



**PROCUREMENT CODE**  
**Including Federal & State Grants**

November 18, 2024

## ARTICLE 1 - GENERAL PROVISIONS

### 1.101 Purposes, Rules of Construction.

**Interpretation.** This Code shall be construed and applied to promote the following purposes and policies including federal and state grant funds.

**Purposes and Policies.** In this Code, include:

- (a) to simplify, clarify and modernize Geary County procurement;
- (b) to permit the continued development of procurement policies and practices;
- (c) to make as consistent as possible, the procurement procedures among the various Geary County departments;
- (d) to provide for increased public confidence in the procedures followed in Geary County procurement;
- (e) to ensure the fair and equitable treatment of all persons who deal with the Geary County procurement system;
- (f) to provide increased economy in Geary County procurement activities and to maximize to the fullest extent practicable the purchasing value of public funds available to Geary County;
- (g) to foster effective broad-based competition within the free enterprise system;
- (h) to protect the financial interest of all Geary County taxpayers;
- (i) to provide safeguards for the maintenance of a procurement system of quality and integrity;
- (j) to comply with the procurement requirements of federal and/or state grant programs.

**Singular-Plural and General Rules.** In this Code, unless the context requires otherwise:

- (a) words in the singular number include the plural, and those in the plural include the singular; and
- (b) words of a particular gender include any gender and the neuter, and when the sense so indicates, words of the neuter gender may refer to any gender.

### 1.102 Supplementary General Principles of Law Applicable.

Unless displaced by the provisions of this Code, the principles of law and equity, including the Uniform Commercial Code of Kansas, the law merchant, and law relative to capacity to contract, agency, fraud, misrepresentation, duress, coercion, mistake, or bankruptcy shall supplement the provisions of this Code.

### 1.103 Requirement of Good Faith.

This Code requires all parties involved in the negotiation, performance, or administration of Geary County contracts to act in good faith.

#### **1.104 Application of this Code.**

**General Application.** This Code applies only to contracts solicited or entered into after the effective date of this Code unless the parties agree to its application to a contract solicited or entered into prior to the effective date.

**Application to Geary County Procurement.** This Code shall apply to every expenditure of public funds from federal, state, or local assistance moneys except as otherwise specified by Geary County acting through the Board of County Commissioners, except that this Code shall not apply to either grants, or contracts between Geary County and its political subdivisions or other governments. Nothing in this Code or in regulations promulgated hereunder shall prevent any governmental body or political subdivision from complying with the terms and conditions of any grant, gift, bequest or cooperative agreement. State law or federal financial grant guidelines may prescribe special procedures for certain purchases and those requirements shall supersede the requirements of the Purchasing Policy.

This Code shall apply to all Geary County departments, except that the Board of County Commissioners may permit optional use of selected portions of the regulations as the Board sees fit.

Whereas adoption of an annual budget for the county and funding to meet the statutory obligations of the county are, by statute, the exclusive prerogative and responsibility of the Board of County Commissioners; and once a budget of an elected official's office is approved including necessary expenses, that the elected official cannot be required to obtain advance approval for purchases within the limits of the budget regardless of the amount. If an expenditure falls outside of the budget i.e., over budget, then the elected official must request advance approval of the Board of County Commissioners regardless of the amount. The board must approve the expenditure if it is necessary to perform the duties of the elected official's statutory duties. The Capital Improvement Plan and Facility Fund budgets are assembled for the county operation as a whole and is not considered to be a part of an elected or appointed officer's budget.

#### **1.105 Conflicts of Interest.**

No employee, officer, or agent can participate in the selection, award, or administration of a contract supported by a Federal award if he or she has a real or apparent conflict of interest. Such a conflict of interest would arise when the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated herein, has a financial or other interest in or a tangible personal benefit from a firm considered for a contract. The officers, employees, and agents of Geary County cannot solicit or accept gratuities, favors, or anything of monetary value from contractors or parties to subcontracts. However, Geary County may set standards for situations in which the financial interest is not substantial, or the gift is an unsolicited item of nominal value. Those standards of

conduct must provide for disciplinary actions for violations of such standards by officers, employees, or agents of Geary County.

**1.106 Severability.**

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

**1.107 Effective Date.**

This Code shall become effective upon adoption by the Geary County Board of County Commissioners.

**1.201 Definitions.**

The words defined in this Section shall have the meanings set forth below whenever they appear in this Code, unless:

- (a) the context in which they are used clearly requires a different meaning; or
- (b) a different definition is prescribed for a particular Article or provision.

**Advertisement for Bids:** all documents, whether attached or incorporated by reference, utilized for soliciting bids.

**Bid:** an offer, as a price, to furnish specified goods used for services at a specified price under a specified condition.

**Business:** any corporation, partnership, individual, sole proprietorship, joint stock company, joint venture, or any other private legal entity.

**Change Order:** a written order signed by the Board of County Commissioners or their designee, directing the contractor to make changes authorized by the Board of County Commissioners.

**Commodities:** a tangible good.

**Construction:** the process of building, altering, repairing, improving, or demolishing any public structure or building, or other public improvements of any kind to any public real property. It does not include the routine operation, routine repair or routine maintenance of existing structures, buildings, or real property.

