

**Open Work Session
February 7, 2017
Purchasing Manual**

Mr. Nick Rice, Purchasing Agent, came before Council to review the updated Purchasing Manual. Mr. Rice said the current manual that is in place, was last amended in 1997. He said he had talked with Mr. Strausburg about looking at some numbers and looking at the threshold, especially in that document. Mr. Rice said in the front of the document there was a quick reference guide. He said they updated that and moved it to the back of the manual. He said Section 1 was the Authority for Centralized Purchasing, the old Charter was referenced in there, so they went ahead and updated that to the current Charter. They also removed the school system reference, as the County's manual does not include the Board of Education. Mr. Cannon asked what was it that they removed in the Charter line, to which Mr. Strausburg responded, change in the form of government. Mr. Rice said in the Charter, Section 801 B, it references School System, and says the provisions of subsection A above shall apply to the County School System, except in the purchase and sale of technical equipment. He said to his understanding, the Board of Education has their own Purchasing Department that handles their purchasing. Mr. Cannon said that was in reference to the school system, he said he was referring to the first item that Mr. Rice mentioned when he said they removed the old Wicomico Charter language. Mr. Strausburg responded, yes, there is a lot of language in the current Purchasing Manual that is reflective of the old form of government, so they cleaned that language up. It was titles, that type of thing, to reflect the executive form. Mr. Rice said it was a matter of removing that and then taking what is exactly in the Charter and making that effective. Mr. Cannon said great, good, thanks.

Mr. Rice said, Section 2, Organization and Responsibility, changed to reference the purchasing agent and not the administrative director as the head of purchasing. He said again, this was, as Mr. Strausburg stated, from the old form of government. He said they also updated the structure of the Purchasing Department. The names of the titles of those people in the Purchasing Department have changed over the years, they changed those to update the current positions in the department.

Mr. Rice said Section 3, Purchasing Principles and Policy, no changes were made in that section.

Mr. Hall said he had a question on Section 1, page 4, at the bottom of the page it says, purchasing contract and copying expenditure more than \$5,000, he then asked if that will be changed to \$25,000, to which Mr. Rice responded that is what they are recommending. Mr. Strausburg said this is what is being proposed. Mr. Hall said that is not in your summary of changes. He then asked if that change has been done yet. Mr. Rice responded that he is not sure what the Charter side of that is, what would be required to change that. Mr. Hall said he thought it was referenced in the Charter, and that all it took was an amendment. Mr. Cannon said he knows Mr. Baker is here but he knows Mrs. Hurley has reviewed it. Mrs. Hurley said she has talked to Mr. Baker about the Charter amendment, and Council can actually go ahead and increase that limit without doing a Charter amendment because of the language where it says "or such

