

NEVADA COUNTY BOARD OF SUPERVISORS RESPONSES TO

2019 Nevada County Civil Grand Jury Report

Request for Proposal and Procurement Practices

DATED July 9, 2019

Responses to findings and recommendations are based on either personal knowledge, examination of official county records, review of the responses by the County Executive Officer, Auditor-Controller, County Counsel, Public Defender, Behavioral Health, and Health and Human Services agency representatives or testimony from the Board of Supervisors and county staff members.

A. RESPONSES TO FINDINGS

F1. The County does not have approved policies or producers for the efficient operation of the Purchasing Department.

Disagree.

On May 28th 2019, the Board of Supervisors by Resolution 19-241 passed and adopted the Nevada County Purchasing Policy.

F2. The County's Purchasing Guide is a training manual, not a formal policy or procedure. The Purchasing Guide contains discrepancies between its contents, the Admin Code, and California Government Code; is not consistent with generally recognized best procurement practices, is ambiguous as to RFP procedures, and is not always followed by County Offices and Departments.

Agree.

F3. County employees receive training on the Purchasing Guide, but many who conduct purchasing operations and/or manage contracts are not fully trained on and do not always follow best procurement and contract management practices.

Disagree.

The purchasing guide has been replaced with a Board of Supervisors adopted Purchasing Policy recently. County staff who perform purchasing functions will be trained on the policy. With the size of an organization as large as the County, departmental staff with purchasing duties do change over time as people come and go, get promoted, or shift positions. As such, it is an ongoing

effort to train new people on a regular basis across the year. The County has implemented a new contract management system to track countywide contracts to best practice standards.

F4. RFP practices in the Purchasing Guide have a number of correctable issues that could be addressed with detailed procedures if properly followed by County Offices and Departments.

Agree.

F5. The Office of the Auditor-Controller lacks sufficient staff to conduct contract reviews pursuant to BoS Resolution No. 98-479, dated 27 October 1988, which requires internal contract audits be conducted since 2009 when the Auditor-Controller's staff reduced by 25%.

Disagree.

The Auditor Controller office has sufficient staff to conduct contract audits and does so regularly.

B. RESPONSES TO RECOMMENDATIONS

R1: The CEO, in cooperation with the County's Purchasing Agent, should continue researching procurement best practices and establish appropriate written procurement policies, practices and procedures that would be followed in executing County procurement processes.

The recommendation has been implemented.

On May 28th 2019, the Board of Supervisors by Resolution 19-241 passed and adopted the Nevada County Purchasing Policy.

R2: The County's Human Resources department and Purchasing Agent should conduct an assessment of the training needs of current procurement staff and implement a plan for the training of new procurement employees on generally recognized best procurement practices.

The recommendation has been partially implemented.

On May 28th 2019, the Board of Supervisors by Resolution 19-241 passed and adopted the Nevada County Purchasing Policy. Purchasing Staff will be

working with Human Resources to provide training on the Nevada County Purchasing Policy.

R3: The Purchasing Agent should submit a report to the BoS on completed revisions to the Purchasing Guide, as well as policies and procedures.

The recommendation will not be implemented at this time.

The Purchasing Guide has been replaced with the Nevada County Purchasing Policy via Resolution 19-241.

R4: The Purchasing Agent should, within 60 days of establishing formal written policies, practices, and procedures, and completing revisions to the Purchasing Guide, lead each County agency through training on the County's new policies, practices, and procedures.

The recommendation will not be implemented because it is not warranted.

The County has replaced the Purchasing Guide with the Nevada County Purchasing Policy; therefore, the County will not provide training on the Purchasing Guide. However, training on the Nevada County Purchasing Policy will be provided over the course of the next year.

R5: The Purchasing Guide should be reviewed and updated annually.

The recommendation will not be implemented because it is not warranted.

While the Purchasing Guide will not be reviewed and updated annually, the Purchasing Policy will be reviewed annually and updated as applicable.

R6: The Purchasing Guide should be updated to include the following:

- a. Required BoS approvals prior to issuance of an RFP;
- b. Establishment and handling of protest periods;
- c. Evaluation panel reviewer selection and recusals;
- d. Procedure in the event of evaluation panel reviewer statistical anomalies;
- e. Bidder qualification reviews where contract administrators have escalated concerns regarding a vendor's past contract performance;
- f. Maintenance of documented administrative files during a blackout period of County employee contacts involved with the RFP process and RFP respondents other than the County person named in the RFP documents; and
- g. Maintenance of complete administrative files documenting and justifying final decisions when that decision goes against the evaluation panel's recommendation.

The recommendation will not be implemented because it is not warranted.

The Board of Supervisors adopted the Nevada County Purchasing Policy on May 28, 2019 that outlines industry best practices for procurement policies.

R7: The CEO's Office should complete a review of the Office of the Auditor-Controller and the staffing needs required to comply with BoS Resolution No. 98-479 as soon as possible.

The recommendation will not be implemented because it is not warranted.

The Auditor Controller office has sufficient staff to conduct contract audits and does so regularly.

R8: The CEO's Office should work with the Office of the Auditor-Controller to develop a checklist for contract administrators to document at least annually vendor performance and compliance with liability insurance requirements.

The recommendation will not be implemented because it is not warranted.

In general, a personal service contract that is approved by the Board includes a Scope of Work that is evaluated against before payment can be issued. Additionally, all contracts must meet the approval of the Risk Manager's liability checklist.

R9: All County contract administrators should, using the checklist referred to in R8, conduct performance evaluations and document them in an administrative file. Problems or concerns with a vendor's performance should be formally investigated and addressed.

The recommendation will not be implemented because it is not warranted.

County personal service contracts include a Scope of Work that is evaluated against the work performed before payment can be issued. Additionally, all contracts must meet the approval of the Risk Manager's liability checklist.

CONFIDENTIAL



GRAND JURY
COUNTY OF NEVADA
Eric Rood Administration Center
950 Maidu Avenue
Nevada City, California 95959
Phone Number: 530-265-1730
Email: grandjury@nccourt.net

RECEIVED

23 April 2019

cc: BOS, CEO, Colo

APR 30 2019

Nevada County Board of Supervisors
950 Maidu Avenue
Nevada City CA 95959

**NEVADA COUNTY
BOARD OF SUPERVISORS**

Enclosed is a copy of the report prepared by the Grand Jury on the subject of *Request for Proposal and Procurement Practices*. Please be advised that your response(s) are due on or before 28 June 2019.

This report will be published 29 April 2019 at 11:00 a.m. when it will be posted on the Grand Jury's Website: <http://nccourt.net/divisions/gj-reports.shtml>.

The California Penal Code (§933.05) prohibits disclosure of any portion of this report prior to its publication by the Grand Jury.

The California Penal Code also requires that responses to Grand Jury reports be addressed to:

The Honorable Thomas Anderson
Supervising Judge of the Grand Jury
201 Church Street
Nevada City, California 95959

To assist you in writing your response, we are enclosing a copy of Section 933.05 (a) of the Penal Code and an example of the correct format for responding. To assist you with responding, an electronic formattable copy of this report can be obtained by request from the jury at grandjury@nccourt.com.

The Grand Jury appreciates your cooperation.

Sincerely,

Gordon Mangel, Foreperson
2018-2019 Nevada County Grand Jury

CALIFORNIA PENAL CODE (EXCERPT FOR RESPONDENTS)

Section 933.05 (a): For purposes of subdivision (b) of Section 933, as to each grand jury finding, the responding person or entity shall indicate one of the following:

1. The respondent agrees with the finding.
2. The respondent disagrees wholly or partially with the finding, in which case the response shall specify the portion of the finding that is disputed and shall include an explanation of the reasons therefor.

(b) For purposes of subdivision (b) of Section 933, as to each grand jury recommendation, the responding person or entity shall report one of the following actions:

1. The recommendation has been implemented, with a summary regarding the implemented action.
2. The recommendation has not yet been implemented, but will be implemented in the future; with a timeframe for implementation.
3. The recommendation requires further analysis, with an explanation and the scope and parameters of an analysis or study, and a timeframe for the matter to be prepared for discussion by the officer or head of the agency or department being investigated or reviewed, including the governing body of the public agency when applicable. This timeframe shall not exceed six months from the date of publication of the grand jury report.
4. The recommendation will not be implemented because it is not warranted or is not reasonable, with an explanation therefor.

(c) However, if a finding or recommendation of the grand jury addresses budgetary or personnel matters of a county agency or department headed by an elected officer, both the agency or department head and the board of supervisors shall respond if requested by the grand jury, but the response of the board of supervisors shall address only those budgetary or personnel matters over which it has some decisionmaking authority. The response of the elected agency or department head shall address all aspects of the findings or recommendations affecting his or her agency or department.

EXAMPLE: CORRECT FORMAT FOR RESPONDING TO A GRAND JURY REPORT

As required by Penal Code Section 933.05

FINDINGS:

1. Even when notification proceeds properly, the foster child's school records may not arrive at the new school for as long as eight or ten weeks. During this time the child may not be permitted to attend school

Disagree

Children are not denied education and a child's school record has to be requested by the school of enrollment.

2. Our CPS is on record as demanding that foster parents not home school the foster children in their care. CPS finds it difficult to enforce its own policy.

Partially agree

Nevada County CPS requires that its foster children be mainstreamed in education unless there are exceptional circumstances.

3. There can be a number of possible reasons for the foster child's relocation to another county, i.e., the availability of foster homes, need for special care, relationships between foster parent and foster child, the location of a desirable member of the child's extended family.

Agree

RECOMMENDATIONS:

6. The Board of Supervisors should consider taking back from the State the responsibility for the approval and training of foster parents within the County.

The recommendation will not be implemented at the present time

The Board believes the current process for the approval and training of foster parents in Nevada County is sufficient at the present time.

7. The Board of Supervisors should maintain funds and services to continue the County's model of the transition of 18-year-olds in the foster care system into independent living.

The recommendation has been partially implemented

Additional initiatives to redesign the California Child Welfare System will be implemented in Nevada County in conjunction with changes in State regulations.

**Nevada County Request for Proposal
and Procurement Practices**

2018-2019 Nevada County Grand Jury

Nevada County Request for Proposal and Procurement Practices

Summary

The 2018-2019 Nevada County Grand Jury (Jury) responded to a citizen's complaint "regarding irregularities in the recent Request for Proposal (RFP) and the selection process for the organization selected to operate the County's animal shelter." The Jury conducted an investigation into Nevada County's (County) RFP process used to select the vendor cited in the complaint. The Jury reviewed pertinent documents and conducted interviews with personnel within County government and the Sheriff's Office.

During its investigation of the RFP process, the Jury found a number of problems to support its overall conclusion that the County's procurement practices are not consistent with generally recognized best procurement practices. After conducting several interviews, the Jury determined there was a lack of communication and coordination among the various departments involved with an animal control RFP. The Jury learned that the County does not have comprehensive established policies and procedures regulating its procurement process. Instead the County relies on a *Purchasing Guide*, dated June 13, 2017; an undated amendment to that *Purchasing Guide*; and the County Administrative Code (Admin Code). The Jury's investigation shows that these publications combined with the Admin Code do not adhere to generally available best procurement practices.

The Jury concluded that an adherence to generally recognized best procurement practices by the purchasing department would ensure that County procurement is performed honestly, fairly, effectively, and professionally. In turn, this ensures that best value is obtained and that the County recognizes that the public trust is embodied in the authority to expend County funds.

Efforts are underway within Information & General Services (IGS) to update the Admin Code to include policies and procedures that adhere to best procurement practices. The Jury commends this effort. However, the success of this program depends on the support of the Nevada County County Executive Office, County Counsel, and the Nevada County Board of Supervisors. Without this support IGS will not be able to implement any meaningful changes in a timely manner.

Glossary

Admin Code	Nevada County Administrative Code
BoS	Nevada County Board of Supervisors
CEO	Nevada County Executive Office
County	County of Nevada
IGS	Nevada County Information and General Services
Purchasing	Nevada County Purchasing Department
<i>Purchasing Guide</i>	<i>Nevada County Purchasing Guide</i>
RFP	Request for Proposal
SF	Sammie's Friends
NCSO	Nevada County Sheriff's Office

Background

Animal Control Request for Proposal

As a government agency, the County utilizes a competitive process to select contracted service providers for a variety of community services. The County usually reassesses contracts every three to five years to allow qualified organizations to compete to deliver county services and to ensure the County and the taxpayers are getting the best value and service. This practice also allows the current vendor of a contract the opportunity to fine tune their skills and respond to a County solicitation for services.

The County has contracted for the administration and operation of its animal shelter and related services since July of 2010. The County entered into a three-year contract for its animal shelter services on July 1, 2010 to run to June 30, 2013. This contract was with Sammie's Friends (SF).

The County then extended the contract for five years with the same contractor. The contract's term started July 1, 2013 and ended on June 30, 2018. In December of 2017, an RFP for the County's animal shelter was released to the public by Purchasing on behalf of the Nevada County Sheriff's Office (NCSO). In Nevada County, the NCSO oversees animal control and the animal shelter. Since 2010 SF, a local non-profit organization, has held the Animal Shelter contract.

The RFP for animal shelter services resulted in written proposals from two vendors, SF and Placer County. The RFP requested that proposals identify which service area(s) the proposal addresses. The three core service areas were: animal intake, animal husbandry, and animal adoption programs. Vendors were encouraged to apply to one, two, or all core service areas and were requested to provide a three-year budget proposal and a one-year annual budget that broke out costs by each category as presented in the RFP description of services. SF proposed to provide all three core service areas and submitted an "all or none" cost proposal but did not initially provide separate costs for each service area. Placer County proposed to provide animal husbandry and animal adoption services and provided separate costs for each service area.

Both proposals were scored by an evaluation panel selected by the NCSO. Members of the panel included two NCSO employees and two regional subject-matter experts. Panelists independently scored both proposals. The Nevada County Purchasing Department (Purchasing) then calculated the final scores. The cumulative results were identical for both SF and Placer County. Because the results were equal, and the RFP was silent on how to settle a tie, Purchasing suggested the full panel interview both vendors. The vendors were scored a second time and Purchasing notified them of the results. The Placer County proposal was scored higher.

On April 6, 2018 the Panel recommended Placer County to the NCSO as the most qualified proposal for the two services. Purchasing then sent an award letter to Placer County and a letter of regret to SF. In response, SF contacted the County and expressed their concerns with the evaluation panel's decision. SF then embarked on a social media campaign, which resulted in public support for SF.

The Board of Supervisors (BoS) received significant community feedback in support of SF. On April 24, 2018 County authorities cancelled the RFP process. The County and the NCSO then worked with SF to extend the existing contract to operate the animal shelter.

After negotiated meetings between County officials, the NCSO, and SF an agreement was reached. On April 26, 2018 the Nevada County Board of Supervisors approved Resolution No. 18-331 which authorized another extension to the contract. In essence this was a non-competitive single-source contract. SF agreed to continue operation of the animal shelter for one year with an automatic renewal contingent on hiring a new shelter director and financial officer.

Nevada County Procurement Practices

The mission of Purchasing is to procure goods and services for the County in a manner that assures the best value is obtained and that recognizes the public trust embodied in the authority to expend County funds.

