

**MEMORANDUM**  
**COUNTY OF PLACER**  
**DEPARTMENT OF ADMINISTRATIVE SERVICES**  
**PROCUREMENT SERVICES DIVISION**

**TO:** Honorable Board of Supervisors  
**FROM:** Brett Wood, Purchasing Manager  
**DATE:** January 7, 2014  
**SUBJECT:** Office Supplies – Office Max Inc.

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**RECOMMENDATION**

1. Approve a change order to Countywide Blanket Purchase Order No. BP020023 with Staples for Office Supplies to extend the effective date to January 31, 2014 and increase the BPO by \$80,000 resulting in a new maximum amount of \$980,000;
2. Approve the award of a Countywide blanket purchase order, using an Oakland County, MI competitively bid public agency contract, to Office Max Inc. of Menlo Park, CA for Office Supplies in the maximum amount of \$900,000 for the period of February 1, 2014 to March 31, 2015;
3. Approve two additional one-year renewals of the blanket purchase order provided the Oakland County, MI contract remains valid and the renewal amounts in aggregate do not exceed 10 percent of the recommended maximum amount of \$900,000; and
4. Authorize the Purchasing Manager to sign the resulting documents.

**BACKGROUND**

On December 10, 2013 a recommendation was submitted to your Board to approve the award of a Countywide blanket purchase order (BPO) to Office Max in the amount of \$800,000 for the purchase of office supplies for the period January 7, 2014 through December 31, 2014. This recommendation was based on Procurement's analysis of several contracts for office supplies awarded by other public agencies. Section 1.3(e)(3) of the Purchasing Policy Manual (PPM) permits the use of contracts awarded by another public agency, provided the contract was competitively bid and awarded, and that Placer County receives the same or better pricing and terms. Your Board was also requested to extend a BPO with Staples through December 31, 2013 and to increase it by \$50,000 to afford a transition between the vendors. Your Board approved the extension of the BPO with Staples but directed staff to provide additional information addressing the concerns expressed by Staples during the December 10, 2013 Board of Supervisors' meeting.

**REVIEW OF AWARD RECOMMENDATION**

There are a number of existing contracts which have been competitively bid by agencies whose purchase volumes are much larger than Placer County's. Pricing under those contracts is generally much lower than our County would experience by processing our own bid for certain commodities including office supplies. PPM Section 1.3(e)(3) permits the County to use such contracts without further competitive bidding. That is, the Policy allows the "sole source" selection of any available contract which qualifies under that section. However, to assure that the County utilizes the most advantageous contract based on the County's own needs, the Procurement Services Division periodically conducts a systematic comparison of office supply contracts.

The Procurement Division obtained a list of the purchases made by all County departments during a 12-month period under the current Countywide BPO. The list contained approximately 4,700 items and

was distributed via the County's electronic bidding system to 27 vendors and posted on the Procurement's website.

Vendors were instructed only to offer pricing from an existing, competitively awarded, public agency contract. They were also instructed to price the items exactly as specified, including color, size, package quantity, etc. Vendors were expressly prohibited from offering "equal" or "alternate" products or package sizes. This methodology assured that vendors' responses could be reviewed equitably. For example, if the listed item was a 3M brand, bidders were required to offer the same exact item. However, if the item was a "private label" or "generic" brand, bidders were allowed to offer their own private label item. Items that were not available to the vendor for any reason, or items they could not identify, were allowed to be "no bid".

Forty firms accessed the request and a total of four responses were received, from the following firms: Walker's Office Supply of Auburn, Office Depot of Sacramento, Office Max of Menlo Park, CA, and Staples of Sacramento.

The Procurement Division evaluated the pricing offered by the responding vendors. Items which one or more of the vendors either did not price or identified as a discontinued item were removed from the evaluation. The pricing offered by Walker's and Office Depot was significantly higher than the pricing offered by Office Max and Staples. After identifying the two most competitive firms, the Procurement Division then re-evaluated the entire list of items, and only removed the items which were not priced by Office Max or Staples. Office Max failed to price a total of 787 items (16.7% of the items) and Staples did not price 143 items (3.0%).