amount as may be set by legislative act." Mr. Strausburg said Council has the authority to do that. Mr. Joe Holloway asked where they came up with the \$25,000 versus \$15,000 or \$30,000, to which Mr. Rice responded that the \$25,000 is what is seen today in the City of Salisbury, it is \$25,000, the State of Maryland is \$25,000, Ocean City is \$25,000. He said they took a look at all of the counties on the Eastern Shore. All the counties on the Eastern Shore that have a dedicated purchasing professional or Purchasing Department were at \$25,000 or higher. There were a few that were lower than that, but discharging duties that are relied on in the Finance Department or Public Works, so that is taken from some research to see what other counties and municipalities are currently doing. Mr. Strausburg said to clarify, that \$25,000 threshold is for formal bid. It does not mean that they do not have to undertake informal bids, and Mr. Rice could clarify that. Mr. Rice said what they are recommending, currently for all purchases less than \$1,000, there is no competitive pricing required. They do ask if it is a simple look-up and ask a few other vendors for a current price, that they can do that, but they do not require that the departments do that. He said they are recommending that between \$1,000 and \$25,000, they are required to competitively price it, but in an informal setting. They are required to get a minimum of three other quotes from other vendors. The current threshold is everything over \$5,000 has to be formally bid, advertised, and on the street for a minimum of 3 weeks. Mr. Hall asked if they should have a work session on this, because they are not going to approve it tonight. Mr. Cannon said this is a work session. Mr. Hall said but should they have an individual work session, or are they going to work towards approving, raising, and increasing the limit to \$25,000. Mr. Cannon said Council can continue with the conversation and if Council feels like they want to have a second work session to follow-up on it, they could certainly do that. Mr. Kilmer said it deserves discussion, he said they do not have to approve anything. He said the whole purpose of competitive bidding is getting the best deal for the tax payers. It is bureaucratic, so there is a downside to it. He said he guesses they have to draw a line somewhere, he said \$25,000 is an arbitrary number like \$5,000 is. He asked how much does it cost to advertise, in terms of what is the rough cost, in terms of man hours and advertising, and things like that, what they are doing that would be eliminated between \$5,000 and \$25,000, to which Mr. Rice responded, in his research in FY16 the County had approximately 113 formal sealed solicitations. That number led to \$5,675 in advertising funds for the Daily Times specifically. Mr. Kilmer asked how many were below \$25,000, to which Mr. Rice responded, between \$5,000 and 25,000, it was roughly 49 which was 43% of their bids were in the \$5,000-\$25,000 range. In that, there is also a hard cost in the advertising of it, there is also the amount of work that is put into drafting the bid documents, advertising the bid documents, and then going through the actual evaluation phase, awarding, and going that route. Really, what they see is the reason for doing a competitive bid is to try and get the best price, and at least get the most competition. In saving that way, they look at it as saving 5% on a \$7,000 purchase versus actually spending their time on the higher value bids if you save 5% on a 1.2-million-dollar project, obviously they are getting a lot more return in their investment. He said the idea is they still are going to get good competitive pricing between \$1,000 and \$25,000 by reaching out and actually requesting quotes. Mr. Rice said, the formal solicitation phase, as well as advertising and everything that goes into it, there is also the time. For instance, one of the first projects he worked on they replaced the utility body. The utility body cost \$5,600. It took roughly two months between the bidding phase and the evaluating, awarding and contracting and getting the vendor to

actually order the item. There is also the flexibility in time in allowing the departments some flexibility to be able to operate more efficiently. Mr. Hall said the purchasing agent said he has hard costs on that, to which Mr. Rice responded, the hard advertising cost for FY16. Mr. Hall asked just for advertising, which Mr. Rice responded, yes just the advertising costs. Mr. Kilmer asked how does the informal process work, does anyone check to make sure, and check up on that. Mr. Rice responded all of the requisitions that are entered for purchases over \$1,000 are funneled through an approval process in our electronic system, which is MUNIS. The departments approve it, and it eventually goes through the Purchasing Department, and it is their job to check that there are 3 quotes received. If there is not, then they press the question of why were they not received, are they using a current contract, is it something that they can only purchase from that one vender, but ultimately yes, it is approved and checked by the Purchasing Department. Mr. Rice said the informal process requires a minimum of three days. He said they generally like to tell the departments to give vendors a week. If it is informal, and they just need to contact vendors and say this is what they are looking for, this is good, this is a service they are looking for. They need them to provide the County with a price by this time and date. Mr. Strausburg said getting competitive pricing. Mr. Joe Holloway said you know the people that are used to dealing a lot with Wicomico County, he is sure they keep up with it, or try to. He then asked what is in place to try to attract people if you are not putting out advertising for new bids, what can be done to attract new bidders? It seems one of the things that you lose here. Mr. Rice said one of the things they have heard in actually talking with some of the local vendors is, they decide not to go through because the County formally bids, the document itself is more than 20 pages, regardless of what they are buying. He said he has heard from many local vendors and vendors in particular that why do they need to sign an affidavit and go through this bidding process, they just do not feel like taking their employees' time to go through and read the bid specs, read all of the language in the front of the document that does not change, that protects the County. He said they have heard from some smaller vendors especially, that they just decided not to bid. He said they always like to reach out to the vendors. If they reached out to them and sent them bid documents and they did not respond, they do like to touch base with them and ask if there is a reason why they decided not to respond. One of the reasons they have heard is it is too difficult, too time consuming to submit a bid for something so small in dollar value. Mr. Joe Holloway asked if they are thinking by going in this direction that the County will get more bids, to which Mr. Rice responded, he did. He said, Ocean City and the City of Salisbury, can reach out and receive quotes versus having to formally submit a sealed bid. Mr. Joe Holloway then asked how can you guarantee no collusions between some departments and vendors. How can you guaranty that? He said it is a small community, a lot of people know each other. Mr. Rice said they are recommending between \$1,000 and \$10,000, that the departments have the ability to solicit quotes by themselves. Again, with him checking on the backend before the purchase is made, before the purchase order is generated. One of the ways he believes is educating staff, and one of the plans that they have is to sit down with department heads, if and when a purchasing manual is established, and do training. He said he thinks that will open some department heads' eyes and responsibilities that they carry as a County employee in actually soliciting pricing from certain vendors. He said, with that said, over \$10,000 would come through his department and they would recommend how they handle it, or they can go through