**Contract:** an agreement between the County and one or more persons/businesses by which the other persons/businesses agree to provide, in exchange for consideration, any type of property, whether tangible or intangible, services or any other benefit to or for the County.

**Contract Modification:** any written alteration in specifications, delivery point, rate of delivery, period of performance, price, quantity, or other provision of any contract accomplished by mutual action of the parties of the contract.

**Contractor:** any person, partnership or corporation having a contract with Geary County.

**Cost-Reimbursement Contract:** a contract under which a contractor is reimbursed for costs which are allowable in accordance with the contract terms and the provisions of this Code, and a fee, if any.

**Data:** recorded information, regardless of form or characteristic.

**Emergency Procurement:** the purchase of supplies, services, and/or construction where the urgency of need does not permit the delay in utilizing formal competitive selection methods.

**Employee:** an individual drawing a salary from Geary County, whether elected or appointed.

**Established Catalog Price:** the price included in a catalog, price list, schedule, website, or other form that:

- (a) is regularly maintained by a manufacturer, supplier or contractor;
- (b) is either published or otherwise available for inspection by customers; and
- (c) states prices at which sales are currently or were last made to buyers constituting the general buying public for the supplies or services involved.

**Governmental Body:** any department, commission, council, board, bureau, committee, agency, corporation, or other establishment or official of any city, township, county, state, or nation.

**Grant:** the furnishing by the State of Kansas or the Federal Government of assistance, whether financial or otherwise, to support any Geary County program.

**May:** denotes the permissive.

**Parts:** individual pieces of equipment already owned by Geary County, purchased to repair the County owned equipment.

**Person:** any business, individual, committee, club, other organization, or group of individuals.

**Procurement:** buying, purchasing, renting, leasing, or otherwise acquiring any supplies, services, equipment, or construction. It also includes all functions that pertain to the obtaining of any supply, service, equipment, or construction, including

description of requirements, selection or solicitation of sources, preparation and award of contract, and all phases of contract administration.

**Professional Services:** refers to the sourcing and purchase of services from providers such as architects, accountants, lawyers, consultants.

**Proposal:** putting forward an offer to provide equipment, a service, goods, or construction. Geary County selects a proposal for acceptance based on predetermined criteria.

**Purchase Description:** the words used in a solicitation to describe the supplies, services, or construction to be purchased, and includes specifications attached to, or made a part of, the solicitation.

**Purchasing Card:** a method of payment with limits determined by the Finance Director and Department Head. Such payments must be compliant with the Geary County Purchasing Policy and Purchasing Card Policy.

**Qualified Vendor:** any vendor who has not been debarred or suspended from County consideration by the Board of County Commissioners within the past three (3) years.

**Regulation:** a governmental body's statement, having general or applicable and future affect, designed to implement, interpret, or prescribe law or policy, or describing organization, procedures, or practice requirements.

**Request for Proposal (RFP):** a written document wherein Geary County requests interested vendors to submit proposals for providing a service, good or construction as described in the Request for Proposal.

**Request for Qualifications (RFQ):** a documented process to narrow the selection of qualified vendors to respond to a solicitation of a bid/proposal, or to determine a list of qualified consultants that can be accessed as needed.

**Responsible Bidder or Offeror:** a person who has the capability in all respects to perform fully the contract requirement, and the integrity and reliability which will assure good faith performance.

**Sealed Bids:** a bid sealed in an envelope and opened at an appointed time and place.

**Services:** the furnishing of labor, time, or effort by a contractor, not involving the delivery of a specific end product other than reports which are incidental to the required performance.

**Shall:** denotes the imperative.

**Sole Source Procurement:** there is only one source for the required supply, service, or construction item due to uniqueness of the product, quality, or performance of the item, or need to maintain uniformity with past purchases.

**Supplies:** all property, including, but not limited to, equipment, materials, printing, insurance, and leases of real property, excluding land or a permanent interest in land.

**Trade Services:** services obtained from trades such as plumbing, electrical, painting and HVAC.

**Vendor:** a seller of commodities and/or services.

### **1.301 Public Access to Procurement Information.**

Purchasing documents are public records to the extent provided in the Kansas Open Records Act, K.S.A. 45-215 et seq. and amendments thereto. Exceptions to the Kansas Open Records Act, as listed in K.S.A. 45-221(a), are relevant to the purchasing process, such as:

- (a) Specifications for competitive bidding, until the specifications are officially approved.
- (b) Engineering and architectural estimates made by or for any public agency relative to public improvements.
- (c) Financial information submitted by contractors in qualifications statements. Fees for providing access to and copies of such documents shall be charged in accordance with the fee policies established by the Board of County Commissioners.
- (d) To the extent allowed by Kansas law, procurement information shall be a public record and shall be available to the public.

### **1.401 Purchasing Procedures other than Check, ACH, or Wire.**

#### **Petty Cash Funds.**

Petty cash maintained in cash of \$25.00 or less may be established by the Department Head for the purchase of miscellaneous small items. Petty cash maintained in cash or in a bank greater than \$25.00 shall be established by Resolution of the Board of County Commissioners. Receipts of expenditures must be submitted with a voucher request when replenishing petty cash.

#### **Change Funds.**

Departments may keep cash on hand for the sole purpose of making change for cash transactions. Such funds must be established by Resolution of the Board of County Commissioners if in excess of \$25.00, identified and kept separate from other cash and may not be more than \$500.00, except for the Treasurer's Office, which may not be in an amount more than \$1,600.