The evaluation considered product pricing, sales tax, and Local Vendor Preference. All vendors were certified to receive the Local Vendor Preference as defined by PPM Section 1.2(f). None of the vendors offered a prompt payment discount. The following summarizes the results of the evaluation:

	<b>Office Max</b>	<b>Staples</b>	<b>Office Depot</b>	<b>Walker's</b>
Contract	Oakland County, MI	National Joint Powers Alliance	National IPA	County of Los Angeles, CA
Subtotal of Allowed Items:	510,760	518,295	536,890	590,372
Sales Tax:	38,307	38,872	40,266	44,277
Local Vendor Preference:	-5,000	-5,000	-5,000	-5,000
Grand Total of Allowed Items:	\$544,067	\$552,167	\$572,157	\$629,650
Rank:	1	2	3	4
% Higher Than Low Bidder:	Low Bidder	1.49%	5,16%	15.73%
Monetary Difference (based on \$900k BPO)	N/A	\$13,398	\$46,466	\$141,571

The Procurement Division reviewed the 787 items which were not priced by Office Max to determine the significance of the items in terms of the County's overall needs. These items represent only 16.7% of the total item list. Of those, 680 were purchased less than 10 times in a one-year period. In fact, 328 items were only purchased once. All of Office Max's unpriced items represent only 8.43% of Staples total pricing.

The Procurement Division anticipated up to 20% of the items would not be able to be "matched" by all vendors due to various factors such as a vendor's inability to identify the item, the exact item configuration or package size is not available under an existing contract, or the manufacturer has discontinued the item in its current configuration or package size. A thorough review of Office Max's response demonstrated that it was within the acceptable parameters. Further, the Procurement Division found no pattern of misconduct or deception, or any reason to distrust the evaluation results. Based on

this review, the Procurement Division determined the items removed from the overall evaluation did not represent a material impact to the office supplies ranking.

The above results were distributed to all of the responding firms. The announcement also advised the vendors of the Procurement Division's intention to request your Board's approval to award a BPO to Office Max. Staples subsequently filed a formal protest in accordance with PPM Section 10.0. Each element of the protest was thoroughly reviewed by the Director of Administrative Services who found them to be groundless. The protest was denied and a copy of the response from the Director of Administrative Services is attached.

#### **AWARD RECOMMENDATION**

Therefore, as a result of the above analysis, The Procurement Division recommends the award of a BPO to Office Max based on Contract No. 3557 which was competitively bid and awarded by Oakland County, MI. The effective period of the contract is June 1, 2011 through May 31, 2016.

The current BP020023 with Staples will need to be extended to January 31, 2014 to allow a smooth transition to the new BPO with Office Max. The Procurement Division estimates the BPO will also need to be increased by \$50,000 to accommodate County departments' office supply needs for the extended period.

#### **FISCAL IMPACT**

Upon your Board's approval, BP020023 will be extended to January 31, 2014 and increased by \$80,000 to a new maximum amount of \$980,000, and a new BPO will be awarded to Office Max Inc. in the maximum amount of \$900,000 for the period February 1, 2014 through March 31, 2015. Each department is responsible for budgeting properly for its own expenditures from this Countywide BPO.

Cc: Jerry Gamez, Director of Administrative Services

Attachment  
Protest Response from the Director of Administrative Services



## COUNTY OF PLACER

DIVISIONS:

- ┆ Administration
- ┆ Central Services
- ┆ Information Technology
- ┆ Procurement Services
- ┆ Revenue Services
- ┆ Telecommunications

## ADMINISTRATIVE SERVICES DEPARTMENT

Jerry Gamez,  
Director of Administrative Services

PROCUREMENT SERVICES DIVISION

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December 6, 2013

Richard Kurianowicz  
Staples Advantage  
1164 National Drive, Suite 20  
Sacramento, CA 95834

Via: U.S. Mail and Email: [Rick.Kurianowicz@Staples.com](mailto:Rick.Kurianowicz@Staples.com)

Re: Protest of Placer County Bid No. 10290 – Office Supplies

Dear Mr. Kurianowicz,

This letter constitutes the written decision of the Director of Administrative Services in the above matter, pursuant to Section 10.3 of the Placer County Purchasing Policy Manual in response to your bid protest letter dated November 26, 2013 which was received in the Placer County Procurement Services Division on November 27, 2013.

Section 1.3(e)(3) of the Placer County Purchasing Policy Manual (PPM) permits the use of a contract awarded by a public agency as the result of a competitive bid process without further competitive bidding by Placer County. However, the County elected to use a formal bid (10290) process as a tool to solicit the information necessary to determine the most advantageous cooperative contract for the purchase of Office Supplies for all County departments. Section 3.0 of the PPM sets forth the County's policies for soliciting and awarding formal bids.

On August 16, 2013, Placer County Procurement opened all bids received for Bid No. 10290 for Office Supplies. The bid contained a complete list of 4,717 separate line items purchased by Placer County during a 12-month period. Bidders were instructed to provide current pricing using a contract awarded by a public agency as the result of a competitive bid process. Bids were received from the following four firms: Walker's Office Supplies, Office Depot, Office Max Inc., and Staples Advantage. On November 22, 2013 the County notified all of the responding bidders of its intent to award a blanket purchase order to Office Max Inc. based on a contract which was competitively bid and awarded by Oakland County, Michigan.