The Purchasing Agent serves pursuant to the California Government Code and the County Admin Code to procure goods and services for all County departments. California Government Code section 25500 provides that the BoS may employ a purchasing agent. The County has established the office of the Purchasing Agent pursuant to Admin. Code section A-IV who “. . . shall establish methods and procedures necessary for the proper functioning of the Purchasing Unit in an efficient and economical manner. (Ord. 1580)”

According to the 2016-2017 General Fund Budget, Purchasing issued 1,290 purchase orders and contracts totaling \$11 million and 41 invitations for bids, requests for qualifications, and requests for proposals. BoS approval is required for dollars expended for goods and services over \$20,000. Many purchasing transactions fall under \$5,000 and do not require an RFP. This report focuses on larger transactions that require an RFP and BoS approval.

County procurement practices are complex. They involve complexities that exceed mere buying goods and services and require knowledge and skills in critical areas such as:

- finance and accounting;
- contract law and negotiation;
- contract planning, management and oversight;
- marketing; and
- a working knowledge of all County functions and their interrelatedness.

The County's procurement practices flow through three informal mechanisms – graduated purchasing authority levels as defined by the Admin Code, competitive bidding requirements, and budget controls. These practices are meant to ensure fair market prices and best value by requiring purchasers to obtain multiple vendor bids and to select the lowest responsible bidder.

Informal competitive bidding requirements also follow a graduated approval system. Smaller purchases of commodity items where competition already exists between vendors allows for purchases on the open market without multiple bids. Larger purchases, where generally less competition exists between vendors, call for competitive bidding. These requirements range from formal bids to issuing RFPs.

Approach

The Jury began its investigation with an interview with the complainant then developed a plan of action that included personal interviews, review of County published material, and Internet research. The Jury interviewed County staff and a representative from SF. The Jury also reviewed documents from the following County departments and offices: IGS, NCSO, CEO, and the Auditor-Controller. The Jury consulted the following sources: the Admin Code, the *Purchasing Guide*, the Animal Shelter RFP, and the informal changes made to the *Purchasing Guide* since its first published date. The Jury also examined electronic correspondence that circulated among personnel involved in the Animal Shelter RFP preparation process, the selection of the Animal Shelter Evaluation Panel, the scoring of the vendors' responses, and the announcement of the results. Finally, the Jury interviewed for the second time selected personnel to discuss applicable document revisions and policy changes that could be helpful for future issuance of RFPs.

Discussion

The Jury's initial investigation focused on a citizen's complaint involving an RFP issued December 8, 2017 for the County's animal shelter service. During the investigation into this RFP process and its related contracts the Jury found a number of deficiencies in the County's procurement practices. The Jury concluded that these practices are not consistent with generally recognized best procurement practices.

The deficiencies noted below are currently being addressed by IGS:

- Absence of a provision allowing a vendor to initiate a protest after a Notice of Intent to Award has been issued.
- Absence of a provision to allow an evaluation panel member to be recused at their request.
- Absence of a provision ensuring evaluation panel members are not in a supervisor/subordinate relationship.
- Absence of a provision ensuring that an evaluation panel is composed of an odd number of members.

The deficiencies noted below have not been addressed by IGS:

- Absence of a provision to resolve a scoring tie.
- Absence of a provision addressing a situation where an evaluation panel member's scores are substantially different from the other members' scores.
- Absence of a provision allowing or prohibiting a respondent to modify its proposal after submission.

The Jury found in its investigation of the County's Animal Shelter RFP process that two evaluators had asked to be recused from the review panel that had been set up by the NCSO. Their requests were denied. The denials appear to violate basic tenets of public procurement. County officials were unable to provide the Jury with the original evaluators' score sheets and written comments. They could only provide a summary of the scoring process. The Jury found mathematical anomalies in the summary. The evaluator's scoring on one bidder fell outside the scoring pattern of the other reviewers. These anomalies resulted in a tie between two bidders, yet no investigation was conducted to determine the reason for the tie. The lack of an investigation raised the claim of bias which was a concern of the complainant.

The Jury also found that Placer County responded to the RFP with a one-year annual budget that broke out costs by category as requested in the description of services. SF responded to the RFP with one cost for all three services in a manner that was not responsive to the RFP. County officials offered SF an opportunity to modify its proposal after submission so it could separately address the cost for each core service with a one-year budget. SF declined and reiterated that their bid was an "all or none" bid. Placer County submitted a proposal using the previous year's cost estimates, and then re-submitted the proposal to include the current costs. The Jury could find no provision in the County's RFP process that would allow a respondent to modify its proposal after the fact.

During interviews with County officials the Jury learned that the anonymity of panel evaluators was not maintained and that two evaluators reported receiving public threats as a result. Information released allowed the determination of evaluators' names, affiliations, relative assessments, and other identifying information.

Best procurement practices, models, and strategies are readily available for consideration through professional organizations, academia, and other sources including The National Institute of Governmental Purchasing. Given the number of irregularities in the procurement process

identified, the Jury did not find it useful to spend more time cataloging additional problems through the review of multiple RFPs issued by the County.

During its investigation the Jury learned that the County does not have comprehensive policies and procedures regulating procurement. Instead the County relies on a *Nevada County Purchasing Guide (Purchasing Guide)*, dated June 13, 2017. The Jury was informed by many of the County officials interviewed that the *Purchasing Guide* does not represent regulatory policy or procedure, it is only a training manual. The Jury found this inconsistent with generally recognized current best procurement practices for government agencies. Comprehensive policies and procedures should reflect the best efforts of County employees to ensure procurements are performed honestly, fairly, effectively, and professionally in a manner that ensures the best value is obtained and recognizes the public trust embodied in the authority to expend County funds.

Evidence could not be found that the *Purchasing Guide* and an undated one-page amendment had been reviewed, approved, or adopted as policy or procedure by the Purchasing Agent.

No evidence could be found that County departments are responsible for following the *Purchasing Guide* or that a formal procedure for approving changes to the *Purchasing Guide* exists. The Jury also found differences between the Admin Code and the *Purchasing Guide*, including the following:

1. The *Purchasing Guide*, Section 8.4f, states that evaluation of proposals is done by a team selected by the requisitioning department. Admin Code, Sec. A-IV 1.9, *Procedures for the Selection of Consultants*, states:
For contracts involving work at an estimated cost of more than \$50,000.00, the department head and the County Administrative Officer shall jointly determine the composition of the selection committee as they determine is appropriate (which may include a member of the Board of Supervisors, the County Administrative Officer, and/or staff from the County Administrative Officer's office, an attorney from the County Counsel's office, one or more members from a County committee, and such technical staff as deemed appropriate).
2. The *Purchasing Guide*, Section 7.1(b) states that “. . . contracting for the services of a consultant (as defined in Government Code Section 4525) for a sum estimated at exceeding \$20,000 . . .” requires competitive procurement. Government Code Section 4525 does not define the term consultant.

The County has entrusted procurement to “generalist” buyers rather than to certified procurement professionals. These buyers are operating under guidelines without the benefit of established comprehensive policies and procedures that adhere to generally recognized best procurement practices. One County official testified before the Jury that the greatest risk to County purchasing is the lack of certified buyers following best procurement practices. The Jury was informed by County officials that the BoS was “blindsided” when the Animal Shelter RFP was issued and a Notice of Intent to Award a contract issued to Placer County. The BoS was caught unprepared in both cases because BoS approval was not sought in advance of the RFP or the

Notice of Intent to Award. The failure to obtain BoS approval in advance of issuing the RFP and subsequently issuing a Notice of Intent to Award the contract to Placer County placed the BoS at a disadvantage in performing its oversight function for a multi-year solicitation that ultimately resulted in a two-year contract extension valued at \$1,478,000.

According to Sec. A-IV 1.9C of the County Administrative Code,

... the proposal to contract with a consultant for a sum estimated at exceeding \$20,000 shall be submitted to the Board of Supervisors for its approval in advance of soliciting any work. The department shall provide to the Board a general description of the work to be accomplished, the need for the work, the timing of such work, and an estimate of the cost thereof.

According to County officials the lack of explicit policies and procedures defining when BoS approval is to be sought in advance of an RFP soliciting services from consultants, be they a professional service or a personal service, caused the miscommunication. The Jury concluded that the Purchasing Department's lack of standardized purchasing procedures, if not corrected, could result in a repetition of this problem for the BoS.

The Jury has also found that there is insufficient staff available to audit internal contract files in order to ensure contractors are performing according to contract specifications. For example, no contracts have been audited by the Office of the Auditor-Controller since 2008, when this office's staff was reduced by roughly 25%. The Auditor-Controller's Office processes and pays invoices. It appears the only verifications expected for payment are departmental approval and availability of funds. The Jury found no independent auditing was being performed by the Auditor-Controller's staff to assure that goods are received or that services are performed in compliance with the contract. The Admin Code, a BoS Resolution (No. 98479), and the *Purchasing Guide* (Section 5.4) require the Auditor-Controller's office to periodically audit contract files.

Other issues were encountered that made this investigation difficult. For instance, the Jury could obtain neither an explanation for cancellation of the Animal Shelter RFP nor the reason a sole source contract was extended to SF after a review panel recommended the award be given to Placer County. In the *Purchasing Guide*, Section 9.1g, the department is required to provide an explanation of that decision, which requires ratification by the Purchasing Agent.

The BoS has the sole authority to terminate an RFP and a proposed procurement action. However, the public has a right to know on what basis that decision is made, particularly when a review panel's recommendation on an RFP is other than the procurement action approved by the BoS.

In the case of the Animal Shelter RFP, the Jury found email evidence that the recipient of the sole-source award extension had been the subject of multiple administrative complaints from the department contract manager. The Office of the Auditor-Controller said it was aware of some problems but did not receive formal notification from the department responsible for contract administration. Such a notice would have precipitated an investigation.

County officials who managed the 2013 contract with SF could not provide the Jury with documentation of the required endorsement naming the County as an additional insured. The contractor was allowed to continue working on the contract. Once the County was threatened with a lawsuit this omission became known to the department. According to the *Purchasing Guide*, Section 6.9, the department that administers the contract is responsible for keeping track of insurance expiration dates and ensuring documentation of insurance renewals is obtained in a timely manner.

It is reasonable to conclude that no endorsement naming the County as an additional insured on the SF insurance policy existed, or that if the endorsement had existed, the department responsible for managing the contract was not properly administering the contract. Best procurement practices require these records be kept to provide the basis upon which the County can be assured that the contractor providing services is in compliance with the contract. These discrepancies indicate a contract that was not being fulfilled and it also suggests a contract administration process that lacks integrity.

Findings

The following are findings based on interviews and a review of documentation provided to the Jury:

- F1 The County does not have approved policies or procedures for the efficient operation of the Purchasing Department.
- F2 The County's *Purchasing Guide* is a training manual, not formal policy or procedure. The *Purchasing Guide* contains discrepancies between its contents, the Admin Code, and California Government Code; is not consistent with generally recognized best procurement practices, is ambiguous as to RFP procedures, and is not always followed by County Offices and Departments.
- F3 County employees receive training on the *Purchasing Guide*, but many who conduct purchasing operations and/or manage contracts are not fully trained on and do not always follow best procurement and contract management practices.
- F4 RFP practices in the *Purchasing Guide* have a number of correctable issues that could be addressed with detailed procedures if properly followed by County Offices and Departments.
- F5 The Office of the Auditor-Controller lacks sufficient staff to conduct contract reviews pursuant to BoS Resolution No. 98479, dated 27 October 1988, which requires internal contract audits be conducted every third year of the contract. No internal contract audits have been conducted since 2008 when the Auditor-Controller's office staff was reduced by 25%.

Recommendations

The Nevada County Grand Jury recommends:

- R1** The CEO, in cooperation with the County's Purchasing Agent, should continue researching procurement best practices and establish appropriate written procurement policies, practices, and procedures that would be followed in executing County procurement processes.
- R2** The County's Human Resources department and Purchasing Agent should conduct an assessment of the training needs of current procurement staff and implement a plan for the training of new procurement employees on generally recognized best procurement practices.
- R3** The Purchasing Agent should submit a report to the BoS on completed revisions to the *Purchasing Guide*, as well as policies and procedures.
- R4** The Purchasing Agent should, within 60 days of establishing formal written policies, practices, and procedures, and completing revisions to the *Purchasing Guide*, lead each County agency through training on the County's new policies, practices, and procedures. Policies, procedures.
- R5** The *Purchasing Guide* should be reviewed and updated annually.
- R6** The *Purchasing Guide* should be updated to include the following:
 - a. required BoS approvals prior to issuance of an RFP;
 - b. establishment and handling of protest periods;
 - c. evaluation panel reviewer selection and recusals;
 - d. procedure in the event of evaluation panel reviewer statistical anomalies;
 - e. bidder qualification reviews where contract administrators have escalated concerns regarding a vendor's past contract performance;
 - f. maintenance of documented administrative files during a blackout period of County employee contacts involved with the RFP process and RFP respondents other than the County person named in the RFP document; and
 - g. maintenance of complete administrative files documenting and justifying final decisions when that decision goes against the evaluation panel's recommendation.
- R7** The CEO's office should complete a review of the Office of the Auditor-Controller and the staffing needs required to comply with BoS Resolution No. 98479 as soon as possible.
- R8** The CEO's office should work with the Office of the Auditor-Controller to develop a checklist for contract administrators to document at least annually vendor performance and compliance with liability insurance requirements.

- R9** All County contract administrators should, using the checklist referred to in R8, conduct performance evaluations and document them in an administrative file. Problems or concerns with a vendor's performance should be formally investigated and addressed.

Request for Responses

Pursuant to Penal Code section 933.05, the Nevada County Grand Jury requests responses from the following:

The following responses are due by 28 June 2019.

- Nevada County Board of Supervisors for Findings F2 and F5, and Recommendations R3 and R7.
- Nevada County Auditor-Controller for Findings F4 and F5, and Recommendations R7 and R8.

The following responses are due by 28 July 2019.

- Nevada County County Executive Officer for Findings F1 and F4, and Recommendations R1, R8, and R9.
- Nevada County Purchasing Agent for Findings F1, F2, F3, and F4; and Recommendations R1, R2, R3, R4, R5, R6, and R9.
- Nevada County Human Resources Director for Finding F3 and Recommendation R2.



RESOLUTION No. 98479
OF THE BOARD OF SUPERVISORS OF THE COUNTY OF NEVADA

A RESOLUTION ESTABLISHING PROCEDURES FOR
PAYMENT FOR COUNTY CONTRACTS

WHEREAS, the Board of Supervisors desires to establish uniform practices for County Departments with respect to payment on County contracts.

NOW, THEREFORE, the Board of Supervisors does hereby resolve as follows:

1. Personal/Professional Services Contracts:

- A. When letting a contract, each Department Head shall appoint a Project Coordinator whose duty it shall be to manage and administer the contract;
- B. Invoices from the vendor or service provider shall be submitted as required by the contract to the Project Coordinator;
- C. The Project Coordinator shall review the invoice and shall determine its accuracy and consistency with the Contract;
- D. If the invoice is acceptable to the Project Coordinator, the invoice shall be signed by the Project Coordinator and forwarded to the Department Head or his or her delegatee other than the Project Coordinator for final approval;
- E. The Department Head or his or her delegatee shall then request payment through the Auditor's office.