### **Purchasing Cards (P-Cards).**

The use of P-Cards for purchases is encouraged wherever possible. Employees to whom P-Cards are assigned must sign the Purchasing Card Cardholder Agreement after attending training on the County's Purchasing Policy. The Finance Office is responsible for the oversight of the Purchasing Card Program.

### **1.402 Purchases Subject to Statutory Procedures.**

Except when other provisions of this Policy specifically require stricter or additional standards than required by applicable Kansas statutes, the applicable Kansas statutes shall control. As such, all Kansas statutes governing purchases, including the following, shall be followed (subject to exceptions enumerated by statute in the event of emergency, disaster, hardship):

#### **Construction of County Buildings.**

- (a) All contracts for the expenditure of County funds for the construction of any courthouse, jail, or other County building more than \$25,000 shall be awarded in accordance with K.S.A. 19-214 et seq, which requires a public letting and award to the lowest and best bid. Notice of the request for bids shall be published in a newspaper designated by the Board of County Commissioners.
- (b) The notice shall specify with reasonable minuteness the character of the improvement contemplated, the time and place at which the contract will be awarded and invite sealed bids for the same. Plans and specifications of the proposed work shall be available for the inspection of bidders at a County office for at least 30 days prior to the time of awarding the contract.
- (c) The contractor awarded the contract shall give the County a surety bond by a surety company authorized to do business in the State of Kansas, to be approved by the County Counselor, in the amount of the contract, and conditioned upon the faithful performance of the contract.
- (d) Pursuant to K.S.A. 19-214(b), this subsection shall not apply to the expenditure of County funds for professional service, for contracts subject to K.S.A. 68-521 (relating to construction of County roads), or to the purchase of contracts of insurance.

#### **Construction of County Bridges and Culverts.**

- (a) All contracts for the construction or repair of any County bridge or culvert more than \$25,000 are subject to the same provisions as noted above with the construction of County buildings. In addition to K.S.A. 19-214 et seq, the following also governs such construction:
- (b) When the Board of County Commissioners determines it necessary to build or repair any bridge exceeding \$250,000:
  - i. it shall pass a resolution declaring such construction or repairs a necessity.
  - ii. Should it be necessary to issue bonds to cover the cost of the project, the resolution will be published once each week for two consecutive weeks in the official county newspaper. If, within 30 days, a protest

petition is signed and submitted by 5% of the legally qualified electors of the County, the Board of County Commissioners shall call an election on the question of the expense to build or repair a bridge exceeds \$250,000 (K.S.A. 68-1106);

- (c) Award of contract to lowest responsible bidder after public bidding by sealed bid, however when bidding a lump sum on two or more bridges or culverts, also submit a separate proposal on each of the bridges or culverts; when bids are let for a consolidated project, the board shall accept the lowest lump sum bid for such consolidate project if such lump sum bid is less than the sum of the lowest bid for each separate bridge or culvert included in such consolidated project and may accept the lowest lump sum bid in any other case (K.S.A. 68-1113 and 68-1113a);
- (d) Bid security in the amount of not less than 5% of the bid proposal (K.S.A. 68-1114);
- (e) The contract may not be awarded for more than 110% of the Engineer's estimated cost or at a higher price than the lowest responsible bid received at the public letting (K.S.A. 68-1115);
- (f) The bidder to whom the contract is awarded must provide a bond to Geary County in a penal sum equal to the amount of the contract price, conditioned upon faithful performance of the contract in a form approved by the County Counselor (K.S.A. 68-1117);
- (g) Retainage on contracts of no less than 5% (K.S.A. 68-1120); and
- (h) Determination of the County Counselor that the contract has been awarded in strict compliance with all statutory requirements (K.S.A. 68-1118).

#### **Construction of County Roads.**

- (a) All contracts for construction, surfacing, repairing, or maintaining of any County Road when the Engineer's estimated cost is more than \$25,000 shall be awarded in accordance with K.S.A. 68-521, which requires a public letting and award to the lowest responsible bidder. Notice of the request for bids shall, at a minimum, be published twenty (20) days prior to such letting, at least twice in a newspaper designated by the Board of County Commissioners.
- (b) The published notice shall specify with reasonable minuteness the character of the improvement contemplated, where it is located, the kind of material to be used, the hour, date, and place at which the contract will be awarded, when the work is to be completed, and invite sealed proposals for the same. Plans and specifications of the proposed work, which have been approved by the Board of County Commissioners, shall be displayed for the inspection of bidders at a County office for at least twenty (20) days prior to the time of letting the contract. The notice should also provide proposal blanks on which all bids shall be made. Each bid shall be submitted with bid security in the amount of not less than 5% of the bid proposal. No contract shall be let for an amount exceeding 110% of the Engineer's estimated cost of the work.
- (c) The contractor awarded the contract shall give the County a good and sufficient performance bond by a surety company authorized to do business in the State of Kansas, to be approved by the County Counselor, in the amount of

the contract and conditioned upon the faithful performance of the contract.  
The County Counselor shall approve the form of the bond.