their bidders list, but in order to answer their question, helping departments, he said is always an asset, in terms of having a bidders' list for many items, or they have used people in his history that he feels that they should reach out to. Mr. Rice said if a department were to come back with the same vendor every time, then it is definitely raising that question "have you reached out to others, he knows of others they have not reached out to." It is a minimum of three quotes, but he said it is recommended as many as they can possibly find. Mr. Cannon asked Mr. Roser if this appears to be along his category. Mr. Roser said the MUNIS system does allow for this documentation to be electronically gathered, which is very auditable. He said his office has not done any audits along those lines. It is something else that is in the pipeline that they plan to do at their earliest convenience. It is very auditable and the three bids that Mr. Joe Holloway's concerns are about could be addressed, if they do some random sampling. They can look at some of these bids, to see if there are patterns or not. He said an audit is in the pipeline for this sort of thing and their system lends itself to that very well. Mr. Cannon asked if there is a policy in place, where the department head is trying to bid a job has to divulge whether or not there is any association they have with any vendors, to which Mr. Rice responded to his knowledge, the one he did know of was if they are asking if something can be sole sourced, you have to sign whether or not you have any affiliation with the company, or anyone associated with the company, and they do have to sign off on that. Mr. Baker said it is probably in the County's ethics code. Mr. Cannon said it seemed familiar to him that was in place somewhere. He asked if they could check and make sure. Mr. Rice said if it is not that place that is something that they could look into. Mr. Cannon said, maybe follow that policy with a written statement together with three bids that come in. Mr. Rice said that would be as simple as taking the language that is in the sole source and add it to the informal pricing sheet.

Mr. Hall asked on Section 2, Organization and Responsibilities, page 6, Section 2B, disposal of surplus, does this apply to the Sheriff's Department, to which Mr. Rice asked if Mr. Hall is referencing equipment? Mr. Hall said, it says be responsible for the disposal of surplus, old and waste supplies, materials and equipment of the County, or transfer the property same between offices, departments or other agencies of the County government. Mr. Rice said, to the best of his knowledge, that applies to every department. The one thing that he actually spoke about with Mrs. Hurley earlier, and they will touch on it once they get to the back of the manual is, real property is not a part of this surplus, in this document. Mr. Rice said in terms of equipment it was his understanding that absolutely all County equipment. Mr. Hall said so that means confiscated things. Mr. Strausburg said that is an entirely different pipeline. He then asked Mr. Hall if he was talking about drug seizures, to which Mr. Hall responded possibly, yes, but not necessarily drug seizures. Mr. Strausburg said that is a different pipeline. They cannot be disposed of without a court order. Mr. Hall asked when they are disposed of, do they come under Council's purview, to which Mr. Rice responded he would assume that is property that is purchased with County funds, under the purchasing agent's responsibilities. Mr. Strausburg said Mr. Hall raises an interesting point. He said they will look at that. Mr. Cannon said he thought Mr. Hall was suggesting that there were purchases that have been done, and he is questioning whether or not it really did go through the Purchasing Department, or whether it is required to be. Mr. Strausburg said he knows that anything that the County has purchased, that a

department deems surplus, and wants to dispose of, has to be approved. The point that Mr. Hall raised is something he would want to research before he gave Council an answer.

