4. Is responsible for adherence to applicable Federal program requirements specified in the Federal award; and
5. In accordance with its agreement, uses the Federal funds to carry out a program for a public purpose specified in authorizing statute, as opposed to providing goods or services for the benefit of the pass-through entity

Characteristics indicative of a procurement relationship between the non-Federal entity and a Contractor are when the contractor:

1. Provides the goods and services within normal business operations;
2. Provides similar goods or services to many different purchasers;
3. Normally operates in a competitive environment;
4. Provides goods or services that are ancillary to the operation of the Federal program; and
5. Is not subject to compliance requirements of the Federal program as a result of the agreement, though similar requirements may apply for other reasons.

The appropriate classification of a transaction as a subaward or other procurement action at the time it is proposed and funded is essential for ensuring proper accounting for costs and compliance requirements. Misclassification may result in delays in processing and inaccurate calculation of sponsored award costs, which may result in insufficient award funding available to the County.

Subawards issued by the County of Androscoggin must be initiated, monitored, modified, and closed by the County Administrator when the subaward is issued under an externally-

funded sponsored project or program. The County has the responsibility throughout the lifetime of the subaward agreement to monitor the activities of subrecipients in accordance with the terms and conditions of the prime sponsored award. The Department Head and/or Treasurer/Finance Director is responsible for the management and administration of the subaward in accordance with the sponsored award and County policy.

Contractor relationships may be initiated and monitored directly by the Department Heads.