**Construction of Roads in Benefit Districts.**

- (a) All contracts for improvement of roads in benefit districts shall be awarded in accordance with K.S.A. 68-704, which requires a public letting and award to the lowest responsible bidder. Procedures to follow are similar as those set forth above with respect to County roads generally, except publication of the notice of the request for bids need only be published one time and there is no requirement that the contract price be less than the Engineer's estimate.

## **ARTICLE 2 – SOURCE SELECTION AND CONTRACT FORMATION**

### **2.201 Methods of Source Selection.**

Unless otherwise authorized by law, all Geary County contracts shall be awarded by competitive bidding, pursuant to Section 2-202 (Competitive Sealed Bidding), except as provided in:

- (a) Section 2.203 (Competitive Proposals);
- (b) Section 2.204 (Micro or Small Purchases);
- (c) Section 2.205 (Sole Source Procurement);
- (d) Section 2.206 (Emergency Procurements);
- (e) Section 2.207 (Commodities Purchases);
- (f) Section 2.208 (Used Equipment Purchases);
- (g) Section 2.209 (Parts Purchases);
- (h) Section 2.210 (Competitive Selection Procedures for Non-Professional); or
- (i) Article 4, Procurement of Professional Services.

### **2.202 Competitive Sealed Bidding.**

**Conditions for Use.** Contracts shall be awarded by competitive sealed bidding for all procurement except as otherwise provided in Section 2.201 (Methods of Source Selection).

**Advertisement for Bids.** An Advertisement for Bids shall be issued to all possible suppliers, local and remote, and shall include a purchase description, and all contractual terms and conditions applicable to the procurement. Geary County shall comply with all grant requirements relating to soliciting bids from minority and/or women-owned businesses.

**Public Notice.** Adequate public notice of the Advertisement for Bids shall be given a reasonable time prior to the date set forth herein for the opening of bids, in accordance with the Board of County Commissioners' regulations or State Law. Such notice may include publication in the official Geary County newspaper, a reasonable time prior to bid opening, mailed notice and notice to known vendors by email. All advertisements for bids shall be placed on the Geary County website.

**Bid Opening.** Bids shall be opened publicly in the presence of one or more witnesses at the time and place designated in the Advertisement for Bids. Bids over \$5,000 shall be opened in the presence of the Board of County Commissioners. The amount of each bid, and such other relevant information as may be specified, together with the names of each bidder shall be recorded; the record and each bid shall be open to public inspection.

**Bid Acceptance and Bid Evaluation.** Bids shall be unconditionally accepted without alteration or correction, except as authorized in this Code. Bids shall be evaluated based

on the criteria set forth in the Advertisement for Bids, which may include criteria to determine acceptability such as inspection, testing, quality, workmanship, delivery, and suitability for a particular purpose. Those criteria that will affect the bid price and be considered in evaluation for award shall be objectively measurable, such as discounts, transportation costs and total or life cycle costs. The Advertisement for Bids shall set forth the evaluation criteria to be used. *No criteria may be used in bid evaluation that are not set forth in the Advertisement for Bids. However, the Board of County Commissioners reserves the right to waive any irregularities in the bid process as well as reserving the right to prioritize local bidders in this process.*

**Correction or Withdrawal of Bids; Cancellation of Awards.** Correction or withdrawal of inadvertently erroneous bids before or after award, or cancellation of awards or contracts based on such bid mistakes, shall be permitted as decided by the Board of County Commissioners. After bid opening, no changes in bid prices or other provisions of bids prejudicial to the interest of Geary County or fair competition shall be permitted. Except as otherwise provided, all decisions to permit the correction of bids, the withdrawal of bids, or to cancel awards or contracts based on bid mistakes, shall be supported by a written determination made by the Purchasing Department Head and approval by the Board of County Commissioners.

**Award.** The contract shall be awarded with reasonable promptness by written notice to the lowest and best bidder whose bid meets the requirements and criteria set forth in the Advertisement for Bids. In the event all bids for a construction project exceed available funds as certified by the Geary County Finance Director, and the lowest responsive and responsible bid does not exceed such funds by more than five percent, the Board of County Commissioners may in situations where time or economic considerations preclude resolicitation of work of a reduced scope, negotiate an adjustment of the bid price, including immaterial changes in the bid requirements, with the low responsive and responsible bidder, in order to bring the bid within the amount of available funds.

### **2.203 Competitive Proposals.**

**Conditions for Use.** When the Board of County Commissioners has determined the use of competitive proposals is advantageous to Geary County, a contract may be entered into by competitive sealed proposals. The Board of County Commissioners may determine it is neither practicable nor advantageous to Geary County to procure specified types of supplies, services, equipment or construction by competitive sealed bidding or competitive email bidding.

**Request for Proposal (RFP).** Proposals shall be solicited through an RFP. Geary County shall comply with all grant requirements relating to soliciting proposals from minority and/or women-owned businesses, where available and if applicable.

**Public Notice.** Adequate public notice of the Request for Proposal, not to exceed 45 days, shall be given in the manner as provided herein.

**Receipt of Proposals.** Proposals shall be opened at the same time to avoid disclosure of contents to competing offerors during the process of negotiation. A Bid Tabulation Template shall be prepared by the applicable Department Head and shall be open for public inspection after the contract award.

**Evaluation Factors.** The Request for Proposals shall state the relative importance of price and other evaluation factors.