Mr. Hall said on page 7, Structure Purchasing Department, it says the Purchasing Agent shall be a department level position. Mr. Hall then asked if the Purchasing Department is a department level position. Mr. Strausburg responded that it is not a department that is specified in the Charter, but it is deemed a department. Mr. Cannon said it is the only department that is directly under the Executive Branch. Mr. Strausburg said yes, it is an extension of the Executive's Office, and the purchasing agent is deemed the department head. Mr. Strausburg said it is not subject to confirmation because it is not one of those departments that is listed in the Charter. Mr. Rice said, the rest of that sentence reads "directly responsible to the Director of Administration" he said he believes that came from the old manual, the old Charter. He said in researching the current Charter, Section 402, Executive Powers, it does actually state overseeing the Purchasing Agent of the County, so that will be changed from Director of Administration to County Executive prior to approval.

Mr. Hall said on page 12, Section 4, Purchasing Procedures, it says the purchases where the total amount is between \$10,000 and \$24,900. He then asked if that threshold should be between \$5,000 and \$24,900, to which Mr. Rice said, no, the purchases between \$10,000 up to \$24,999 is done through the Purchasing Department. Mr. Hall then asked if the \$10,000 should be \$5,000, to which Mr. Rice responded, no, if you go up one bullet point, they are recommending that the \$1,000 to \$10,000 is still the same format but it is done at the department level, not the purchasing level. Mr. Joe Holloway said they had some issues a while back with splitting invoices through purchasing. He asked if they have had any of those problems lately, to which Mr. Rice responded, not since he has been here with the County. Mr. Rice said he has dealt with split invoices in his career, and the best way to handle them is educating staff. It says you cannot break up invoices to go under a certain threshold. The best way to find split invoices is by purchase orders that they see come in from the same vendor for the same service, then those questions are raised in the department; what is the reason for it. There may be a legitimate reason for it, such as, this purchase is made and immediately following that purchase something happened that they did not know when they first contracted with them. Mr. Rice said that would definitely be something they would look for when approving purchase orders if they are splitting transactions. Mr. Strausburg said he would have to check with Ray Micciche, but he would suspect that inside MUNIS they could set up a flag for that type of an issue, where the system itself would flag that for you, and say wait a minute, you had this same thing in the past X number of days, say a 90-day look back; something like that. Mr. Kilmer said he was going to ask exactly that question when they said it can look for these patterns. He said right now you look for these patterns. He then clarified if there is nothing automatic that will raise split invoicing to the purchasing agent's attention, it is just you going through the purchase orders, and they are depending on the purchasing agent to catch these things. Mr. Rice said it is along the same lines as checking that the purchasing guidelines are being followed. Those are some of the things that they look for, if there are quotes attached, if there is justification for what they are actually purchasing, and what they are doing, is it budgeted, a lot of those are what they are actually looking

for, when they are going through the requisition itself. Mr. Kilmer asked Mr. Rice if he has ever found anything like that. Mr. Rice responded, not since he has been working in Purchasing, no. Mr. Rice said he has had instances where he needed to clarify if quotes were not attached, and departments have been great at getting back to them, and something may have been missed that was not added to the actual attachments, but that is definitely something that they reach out to the departments to clarify.

Mr. Baker said he was thinking that Mr. Strausburg might be able to verify it, but essentially when they went with MUNIS, most of the department heads were not trying to split because it was picked up a lot, looking at the purchase orders as they come through. They have stopped a number of them. Mr. Strausburg said he would suspect that they could get MUNIS to be pretty vigilant in terms of flagging those kinds of purchases. Mr. Roser said that analysis reveals that they did find some under the old purchasing card system, they found some instances of splitting. He said the same data analysis can be found in MUNIS. He said he is going with Dawn Parks to MUNIS training in May, and they will address that with the manufacturers if Mr. Ray Micciche cannot come up with something.