2. Public Works and Construction Project Contracts:

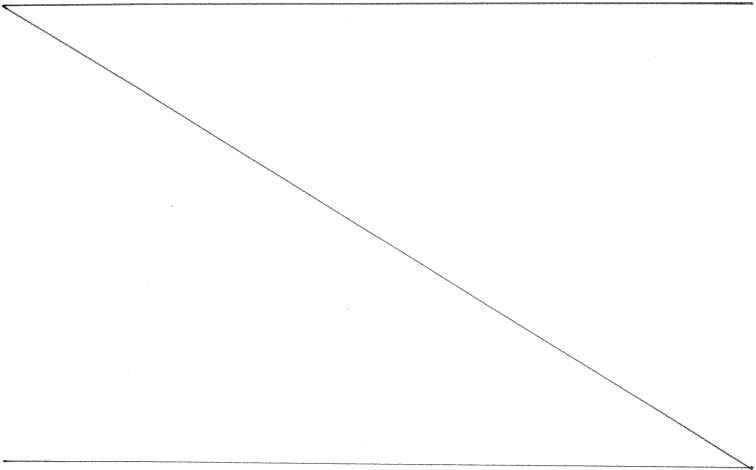
- A. When letting a public works or construction project contract, each Department Head shall appoint a Project Manager whose duty it shall be to manage and administer the contract and to

coordinate with any outside engineering or architectural firm involved in the project;

- B. Invoices from contractors shall be submitted for review first to any outside engineering or architectural firm that has been retained to oversee the project;
- C. Once the engineering or architectural firm has made its recommendations for payment, the invoices shall be reviewed and, if appropriate, approved by the County's Project Manager;
- D. Upon receipt of approval from the Project Manager, the invoice shall be forwarded to the Department Head or his or her delegatee other than the Project Coordinator for final approval;
- E. The Department Head or his or her delegatee shall then request payment through the Auditor's office.

3. Compliance:

- A. The Auditor-Controller as paying agent for the County may selectively audit County departments for contract procedure compliance.
- B. Compliance testing shall be done so each County department is audited at least once every three years.
- C. Contract compliance testing shall not be limited to steps 1 and 2, but shall include verifying compliance with insurance provisions, bonding provisions, and payment provisions.
- D. Appointed County department Project Coordinators/Managers shall keep individual contract files to evidence their accurate and consistent administration of the contract.
- E. The Auditor-Controller shall submit audit reports to the Board of Supervisors and the County Audit Committee. The audit report shall contain the Auditor's findings, the Auditor's recommendations and any department response.

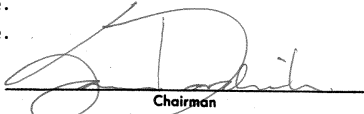


PASSED AND ADOPTED by the Board of Supervisors of the County of Nevada at a regular meeting of said Board, held on the 27th day of October, 1998, by the following vote of said Board:

Ayes: Supervisors Peter Van Zant, Karen Knecht, Fran Grattan, Rene Antonson, Sam Dardick.
Noes: None.
Absent: None.
Abstain: None.

ATTEST;
CATHY R. THOMPSON
Clerk of the Board of Supervisors

By: Cathy R. Thompson


Chairman

DATE	COPIES SENT TO
10-29-98	Administration <i>mb</i>
	A-C <i>mb</i>
	Counsel <i>KR</i>



RESOLUTION No. 19-241

OF THE BOARD OF SUPERVISORS OF THE COUNTY OF NEVADA

RESOLUTION ADOPTING THE NEVADA COUNTY PURCHASING POLICY

WHEREAS, the purpose of the County's Purchasing Policy is to provide written rules, regulations and guidelines for the efficient, ethical, and lawful purchase of goods and services; and

WHEREAS, the Purchasing Policy includes updated thresholds for small dollar purchases and signature authority, refined definitions for emergency purchases to align with federal guidelines, concise procedural instructions, and easy readability; and

WHEREAS, the proposed policy meets federal and state requirements including those of the California Public Contract Code and the California Government Code that address the County's procurement activities and follows best practices of public procurement; and

WHEREAS, the Purchasing Policy as stated in Exhibit A was reviewed by Auditor Controller, County Counsel and CEO Offices.

NOW, THEREFORE, BE IT RESOLVED, that the Nevada County Board of Supervisors of the County of Nevada, hereby approves and adopts the Nevada County Purchasing Policy attached hereto as Exhibit A.

BE IT FURTHER RESOLVED that this Resolution shall be effective as of the later of (a) July 13, 2019 or (b) the date on which Ordinance No. 2468, introduced concurrently herewith, is adopted and becomes effective.

PASSED AND ADOPTED by the Board of Supervisors of the County of Nevada at a regular meeting of said Board, held on the 28th day of May, 2019, by the following vote of said Board:

Ayes: Supervisors Heidi Hall, Edward Scofield, Dan Miller, Susan K. Hoek and Richard Anderson.

Noes: None.

Absent: None.

Abstain: None.

ATTEST:

JULIE PATTERSON HUNTER
Clerk of the Board of Supervisors

By: 


Richard Anderson, Chair

5/28/2019 cc: Purchasing*
AC*
CEO*

EXHIBIT A

County of Nevada

ISSUED BY

Information and General Services – Purchasing Division



PURCHASING POLICY

Adopted by the Nevada County Board of Supervisors

May 28, 2019

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NEVADA COUNTY
PURCHASING POLICY

1.0 DEFINITIONS

1. Reasonable good faith effort- Ideally three (3) or to the best ability the County is able to obtain vendor participation.
2. ePurchasing System- Third party vendor, cloud hosted software, the County utilizes to publish solicitations and interact with the vendors during the solicitation period.
3. Urgent Purchase- When a procurement is required for immediate action at the department level and limits the ability of the County to conduct a competitive solicitation.

2.0 PURPOSE

The purpose of this Purchasing Policy is to establish guidelines for authorization, soliciting, and appropriate conduct of purchasing activities relating to the acquisition of approved goods and services for Nevada County Offices and Special Districts. This policy is intended to provide a transparent, competitive, fair, and impartial process for conducting business with Nevada County's vendor community.

All purchases must be made in accordance with this policy, other County Policies and procedures, as well as any and all applicable laws and are subject to audit at any time. Failure to comply with this policy may result in disciplinary action.

3.0 RESPONSIBILITIES

PROCUREMENT SERVICES:

The Nevada County operates a centralized purchasing system and has designated the Purchasing Division of the Department of Information and General Services (Purchasing) to be responsible for the administration of that system. The Director of Information and General Services acting as the ex-officio purchasing agent, has the duties and powers prescribed by law for county purchasing agents. Under that authority, the Purchasing Division is responsible for the following activities:

- Assist departments, officer or agency in matters related to the identification of possible supply sources, alternative product examinations, specification preparation, order follow-up and material expediting, and adherence to all contract terms and conditions.
- Assist departments, officer or agency in determining the appropriate method of acquisition and solicitation.
- Purchase, rent, or lease of supplies, equipment and services for departments, officer or agency.
- Assist departments, officer or agency with lease purchase agreements of personal property including the use of County owned property and facilities.
- Sell, lease, trade, or otherwise dispose of personal property that is no longer needed by departments, officer or agency for County use.
- Prepare, maintain, and amend the purchasing procedures to implement the Purchasing Policy.

NEVADA COUNTY
PURCHASING POLICY

COUNTY DEPARTMENTS:

Departments are responsible for the following activities:

- Ensure that all purchases are made for official county business and make appropriate use of County funds.
- Submit requests for the acquisition of goods and services in accordance with purchasing policy and procedures.
- Assure all requests are properly budgeted in accordance to Government Code Section 29121.
- Provide adequate descriptions, specifications, scopes of work, or other instructions to assure a clear understanding of the requirements, including special conditions required by any grant or alternative funding source to be used for the purchase.
- Provide punctual responses to questions throughout the procurement process.
- Provide adequate inspection, receiving, and quality control practices in accordance to the purchasing procedures for all purchases.
- Assure receipt and payment for good and services are documented and paid in a manner consist with the approved contract and within the applicable prompt payment discount where possible.
- Consult with Purchasing as needed for assistance with resolving problems with product or service delivery and vendor performance.

4.0 COMPETITIVE PROCUREMENT

It is the policy of Nevada County to make appropriate use of County funds and promote transparency through the use of open and full competition to the maximum extent possible. Contracts for the purchase of County personal property or services shall be awarded as the result of a competitive process, except as otherwise provided for in this policy or by law where a competitive process is required.

4.1. THRESHOLDS

The following thresholds apply to procurement activities for the purchase of any goods or services required by Nevada County departments and agencies where a competitive process is required, except for public projects or as defined in the Section 4.5 below.

Nevada County Thresholds		
Equal to or less than	\$4,000	Small Purchases
Between	\$4,000 and \$25,000	Informal Solicitation
More than	\$25,000	Formal Solicitation

Public projects are governed by the California Public Contract Code, have different thresholds, and must be solicited in accordance with the applicable State code and

NEVADA COUNTY
PURCHASING POLICY

requirements. The current limits are set forth in the Purchasing Procedures Manual. Public projects include, but are not limited to, construction, improvement, or repairs of County facilities.

4.2. SMALL PURCHASES

Department heads or designees are authorized to make individual purchases of products and services with an estimated total cost of \$4,000 or less, including tax, installation, and freight, if in the opinion of the department head, such direct purchases are in the best interest of the County.

The delegation of authority to make small purchases is not intended to be a substitute for centralized purchasing, or to be used to engage in repetitive purchasing without adequate analysis and competition. The following products and services are not authorized for direct purchase without prior approval from Purchasing:

- Construction, improvements, and maintenance of facilities
- Information technology software & hardware
- Telecommunications equipment
- Road projects, including parking lots & trails
- Vehicles and heavy equipment
- Any products or services available through department or Countywide contracts
- Professional legal services and other experts

Conditions for Use

Any purchase less than \$25,000.00 may be made in accordance with the procedures outlined in this section, provided, however, that procurement requirements shall not be artificially divided so as to constitute a small purchase under this section.

Request for quotations, which may be oral or written, will be the usual source selection method for purchases with an estimated value less than \$25,000.00 unless the purchase qualifies for processing as an emergency or as a sole source purchase. **The Purchasing Agent or designee may require that the competitive sealed bid or proposal process be used if in the Purchasing Agent or designee's opinion the alternate procedure is in the best interest of the County. Purchases made pursuant to this section are also subject to the requirements of Sections 4.4(h), 4.4.1 (f–i).**

Delegated Purchases up to and including \$4,000.00.

Departments are authorized to make individual purchases for materials and services up to and including \$4,000.00, including tax, shipping, installation and all associated costs in accordance to County Administrative Code. Where possible, the department shall seek quotes of reasonable good faith effort and purchase from the best value vendor.

Purchasing Purchases up to and including \$4,000.00.

The Purchasing Buyer may forego seeking quotes and process an order in accordance with their expert understanding of the market and sources of supply.

Purchases between \$4,000.01 and \$24,999.99. The Purchasing Buyer shall seek oral or informal written quotations of reasonable good faith effort from probable sources or provide written justification for failing to do so.

Oral Quotations

Oral quotes shall be recorded on the Purchasing Division's standard Bid Evaluation and Award Recommendation Form or documented in the Buyer's Quote Memorandum and shall be attached to the Division's central file copy of the award document. The Buyer must record the name of the vendor representative submitting the quote and the date.

Written Quotations

Written quotations shall be on the Purchasing Division's standard Request for Quotation Form and shall include the name and signature of the vendor representative and the date of the quote or conducted using the ePurchasing system.

4.3. **INFORMAL SOLICITATIONS**

Purchases of goods or services with an estimated total cost of \$25,000 or less may be conducted through informal solicitation. The Purchasing Agent or designee may require that a formal solicitation process be used if, in the Purchasing Agent or designee's judgment, a formal solicitation is in the best interest of the County.

Informal solicitations may be handled either by the department or Purchasing Division. A reasonable good faith effort of quotes for the goods or services will be sought and evaluated to determine the lowest responsive and responsible bidder or the best value to the County. Any award based on an informal solicitation shall be documented with the applicable reason and justification for the award.

4.4. FORMAL SOLICITATIONS

Purchases of goods or services with an estimated total cost of more than \$25,000 shall be made in accordance with the applicable procedures for Formal Solicitations and this section, which sets forth the requirements for competitive sealed solicitations, including but not limited to Invitations for Bids, Requests for Proposals, Requests for Qualifications, Requests for Information, Public Projects and any other formal solicitation method.

A. Public Notice and Solicitation Period

Public notice of formal solicitations shall be posted in a public forum. The public notice must specify the place where solicitation documents may be obtained, if a fee applies, and the time and place for submission of solicitation.

Solicitation periods are as follows:

- Competitive Sealed Bids- not less than ten (10) County working days prior to the opening.
- Competitive Sealed Proposal- not less than thirty (30) County working days prior to opening.
- Public Projects- Not less than fourteen (14) County working days and in accordance with Public Contract Code 10140 and 10141.

B. Specifications/Scopes of Work

Specifications and scopes of work shall permit free and full competition to the maximum extent possible under the attendant circumstances. Specifications shall not be prepared to exclude all but one type or kind, except where permitted by law and shall be crafted with the following in consideration:

- (1) Shall be clear, definite and concise to enable prospective bidders a basis on which to submit proposals.
- (2) Shall describe the minimum features or for a minimum level of quality needed for the intended use, except in cases where additional or enhanced features or the level of quality are essential for some future consideration or result in an overall economic advantage to the County.
- (3) Shall describe performance requirements if possible, rather than formulation, description or design.
- (4) Should address lifecycle costs in order to minimize the County's overall investment.
- (5) Shall be framed to permit free and full competition to the maximum extent possible under the attendant circumstances.

Direct vendor involvement in the specification development process at the department level is prohibited however, a firm or vendor may be utilized as a professional consultant to assist the County with the development of the specifications. Such firms or vendors who participate in this capacity are

prohibited from responding to the resulting solicitation. Departments are encouraged to consult with Purchasing for assistance in developing specifications.

Restrictive Specifications

Specifications should enable open competition from many bidders. While it may not be practical to prepare specifications in a manner that every conceivable manufacturer or service provider could competitively bid, the Department must be able to demonstrate a sound reason for any restrictive specifications.

Other Considerations

Specifications must state whether aspects other than cost will be considered in awarding the contract, e.g., results of product testing, length and terms of any warranty provisions, reliability and maintenance costs, repurchase value, or residual value of the equipment after a specified number of years where the residual value can be objectively ascertained.

Purchasing shall make the final determination of the acceptability of specifications and scope of work requirements to be included in any solicitation.

C. Bidding Documents

Bidders may obtain complete sets of bidding documents from the ePurchasing system free of charge or other source designated in the bid announcement for the non-refundable price, if any, as set forth in the Invitation for Bids.

1. Interpretation or Correction of Bidding Documents

- a. Bidders shall promptly notify the Purchasing Division of any inconsistency or error which they may discover upon examination of the bidding documents or of the site and local conditions.
- b. Bidders requiring clarification or interpretation of the bidding documents shall contact the Purchasing Division in writing or by e-mail not less than five working days prior to the date for receipt of bids, or as specified in the Invitation for Bids. Bidders shall not contact other County departments for clarification or interpretation of bidding documents unless directed by Purchasing or by the bidding documents.
- c. Any interpretation, correction or change to the bidding documents shall be made by written addendum issued by Purchasing. Interpretations, corrections or changes of the bidding documents made in any other manner will not be binding, and bidders shall not rely upon such interpretations, corrections and changes.