**Discussion with the Responsible Department Head and Revisions to Proposals.** As provided in the Request for Proposals, and under regulations promulgated by the Board of County Commissioners, the Board of County Commissioners may conduct discussions with responsible offerors. Offerors shall be accorded fair and equal treatment with respect to any opportunity for discussion and revision of proposals, and such revisions may be permitted after submissions and prior to award for the purpose of obtaining best and final offers. In conducting discussions, there shall be no disclosure of any information derived from proposals submitted by competing offerors.

**Award.** The award shall be made to the responsible offeror whose proposal is determined in writing to be the most advantageous to Geary County, taking into consideration price and the evaluation factors set forth. No other factors or criteria shall be used in the evaluation. The contract file shall contain the basis on which the award is made.

#### **2.204 Micro and Small Purchases.**

Any non-office technology related procurement valued at \$2,500 for micro purchases or \$5,000 for small purchases may be made in accordance with micro or small purchase procedures; provided however, the procurement requirements shall not be artificially divided so as to constitute a small purchase under this Section. Micro and small purchase procedures allow the Department Head to approve any purchase ranging in size from no cost to \$5,000. Small purchases including trade services valued from \$2,501 - \$5,000 will require three (3) quotes if feasible. Competitive bidding is not required for small purchases, but the purchaser shall attempt to purchase the least expensive item available.

All office technology related purchases, to include, but not limited to all hardware, software, and peripheral devices shall be ordered and purchased by the Department Head in coordination with the IT contractor to ensure uniform, standardized, and necessary equipment is purchased, competitive pricing is used, and installation of the new equipment is scheduled. Exceptions to this requirement include cables, printer cartridges, and other consumable goods.

#### **2.205 Sole Source Procurement.**

A contract may be awarded for equipment, a supply, service, or construction item without competition when the Department head reports in writing when there is only one source for the required supply, service, or construction item.

## **2.206 Emergency Procurements.**

Notwithstanding any other provision of this Code the Department Head may make or authorize others to make emergency procurements when there exists a threat to public health, welfare, or safety under any emergency condition provided that such emergency procurements shall be made with such competition as is practicable under the circumstances. A written determination of the basis for the emergency and for the selection of the particular contractor shall be included in the departmental purchase file.

## **2.207 Commodities Purchases.**

Excluding specific projects, commodities such as road rock, fuel, plant delivery asphalt or sand may be purchased at the daily posted price. Absent an existing contract, project quantities shall be competitively bid.

## **2.208 Used Equipment Purchases.**

When it is determined that it is in the best interest of Geary County, used equipment may be purchased directly from the owner of the used equipment. The price shall be determined by negotiation. Prices paid for used equipment shall not reflect a premium based on values for used equipment as published by the appropriate used equipment price guide.

## **2.209 Parts Purchase.**

Parts for equipment repairs may be purchased from the equipment manufacturers at the quoted prices and considered a sole source procurement. Parts shall be competitively bid or quoted when over \$5,000 if multiple parts suppliers are available.

## **2.210 Competitive Selection Procedures for Non-Professional Services.**

**Conditions of Use.** Non-professional services, i.e., services provided that do not require public measures of competency of the products shall be procured in accordance with this Section. Professional Services exempt from this section are accounting, architecture, construction management, engineering, law, medicine, appraisal, land use planning and surveying.

**Statement of Qualifications.** The relevant services may submit statements of interest in providing such types of services. The Department Head may specify a uniform format for statements of qualifications which may be amended at any time by filing a new statement.

**Public Announcement and Form of Request for Proposals.** Adequate notice of the need for such services shall be given by the Department Head through a Request for Proposals. The Request for Proposals shall describe the services required, list the type of information and data required of each offeror, and state the relative importance of

particular qualifications. Geary County shall comply with all grant requirements relating to soliciting proposals from minority and/or women-owned businesses, where available and if applicable.

**Discussions.** The Department Head may conduct discussions with any offeror who has submitted a proposal to determine such offeror's qualifications for further consideration. Discussions shall not disclose any information derived from proposals submitted by other offerors.

**Award.** Upon approval by the Board of County Commissioners, an award shall be made to the offeror determined in writing by the Department Head to be best qualified based on the evaluation factors set forth in the Request for Proposals, and negotiation of compensation determined to be fair and reasonable. If compensation cannot be agreed upon with the best qualified offeror, then negotiations will be formally terminated with the selected offeror. If proposals were submitted by one or more offerors determined to be qualified, negotiations may be conducted with such other offeror or offerors, in the order of their respective qualification ranking, and the contract may be awarded to the offeror then ranked as best qualified if the amount of compensation is determined to be fair and reasonable.

### **2.301 Guidelines for Determining Best Bid/Proposal.**

While price is a prime consideration, there are other issues which may be considered in selecting the lowest responsible bid/proposal or quotation of price. In the review of price quotations and/or sealed bids/proposals, the following criteria may be used to assist in identifying the best options.

- (a) Price
- (b) Quality of product
- (c) Integrity and reliability of vendor or contractor
- (d) Past experience with vendor or contractor
- (e) Business location of vendor or contractor
- (f) Time and delivery or completion of specified services of work
- (g) Written references

Department heads can prioritize local vendors over outside companies if they desire to make that a criterion of their contractual decisions.