Mr. Hall continued, he said the Purchasing Method, on page 15, says bids will be tabulated, results available to all bidders as soon as practicable after billing. He asked if there is a process for contacting the bidders, and should this be included in the manual, the process for contacting the bidders. Mr. Rice said the process is that they email the bid tabulations to everybody that submitted bids, as well as post it to the County's website. Mr. Hall asked if it should be included in the manual, to which Mr. Rice responded, in his opinion, he did not think it was necessary because they do have conversations with vendors, and he personally thanks the vendors for submitting bids, here is the bid tabulation, here is how they came to the award that we did. Mr. Hall said on page 17, there is a paragraph on Special Services Solicitation. He then asked, do we need this provision in the Purchasing Manual? Mrs. Hurley asked Mr. Rice before he answers the question, could he explain the difference between a competitive sealed bid and a competitive sealed proposal, to which Mr. Rice said yes, a competitive bid is when they know a product or service that they are going to be purchasing. They can nail down exactly what they are looking for and get an apple to apples price from multiple vendors. The bid process is then awarded to the lowest responsive and responsible bidder, meaning they submitted what they were supposed to in a timely manner, and it shows that they can provide the product and the service that the County is looking for. The difference for the competitive sealed proposals is, they do not necessarily know what they are looking for, but they have an idea to what they can tell the vendors, this is what the County would like, you come to us and propose and tell us how the County should do it. Along these lines the bidding process is then not necessarily the lowest bidder. It is then the best value for the County, it allows the County to have some evaluation criteria for what it is actually going to be evaluating, and through an evaluation committee, to score each one of the vendor's proposals and then turn around and award the best value to the County versus the lowest price. Mr. Cannon asked Mr. Rice to clarify what is the Evaluation Committee, to which Mr. Rice responded, said there is not one committee, it is generally County employees that are involved in the project, somebody within the department. If there is another County employee that they feel may have expertise, they generally will ask

them to evaluate proposals. Purchasing itself does not evaluate the proposals where they are more than neutral, middle ground between the County and the vendors. He said they set up meetings, they run the meetings, and they are the actual middle man.

Mr. Hall went back to his question regarding Special Services Solicitation. He asked does this section need to be in the Purchasing Manual, to which Mr. Rice responded, yes, and here is why. There are instances where there may be some work needed with some heavy equipment or something that the County cannot tell what is wrong with that equipment, meaning they may not be able to actually tell the vendors that they need. At that point in time, they would say they needed a generator worked on, they would need the vendor to then open and evaluate what the County actually needs, and in that they would be charged. Mr. Hall said that is what he said last time. Are they talking about the same thing, about a bid and a proposal, to which Mr. Rice responded, no, the difference they are looking at, let us say that it is a repair, they know it is broken, in a proposal, they are getting a good or service, they know what they want but necessarily how to get it. This is more along the lines, and one of the examples that he has used in the past, is contacting vendors that perform this work and actually having them provide the County with the labor rate and the material markup and that is how they decide along the lines of who they are going to have do the work. It does not make sense for the County to pay a vendor to tell them what is wrong, and then have to turn around and actually get quotes. It is going to cost the County more in the end.

Mr. Joe Holloway asked if they could go back to page 16 on the section pertaining to piggybacking off of other government contracts. He said they hear that a lot about some of the vehicles the County bought, they bought them under government contract, and he thought they came out of Milford, DE. Mr. Rice said the use MD State contracts a lot of the time. There are others but in his experience it has been Maryland State contracts. Mr. Joe Holloway asked how do they handle that, do they just piggyback off of their contract, to which Mr. Rice responded, absolutely. To make one comment, this section will actually be updated. It came to their attention today that there was a Legislative Bill Number 2010-01 that added some language in there that needs to be in there, and they have addressed this with some of the departments since he has been with the County. It does require that these contracts are current open contracts. They cannot piggyback off of a contract that has ended, so that will be updated in the manual to address the legislative bill that was passed in 2010. Mr. Joe Holloway said he would suggest that they go a little deeper than that. He said about 7 or 8 years ago, not long after he came on the Council, the County bought a utility truck, if was a four-wheel drive, it did not have the utility body, it was a pick-up truck, he thought it was for County Roads or Landfill. He said he requested the spec sheet on it and the bid sheet, and they got it from Milford, Delaware. He said he went shopping as a citizen with those same specs, and at two different dealerships in Wicomico County, he said he could have bought that truck for \$500 and some change cheaper, and bought it off of a local dealer, somebody in this County that employed local people. He said just assuming that is a great deal, is a mistake. Mr. Rice said, absolutely, and the language also includes that it must be in the best interest of the County. This is not word for word, but it must be in the best interest of the County as deemed by the purchasing agent. He said he has tried to educate departments that he has worked

