



MEMORANDUM

May 12, 2022

TO: Board of Commissioners

RE: **Broadband and Legislative Items**

1. Broadband Action Workgroup (BAW) and County project team

The County project team and the BAW are developing the County-wide request for proposal (RFP) document. There is a great spirit of collaboration towards increasing internet access for residents. During the last BAW meeting a question was briefly asked whether the County's RFP can provide a scoring advantage to award bids for more vendors within a given area as opposed to a single bid that may be County-wide or for a large area bid (with the theory being creation of long-term competition within the market but potentially endangering an open bid process). In reviewing our processes, policies (and funding requirements), Board discussions and past practice, unless I hear different from the Board, I will be letting the BAW know that method of evaluation is not an option based on the County's purchasing policy which includes the following provisions:

“When the County assumes administrative responsibility for the particular product or service being cooperatively purchased, it shall conduct its purchasing operations according to the principles of open competition.”

“Specifications should also promote competition. By encouraging competition, the County will be provided with alternatives and the assurance that it will obtain the lowest possible price for the goods or services required.”

Based on these principles, the specifications should be developed to evaluate the factors that give us the best indicators for results (timelines, customer service experience, cost, etc.) and the best qualified and lowest cost bidders should surface whether it be to a single bidder or multiple bidders (understanding we are not obligated to award lowest bid providing there is rationale). The process ensures open competition to bid.

2. Broadband Legislation

Legislation relating to Broadband programs and funding continue to develop (e.g. SB970). I am requesting authorization to work with Midwest Strategy Group to advocate for language that would, in general, ensure counties have the option to either 1) apply for funding directly, 2) apply in conjunction with or on behalf of providers, or 3) have providers within the County apply directly to the state for funding (no county responsibilities).

3. FOIA Legislation

I am requesting authorization to work with Midwest Strategy Group to assist the Michigan Association of Counties (MAC) in opposing the following FOIA changes and taking any direct measures to oppose these legislative changes: (changes and analysis below provided by MAC)

Tell your House member to oppose FOIA changes

Legislation that alters the Freedom of Information Act in ways detrimental to county government will be up before a House committee this week. MAC needs your voice to urge the House to set aside this ill-advised package.

[House Bill 5921](#), by Rep. Steve Johnson (R-Kent), limits the reason for FOIA request denial to only the ones(s) stated in the beginning. This amendment could have the unintended consequences of releasing protected records if someone didn't catch the right exemption the first time and could potentially force a local agency to violate other laws. MAC anticipates an amendment that will also require a \$500 penalty payable to the requestor should a public body deny a request for the wrong reason.

[House Bill 5923](#), by Rep. Greg VanWoerkom (R-Muskegon), requires the public body to acknowledge that exempt records exist and provide a description of the record. These amendments will likely require public bodies to consult legal counsel in each record request denial. In addition, this change has the potential of exposing private information that the law was originally intended to protect, especially in cases of mental health allegations, sexual assault allegations, legal opinions and law enforcement investigations, these disclosure requirements undermine the intent of the privacy exemptions.

[House Bill 5924](#), by Rep. Andrew Fink (R-Hillsdale), requires that a record in the possession of outside legal counsel be considered in the possession of the public body. This amendment blurs the line over what is FOIA-able in an outside legal practice.

[House Bill 5925](#), by Rep. Bryan Posthumus (R-Kent), allows for civil actions regarding the determination of whether the record is considered primarily for the public benefit and therefore should not be subject to fees for compiling the record. Again, these amendments would open the floodgates of litigation against public bodies, especially by the press who would claim public benefit for every request. Then the public body would likely have to absorb the entire cost of fulfilling these requests to avoid litigation.



Robert J. Sarro