2. Alternate Bids

- a. The materials, products and equipment described in the bidding documents establish a minimum standard of required function, dimension, appearance and quality to be met. Materials offered as "equal" to the materials specified must meet the minimum specifications. It shall be the bidder's responsibility to demonstrate the merit of the proposed "equal".
- b. Proposed "equals" may be awarded based on the sole judgment of the County.

D. Addenda to Solicitations

Addenda shall be distributed to all firms known to have received solicitation documents. Addenda which are issued within four (4) County working days of the solicitation due date shall also include an extension of the due date. The extension shall be not less than four (4) County working days from the date the addendum is issued. Addenda which cancel a solicitation in its entirety may be issued at any time prior to the solicitation's posted due date.

E. Receipt of Responses/Opening

Vendors shall respond in the manner set forth in the solicitation.

Late responses to the County's solicitations shall not be accepted.

Formal solicitations shall be received via a secure method which prevents anyone from viewing the responses until after the deadline specified in the solicitation.

All responses shall be opened in the presence of one or more witnesses and if required, in a public forum, at the time and place designated in the solicitation, and shall be administered by the Purchasing Agent or designee.

F. Public and Confidential Records

Responses to Requests for Proposals and Requests for Qualifications shall be considered confidential records upon receipt and throughout the evaluation process, and until such time as a contract has been awarded by the Board of Supervisors or Purchasing Agent.

Responses to Invitations for Bids shall be considered public records immediately upon opening of the responses. Copies of the bid responses and other associated documents shall be made available upon request.

NEVADA COUNTY
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Records maintained by Purchasing to document processing and award of any solicitation shall be kept in accordance with the County's document retention policy.

G. Solicitation Clarifications

A firm may be permitted the opportunity to furnish other information called for by the solicitation and not supplied in the original response, provided it does not affect the price of the contract and does not give the responding firm an advantage or benefit not enjoyed by other respondents, in accordance with the criteria established in the solicitation.

A firm shall not be permitted to correct a response for errors of judgment.

The Purchasing Agent or designee shall maintain complete and sufficient records of evidence used to identify the oversight and the clarified response.

H. Option to Reject, Waive, and/or Re-Solicit

The Purchasing Agent or designee shall maintain complete and sufficient records of evidence used to justify any action taken under this section.

1. The County reserves the right to reject a response which is in any way incomplete, irregular, amplified, unqualified, conditional, or otherwise not in compliance with the solicitation documents in all material respects.
2. The County may waive any informality, irregularity, immaterial defects, or technicalities in any response.
3. The Purchasing Agent may reject or cancel a solicitation, prior to or after receipt of responses, if it is determined that an award would not be in the best interest of the County. If the responses are rejected or the solicitation is cancelled, the County may re-advertise the product or service or negotiate, whichever is in the best interest of the County.

4.4.1. COMPETITIVE SEALED BIDDING

Competitive sealed bids typically consist of Goods or routine services required to conduct normal County day to day business.

1. To receive consideration, bids shall be made on the forms provided by the County and in the manner set forth in the Invitation for Bids.
2. Bidders shall use complete sets of bidding documents in preparing bids. The County will not assume any responsibility for errors or misinterpretations resulting from the use of incomplete sets of bidding documents.
3. Late bids shall not be accepted.

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4. Each bid must be signed by an authorized representative of the vendor and include the legal name of the bidder and the signer's title. Electronic Bids that are submitted through the County's ePurchasing system are considered signed by virtue of the Bidder's use of their unique login and password which enables their use of the system.
5. Bidders shall not change the bid form nor make additional stipulations on the bid form which are not consistent with the provisions of the bid documents

a) Bid Security

A bid guarantee in the form of a bid bond or bid deposit (certified or cashier's check) made payable to the Nevada County Treasurer may be required to protect the County in the event the awarded bidder does not execute the contract or furnish the required performance or payment bonds. A required bid bond or bid deposit must be submitted with the bid, and be in the amount as specified in the Invitation for Bids. In the event an otherwise low bidder is allowed to withdraw a bid due to claim of error, the County may retain the bid guarantee to offset its costs of administrative handling of the bid. The bid guarantee of the lowest bidder shall be retained until the contract has been executed and approved and any performance or payment bonds and required proof of insurance provided, at which time the bid guarantee will be released, except where forfeited. The bid guarantees of the second and third lowest responsible bidders may also be held by the County until the contract has been fully executed and required proof of insurance is obtained from the low bidder. The bid guarantees submitted by all other unsuccessful bidders shall be returned to them as soon as practical following the evaluation of bid responses and their bid bonds shall be of no further effect.

b) Receipt of Bid

Formal Bids may be received electronically, via a secure ePurchasing system which prevents Purchasing staff from viewing the responses until the deadline specified in the Invitation for Bids. Bids may also be received in hard-copy form, and must be sealed in an envelope by the bidder and submitted prior to the date and time specified in the Invitation for Bids. Bids which are received in hard-copy form must not be left unattended and must be promptly time-stamped and deposited unopened in a locked bid drawer. Late bids shall not be opened and shall not be considered under any circumstances. A late bid envelope shall be date-stamped, copied and promptly returned unopened to the bidder accompanied by a letter from Purchasing notifying the bidder that the bid was received late and was not considered. A copy of the rejected bid envelope and the letter shall be retained in the bid file.

NEVADA COUNTY
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c) **Bid Opening**

All bid openings shall be administered by the Purchasing staff and all bids shall be opened publicly in the presence of one or more witnesses at the time and place designated in the Invitation for Bids. Each bid, together with the name of the bidder, shall be recorded and a summary shall be posted on the ePurchasing system after opening. After bid opening, the County assumes no responsibility over the confidentiality of bid information unless specifically stated otherwise in the Invitation for Bids.

d) **Correction or Withdrawal of Bids**

1. In any request or decision involving a bid mistake, correction or withdrawal, Purchasing staff shall consult with County Counsel. Except as otherwise specified in Section 5100 of the Public Contract Code, correction or withdrawal of inadvertently erroneous bids before or after bid opening may be permitted only if such correction or withdrawal is not prejudicial to the interest of the County or fair competition.
2. Hardcopy bids or proposals may be modified or withdrawn by written notice signed by a person who is authorized to sign contracts on behalf of the bidder and received by the Purchasing Division prior to the date and time set for the submittal deadline. Oral, facsimile or e-mail corrections or withdrawals shall not be permitted.
3. Bids or proposals submitted through the County's ePurchasing system may be modified or withdrawn through the ePurchasing system until the submittal deadline.
4. Mistakes in bids detected during or after bid opening may not be corrected by the bidder except:
5. A bidder may be permitted to correct a material mistake that, if not corrected, would cause such bidder to have the low bid. The mistake must be clearly evident from examining the bid document; for example, arithmetical errors. However, a bidder shall not be permitted to correct a bid for errors of judgment.
6. An otherwise low bidder may be permitted the opportunity to furnish other information called for by the Invitation for Bids and not supplied due to oversight, so long as it does not affect the price of the contract and does not give a bidder an advantage or benefit not enjoyed by other bidders.

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The Purchasing staff shall maintain complete and sufficient records of evidence used to establish an error and intended price. Records of bid withdrawals shall also be maintained to ensure there is no abuse of the competitive bidding process. All decisions to permit the correction of bid mistakes and the withdrawal of bids shall be made in writing by the Purchasing Agent or designee and retained in the bid file.

e) Bid Evaluation

Bids shall be evaluated based on the requirements set forth in the Invitation for Bids, which may include criteria to determine acceptability such as inspection, testing, quality, workmanship, delivery, and suitability for a particular purpose. Those criteria affecting price shall be objectively measurable, such as discounts, transportation costs and life cycle or total ownership costs. The Invitation for Bids shall set forth the evaluation criteria to be used. No criteria may be used in a bid evaluation that are not set forth in the Invitation for Bids.

Examples of evaluation criteria that may be used include:

1. Total bid price, including any trade discounts, prompt pay discount often (10) days or more, unit price, and other cost factors specified in the Invitation for Bids;
2. Local vendor preference (reference Section 6.0)
3. General reputation, knowledge, and experience of bidders based on references or prior performance;
4. Hourly rates for specified personnel;
5. Evaluation of the bidder's ability to service the County;
6. Financial responsibility of the bidder;
7. Needs and requirements of the County as stated in the Invitation for Bids;
8. Experience with the products involved;
9. Nature and extent of company data furnished upon request of the County;
10. Quality of merchandise offered;
11. Product appearance, workmanship, finish, taste, feel and results of product testing;
12. Overall completeness of product line offered;
13. Bidder's ability to meet delivery and stocking requirements;
14. Delivery or completion date;
15. Maintenance costs and warranty provisions;
16. Repurchase value or residual value of equipment after a specified number of years where the residual value can be objectively ascertained;
17. Availability of product or service required;
18. Compatibility with County's current equipment/products;
19. Availability of sales representatives and/or service representatives;
20. Maintainability and reliability.

NEVADA COUNTY
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The Purchasing Agent shall maintain complete and sufficient records of bid evaluations to ensure there is no abuse of the competitive bidding process. All reasons for making the award recommendation shall be made in writing by the Purchasing Agent or designee and retained in the bid file.

f) Bid Evaluation of Blanket Purchase Orders

Since it is sometimes difficult to competitively bid blanket purchase orders based on costs because of the breadth of the commodity line or the unavailability of firm quantities, other criteria may be used, such as:

1. Geographic location or distance of the vendor from the requesting department;
2. Size of inventory as an indicator of the breadth of the commodity line (availability);
3. Delivery capacity;
4. Acceptance of phone orders;
5. Time it takes to fill an order;
6. Consolidated invoices;
7. Discounts or margins;
8. Representative labor, job or parts costs;
9. Maintenance of accounting/billing information.

Award of blanket purchase orders shall always be to the most responsive and responsible vendors based on the most verifiable and pertinent evaluation criteria.

g) Reservation to Reject Bid and Re-Bid

Every bid must be carefully examined to determine whether it contains a material variance. Any bid which contains a material variance must be rejected. A test of material variance is a variance which gives the bidder a substantial benefit or advantage not enjoyed by the other bidders. When necessary, Purchasing shall consult with County Counsel.

The County may:

1. Reject a bid not accompanied by any required bid security or by other data required by the bidding documents;
2. Reject a bid which is in any way incomplete, irregular, amplified, unqualified, conditional or otherwise not in compliance with the bid documents in all material respects;
3. Waive any informality, irregularity, immaterial defects or technicalities in any bids received; and/or
4. Cancel an Invitation for Bids or reject all bids because of the following reasons:
 - a. Inadequate or ambiguous specifications;
 - b. Specifications must be revised;
 - c. Supplies or services are no longer needed;

NEVADA COUNTY
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- d. Change in County requirements;
- e. All bids are deemed unreasonable;
- f. Bids were not independently arrived at or were submitted in bad faith;
- g. A determination is made that all the necessary requirements of the bid process have not been met;
- h. Insufficient competition;
- i. For other reasons which indicate the cancellation or rejection of all bids is clearly in the best interest of the County.

The Purchasing Agent shall maintain complete and sufficient written records of bid rejections and cancellations to ensure that there is no abuse of the bidding process. All reasons for rejecting a bid shall be retained in the bid file.

h) Bid Award

If the County decides to award a contract, the County generally must award the contract to the lowest responsible and responsive bidder whose bid best meets the requirements and criteria set forth in the Invitation for Bids. The County may award a contract based on bid evaluation criteria other than lowest bid price if the Invitation for Bids stated the evaluation criteria that would be applied and such award is in the best interest of the County. In the event the awarded bidder fails to perform or such bidder's bid is authorized to be withdrawn, the County may award a contract to the next lowest responsible and responsive bidder that will best meet the needs of the County.

i) Cancellation of Bid Award

Failure on the part of the successful bidder within the time allowed to execute the contract, furnish an acceptable performance bond, or comply with any other requirement imposed prior to execution of the contract shall be considered just cause for cancellation of the award and forfeiture of the bid security, not as a penalty, but in liquidation of certain damages sustained. Contract award may then be made to the next lowest responsible and responsive bidder, the call for bids re-advertised, or such other action taken as deemed appropriate by the County.

4.4.2. COMPETITIVE SEALED PROPOSALS

The Competitive Sealed Proposals process is a method of procurement which involves but is not limited to:

- (a) Solicitation of proposals through a Request for Proposals;
- (b) A private opening of proposals which will avoid disclosure of proposers or contents to competing proposers before and during the process of negotiation;
- (c) Submission of cost or pricing data from the offeror where required;

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- (d) Discussions with responsible offerors whose proposals have been determined to be reasonably susceptible of being selected for award, unless such discussions are not required by the Request for Proposals, this manual or as determined by the Request for Proposals Evaluation Panel;
- (e) An award or recommendation to the Board of Supervisors that an award be made to the responsible proposer whose proposal is determined to be the most advantageous, considering evaluation factors set forth in the Request for Proposals.

Conditions for Use

Unless otherwise directed by law, this manual or by direction of the Board of Supervisors, contracts for consultant services estimated to cost \$25,000.00 or more must be awarded by the use of competitive sealed proposals. Contracts for consultant services estimated to be less than \$25,000.00 may be awarded upon conclusion of informal interviews by representatives of the initiating department and others, including Purchasing, as may be appropriate.

In accordance with Sections 4.5(A) and 7.4(A), expert and professional services may be exempted from the competitive proposal process. The requesting department shall submit the justification for exempting a consultant or professional services agreement from the competitive process concurrent with the request for contract approval.

1. Form of Proposal

- a) The Request for Proposals will specify the format for proposals. Proposals should be organized in accordance with the requested format. Proposals so organized are more likely to respond accurately and clearly to the requirements of the Request for Proposals.
- b) Late proposals shall not be accepted.
- c) Each proposal must be signed by an authorized representative of the vendor and include the legal name of the proposing organization and the signer's title.
- d) Requests for Proposals are scored based on the criteria presented in the Request for Proposals. Proposers may propose any method or process to satisfy the scope of work of the Request for Proposals that maximizes responsiveness to the criteria stated in the Request for Proposals.

2. Evaluation Factors

Award of a Request for Proposals shall be made to the responsible proposer whose proposal is determined, through a formal evaluation panel process to be the most advantageous to the County taking into consideration the evaluation factors set forth in the Request for Proposals. Proposals shall be scored according to the criteria stated in

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the Request for Proposals. No other factors or criteria shall be used in the evaluation.

Competitive sealed proposals shall be prepared and conducted in the same manner as provided in the above Section 4.4 except as otherwise authorized by provisions of this section. Upon requesting a Request for Proposals, the requesting department shall provide a background section, scope of work section and recommended criteria to be used in the Request for Proposals. The scope of work shall comply with the requirements for competitive specifications stated in Section 4.4 (B).