with so far, and again, this would be something needed in the training session with department heads. Mr. Joe Holloway said Mr. Rice mentioned he would go with an open contract. Mr. Rice said they have the ability to go with that contract, and not competitively bid it out, but you have the option to do both. He said, in his experience, they will get departments that want to just use a contract because it is quick and easy. He said he has had experienced in his time in Ocean City, they purchased a lot of heavy equipment, and they wanted to use a Maryland State contract and they told them no, they have some time, and they wanted to bid it out. This is not something they were in a rush to get, and by bidding it out they saved almost a quarter million dollars. He said so the argument then was, well there is a State contract, how are they going to beat that price. A vendor absolutely came in and beat the price. He said there are a couple of things that he wants to educate people on. They need to understand that if you are piggybacking off of a contract, you are not negotiating separate terms and conditions to your contract. You are taking their contract word for word for what it is. He said in your reference to the spec sheet Mr. Joe Holloway mentioned, if there was one item on that spec sheet different than the contract that they are piggybacking off of, it would no longer be considered a piggyback, and it would be in violation of the purchasing policy. He said he thinks there is a lot of room for education and training in the departments, and he absolutely looks forward to it. Mr. Joe Holloway said following the piggybacking off another contract, they really need to look at that. Mr. Cannon asked if they are going to be implementing a time restriction as far as not being able to do so if it is an old contract, to which Mr. Rice said, if it is not a current contract, you cannot piggyback. He said that language was in the legislative bill that was passed that will be added to the manual. Mr. Rice said the manual did not include that legislative bill language. Mr. Baker said that was their policy, it always had to be a purchasing contract.

Mr. Cannon asked Mr. Rice if there was anything else to which Mr. Rice responded, he would just like to touch a little further on the main point of coming before Council with this new manual and that is the threshold itself. He said Section 4 of the Purchasing Procedures, he updated the quick reference guide. One of the things they really like about that is it is one sheet, at the back of the manual. It is a one sheet that you can give to somebody and they completely understand the County's rules and regulations in terms of purchasing thresholds. Purchases of less than \$1,000, did not require competitive pricing and that is staying the same. Mr. Cannon said the quick reference guide on page 30. Mr. Rice said the quick reference guide. Mr. Rice said competitive purchases between \$10,000 and \$24,999 will require three written quotes. The using departments will have the ability to solicit quotes up to \$9,999. Previously the using department would contact the Purchasing Department for purchases above \$1,000.00 and all of those came through the Purchasing Department. He said as he mentioned earlier, these purchases are still, even though the quotes are being received by the departments, are still being approved by the purchasing agent through the requisition process in the units. Mr. Rice said all documentation must be attached as Mr. Roser mentioned in the requisition. He said that is one of the things they really like about the County system, the MUNIS system. He said in his previous position, they did not have the ability to do attachments, they had to write in comments, so that is one of the things they really like about it, you can see physical written quotes. Purchases of \$10,000 and above will funnel through the Purchasing Department. Purchases greater than

\$25,000.00 will require the formal solicitation done by the Purchasing Department, in conjunction with the using department. He said one of the things that they are recommending currently is advertising. They spoke a little about the amount of money that is spent on advertising. He said the current manual states that it would be advertised on the bid board downstairs in the lobby, on the County's website, as well as in a local newspaper. He said they have done some research and discussed with legal in terms of, does the bid board downstairs in the Government Office Building, satisfy the public notice requirement, and they do believe that it does. He said, in his opinion, he does not feel that they get additional vendors from advertising in the newspaper. He said, as he stated earlier, he really likes to reach out to make sure he knows the vendors that are interested in these products and goods and services are getting these documents. They reach out to them and physically email them the documents, not just trust that the documents reach them in different avenues. Mr. Cannon said he likes that idea because he knows the costs they are always incurring through this type of advertising. He said from what Councilman Joe Holloway touched on earlier, are they certain that they are reaching out to all of the potential vendors through this process alone, to which Mr. Rice said he believes so, and the reason why is, the County website is nice in that they do ask that vendors sign up. They can sign up to different categories within the County's website. Any time something is posted, they will receive a text or an email. One of the things that he really likes is the EMaryland Marketplace, which is the State of Maryland's bid board. He said they post everything on that website. It reaches a huge pool of vendors throughout the state, including small minority businesses. Mr. Cannon asked if Delaware had a similar process, to which Mr. Rice said he did not know. Mr. Cannon said it is great that the County uses Maryland vendors, but he assumes that they would also possibly be looking for other vendors. Mr. Rice said they can post and it is one of the things that can be added. He said it is not a requirement, whereas COMAR from Maryland requires that all formal solicitations be posted on EMaryland.

