

# Clay County, Missouri

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## Purchasing Department Contracts

Auditor Observations



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## *I. Introduction and Scope*

Per Revised Missouri Statutes 55.160 and 55.161, the Auditor's Office in its duties is authorized to audit the flow of taxpayer money through various County departments. The goal of professional internal auditors, particularly for governmental entities, also entails the economic and efficient use of public resources. To those ends, the Auditor's Office will look at all areas of the County apparatus—to include not only elected officials and their respective staffs, but the Commissioner-appointed Administration departments as well.

In light of concerns raised by the public, media, and County officials over purchasing decisions of various accoutrements for County employees, an Attestation Engagement with the Purchasing Department seems logical. These concerns inform the Auditor's independent discretion when choosing what to audit throughout the County. Periodic checking of County practices with respect to contracts, bidding, and overall purchasing further serves an important purpose. This is especially true as the County gears up to spend over \$50 million in Certificates of Participation (COPs) and at a time of historically high revenues along with spending.

An Attestation Engagement was decided to be the best auditing format in this case, due to some extenuating circumstances. Namely, the County already faces an annual financial audit of its financial statements, performed by an outside third-party vendor hired for the job. In addition, a recently successful citizen petition has brought about a full-fledged performance audit by the State Auditor of Missouri's Office. This latter audit is County-wide, all-encompassing, and will touch on state statute compliance among other issues of concern for the petitioners (brought up mostly via a whistleblower hotline and other methods).

Hence, when considering all forms of auditing found in the Generally Accepted Government Auditing Standards (GAGAS, or the "Yellow Book" for short), Attestation Engagements are lacking for Clay County oversight. Plus, there is a potential risk of duplicating the State Auditor Office's results or findings from the citizen-petition performance audit—forecasted to be released in 2020 at the earliest. The County Auditor's Office, however, albeit recognizing this relative delay, cannot ignore its own statutory responsibilities in the interim.

As such, an Attestation Engagement made the most sense so as to not over-burden County staff as they cooperate with the State Auditor's Office. At present, the State Auditor's Office is in fact actively interviewing employees as part of its field of work. Moreover, the Purchasing Department is quite busy fulfilling the new County budget for 2019. Therefore, of the three types of Attestation Engagements, the County Auditor's Office has selected Agreed-Upon-Procedures or AUPs. The other two Attestation Engagements are Examinations and Reviews. Examinations call for conclusions and an opinion from the auditor while Reviews only require conclusions. Sufficient evidence is needed in order to form conclusions or opinions.

For AUPs, GAGAS states that the auditor is to actively cooperate with the auditee, the Purchasing Department in this case, to develop mutually-accepted subject matter. Once determined, the auditor then tests the AUPs for validity. If there are any major exceptions, those are pointed out. While the SSAE (Statement on Standards for Attestation Engagements) 18 from the AICPA (American Institute of Certified Public Accountants) was consulted, these AUPs adhere to GAGAS more specifically. Once again, the intent of this Attestation Engagement is not to call out and condemn individuals. Rather, as an internal auditor, this Office is of service to the greater improvement of Clay County government.

## *II. Purchasing Department Background*

According to the Clay County website ([www.claycountymo.gov/departments/purchasing](http://www.claycountymo.gov/departments/purchasing)) the Purchasing Department's mission is as follows:

“Our mission is to support all County departments by ethically and cost effectively procuring quality products and services while following the guidelines established by the State of Missouri and Clay County to protect the public funds entrusted to us by the citizens we serve.”

The State guidelines are referenced as “Missouri Revised Statutes, Chapter 290—Wages, Hours and Dismissal Rights” along with “Missouri Division of Labor Standards.” This component of Purchasing's State level requirements involves when the County pays contractors for labor on public works. The Auditor's Office also highlights how Sections 50.753-50.790, dealing with a County's “Purchasing Agent”, are of prime significance.

As mentioned above, the Purchasing Department furthermore adheres to guidelines from the County regarding purchasing policy and practices. These are codified in the Clay County Codes and Ordinances, found at [https://library.municode.com/mo/clay\\_county/codes/code\\_of\\_ordinances](https://library.municode.com/mo/clay_county/codes/code_of_ordinances). Purchasing falls under Title III and Chapter 37.

One noteworthy item from these various rules is the requirement to bid when spending over \$6,000 with any vendor within a 90-day window. Bidding necessitates due advertisement in local papers as well as online, as appropriate. The County website shows “current solicitations” on an ongoing and updated basis. Another website at [www.publicpurchase.com](http://www.publicpurchase.com) offers vendors the opportunity to register with the County and search for an Invitation For Bid (IFB), a Request For Proposal (RFP), a Sole Source (SS) contract, or a Request For Qualifications (RFQ)—as examples.

These ordinances and/or statutes give considerable leeway for the Purchasing Agent/Manager to determine among bidders on County solicitations. Many factors come into play as this individual weighs options for the lowest and best bidder. Implicit in that language is the idea of how lowest price is not always the best quality for the County's specific purposes. Nevertheless, Clay County and American businesses take priority when of comparably equal or less price or equal or better quality.

Within the Purchasing Department, besides the overseeing Purchasing Agent/Manager, there are five other full time employees. Their makeup consists of two Administrative Specialists, and three Purchasing Specialists. The 2019 budget calls for hiring another Administrative Specialist to fill a vacancy in that position.