The Request for Proposals may indicate the relative importance of evaluation factors. Following are representative evaluation criteria that may be considered by the department when preparing a Request for Proposal:

- (a) Reputation and Experience- Does the consultant have a reputation of being reliable, delivering on schedule, and performing tasks to the satisfaction of his / her clients?-Does the consultant have sufficient experience in the kind of work required?
- (b) Capability and Availability of Staff- Does the firm have the qualified and experienced staff needed to perform this job?
- (c) Understanding of the Problem - Does the firm demonstrate a thorough understanding of the issues and has it developed a relevant and effective approach?
- (d) Proximity of the Firm. - Firm's office and/or staff proximity to Nevada County offices or work location as it relates to the firm's ability to be responsive to the contract requirements.
- (e) Cost. - Whenever possible and appropriate, a firm fee or hourly rate should be secured as part of the proposal however, not considered in the evaluation process. Whenever possible, Requests for Proposals should specify methods of submitting proposed costs that can be compared with competing proposals.
- (f) In accordance with Section 4526 of the California Government Code, award of Requests for Proposals for professional services of private architectural, landscape, landscape architectural, engineering, environmental, land surveying or construction project management firms shall be on the basis of demonstrated competence and on the professional qualifications necessary for the satisfactory performance of the services required. Thus cost proposals for these services must be received in a separate sealed envelope. The cost proposals may be unsealed after the recommended consultant has been selected and may serve as information for County negotiators, not to be revealed to the firm

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negotiating with the County. In accordance with Section 4528 of the California Government Code, the Department Head shall negotiate a contract with the best qualified firm for these services at compensation which the Department Head determines to be fair and reasonable. 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, negotiations with that firm shall be formally terminated and the Department Head shall then undertake negotiations with the second most qualified firm, and so on.

- (g) In addition, examples of evaluation criteria listed in Sections 4.4.1 (e & f) may be used.

3. Discussions with Proposer

- (a) As provided in the Request for Proposals, discussions may be conducted with responsible proposers who submit proposals determined to be reasonably susceptible of being selected for award for the purpose of clarification to assure full understanding of, and responsiveness to the solicitation requirements. These proposers shall be accorded fair and equal treatment with respect to any opportunity for discussion and revision of proposals, and such revisions may be permitted prior to the Evaluation Panel's determination of the award recommendation 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 proposers.
- (b) After the Evaluation Panel has determined the firm to be recommended for award, the department head of the initiating department may enter negotiations with the recommended firm to finalize proposed services and price before the Evaluation Panel's recommendation is submitted to the Board of Supervisors for approval.

4. Award Process

Contract awards for professional or consultant services for \$50,000.00 or less may be approved by the Purchasing Agent or designee. Pursuant to Section 7.4 (A), the County Executive may approve professional or consultant services contracts that are \$50,000.00 or less. Although proposals that are \$50,000.00 or less do not require Board approval, the County Executive Office may be consulted to determine whether the specific consultant services or other circumstances warrant Board consideration.

Recommendations for contract award for professional or consultant services for more than \$50,000.00 shall normally be submitted by the

department head of the initiating department to the Board of Supervisors along with pertinent contract documents. The recommendation should include the following:

- (a) The services to be provided by the consultant or professional service contract.
- (b) The method of compensating the consultant or the actual cost if appropriate.
- (c) The reasons for recommending a particular consultant, particularly if that proposal was more costly than others. Positive reasons for the consultant recommended should be stressed rather than deficiencies of those not recommended.
- (d) In addition to the recommendation, a ranking of the three most qualified firms should be listed. The Board of Supervisors may accept the recommendation or select any of the three most qualified firms or order a new Request for Proposals.
- (e) To the maximum extent possible, details of the evaluation panel's recommendations are to remain confidential until the award has been approved by the Board. At that time, all proposers shall be notified of the Board's decision and the period for protest shall be considered opened. Any protest shall be considered in accordance with Section 6.0. Contracts may be awarded immediately after the time allowed for protests has expired or after the last protest has been resolved.
- (f) The requesting department shall forward a copy of the executed contract promptly to Purchasing.

5. Request for Qualifications

Some departments require lists of competitively selected consultants from which the department can rapidly and efficiently select the most qualified consultant to perform required consultant services. Examples include architectural consulting, construction management, environmental impact reports, civil engineering services, etc.

Requests for Qualifications are a call for competitive sealed proposals intended to produce a competitively determined list of highly qualified consultants from which the requesting County department(s) can draw. Requests for Qualifications shall be conducted in the same manner as Requests for Proposals, except that the evaluation panel will select a predetermined or logical number of top rated firms which will be recommended to be placed on a Qualified List. The Qualified List is typically effective for three

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years and may typically be extended for two additional one year periods. The effective periods shall be specified in each Request for Qualifications. Since the total dollar amount to be awarded from the Request for Qualifications is unknown, Purchasing will obtain Board of Supervisors approval of the recommended Qualified List or extensions thereof.

While the Qualified List is in effect, the requesting department(s) may select consultants in the following manner:

- (a) For contracts up to \$25,000.00, the department may simply select the apparent most qualified consultant from the list.
- (b) For contracts between \$25,000.00 and \$250,000.00, the department should request informal competitive proposals from three or more of the consultants on the qualified list.
- (c) For contracts exceeding \$250,000.00, a separate Request for Proposals is required.
- (d) Contract awards exceeding \$50,000.00 require Board of Supervisors approval, normally carried forward by the responsible department.

4.4.3. PUBLIC PROJECTS

In accordance with the Public Contract Code, Part 3, Chapter 1, the following procedures apply to all Public Projects except projects under the direction of the Road Commissioner (Section 20395 of the Public Contract Code):

A. Definition of a Public Project (Section 20150.2)

1. A project for the erection, improvement, and repair of public buildings and works.
2. Work in or about streams, bays, waterfronts, embankments, or other work for protection against overflow, except maintenance, repair or reconstruction work.
3. Supplies and materials used in maintenance, repair, or reconstruction work in or about streams, bays, waterfronts, embankments; or other maintenance, repair, or reconstruction work for protection against overflow.

B. Excluded expenditures from Public Projects (Section 20150.3)

1. Equipment, supplies and materials acquired by a public agency to enable the timely completion of a public project as defined in Section 20150.2 (c) let to a contractor.
2. Plans, specifications, engineering and advertising required for public projects.

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- C. Public Project Bid Level (Section 20150.4)
 - 1. Under \$4,000.00 for total project may be done by Force Account (County employee labor).
 - 2. Between \$4,000.00 and \$9,999.99 shall be let to contract by informal or formal bid procedures.
 - 3. \$10,000.00 and more shall, in all instances, be let to contract by formal bid procedures.

- D. Advertising (Sections 20150.7 and 20150.8)
 - 1. Notice inviting informal bids - One publication of notice in local newspaper at least twenty-four hours prior to opening of bids.
 - 2. Notice inviting formal bids - Two publications of notice, not less than five days apart with first publication at least ten days prior to opening of bids.

- E. Plans, specification and Working Details (Section 20150.12) For all public projects which exceed \$10,000:
 - 1. The Board of Supervisors shall adopt plans, specifications and working details.
 - 2. All bidders shall have the opportunity to examine plans, specifications and working details.

- F. Public Contract Code Definition of Informal and Formal Bid Procedures
 - 1. Informal Bid Procedures - The Purchasing Buyer shall seek informal written quotations from at least three probable sources with the advertising requirement from Section 5.4(a).
 - 2. Formal Bid procedures - Refer to the guidelines outlined in Section 3.0 of this manual with the advertising requirement from Section 5.4(b).

Public projects under the direction of the Road Commissioner shall be performed in accordance with the Public Contract Code, Part 3, Chapter 1, Article 25. In addition, the Public Contract Code prescribes a broad range of requirements for contracting by local agencies. Examples of these other requirements include Sewer Maintenance Districts (Section 20790), Water Districts (Section 20930), and Community Services Districts (Section 20680). County departments and Purchasing share the responsibility for complying with all requirements of the Public Contract Code.

4.5. EXCEPTIONS TO COMPETITIVE SOLICITATION

County employees must always strive to purchase competitively and wisely. The use of a competitive solicitation process is required unless there is an authorized basis for an exception, as defined below or as permitted for by law. Exceptions must not be exercised indiscriminately as a method of circumventing the competitive process and

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related County policies Competitive bidding is not required for the following purchases

- A. Wherever State law expressly authorizes execution of professional services contracts without competitive bidding or for expert and professional services which involve extended analysis, the exercise of discretion and independent judgment in their performance, and an advanced, specialized type of knowledge, expertise, or training customarily acquired either by a prolonged course of study or equivalent experience such as but not limited to: accountants, physicians, social service consultants, labor consultants, investigators, attorneys, architects, surveyors and engineers
- B. Purchases made from other public agencies competitive solicitations, or by use of Joint Powers Agreements, Cooperative Purchasing programs, Pooling Agreements, and other recognized types of agreements used by government agencies to combine agency requirements for purchases in order to obtain volume discounts. Purchasing staff must conduct an evaluation to determine low price value
- C. Legal brief printing, stenographic services, and transcripts
- D. Expert and professional services which involve extended analysis, the exercise of discretion and independent judgment in their performance, and an advanced, specialized type of knowledge, expertise, or training customarily acquired either by a prolonged course of study or equivalent experience.
- E. Books, publications, subscriptions, recordings, motion picture films, and annual book and periodical contracts
- F. Purchases of commodities and services from public and private non-profit corporations operating work centers for persons with disabilities as defined by the Welfare and Institutions Code 19403 and 19404.
- G. Property or services the price of which is fixed by law
- H. Although Elections materials are exempt from competitive bidding pursuant the State of California Election Code Section 13001. Elections Department will keep records that show price comparisons and may, at the option of the Registrar of Voters or without placing the security or conduct of the election at risk, attempt to secure the best prices for election items. The Registrar of Voters is encouraged to use the Purchasing Division for items that are non-election sensitive when possible. No provision of the Purchasing Policy is to be interpreted to direct the purchase of election materials, commodities or services must be processed through the Purchasing Division and be subject to normal competitive bidding process, as specified by current State law.
- I. Construction equipment rental;
- J. Proprietary drugs and pharmaceuticals, medical supplies and equipment
- K. Training, seminars, or classes
- L. The Purchasing Agent or designee determines that it is in the best interest of the County to extend or renew a contract, provided the extension or renewal does

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not adversely affect the integrity of the original award. Such extensions or renewals shall not be excessively utilized without Board approval.

- M. The Purchasing Agent or designee determines that competitive proposals do not produce any advantage, or it is impractical to obtain what is required and to observe a competitive process.

4.6. SOLE SOURCE/SINGLE SOURCE

A contract or purchase may be awarded without a competitive process if it meets either of the following criteria:

- A. Sole Source – a product or service which is the only product or service that satisfies the department’s operational requirements, usually because of a technological, specialized, or unique character, or proprietary nature.
- B. Single Source – a product or service that can only be obtained from a sole provider.

4.7. EMERGENCY PURCHASES

An Emergency is defined as an unexpected and pressing situation which requires swift and immediate procurement action precluding regular purchasing policy and is essential to public life, health, safety, or improved property of the County.

- A. Local Emergency – In the event of a local emergency proclamation, procurement actions necessary to acquire the goods and services required to address an immediate threat to life, public health, or safety, or to eliminate/reduce an immediate threat of significant damage to improved public and private property through cost-effective measures may be performed outside of the existing policy requirements. The existing policy may be modified, waived or suspended, where deemed necessary, subject to the approval of the Board of Supervisors, as prescribed in Public Contract Code Section 22050.
- B. State & Federal Emergency – In the event of an emergency declared at either a State or Federal level, all procurement actions necessary to acquire the goods and services required to address an immediate threat to life, public health, or safety, or to eliminate/reduce an immediate threat of significant damage to improved public and private property through cost-effective measures shall be pursuant to applicable State and/or Federal policies and procedures in compliance with the Federal Uniform Guidelines (2 CFR part 200).

4.8. PROHIBITION AGAINST PROJECT LABOR AGREEMENTS

Except and unless as otherwise required by State or federal law as a contracting or procurement obligation or as a condition of the receipt of State or federal funds, the County shall not require a contractor on a County public project to execute or otherwise become a party to a project labor agreement as a condition of bidding, negotiating, award or performance of the public project.

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Nothing in this subsection shall be construed as prohibiting private parties that may perform work on County public projects from voluntarily entering into project labor agreements or engaging in activity protected by law.

4.9. UNAUTHORIZED PURCHASES

All purchases must be made in accordance with this policy, other County Policies, as well as any and all applicable laws and are subject to audit at any time. Departments are responsible for ensuring that all purchases are made for official county business and make appropriate use of County funds.

5.0 NEVADA COUNTY PREFERENCE

5.1. LOCAL PREFERENCE

In recognition of the economic benefits provided by business located within Nevada County, , a local preference credit of 5%, but not cumulatively greater than five thousand dollars (\$5,000), for Nevada County businesses shall be permitted when evaluating competitive solicitations for supplies, equipment and materials that are not part of a public project. Purchasing's determination regarding a business' local preference credit shall be final.

A business qualifying for a local preference credit shall meet the following criteria:

- Establish a place of business within Nevada County at least six (6) months prior to publication of applicable competitive solicitation.
- Possess a valid resale license from the State Franchise Tax Board evidencing the business' local address within Nevada County and that payment of the local share of the applicable sales tax goes to either a city within Nevada County or to Nevada County.
- Payment of applicable business and/or real property tax to Nevada County for the most recent tax year.
- Maintain proper certification on file with Purchasing that demonstrates compliance with the provisions of this section.
- All Federally funded and some grant funded procurements do not qualify for Local Vendor Preference

5.2. RECYCLED PRODUCTS

The County will actively encourage suppliers to offer recycled products that meet the County's Green Procurement and Sustainable Practices Policy a preference of up to 10%, but not cumulatively greater than five thousand dollars (\$5,000) may be given to solicitations for products meeting the definition of recycled product cited in California Public Contract Code. Discretion is given to the purchasing manager to make a determination as to whether to apply the discount and to what extent at the time of the development of the solicitation. Such discount will have measurable standards and shall be applied when required by statute or grant requirements.

6.0 PROTESTS

Any bidder or offeror who is aggrieved in connection with a solicitation or award of a solicitation, shall have the right to protest to the Director of Information and General Services. The aggrieved party shall submit a formal written protest to the Director of Information and General Services within five (5) County business days after such aggrieved party should have known the facts giving rise thereto. The alleged grounds for protest shall be limited to the following: (1) the County failed to follow the procedures or requirements specified in the bid document, Request for Proposal, or other solicitation; (2) County employees or evaluation committee members 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 document or proposal. A formal written protest shall state all grounds claimed for the protest and include supporting documentation. Failure to file a formal written protest within the time prescribed shall constitute a waiver of all protest rights.

The Director of Information and General Services shall issue a decision within seven (7) County business days after receipt of the protest. The Director of Information and General Services' investigation shall respond to the protest on the grounds stated within the protest. The Director of Information and General Services' decision shall be final.

In the event of a timely and properly filed protest, the County shall not proceed further with the recommended award until the protest is addressed by the County unless the Director of Information and General Services, in consultation with the head of the requesting department and County Counsel, makes a determination that the protest is without merit, and the award of a contract without delay is necessary to protect substantial interest of the County.

7.0 CONTRACT APPROVAL AUTHORITY

The Board of Supervisors, the County Executive Officer, the Purchasing Agent (or his/her designee), or a Department Head are responsible for the approval of County-issued contracts within the limits contained in this Policy, unless otherwise permitted by ordinance or as expressly authorized by the Board. The following policies set forth the requirements for execution of purchasing related matters.