Mr. Rice said one of the other things to touch on, in reaching vendors, is that where he likes doing the leg work, going on the Internet, looking in the area, local vendors, who is interested, making phone calls and as time goes on you develop a bidders list. He said vendors will reach out to the County departments and say this is who they are, this is what they do, and then the County takes their information and adds that to the bidders list for future reference. Mr. Rice said he does feel like the personal reaching out, and doing the research is much more successful in reaching vendors than posting to a local newspaper. He said one of the things he noticed right away starting in the County, was the Daily Times. The County pays, he believes, a minimum of \$60.00 for every single advertisement. He said he definitely does not think the County is getting its value back. Mr. Joe Holloway said he thinks there is something that says it has to be a paid publication, but he is not sure but the hearing notices have to be. Mr. Rice said that he thinks those were different. He said the State does not require to the best of his knowledge, they advertise in a local newspaper. Mr. Rice continued, he said he has updated the purchase order information. The old manual still referenced the handwritten purchase orders, so he has added the information about their electronic MUNIS system that County currently uses. He said they removed the Health Department language that was under Professional Service, as this is not a County function. He said in Section 5, Purchasing Methods, they removed information covered in the previous

section, Section 4, it stated the same information that was just covered in the previous section. He said they updated the threshold for formal competitive sealed bid and proposal from \$5,000 to \$25,000. He said that is where they talked a little more about the difference between the bidding and the proposal process. Mr. Cannon said he thinks it would be good to get Council's thoughts as far as this change from \$5,000 to \$25,000. He said it seems that out of everything they are doing, Council had time to review the Purchasing Manual. What do Councilmembers think about this change? Mr. Hall asked if Mr. Cannon was looking for a consensus. He said they have been talking about it for a number of years, to bring the threshold up. He thought it was necessary, it was good business practice and makes sense. Mr. Cannon said the measures are still in place to make sure the County gets a good bid. Mr. Kilmer said he was tentatively okay; they make a good case. He said Mr. Rice has done a good sales job so far. Mr. Davis said he was okay with the change. Mr. Joe Holloway said he supposes so. Mr. Strausburg said what he heard is they are looking for some additional safeguards in place in the processes, and they are certainly willing to look at that and come back to Council on those kinds of things. He said Council made a couple of very good points.

Mr. Kilmer said efficiency is good. The County wants to work toward that. He said when you are a department head, it is not your own money. Mr. Rice said that is one of the cases that he wanted to make in terms of that 43% that is between that \$5,000 and \$25,000. Spending the time on those smaller purchases when you alleviate that, then you can really focus on writing a good spec and not missing something that would be cost saving in what you are buying, and what you are doing. He said he wanted to be able to focus their department on saving the money where they get the best value back. Mr. Kilmer said there are tradeoffs, obviously. Mr. Rice said it was one of the things he noticed in researching the other counties on the Eastern Shore is when you see the low numbers it was matched with not necessarily having somebody in that purchasing position safeguarding or watching it, so they think the best way to have those measures is doing formal solicitations. He said when you bring in the Purchasing Department and purchasing professionals, you are able to. He said he thinks education and training the departments that are going to be making these purchases is important because they are the ones in the day-to-day operations. They are telling you what they need and then he is attempting to give them the best price for what they are looking for.

Mr. Rice said in Section 6 was Emergency Purchasing Procedures, there were no changes made there. There are instances where they have an emergency purchase, as Mr. Strausburg eluded to with the Circuit Court with the fire system, that had to be addressed as soon as possible. There is safety on the line, and they have compliance issues that they need to address. There are instances where the bidding process is not feasible due to an actual emergency of life or equipment.