These criteria may be used to justify the approval of a purchase or procurement from sources other than the vendor or contractor submitting the lowest price quotation or bid. When such an approval occurs, there must be clear and documented justification to do so, based upon the criteria listed above.

### **2.302 Cancellation of Advertisements for Bids and Requests for Proposals.**

At the sole discretion of the Board of County Commissioners, an Advertisement for Bids, a Request for Proposals or other solicitation may be cancelled, or any or all bids or

proposals may be rejected in whole or in part as may be specified in the solicitation, when it is in the best interests of Geary County.

## **2.4 ACCOUNTING INFORMATION.**

### **2.401 Approval of Accounting System.**

Except with respect to firm fixed-price contracts, no contract type shall be used unless approved by the Geary County Counselor and it has been determined by the contracting Department Head that:

- (a) the proposed contractor's accounting system will permit timely development of all necessary cost data in the form required by the specific contract type contemplated; and
- (b) the proposed contractor's accounting system is adequate to allocate costs in accordance with generally accepted accounting principles.

### **2.402 Cost or Pricing Data.**

**Contractor Certification.** A contractor shall submit cost or pricing data and shall certify that, to the best of its knowledge and belief, the costs or pricing data submitted were accurate, complete, and current as of a mutually determined specified date prior to the date of:

- (a) the pricing of any contract awarded by competitive sealed proposals or pursuant to the sole source procurement authority where the total contract price is expected to exceed a maximum amount established by the purchasing department head; or
- (b) the pricing of any change order or contract modification which is expected to exceed an amount established by the purchasing department head. Excluding CIP and Facility fund projects where all amendments to cost shall be approved by the Board of County Commissioners, all other change orders exceeding \$5,000 shall be approved by the Board of County Commissioners.

**Price Adjustment.** Any contract, change order, or contract modification under which a certificate is required shall contain a provision that the price to Geary County including profit or fee, shall be adjusted to exclude any significant sums by which Geary County finds that such price was increased because the contractor-furnished costs or pricing data were inaccurate, incomplete or not current as of the date agreed upon between the parties.

**Cost or Pricing Data Not Required.** The requirements of this Section need not be applied to contracts:

- (a) where the contract price is based on adequate price competition;
- (b) where the contract price is based on established catalog prices or market prices;
- (c) where contract prices are set by law or regulation; or
- (d) where it is determined in writing in accordance with regulations promulgated by the Board of County Commissioners that the requirements of this Section may be waived; and the reasons for such waiver are stated in writing.

### **2.403 Right to Audit Records.**

**Audit of Cost or Pricing Data.** Geary County may, at reasonable times and places, audit the books and records of any person who has submitted cost or pricing data to the extent that such books and records relate to such cost or pricing data. Any person who receives a change order, or contract modification for which cost or pricing data are required, shall maintain such books and records that relate to such cost or pricing data for three years from the date of final payment under the contract, unless a shorter period is otherwise authorized in writing.

**Contract Audit.** Geary County shall be entitled to audit books and records of a contractor or any subcontractor under any negotiated contract or subcontract other than a firm fixed-price contract to the extent that such books and records relate to the performance of such contract or subcontract. Such books and records shall be maintained by the contractor for a period of three years from the date of final payment under the prime contract and by the subcontractor for a period of three years from the date of final payment under the subcontract, unless a shorter period is authorized in writing.

## **2.5 MISCELLANEOUS PROVISIONS.**

### **2.501 Performance Bonds.**

Personal property or equipment performance bonds or warranties shall be at the discretion of the Board of County Commissioners.

All contracts exceeding \$100,000 for the purpose of making any public improvements, constructing any public building or making repairs on the same, requires a surety bond in a sum not less than the sum total in the contract per K.S.A. 60-1111.

### **2.502 Types of Contracts.**

Subject to the limitations of this Section, any type of contract which will promote the best interests of Geary County may be used; provided that the use of a cost-plus-a-percentage-of-cost contract is prohibited unless a maximum, not to exceed amount is predetermined. A cost-reimbursement contract with a "maximum, not to exceed" may be used only when a determination is made in writing that such contract is likely to be less costly to Geary County than any other type; or that it is impracticable to obtain the supplies, services, equipment, or construction required except under such a contract.

All contracts shall adhere to the Kansas Cash Basis Law, K.S.A. 10-1101 *et seq.*, and the Kansas Budget Law, K.S.A. 79-2925 *et seq.*

### **2.503 Multi-Term Contracts.**

**Specified Period.** Unless otherwise provided by law, a contract for supplies or services may be entered into for any period of time deemed to be in the best interests of Geary 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 therefore and the approval of the Board of County Commissioners.

**Determination Prior to Use.** Prior to the utilization of a multi-term contract, it shall be determined in writing:

- (a) that estimated requirements cover the period of the contract and are reasonably firm and continuing; and
- (b) that such a contract will serve the best interests of Geary County by encouraging effective competition.

**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 cancelled, and the contractor shall be reimbursed for the reasonable value of any non-recurring costs incurred but not amortized in the price of the supplies or services delivered under the contract. The cost of cancellation may be paid from any appropriations available for such purposes.