7.1. BOARD OF SUPERVISORS APPROVAL REQUIRED

- A. All contracts required by law to be approved by the Board of Supervisors.
- B. All contracts with a total annual cost of more than \$50,000 in accordance with County Administrative Code.
- C. All contract awards for goods/ commodities with a total aggregate amount exceeding \$250,000
- D. All multi-year contracts with an aggregate amount in excess of \$50,000 for the contract term in accordance with County Administrative Code.

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- E. Approval of recommended Qualified Lists and extensions thereof.
- F. Change orders, alterations, or addenda to a Board of Supervisors' approved contract for a public project which exceeds the limits prescribed in California Public Contract Code Section 20142.
- G. Change orders, alterations, or addenda to a Board of Supervisors' approved contract that changes or amends the contract in an amount that is greater than ten percent (10%) of the Board-approved amount or \$50,000 whichever is less.
- H. Any amendment to a contract that increases the contract in excess of \$50,000.
- I. Sale, transfer, or disposal of surplus personal property, having an original acquisition value of more than \$5,000 as identified in the Nevada County Capital Asset Inventory, unless otherwise prohibited by law.
- J. Emergency purchases of goods or services which require Board action in accordance with Section 4.7 of this Policy.
- K. Rejection of all responses to a solicitation, or cancellation of a solicitation, with a value of more than \$50,000. Board approval may be requested concurrently with approval to award the new solicitation.

7.2. BOARD OF SUPERVISORS RATIFICATION REQUIRED

Any authorized urgent purchases of \$5,000 or more must be submitted by the responsible department at the next regularly scheduled consolidated budget meeting or as directed by the CEO.

7.3. PURCHASING AGENT OR DESIGNEE APPROVAL AUTHORITY

- A. All contracts with a total annual cost of less than \$50,000 in accordance with County Administrative Code.
- B. All contract awards for goods/ commodities with a total aggregate amount \$250,000 or less.
- C. All multi-year contracts with an aggregate amount less than \$50,000 for the contract term.
- D. Change orders, alterations, or addenda to a Board of Supervisors' approved contract that changes or amends the contract in an amount that is not more than ten percent (10%) of the Board-approved amount, not to exceed \$50,000,
- E. Extension of term not to exceed three months or amends the contract in an amount that is not more than ten percent (10%) of the Board-approved amount, not to exceed \$50,000, provided the change does not adversely affect the integrity of the original award, and authority for such changes was included with the original Board approval.
- F. Purchases involving a trade-in of surplus property less than \$10,000, per California Government Code Section 25503, provided the total contract amount before trade-in does not exceed \$50,000 and trade-in item has been approved for disposal by Board of Supervisors and Auditor's Office.
- G. Rejection or cancellation of solicitations with an apparent contract award amount of \$50,000 or less.
- H. Ratification of Department Level Urgent purchases between \$4,000 and \$5,000.

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7.4. COUNTY EXECUTIVE OFFICER (OR ACTING CEO) APPROVAL AUTHORITY

- A. The County Executive Officer is authorized to enter into and to execute all contracts or agreements which are \$25,000 or under and which are not contracts that fall within Public Contract Code Section 20131 relating to the authority granted to purchasing agents, contracts for construction of public improvements, and contracts which must be awarded after public notice and competitive bidding.
- B. The County Executive Officer is authorized to enter into and to execute all grant or revenue contracts or agreements which are \$25,000 or less.
- C. The County Executive Officer of the County of Nevada shall be the ex officio District Administrator for the Nevada County Sanitation District No. 1. The County Executive Officer is authorized to enter into and to execute all contracts or agreements on behalf of the Nevada County Sanitation District No. 1 that are \$25,000 or under and which are not contracts that fall within Public Contract Code Section 20131 relating to the authority granted to purchasing agents, contracts for construction of public improvements, and contracts which must be awarded after public notice and competitive bidding.
- D. Pursuant to the provisions of Government Code Section 25350.60 and subject to the procedures specified in Administrative Code Section A-II 17.10, the County Executive Officer is hereby authorized to perform all acts necessary to approve and accept for the County the acquisition of any interest in real property where the purchase price for such interest does not exceed twenty-five thousand dollars (\$25,000).
- E. Ratification of Department Urgent purchases between \$4,000 and \$5,000.

7.5. DEPARTMENT HEADS AUTHORITY

- A. Department Heads may authorize Small Purchases of goods or services in accordance with Section 4.2 of this policy.
- B. Department Urgent Purchase – In the event of an urgency which requires immediate action at the department level and limits the ability of the County to conduct a competitive solicitation, the department director or authorized designee may authorize an exception to the standard Purchasing Policy and related procedures to address an immediate need. Urgent purchases between \$4,000 and \$5,000 are subject to ratification by the Purchasing Agent, CEO, or their designee. Urgent purchases of \$5,000 or more are subject to ratification by the Board of Supervisors as required by Section 7.2B.

8.0 RENTALS and LEASES

In accordance with Government Code Section 25350.51 Negotiate and execute in the name of the County as lessee all rentals of real property for a term not to exceed five years and for a rental not to exceed seven thousand five hundred dollars (\$7,500) per month which the County may require. Notice of intention to consummate the lease or license shall be posted

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in a public place for five (5) working days prior to consummation of the lease or license. The notice shall describe the property proposed to be leased or licensed, the terms of the lease or license, and any county officer authorized to execute the lease or license.

Amendments may be made for real property leases or licenses for improvements or alterations, or both, with a total cost not to exceed seven thousand five hundred dollars (\$7,500), provided that the amendment does not extend the term of the lease or license and that no more than two amendments, not to exceed seven thousand five hundred dollars (\$7,500) each, are made within a 12-month period

9.0 SURPLUS PROPERTY

In accordance with Nevada County Administrative Code Section A-1V 1.4(B) and Government Code Section 25504, County departments shall transfer excess property to the Purchasing Division. Purchasing shall sell, transfer, donate, dispose of, or exchange surplus property as provided by Nevada County Code, Government Code, and Board of Supervisors' direction. Surplus auctions shall be advertised in a public forum for a minimum of 14 calendar days unless expressly authorized by the Purchasing Agent. The proceeds of surplus property dispositions shall be deposited into the County treasury.

County employees shall not either directly or indirectly participate in the purchase of surplus property if the employee is responsible for surplus declarations, the acceptance of an offer, or assigned to the surplus program within the Purchasing Division.

10.0 ETHICS

Purchasing employees shall adhere to the National Institute of Government Procurement Code of Ethics and shall perform their duties impartially so as to assure fair competitive access to the County's procurement process by all responsible suppliers, contractors, and providers of services and to foster public confidence in the integrity of the County's procurement process.

County employees shall not solicit or accept any fee, compensation, gift, payment of expenses, or promise of compensation in connection with any decision, approval, disapproval, recommendation, or preparation of any part of a requirement, specification, standard, or contract. Employees shall discourage any inappropriate contact or encroachment on one's official duties by anyone who seeks to influence a procurement decision, and shall conduct their dealings with all suppliers of goods or services in a fair and impartial manner that guards against even the appearance of impropriety.

CONFLICT OF INTEREST:

County employees shall not participate directly or indirectly in a procurement when the employee knows that: (1) the employee or any member of the employee's immediate family has a personal financial interest pertaining to the procurement; (2) a business or

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organization in which the employee, or any member of the employee's immediate family, has a personal financial interest pertaining to the procurement; or (3) any other person, business or organization with whom the employee or any member of the employee's immediate family is negotiating or has an arrangement concerning prospective employment is involved in the procurement.

Upon discovery of an actual or potential conflict of interest, an employee shall promptly withdraw from further participation in the transaction involved and notify his/her immediate supervisor and Purchasing of the conflict.

VENDOR ETHICS:

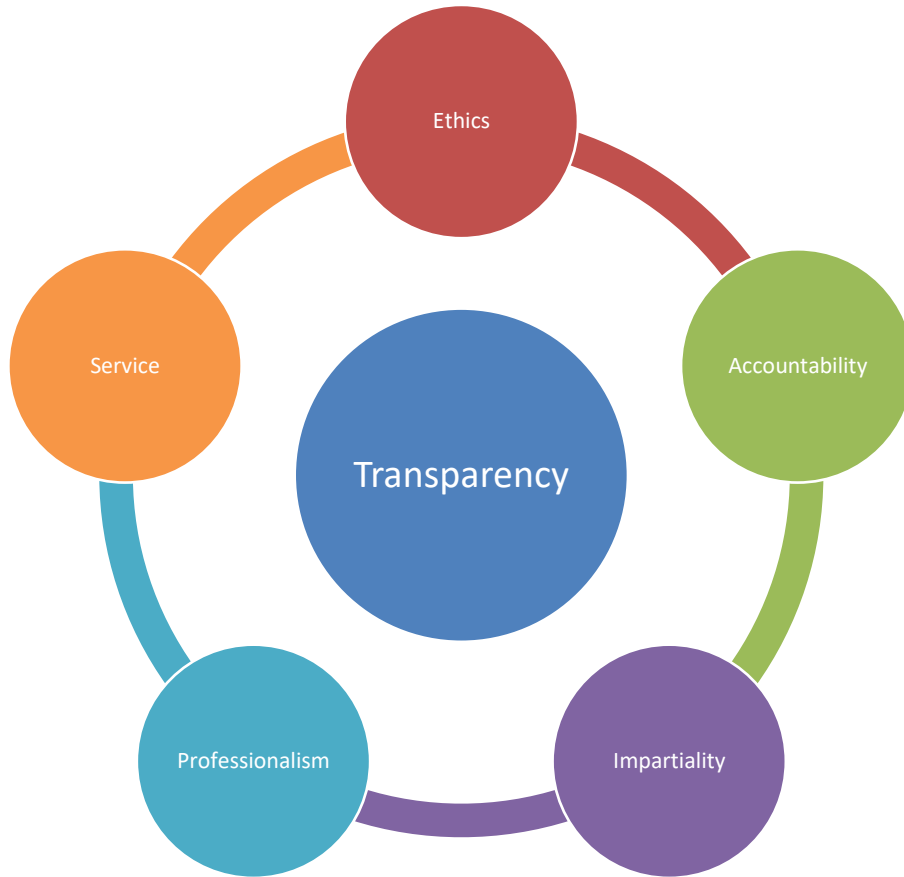
No supplier, provider of services, bidder, offeror, contractor, or subcontractor shall offer any County employee any gift, gratuity, offer of employment, or anything of value in consideration for a preference, waiver, or any manner of influence in a current or future procurement action. Violation of this policy may result in debarment at the discretion of the Board of Supervisors.

11.0 DEBARMENT

The Board of Supervisors shall have the authority to debar a person or firm from consideration for award of contracts. This action shall not be construed as to limit or prejudice any administrative or legal action available to the Board of Supervisors.

The causes for debarment include, but are not limited to the following:

- Conviction of a crime or civil judgment against the person or firm which directly affects the present responsibility of a contractor or subcontractor.
- Violation of the terms of a public agency contract or subcontract.
- Violation of the vendor ethical standards.



PURCHASING PROCEDURES MANUAL



ISSUED BY

Information and General Services – Purchasing Division

July 13, 2020



PURCHASING PROCEDURES MANUAL

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1.0 PURPOSE

1.1 INTRODUCTION

The main purpose of this procedures manual is to ensure communication and coordination between departments and purchasing and to define the procurement processes for all departments and agencies of Nevada County.

This manual is intended for internal staff to use in coordination with the purchasing division. The secondary purpose is to provide the tools for departments and agencies to establish and maintain these processes.

These procedures may be revised as needed to address changes in the County purchasing environment. Unlike the Purchasing Policy, changes made to these procedures does not require Board of Supervisors approval.

1.2 ROLES AND DESCRIPTIONS

The following roles and descriptions are identified to assist with understanding the allocation of duties and responsibilities for the purchase of goods and services within the County.

Purchasing Division, Department of Information and General Services (Purchasing), is primarily responsible for the purchase of supplies, equipment and services for the County unless otherwise exempted by policy, ordinance or this manual.

Department, is an organization or its representative who has been tasked to work with the Purchasing Division to accomplish the mission of the Department or agency.

2.0 RESPONSIBILITIES

Nevada County utilizes centralized purchasing to provide best value procurement through fair and open competition conducted by trained and dedicated purchasing professionals. The responsibilities for both Purchasing and Department staff are detailed and identified under each section of this manual.

3.0 COMPETITIVE PROCUREMENT

Contracts for the purchase of goods or services shall be awarded as the result of a competitive process, except as otherwise provided for by policy, ordinance, or this manual.

3.1 THRESHOLDS

The thresholds applicable to procurement activities other than public projects are set forth in the Purchasing Policy.

Public projects are governed by the California Public Contract Code, California Labor Code, have different thresholds, and must be solicited in accordance with the applicable State code and requirements. Public projects include, but are not limited to, construction, improvement, or repairs of County facilities. The current thresholds for Public Projects within Nevada County are noted below.

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Nevada County Thresholds for Public Projects		
Equal to or less than	\$4,000	Small Purchases and Department delegated authority
Between	\$4,000 and \$25,000	Informal Solicitation
More than	\$25,000	Formal Solicitation

3.2 SMALL PURCHASES

Department Heads or their designees are authorized to make specified individual purchases of products and services not to exceed the amount set forth in the Purchasing Policy ("Small Purchases").

- A. Obtaining Quotes.** Multiple quotes are not required for Small Purchases, but is recommended to assure that the price paid is lowest cost possible. When contacting a vendor to request a quote, the following information should be included at a minimum:
- Unit price for each item - lump sum quotes are difficult to evaluate
 - Delivery time – make sure they can provide it within the time required
 - Method of shipping and freight cost – the preferred terms are "FOB Destination, freight prepaid". This also makes the vendor responsible for filing claims for goods lost or damaged in transit. If the vendor insists that you pay the freight, the "FOB point" should still be "Destination". NEVER agree to terms of "FOB Origin" (vendor's location). NEVER agree to pay freight to the shipper on a "COD" basis.
 - Payment terms – Net 30 is considered standard, but ask if they will offer a discount for earlier payment. Do not agree to "prepay" unless you are using a County credit card.
 - It is a best practice to have your quote in writing as that allows for accurate review and eliminates much of the potential disputes over what was requested and quoted.

If you are getting quotes from multiple vendors, do not divulge vendors' names or prices to other vendors; such a practice is unethical.

- B. Evaluating Quotes.** Departments will review and evaluate all quotes received. At minimum, Departments shall assure that:
- All vendors have quoted the same product or service.
 - All applicable taxes are applied to the total evaluation cost. Nevada County is required by State law to pay sales tax on all purchases of materials, and even some services. Some vendors may think we are exempt; remind vendors that the County is obligated to pay sales tax. Vendors who are located outside of California may not be capable of collecting State of California sales tax. If the County makes a purchase from an out-of-state vendor who does not add sales tax to our invoice, the County must remit the sales tax directly to the State of California. This is also true of internet purchases. Therefore, sales tax must be included in your cost evaluation. Consult with Purchasing or the Auditor's staff if you are unsure whether the purchase is subject to state sales or use tax.
 - Watch out for "hidden" charges such as handling or processing fees or other surcharges. Confirm the cost of freight, shipping and handling, or other miscellaneous charges. Sometimes these hidden charges add up to more than the cost of the items ordered.
 - Local Vendor Preference is applied to the cost evaluation for vendors who have filed a proper Affidavit (refer to Section 5.1 for additional information regarding Local Vendor Preference credit procedures).