Mr. Rice said, Section 7, Authority to Waive Competitive Bidding, the only changes are they added examples to show some situations that they would be avoiding the competitive bidding process. He said he already spoke about sole sourcing and that kind of thing. They like to use that as a last resort, so they always get competitive pricing when they can.

Mr. Rice said, Section 8, Avoiding and Resolving Disputes in bidding. There were no changes there. It speaks to the dispute process.

In Section 9, Payments to Venders, Mr. Rice said he removed a direct payment request form that was outdated. He said they do not like to put forms in the manual itself because the forms are living documents, and they can be updated periodically. The direct payment is a form of an electronic payment as well.

In Section 10, Bond Requirements, Mr. Rice said there is a change that he is recommending. He said currently the County requires that they request bonding from vendors for every purchase over \$25,000. They are requesting that they raise that to \$100,000. The \$100,000 number comes from the research of the surrounding counties and what other municipalities are actually doing. The language itself reads that bonds shall be mandatory on construction projects where the total cost is estimated to be in excess of \$100,000, however, the County may require bonds in other situations if the purchasing agent feels the County could be damaged by the failure of the bidder to properly execute the contract. That would be in high risk situations, not necessarily a high dollar value, but the County would still want to request bonding. A couple of reasons why they want to recommend to increase the bonding requirements is the costs to the County. Every time the County requires bonds, the vendor then turns around and passes that price to receive a bond or surety from a vendor onto the County in the price that the County is going to pay for the project. It also could potentially limit the pool of bidders where some small local vendors might not have the ability or want to get bonding. Mr. Joe Holloway clarified that the bonds protect the County and the tax payers of Wicomico County, that is what they are there for, to which Mr. Rice responded, absolutely, they do not want to require them for every bid. He said if it were to stay at \$25,000 then every single formal solicitation that they did would require bonding, which would be a big bond performance and payment of bonds. He said there are absolutely times where it is less than \$100,000 that they want to protect the County. It is just having to pay for the cost of those bonds, as well as limiting your pool of bidders. Mr. Rice said it does not seem to be the norm today, in terms of what other people are doing, and on that sheet of the other counties that he referenced, it actually states their bonding requirements. A lot of times they may not even put a number, they might just put, "at the discretion of the County." If they are buying something that is really low risk, it is not worth paying for the bonding requirements. Mr. Kilmer asked how many times have bonds come into play between \$25,000 and \$100,000. Have we ever needed the bonds, to which Mr. Rice responded since he has been with the County he has not heard of where bonds have been pulled. He said they can certainly do some digging, but he said he has not heard of any in his experience. There was only one instance that he knows of and that was in Ocean City. There was an issue with the restrooms on the boardwalk where they had to pull the contractor's bond for not completing the project. Mr. Rice continued, he said in Section 11, Surplus Property, there were no changes.

Section 12, the Glossary, there were no changes. Mr. Hall clarified, Surplus Property, Real Property, is not addressed in Surplus Property, it is just equipment, as there is no mention of Real Property. Mr. Baker said that is covered under the County Code, so that is up to the Executive. Mr. Rice said it is under Chapter 22 of the Code, and it states how to handle the surplus of Real Property.

Mr. Cannon told Mr. Rice he gave an excellent presentation. Mr. Kilmer asked what is the next step. Mr. Strausburg said he supposes if they are entertaining increasing the threshold there would be an introduction of a legislative bill to do so. Mrs. Hurley asked if it was going to be a resolution or a legislative bill, to which Mr. Baker responded, legislative bill, as it has to have a super majority vote. Mr. Baker said Mr. Rice mentioned a couple changes that will need to be made to the Purchasing Manual. He said he would anticipate that they make those changes and then and turn the Purchasing Manual back to Council and then Council can consider both of them simultaneously.

**Minutes of Open Work Session
February 7, 2017
Purchasing Manual**



John T. Cannon, President

(absent) 


Larry W. Dodd, Vice President, District 3



Ernest F. Davis, District 1



Marc Kilmer, District 2



John B. Hall, District 4



Joe Holloway, District 5

(absent) _____
Matt Holloway, At-Large



Laura Hurley, Council Administrator