The County's bid protest procedure requires protests to be submitted in writing to the Placer County Director of Administrative Services within seven (7) days after an aggrieved bidder knows, or should have known, of the facts giving rise thereto. Your letter of protest was received within the prescribed period following notification of the County's intent to award. Therefore, your protest is considered timely.

The County's bid protest procedure specifies three grounds for protest: (1) the County failed to follow the procedures or requirements specified in the bid documents; (2) County employees engaged in misconduct or impropriety; or (3) the County's designation of the protesting bidder as non-responsive was incorrect due to an issue of fact or law not apparent on the face of the bid. Your letter clearly states that the grounds for your protest are that the County failed to follow the procedures or requirements specified in the bid solicitation.

The following presents my decision in this matter.

Your bid protest contains several allegations, but clearly identifies only four as your grounds for protest, which I will address in succession:

- Your first two contentions reference Section 3.12 of the PPM, which allows the County to use various criteria to evaluate bids, including Section 3.12(g) - the needs and requirements of the County, Section 3.12(l) - overall completeness of the product line offered, and Section 3.12(q) – availability of product. Specifically, your firm contends that Office Max failed to providing pricing for 788 or 16.7% of the bid items, which falls “grossly short” of the County’s needs and does not meet the standards of completeness of product line or availability of product. Section 3.12 of the PPM permits only the use of criteria which are specifically set forth in the Invitation for Bids. Bid No. 10290 did not identify “overall completeness” or “availability of product” as evaluation criteria. This portion of your protest also alleges that, by failing to price these items, Office Max will be allowed to charge the County more than it currently pays for those items with Staples. This is in direct conflict with your above contention that Office Max cannot provide these items. Therefore, I find this portion of your protest is without merit.

PPM Section 3.12 requires bid criteria to be “objectively measurable”. In order to make that effective for this bid, any item not bid by the responding vendors was eliminated from the evaluation. That is the only way to ensure the objectivity of the evaluation. It does not automatically mean that items not bid by any of the responding firms (including Office Max) would cost more than the County is currently paying for the product. Therefore, I find this portion of your protest is without merit.

- Your third contention references PPM Section 3.13 which requires the County to award a blanket purchase order to the most responsive and responsible vendor based on the most verifiable and pertinent evaluation criteria. Specifically, your protest contends that Staples was the most responsive vendor and the most verifiable based on Staples’ existing relationship with the County. The County’s bid policies and general code of ethics require fair and equitable treatment of all vendors at all times, including throughout the bid evaluation process. It is a conflict with those policies to provide preference to an incumbent vendor over other competing vendors based solely on the County’s existing relationship with that vendor. Therefore, I find this portion of your protest is without merit.
- Your fourth contention references PPM Section 9.3(b) which declares a breach of ethical standards for any vendor to “present false documents or falsely represent” their firm. Specifically, your protest contends that Office Max’s bid falsely stated that the firm does not have access to some products.

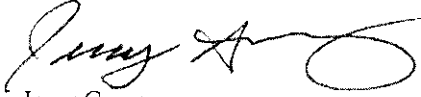
There is no direct evidence that Office Max’s bid states that they do not have access to products. PPM Section 3.14(d) permits the County to waive informalities, irregularities, or immaterial defects in bid submittals, provided such waiver does not give a bidder a substantial benefit or advantage. The spreadsheet which accompanied your letter of protest has identified approximately 40 line items which “OM has but no bid”. This represents less than 1% of the 4,717 bid items. Items that were not priced by Staples or Office Max were removed from the evaluation. Therefore, I find Office Max’s failure to price these 40 line items to be a minor irregularity and does not give Office Max an advantage over other bidders.

This portion of your protest also alleges a breach of ethics in that the “acquisition” of Office Max Inc. by Office Depot on November 5, 2013 should have been declared by Office Max. Placer County Bid No. 10290 closed on August 16, 2013, approximately 10 weeks prior to the merger of Office Max and Office Depot. The merger was, in fact, announced to Placer County on November 6, 2013. Therefore, I find this portion of protest to be without merit.

Based on the above, I find that the procedures and requirements specified in the bid documents for Bid No. 10290 were properly followed. Therefore, I find your protest to be without merit and hereby denied.

In accordance with Section 10.3 of the Placer County Purchasing Policy Manual, this determination is final, and there is no right of further appeal.

Sincerely,



Jerry Gamez  
Director of Administrative Services

cc: William Mendelsohn, Senior Legal Counsel, Staples  
Joseph Conway, Vice President, Staples  
David Stafford, Regional Sales Director, Staples  
Greg Mosbacher, Director of Business Development, Office Max Inc.  
Brett Wood, Purchasing Manager, Placer County  
April Pay, Senior Buyer, Placer County