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- Prompt Pay Discounts, if offered, are considered in the cost evaluation.
- The lowest-price bidder has demonstrated the capability to provide the product or service, and meets or exceeds the Department's requirements.

C. Purchase. The preferred method of ordering the Small Purchase is to provide the vendor with your County-issued P- Card or a direct pay if under \$4,000.

If you are not using a County-issued Credit Card, the vendor must agree to accept a Purchase Order (PO) and provide the goods or services in advance of payment, and to provide a written invoice for payment processing.

Instruct the vendor to ship to the appropriate Department's business or working address. Orders must not be delivered to a third party (non-County business) or a personal address, without express approval from the Department Head.

D. Receiving. Shipments may be delivered by US Mail, the vendor's own delivery service, or a private shipping company (FedEx, UPS, etc). In all cases, it is the Department's responsibility to receive the merchandise in an appropriate manner. The following steps should be followed:

- Prior to signing the delivery receipt, count the number of boxes being delivered to compare with the quantity on the manifest. If there is a discrepancy, request the driver to note the actual number of boxes being delivered. Do not ask the delivery person to wait for you to open the cartons to inspect the contents.
- If the packaging is damaged or damage is suspected, advise the driver that you are noting on the delivery receipt that the goods were received in damaged packaging.
- As soon as reasonable (preferably within the same working day), thoroughly inspect the goods to be certain that they conform to the order specifications (quantity, model number, color, etc.), and there is no concealed damage. Delays in inspecting the merchandise diminish your ability to prove the damage occurred prior to delivery.
- If there is a discrepancy between the County's order and the goods actually received, or the items are damaged, contact the vendor immediately for resolution. Contact Purchasing if you need assistance.
- Departments are also responsible for assuring that vendors provide the services described. Particular attention should be given to the schedule or due date, and any promised outcomes or deliverables. Contact the vendor immediately if the work is not being performed as stated, or within the time promised, and advise them to correct their performance.

E. Payment. As soon as the invoice arrives, verify that the amount billed matches the amount the vendor quoted, including freight and sales tax (as applicable). The Department's accounting staff will generate payment in accordance with the Auditor-Controller's current [Policy](#).

If a County-issued P- Card was used for the purchase, the purchase will appear on the cardholder's next billing statement, which will need to be reconciled in accordance with the current [Credit Card Procedure](#)

F. Additional Guidelines for Internet Purchases. County staff may place orders via the Internet, but should be cautious about the merchants chosen for such purchases. The below suggestions are provided in an effort to protect the County from fraud.

- When shopping on-line, choose merchants who already have a good reputation with the County and the general public. If the company is unfamiliar or if it is difficult to determine where they're located (i.e. there is no phone number or mailing address posted on their website), it's a good idea to avoid them.
- **Never** place an order in direct response to an unsolicited email or phone call.
- The County normally purchases new equipment, not used or refurbished. If the price is significantly lower than other merchants, it may be a refurbished or rebuilt item, clarify with the vendor if unsure.
- Ask about the vendor's return policy if it is not indicated on their website. If the item received was not the item promised, or if it somehow does not meet the Department's needs, how difficult will it be to return it and have them reverse the charge to your credit card? Will there be a restocking fee? Will the County have to pay the return freight?

G. Small Purchases – Public Projects. Public Projects with a total cost of \$4,000 or less may be made without competitive bidding. The above procedures should be followed for small public projects. Multiple quotes for the detailed work are encouraged but not required if the total project cost is \$4,000 or less. Public Projects with a total cost of \$1,000 or more are subject to the provisions of Labor Code Sections 1720-1861.

3.3 INFORMAL SOLICITATIONS

Purchases of goods and services that are not Public Projects, with an estimated cost between \$4,000 and \$25,000 (including tax, installation, and freight), may be made as the result of an Informal Solicitation process in accordance with this Section. Informal methods include, but are not limited to, quotes requested by telephone, email or fax, or Price Quotes solicited through Purchasing's web-based platform. Any exceptions must be approved by the Purchasing Agent, and thoroughly documented.

Departments shall submit requisitions to Purchasing for purchases which exceed the Small Purchase limit (greater than \$4,000 or not allowed by Section 4.2 of the Purchasing Policy).

A. Obtaining Quotes. Departments, at their option, may solicit quotes from one or more vendors prior to submitting the requisition to Purchasing. Purchasing may also request quotes from additional vendors if determined to be in the County's best interest. If the Department does not provide quotes with the requisition, Purchasing will request them from any vendor recommended by the Department, and vendors who are known to provide the products/services at the most reasonable cost. A minimum of 3 quotes should be requested from at least 3 competent firms before making the purchase. Purchasing will review all quotes and contact the vendors for clarification, if required.

All quotes, regardless of method, should include the following:

- Unit price for each item – as lump sum quotes are difficult to evaluate.
- Delivery time for the entire order, or completion of service.
- Method of shipping and freight cost – FOB point should always be Destination. The County is agreeable to paying freight, but the vendor must pay the shipper and add it to our invoice. COD freight terms are not acceptable.

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- Payment terms – If no prompt pay discount or other payment period is indicated, the County will pay on a Net 30 basis. The County will not accept payment terms of “COD” or less than 10 days.

B. Evaluating Quotes. Purchasing will review and evaluate all quotes received by the Department. At minimum, Purchasing shall assure that:

- All vendors have quoted the same product or service.
- All applicable taxes are applied to the total evaluation cost.
- Local Vendor Preference is applied to the cost evaluation for vendors who have filed a proper Affidavit (refer to Section 4.0 for additional information regarding Local Vendor Preference credit procedures).
- Prompt Pay Discounts, if offered, are considered in the cost evaluation.
- The lowest-price bidder has demonstrated the capability to provide the product or service, and meets or exceeds the Department’s requirements.

Purchasing may solicit additional quotes in order to meet the minimum number of quotes required, or as may be determined by Purchasing to achieve sufficient competition.

C. Award. Award shall be made to the lowest responsive and responsible vendor meeting all requirements of the Solicitation. The method of award may include any of the following:

<u>Award Type</u>	<u>Purpose</u>
Purchase Order, (PO)	One-time purchase of goods or services.
Blanket Purchase Order, (BPO)	Purchases to be made on an as-needed basis over a specified period of time.
Contract (PSC)	Purchases requiring specifically stated terms and conditions (including contracts for Personal Services); may be attached to a BPO when definition of terms and conditions is necessary.

D. Documentation. Purchasing will maintain thorough documentation to support the decision to purchase from the lowest responsive and responsible vendor. Documentation may be stored electronically and shall include, but is not limited to:

- Department’s request, including specifications and service requirements.
- Copies of all quotes, including any clarifying emails from vendors.
- Spreadsheet with the cost evaluation, including any comments to explain the evaluation and selection of the vendor.
- File memo or other summary comments explaining the informal process used and the basis for award to the selected vendor.
- Copy of executed award in the format selected.

Documentation for Informal Solicitations shall be kept in a manner and for a period as prescribed by the County’s Retention Policy.

E. Receiving. Departments are responsible for monitoring the delivery process and assuring the vendor delivers product or provides service in a timely manner and in accordance with the requirements of the order. The following steps should be followed:

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- Prior to signing the delivery receipt, count the number of boxes being delivered to compare with the quantity on the manifest. If there is a discrepancy, advise the driver to note the actual number of boxes being delivered. Do not ask the delivery person to wait for you to open the cartons to inspect the contents.
- If the packaging is damaged or damage is suspected, advise the driver that you are noting on the delivery receipt that the goods were received in damaged packaging.
- As soon as reasonable (preferably within the same working day), thoroughly inspect the goods to be certain that they conform to the order specifications (quantity, model number, color, etc.), and there is no concealed damage. Delays in inspecting the merchandise diminish your ability to prove the damage occurred prior to delivery.
- If there is a discrepancy between the County's order and the goods actually received, or the items are damaged, contact the vendor immediately for resolution. Contact Purchasing if you need assistance.
- Departments are also responsible for assuring that vendors provide the services described. Particular attention should be given to the schedule or due date, and any promised outcomes or deliverables. Contact the vendor immediately if the work is not being performed as stated, or within the time promised, and advise them to correct their performance.

F. Payment. Payment shall be made in accordance with the requirements of the order, and the Auditor-Controller's [current policies](#) and procedures for Accounts Payable. Departments are responsible for assuring payment is made with the time agreed in the order (e.g. Net 30 days). Departments are further responsible for assuring that payment is processed in time to receive any Prompt Payment Discount offered by the vendor, either on the order or the invoice (e.g., 2%-10 days, 1%-15 days).

Failure to make payments in the time agreed negatively affects the County's credit standing with its vendors. Missed discounts for late payments directly increases the County's expenditures.

G. Informal Solicitations – Public Projects. In addition to the above listed procedures, the following requirements shall apply:

- Public projects between \$4,000 and \$10,000 require at least one advertisement in a local newspaper in accordance with Public Contract Code Section 20150.7.
- Public Projects with a total cost of more than \$1,000 are subject to the provisions of Labor Code Sections 1720-1861.
- Competitive quotes from at least three competent and licensed firms.
- The quotes must be specific and cover all of the requested work.
- Quotes shall be obtained and evaluated as stated above and in accordance with Public Contract Code Section 20103.8.
- Local Vendor Preference is not allowed to be considered.
- Subsequent change orders which increase the total project cost to an amount over \$10,000 are not permitted.

3.4 FORMAL SOLICITATIONS

Purchases of goods and services with an estimated cost of \$25,000 or more (including tax, installation, and freight), shall be made as the result of a Formal Solicitation process including but not limited to Invitations for Bids, Requests for Proposals, Requests for Qualifications, Requests for Information and any other formal solicitation method that can be completed within a

timeframe that allows for the solicitation, evaluation and approval in accordance with this Section. Formal solicitations may be solicited through Purchasing's web based system or as otherwise directed by the Purchasing Agent.

- A. Department Responsibilities** Submit a Requisition to Purchasing in sufficient time to complete the Formal Solicitation process.
- Consult with Purchasing staff to determine appropriate timelines for the purchase.
 - Provide sufficient product specifications, scope(s) of work, and other relevant information required by Purchasing to develop the Formal Solicitation.
 - Review draft Solicitations at the request of Purchasing.
 - Assist Purchasing with developing responses to vendor questions during the Solicitation process.
 - Assist Purchasing with evaluating bids/proposals in response to Formal Solicitations.
- B. Purchasing Responsibilities**
- Work with Department representative to understand the purchase requirements.
 - Develop Formal Solicitation package.
 - Issue Solicitation.
 - Field questions from bidders, solicit input from Department, provide responses.
 - Receive responses.
 - Evaluate bids where price is the only deciding factor, assuring that the products or services offered meet the minimum requirements identified in the Formal Solicitation.
 - Facilitate panel reviews of Formal Solicitations which contain subjective criteria (RFPs, RFQs).
 - Consult with Department/panel to review results.
 - Develop formal recommendation for award.
 - Submit recommendation to Board, and/or assist requesting Department to develop the recommendation.
- C. Solicitation Process**. The normal solicitation process will include the following steps:
- Posting on the web based platform.
 - Notification to firms based on department request or category match in the system.
 - Notification to firms from the Small Business Administration.
 - Opportunity for interested firms to ask questions and receive clarification.
- D. Software Procurement Specific**. Any solicitation conducted pertaining to a software solution will include the following steps:
- IT Governance approval,
 - The [workflow diagrams](#) followed within the IS Division:
 - The hosted and on premises contract templates as part of the RFP. (go to the [Purchasing SharePoint page](#) for the latest version)
 - The [vendor security evaluation form](#)
- E. Receipt of Responses**. The receipt of responses to a solicitation shall be either through the web based platform that ensures no one can review or access the documents prior to the opening time, or submitted to the address indicated in the solicitation in a sealed envelope or container, time stamped by the person accepting the document. At no time should a formal solicitation response be reviewed by anyone prior to submission or the formal time for review.

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Do not accept responses which are submitted to locations other than the one specified in the solicitation, and contact Purchasing division immediately for further instructions.

- F. Evaluation.** The evaluation of the solicitation will be based on the criteria included in the solicitation document. Criteria will be clearly identified and indicated for the responding firms. The evaluation may be based on any measurable criteria that have been noted or provided in the solicitation documents or criteria that clearly identify the County's best interest.

The evaluation criteria may not be changed without providing all responding firms adequate time to incorporate those changes into their response or address them with the County.

- G. Evaluation Panel Selection.** An Evaluation Panel is critical to the Competitive Sealed Proposal selection process. To protect the integrity of this formal solicitation and the evaluation process, it is essential that each participant understand and abide by a specific code of conduct (see the [agreement to serve](#)). Adherence to these requirements helps to assure the effectiveness of the evaluation team as a whole, and protect the overall interests of Nevada County in the award of the RFP/RFQ. In order to ensure a fair process, the Purchasing Agent reserves the right to approve or reject department proposed panel members prior to distribution and evaluation of the submitted responses. Guidance for selection panel members are as follows:

- Who can sit on a panel? Panel members can be either or a combination of:
 - **Internal:** Requesting Department Subject Matter Experts(defined- is a person with special knowledge or skills in a particular area of endeavor),Other County Department Subject Matter Experts, County Administrative Office staff, County Counsel Representative, Purchasing etc.
 - **External:** Consultants (not interested in proposing to the solicitation), Other Government Agency/Municipality Subject Matter Experts example: Bridgework may include panel members from Nevada County Public Works – Engineering, Engineers from Placer, El Dorado County or possibly Cal-Trans.
- General Guidelines for panel selection:
 - # of raters must be odd number
 - Minimum of 3 Max of 7 raters
 - Avoidance of supervisor/subordinate selection and/or department weighed percentage
 - Rotation of previous selection panel members for same services
 - Proxy or panel substitutes allowed if attendance cannot be committed but requires Purchasing Agent approval
- Rater responsibilities
 - Fairness & Integrity
 - Attendance to panel/interview meetings
 - Confidentiality of panel members, proposals, proposers, discussions and scores
 - Conflict of Interest/Recusal
 - Adherence to rating guidelines/policies/admin code
 - Protest participation if necessary
 - Right of Recusal

- H. Award.** Award shall be made to the vendor(s) best meeting the requirements of the Solicitation. The method of award may include any of the following:

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<u>Award Type</u>	<u>Purpose</u>
Purchase Order (PO)	One-time purchase of goods or services.
Blanket Purchase Order (BPO)	Purchases to be made on an as-needed basis over a specified period of time.
Contract (PSC)	Purchases requiring specifically stated terms and conditions (including contracts for Personal Services); may be attached to a BPO when definition of terms and conditions is necessary.
Master Service Agreement (MSA)	Issued to firms on Qualified Lists, format and content very similar to a Contract. Usually has no dollar limit or financial impact. Purchase orders are issued against the Master Services Agreement as needed.