### **2.504 Right to Inspect Plant.**

Geary County may, at reasonable times, inspect the part of the plant or place of business of a contractor or any subcontractor which is related to the performance of any contract awarded or contemplated to be awarded to Geary County.

### **2.505 Reporting of Anti-competitive Practices.**

When for any reason collusion or other anti-competitive practices are suspected among any bidders or offerors, notice of the relevant facts shall be transmitted to the Geary County Attorney and to the Kansas Attorney General.

## **2.6 RECORDS.**

### **2.601 Retention of Procurement Records.**

Unless this policy provides that records be maintained longer, all records related to purchasing shall be maintained consistent with K.S.A. 45-401 et. seq, the Public Records Preservation Act, and amendments thereto, and any Records Retention and Disposition Schedules created by the State Records Board. For example:

- (a) Documents related to requests for proposals, bids, quotations, or estimates shall be retained for five fiscal years.
- (b) Records related to construction projects, such as correspondence, bids, specifications, plans, drawings, reports, and notes shall be retained permanently.
- (c) Contracts, including all associated documents, shall be retained until 5 calendar years after expiration of the contract.
- (d) Copies of forms and supporting documents used to remove capital equipment from office inventory shall be retained for three fiscal years.
- (e) Records concerning purchases from specific vendors, such as invoices, correspondence, and vouchers shall be retained for five fiscal years.
- (f) The Kansas Local Records Management Manual, which contains the current Local Records General Retention and Disposition Schedule, is currently located on the Kansas Historical Society website.
- (g) Department Heads (including Elected Officials) shall ensure that all acquisitions made by their staff conform to the guidelines established by this policy and State law. Staff shall assist in the purchasing process where appropriate, including, but not limited to, specification development and negotiations. All final contracts and purchasing documentation must be forwarded to the Administration Department for record keeping.

#### **2.602 Record of Procurement Actions Taken.**

**Contents of Record.** The Department Head shall maintain a record listing all contracts made for seven years, or if more restrictive, shall follow the retention requirements set within the Kansas Local Records Management Manual which is currently located on the Kansas Historical Society website. The record shall contain:

- (a) each contractor's name;
- (b) the amount and type of each contract; and
- (c) a listing of the supplies, services or construction procured under each contract.

## ARTICLE 3 - SPECIFICATIONS

### 3.101 Definitions of Terms Used in this Article.

**Specification** means any description of the physical or functional characteristics, or of the nature of a supply, service, equipment, or construction item. It may include a description of any requirement for inspecting, testing, or preparing a supply, service, equipment, or construction item for delivery.

### 3.201 Duties of the Board of County Commissioners.

The Board of County Commissioners may promulgate regulations governing the preparation, maintenance, and content of specifications for supplies, equipment and construction required by Geary County.

### 3.202 Duties of the Department Head.

The Department Head shall prepare, issue, revise, maintain and monitor the use of specifications for supplies, services, equipment, and construction required by each Geary County Department.

### 3.301 Maximum Practicable Competition.

All specifications shall seek to promote an economic purchase for the purposes intended and shall encourage competition in the market in the process of satisfying Geary County's needs and shall not be unduly restrictive.

## **ARTICLE 4 - PROCUREMENT OF PROFESSIONAL SERVICES**

### **4.101 Definitions of Terms Used in this Article.**

**Accounting, Architecture, Engineering, Legal, Medical, Planning and/or Land Surveying Services.** Those professional services within the scope of the practice of accounting, architecture, engineering, law, appraisals, planning, land surveying or medicine as defined by the laws and regulations of the State of Kansas.

### **4.201 Professional Services.**

**Applicability.** Professional services shall be procured as provided in this Section except when the cost of such services is less than \$25,000 or when a state of emergency exists.

**Policy.** It is the policy of Geary County to announce all requirements for services publicly and to negotiate contracts for professional services based on demonstrated competence and qualification of the type of services required, and at fair and reasonable prices.

**Professional Services Selection Committee.** In the procurement of professional services, the Board of County Commissioners shall encourage firms engaged in the lawful practice of their profession to submit a statement of qualifications and performance data. The Department Head and a committee of four (4) including legal counsel shall comprise the Professional Services Selection Committee for each professional services contract over \$25,000. The selection of professional service contractors for projects under \$25,000 shall be made by the Department Head. The Selection Committee shall evaluate statements of qualifications submitted by firms interested in the proposed contract. The Selection Committee shall select in order of preference, based upon the published criteria, no less than two firms deemed to be the most highly qualified to provide the services required. Geary County shall comply with all grant requirements relating to soliciting bids from minority and/or women-owned businesses.

The Board of County Commissioners has the authority to waive the requirement for a Professional Services Selection Committee.

**Negotiation.** The Department Head shall negotiate a contract with the highest qualified firm for professional services which the Department Head determines in writing to be fair and reasonable. In making this decision, the Department Head shall consider the estimated value, the scope, the complexity, and the professional nature of the services to be rendered. Should the Department Head be unable to negotiate a satisfactory contract with the firm considered to be the most qualified, at a price the Department Head determines to be fair and reasonable to Geary County, negotiations with that firm shall be formally terminated. The Department Head shall then undertake negotiations with the

second most qualified firm. Failing accord with the second most qualified firm, the Department Head shall formally terminate negotiations. The Department Head shall then undertake negotiations with the third most qualified firm. Should the Department Head be unable to negotiate a contract at a fair and reasonable price with any of the selected firms, the Department Head shall select additional firms in order of their competence and qualifications, and the Department Head shall continue negotiations in accordance with this Section until an agreement is reached.