### *III. Agreed Upon Procedures*

- 1.) Test purchase contracts from 2018 under \$6,000 to ensure if the standards of lowest price and best quality were followed, as obligated when bidding out larger contracts.

-After sifting through the Awarded Contracts section of the Department's website, the Auditor's Office identified a sample of three contracts for AUP #1 that appear to be less than \$6,000:

- 2018-343 - Trustee-Paying Agent - UMB Bank, N.A.
- 2018-283 - Firewood - Vaughn Wood Products
- 2018-327 - Bluegrass and Zoysia Sod - SelecTurf, Inc.

Since purchases under \$6,000 don't necessitate being bid out in the first place, obtaining information about the process for them proved rather cumbersome. The Auditor's Office will work further with the Purchasing Department for greater insight on any documentation regarding these smaller buys. There is a Transparency Portal on the County website, <https://www.claycountymo.gov/transparency>. There, one can find all County expenditures for prior years—including those under \$6,000. Here, too, though, there is a lack of any description for parameters surrounding purchasing choices. Specific to the selected contracts above, the standard of lowest price and best quality appears to have been met without exception. For the first two of Trustee-Paying Agent and Firewood, however, no information is expressed about the other bidders. Rather, the reader is to assume that the contract winner had the lowest and best bid. The contract for sod only had one respondent.

- 2.) For purchases required to be bid out, verify appropriate advertisement by length of time and media.

-Regarding AUP #2, the Auditor's Office randomly selected four awarded solicitations posted on the Purchasing Department's webpage. Those four are as follows:

- 2018-137 - Tourism Guide Distribution - CTM Media Group
- 2018-46 - Golf Course Sand - Holliday Sand & Gravel Company
- 2018-360 - Space Utilization Study - Wellner Architects, Inc.
- 2018-89 - Printing - Tax Statements & Envelopes - Strahm Automation & Mailing

All of the chosen contracts are actually renewals where the contract was initially rewarded in previous years. In each of these cases, Purchasing details in its requests for Commission action how advertising occurred. The Department emails known vendors about a new bid and posts the contract opportunity on its own website, as well as the Public Purchase website it currently utilizes. The emailed vendors are not listed out, nor is the process for deciding among them whom to message. Purchasing can identify how many vendors download and at least look at the posted opportunity, which it reports in the request for Commission action. Only with one of the tested contracts, 2018-360 - Space Utilization Study - Wellner Architects, Inc., was advertising in print newspapers discussed. The length of time for advertising appears to follow a timeframe of about three to four weeks or slightly less than a month—namely, from the time when the opportunity is announced until when bids are due. Contract 2018-360 - Space Utilization Study - Wellner Architects, Inc. was advertised for about two months and further extended another half month or 15 days.

- 3.) For purchases where County businesses bid on the solicitation, test to see that they were selected when of equal or lower price or equal or better quality.

-Again looking at the Awarded Solicitations webpage, the Auditor's Office located the below examples of when businesses in Clay County bid on such contract opportunities:

- 2017-462 - ON-CALL SANITARY SERVICES - Clay County Sanitary & Drain Cleaning, Inc. / Cooters Plumbing, LLC.
- 2018-316-1 - Advertising Agency Services - Carr Strategies, LLC.
- 2017-426 - General Printing Services - Antioch Printing / Argee Design, LLC. / Pittman Printing, Inc. / ProPrint, Inc. / Streamline Print & Design

Unfortunately, it is impractical to determine if a Clay County business bid on a Contract and lost. In most cases of the Awarded Solicitations, detail is lacking with respect to the totality of bidders and their respective business locations. Nevertheless, the first example for sanitary services shows a clear-cut comparison of one Clay County bidder against a non-Clay County bidder. The Clay County businesses bid at a lower price, but they both split the contract. There were only two respondents to the solicitation and both bids are shown in the backup files. For the Advertising Agency Services, the most recent 2018 contract renewal only awards a non-Clay County business. It is not known if the Clay County business simply dropped out or what happened. The first contract, though, from 2016, split the award between two companies—one headquartered in Clay County. In that beginning contract, there were five respondents to the solicitation. They were judged by an evaluation committee in Public Services with score cards. Those score cards are not included in the documentation. For the printing services, five printers all split the entire contract. Four of the companies are located in Clay County, while one is in Johnson County, KS. The Clay County businesses offered larger discounts than the out-of-County company.

- 4.) Check Sole Source contracts of the recent year to assure the reasoning for not exploring other vendors.

-For AUP #4, the following Sole Source contracts were tested:

- 2018-57 - Sole Source - Lexipol, LLC
- 2018-220 - Sole Source - QTPod Petroleum on Demand - Upgrade of Self-Fueling Terminal System
- 2018-19 - Sole Source - Security System Program - Southern Folger

In each of the contracts observed, the Auditor's Office found no exceptions in terms of adequate reasoning given for awarding them as Sole Source. Indeed, each contract background denotes the rationale behind a Sole Source purchase and includes a custom-made "Sole Source Justification Fact Sheet" to further explain the unique situations. This is required per Revised Missouri Statute 50.783, as the Fact Sheets point out.



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