If changes need to be made prior to the stated deadline, representatives of Geary County will be allowed to make such changes. Correction or withdrawal from bids after the deadline but before the award must be approved by the County Commission. Correction and change policies should be outlined to interested bidders prior to any contractual purchase.

## **ARTICLE 5 - MODIFICATION AND TERMINATION OF CONTRACTS FOR SUPPLIES AND SERVICES**

### **5.101 Contract Clauses and Their Administration.**

**Contract Clauses.** The Board of County Commissioners may promulgate regulations permitting or requiring the inclusion of clauses providing for adjustments in prices, time of performance, or other contract provisions as appropriate covering the following subjects:

- (a) the unilateral right of Geary County to order in writing:
  - i. changes in the work within the scope of the contract; and
  - ii. temporary stopping of work or delaying performance; and
- (b) variations occurring between estimated quantities of work in a contract and actual quantities.

**Price Adjustments.** Adjustments in price pursuant to this Section shall be computed in one or more of the following ways:

- (a) by agreement on a fixed price adjustment before commencement of performance;
- (b) by unit prices specified in the contract or subsequently agreed upon;
- (c) by the costs attributable to the events or situations under such clauses with adjustments of profit for fee, all as specified in the contract or subsequently agreed upon;
- (d) in such other manner as the contracting parties may mutually agree; or
- (e) in the absence of agreement by the parties, by a unilateral determination by Geary County of the costs attributable to the events or situations under such clauses with adjustments of profit or fee, all as computed by Geary County.

**Additional Contract Clauses.** The Board of County Commissioners may promulgate regulations including, but not limited to, regulations permitting or requiring the inclusion in Geary County contracts of clauses providing for appropriate remedies and covering the following subjects:

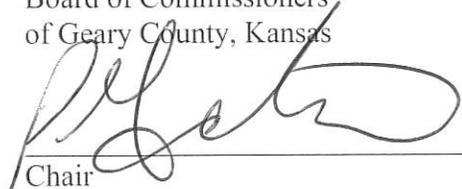
- (a) liquidated damages as appropriate;
- (b) specified excuses for delay or non-performance;
- (c) termination of the contract for default; and
- (d) termination of the contract in whole or in part for the convenience of Geary County.

**Modification of Clauses.** The Department Head may vary the clauses promulgated by the Board of County Commissioners under Subsection (1) and Subsection (3) of this Section for inclusion in any particular Geary County contract; provided that any variations are supported by a written determination that states the circumstances justifying such variation provided the Board of County Commissioners approves such variation and provided that notice of any such material variation be stated in the Advertisement for Bids or Request for Proposals.

**ADOPTION**

Adopted this 18<sup>th</sup> day of November, 2024 by the Board of Commissioners of Geary County, Kansas.

Board of Commissioners  
of Geary County, Kansas

  
Chair

  
Member

Keith Cishek  
Member

ATTEST:



Therese Hoff  
County Clerk *deputy*

GEARY COUNTY  
PURCHASE AUTHORIZATION NO \_\_\_\_\_

Department \_\_\_\_\_ Date \_\_\_\_\_

Estimated Cost \_\_\_\_\_ Fund \_\_\_\_\_

Description \_\_\_\_\_

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New \_\_\_\_\_ Replacement \_\_\_\_\_

Procurement Type

\_\_\_\_\_ Competitive Sealed Bid, open in presence of Board of County Commissioners

\_\_\_\_\_ Competitive Proposal submitted to Board of County Commissioners

\_\_\_\_\_ Sole Source (exempt) by Department Head

\_\_\_\_\_ Emergency by Department Head

\_\_\_\_\_ Used Equipment (exempt) by Department Head

**2.204 Micro or Small Purchases.**

(1) Any non-office technology related procurement valued up to \$2,500 for micro purchases or up to \$5,000 may be made in accordance with micro or small purchase procedures, provided, however, that procurement requirements shall not be artificially divided so as to constitute a small purchase under this Section. Micro and small purchase procedures allow the Department Head to approve any purchase ranging in size from no cost, to \$5,000. Small purchases including trade services valued from \$2,501 - \$5,000 will require three (3) quotes if feasible. Competitive bidding is not required for small purchases, but the purchaser shall attempt to purchase the least expensive item available.

(2) All office technology related purchases, to include, but not be limited to all hardware, software, and peripheral devices shall be ordered and purchased by the Department Head in coordination with the IT contractor to ensure uniform, standardized, and necessary equipment is purchased, competitive pricing is used, and installation of the new equipment is scheduled. Exceptions to this requirement include cables, printer cartridges, and other consumable goods.

**4.201 Professional Services.**

(1) Applicability. Professional services shall be procured as provided in this Section except when the cost of such services is less than \$25,000 or when a state of emergency exists.

Requested by:

\_\_\_\_\_

Approved by:

\_\_\_\_\_  
Chair, Board of County Commissioners

ATTEST:

\_\_\_\_\_  
Member

\_\_\_\_\_  
County Clerk

\_\_\_\_\_  
Member

\_\_\_\_\_  
Date