- I. **Documentation.** Purchasing will maintain thorough documentation to support the decision to purchase from the lowest responsive and responsible vendor. Documentation shall include, but is not limited to:
- Department's request, including specifications and service requirements.
 - Copies of all responses to the Solicitation, including any clarifying emails from vendors.
 - List of firms who were notified of the Solicitation.
 - List of firms who accessed the Solicitation.
 - Spreadsheet with the cost evaluation or scores, including any comments that may be necessary to explain the evaluation and selection of the vendor.
 - File memo or other summary comments explaining the process used and the basis for award to the selected vendor.
 - Copy of Board memo (if required) approving the award.
 - Copy of executed agreement in the format selected.

Documentation for Formal Solicitations shall be kept in a manner and for a period as prescribed by the County's Retention Policy.

- J. **Public and Confidential Records.** Responses to Invitations for Bids shall be considered public records immediately upon opening of the responses. Copies of the bid responses and other associated documents shall be made available upon request.

Responses to Requests for Proposals and Requests for Qualifications, and scores from the associated evaluation panel members, shall be considered confidential records upon receipt and throughout the evaluation process. Copies of these records shall not be made available until submission of an award recommendation to the Board of Supervisors, or as otherwise directed by County Counsel. Names of the evaluation team members will be remain confidential indefinitely or as otherwise directed by County Counsel.

Records maintained by Purchasing which document the processing and award of any solicitation shall be kept in accordance with the County's retention policy.

- K. **Receiving.** Departments are responsible for monitoring the delivery process and assuring the vendor delivers products or provides service in a timely manner and in accordance with the requirements of the order. Contact Purchasing if you need assistance with vendor performance.

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It is the Department's responsibility to receive the merchandise in an appropriate manner. The following steps should be followed:

- Prior to signing the delivery receipt, count the number of boxes being delivered to compare with the quantity on the manifest. If there is a discrepancy, advise the driver to note the actual number of boxes being delivered. Do not ask the delivery person to wait for you to open the cartons to inspect the contents.
- If the packaging is damaged or damage is suspected, advise the driver that you are noting on the delivery receipt that the goods were received in damaged packaging.
- As soon as reasonable (preferably within the same working day), thoroughly inspect the goods to be certain that they conform to the order specifications (quantity, model number, color, etc.), and there is no concealed damage. Delays in inspecting the merchandise diminish your ability to prove the damage occurred prior to delivery.
- If there is a discrepancy between the County's order and the goods actually received, or the items are damaged, contact the vendor immediately for resolution. Contact Purchasing if you need assistance.
- Departments are also responsible for assuring that vendors provide the services described. Particular attention should be given to the schedule or due date, and any promised outcomes or deliverables. Contact the vendor immediately if the work is not being performed as stated, or within the time promised, and advise them to correct their performance.

- L. **Payment**. Payment shall be made in accordance with the requirements of the order, and the Auditor-Controller's current [Accounting Policy & Procedures](#). Departments are responsible for assuring payment is made with the time agreed in the order (e.g. Net 30 days). Departments are further responsible for assuring that payment is processed in time to receive any Prompt Payment Discount offered by the vendor, either on the order or the invoice (e.g., 2%-10 days, 1%-15 days).

Failure to make payments in the time agreed negatively affects the County's credit standing with its vendors. Missed discounts for late payments directly increases the County's expenditures.

- M. **Formal Solicitations – Public Projects**. In addition to the above requirements for Formal Solicitations, the following requirements shall apply:
- Approval of Plans and Specifications from the Board of Supervisors prior to soliciting.
 - Public projects in the amount of \$10,000 or more require two advertisements in a local newspaper in accordance with Public Contract Code Section 20150.8.
 - Public Projects with a total cost of more than \$1,000 are subject to the provisions of Labor Code Sections 1720-1861.
 - Bids shall be obtained and evaluated as stated above and in accordance with Public Contract Code Section 20103.8.
 - Local Vendor Preference is not allowed to be considered.

3.5 EXCEPTIONS TO COMPETITIVE SOLICITATION

In certain circumstances competitive solicitations may not be the most cost-effective approach for procurement. The Board of Supervisors, County Executive, or Purchasing may waive requirements for competitive solicitations in accordance with the grounds permitted by law. Key exemption categories are identified in the Purchasing Policy. Exceptions are not intended to circumvent the competitive process and related County policies and does not eliminate the need to ensure purchases are competitively priced and the terms and conditions of the purchase are in the best interests of the County.

A written determination of the basis for the exception to competitive solicitation and the reason for the selection of the particular source shall be included in Purchasing's records.

3.6 SOLE SOURCE/SINGLE SOURCE

Departments may request consideration for sole or single source purchases by submitting a written justification with the requisition, or by submitting an email to the Purchasing Agent. The requesting Department shall thoroughly and carefully justify the sole/single source purchase request. Purchasing staff may conduct their own market research when considering any proposed sole/single source purchase request to ensure that the purchase meets the sole/single source criteria specified in the Purchasing Policy and does not violate any California State statutes or regulations. Approval of a proposed sole/single source purchase is not guaranteed.

If the procurement is within the small purchase threshold, as stated in Section 3.1, neither competition nor the sole source/single source justification is required.

Sole Source. To justify a Sole Source purchase, departments must explain why the item/service is unique; how the Department knows that there is only one source for the item/service; and the basis upon which the price/cost was determined to be fair and reasonable. The written justification will be reviewed by the Purchasing Agent or their designee and the determination will be included in Purchasing's records.

Single Source. To justify a Single Source purchase, departments must state the circumstances leading to the selection of the vendor, any alternatives considered, rationale for selecting the vendor, and how it was determined that the price was fair and reasonable.

Sole Source and Single Source purchases may only be made in those situations allowed by the Purchasing Policy with written justification. The written justification will be reviewed by the Purchasing Agent or their designee and the determination will be included in Purchasing's records.

3.7 EMERGENCY PURCHASES

An emergency is defined as an unexpected and pressing situation which requires swift and immediate procurement action precluding regular purchasing policy and is essential to public life, health, safety, or improved property of the County. Please refer to the limits and criteria for making emergency purchases that are set forth in the Purchasing Policy. **The potential loss of funds at the end of the fiscal year and a lack of planning do not constitute an emergency.**

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During an emergency, when the amount of the emergency purchase is within adopted thresholds (Section 3.1), the competitive procurement shall be made with such competition as is practical under the circumstances by Purchasing. When placing an emergency purchase outside of normal business hours, Departments must provide documentation of the following:

- A description of the emergency;
- Explanation of how the situation falls within the parameters of an emergency justifying the emergency purchase;
- Explanation of the consequences of making the purchase through normal procurement process;
- A description of the goods and/or services and price; and
- The names and quotations of all suppliers contacted.

A. Department Level Urgency. Departments may require an expedited purchase which cannot be accomplished within the normal purchasing turnaround time. For this occasional purchase, the Department shall contact Purchasing and request authorization prior to making a purchase. Purchasing will either recommend that the Department use an existing contract vendor to perform the work or assist the Department to find a vendor that can respond in a timely manner. Purchasing will also advise as to how to pay for the emergency purchase depending on the estimated dollar amount.

Payments for urgent purchases shall be in compliance with the Auditor-Controller's current [Accounting Policy & Procedures](#). The Department Head shall advise the Board of Supervisors at the next regularly scheduled Board meeting of emergency purchases of \$5,000 or more. Reference the Purchasing Policy, Section 3.7, which describe the criteria used to determine the appropriate level of an emergency event and the use of emergency purchases.

B. Local Emergency. Procurement actions may be modified or eliminated upon approval of the Nevada County Board of Supervisors to support the County's response to the declared emergency in accordance with the Purchasing Policy. If the emergency has the potential to become a State or Federal emergency, it is recommended to consider following the applicable requirements below to ensure the action will not be deemed ineligible for reimbursement.

C. State Emergency. When procuring County goods and services under a State declared emergency, procurement actions default to the State of California Department of General Services, State Contracting Manual requirements. Competitive bids are always desirable, but not mandatory when time is of the essence and such efforts would impede emergency response.

Public Contract Code Section 22050 allows for emergency purchases of goods and services without competitive bidding, subsequent to Board approval, when the goods and services are needed on an emergency basis and where immediate acquisition is necessary for the protection of the public health, welfare, or safety. Use of existing County and cooperative contracts are acceptable.

Departments are responsible to ensure that a post review does not reveal intentional disregard of statutes or non-compliance with the County's Code of Ethics. Documentation of the emergency purchase is required.

- D. Federal Emergency.** When procuring County goods and services under a Federal declared emergency, the County must follow the U.S. Government Code of Federal Regulations (C.F.R.) 200.318 General procurement standards through 200.326 Contract provisions. The standards the County must comply with include, but are not limited to:
- Employees engaging in contract award and administration must comply with Section 11 of the Purchasing Policy.
 - Maintaining records to detail the significant history of the procurement action.
 - Performing a cost or price analysis for procurement actions exceeding the federal small purchase threshold of \$150,000 – or the equivalent County threshold (whichever is less).
 - Taking the required affirmative steps to encourage small and women/minority-owned business to participate in the contracting process.
 - Prohibiting contractors that develop or draft specifications, requirements, statements of work, or solicitations from competing for and being awarded the subsequent contract for that work.
 - Prohibiting the use of local vendor preference in the evaluation of solicitations.
 - Including certain specific provisions in the contract. The contract provisions can be found in Appendix II of 2 C.F.R. Part 200.

Procurement by noncompetitive proposals may be used only under one of the following circumstances:

- The item is available from only a single source (not the most convenient source);
- After solicitation of a number of sources, competition is determined to be inadequate; or
- A Public emergency (threats to health, life, or safety) or exigency (threats requiring an immediate response) exists that will not permit a delay resulting from competitive solicitation. This exception can only be used until the emergency or exigency period ends, at which time, the contract must be re-solicited under full and open competition.

Possible contracting approaches for a federal emergency may include:

- **Pre-awarded contracts.** A contract that was awarded prior to the issuance of the current federal procurement standards may still be used if certain conditions are met:
 - The existing contract must have been in compliance with the federal procurement standards that were applicable at the time the contract was solicited and awarded;
 - Purchasing must re-examine the contract to ensure that it complies with the current federal procurement standards;
 - Where there has been a change in the new procurement standards and the existing contract is non-compliant, Purchasing will determine under local law, whether a contract modification is legally permissible to bring the contract into compliance;
 - Purchasing would have to determine that the existing contract's scope of work was broad enough to cover the type and extent of work now contemplated. Out of scope work cannot be included in an existing contract; and
 - Purchasing would have to reassess whether the age of the existing contract is a problem as it relate to whether the associated prices/costs remain fair and reasonable due to the passage of time.
- **Time and Materials (T&M) contracts.** T&M contracts can be used for a reasonable period of time only when:
 - Within 72 hours of the emergency declaration
 - No other contract is suitable; and

- The contract includes a ceiling price that the contractor exceeds at its own risk.

This type of contract is often used where the scope of work or the duration of the work is unclear. Because this type of contract requires significant oversight to ensure costs are reasonable, the County should start thinking about switching to a different type of contract as soon as it awards a T&M contract. Once the scope of work becomes clear, the County should switch to a different type of contract, like a cost reimbursement or fixed price contract.

- **Cooperative/Piggyback contracts.** These contracts are often issued under non-emergency circumstances and for a different scope of work. Such contracts often do not meet all the federal procurement standards of the specific emergency.

Unacceptable Contracting approaches for a federal emergency are:

Cost-Plus-Percentage-of-Cost contracts. A contract where the profit is based on a percentage of the underlying project costs actually incurred. These contracts are explicitly prohibited by the federal procurement standards and ineligible for Federal Emergency Management Agency (FEMA) grant funding because they incentivize the increase of actual costs in order to increase associated profit.

3.8 UNAUTHORIZED PURCHASES

Departments are responsible for ensuring that all purchases are made for “Official County Business” and make appropriate use of County funds. Unauthorized purchases is any action that is taken to circumvent the limits of authority of Federal, State or local law, or County policy.

All contracts and purchases are subject to review and audit by Purchasing and the Auditor-Controller’s Office. Any apparent unauthorized purchase will be discussed with the ordering Department. The Purchasing Agent or designee will determine the actions necessary to correct the deficiency. Actions may range from approval of the purchase, to a requirement for the Department to seek Board of Supervisors approval, up to a requirement for the purchaser to reimburse the County for the improper purchase. Failure to comply with the Purchasing Policy may result in disciplinary action. The individual may be personally liable to the County for the amount of any unauthorized purchases.

4.0 NEVADA COUNTY PREFERENCE

- A. **Local Vendor Preference.** For the purpose of this section, a vendor qualifying for local vendor preference must meet all of the criteria stated in the Purchasing Policy (Section 5.1).

A local preference credit of 5%, but not cumulatively greater than five thousand dollars (\$5,000), for Nevada County businesses shall be permitted when evaluating competitive solicitations for supplies, equipment, materials and services. In evaluating competitive sealed proposals, the 5% local preference credit, computed from the local vendor’s raw score, shall be added to the total score of each qualified local vendor.

A local vendor preference credit will not apply to solicitations conducted jointly with other public agencies, nor when prohibited by State or Federal statutes or regulations or otherwise exempted from local preferences.

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A business seeking local vendor preference is required to submit with its solicitation response a Local Vendor Preference Affidavit which demonstrates compliance with the provisions of this section or have filed a [Local Vendor Preference Affidavit](#) with the Purchasing Division prior to the solicitation's due date. The statement shall be on a form provided by the County Purchasing Division and shall be signed under penalty of perjury. Any person, firm, corporation or entity intentionally submitting false information to the County in an attempt to qualify for local preference shall be prohibited from bidding on Nevada County products and services for a period of one (1) year.

A preferred local vendor must re-apply every three (3) years in order to continue to receive the local vendor preference. Purchasing will notify preferred local vendors to update affidavits.

- B. Recycled Preference.** At the discretion of the Purchasing Agent, a recycled product preference credit up to 10%, but not cumulatively greater than five thousand dollars (\$5,000) may be permitted when evaluating competitive solicitations for products meeting the definition of recycled product cited in California Public Contract Code Sections 12301(c), 12301(d) and 12209. For the purpose of this section, if the recycled preference credit is permitted, the competitive solicitation must include the minimum recycled content criteria as an evaluation factor and how it will be measured and evaluated. All solicitations shall require bidders to provide information regarding the recycled content of their products, pursuant to Public Contract Code Section 22152, 22153, and 22154.

5.0 PROTESTS

Competitive solicitations must include a notification of the County's Protest Policy. Each Department must notify Purchasing immediately upon becoming aware of a potential or actual protest. Purchasing will coordinate further discussions using the Department's County Counsel, and will follow the procedures contained in the Purchasing Policy.

6.0 CONTRACT APPROVAL AUTHORITY

- A. Original Contracts.** The Board of Supervisors, the County Executive Officer, or the Purchasing Agent (or his/her designee) are responsible for the approval of County-issued contracts unless otherwise permitted by County ordinance, or as expressly authorized by the Board of Supervisors. The requirements for execution of purchasing related matters are set forth in the Purchasing Policy.

The following are the authority levels for the purchase of goods or services executed by Purchasing staff:

If the total cost of the contract is:

- Equal to or less than \$10,000 – Buyer
- Between \$10,000 and \$50,000 – Purchasing Agent
- More than \$50,000 – Board of Supervisor's or delegated authority with Board of Supervisors' approval

- B. Change Orders.** The Board of Supervisors and the Purchasing Agent (or his/her designee) may execute change orders, alterations, or addenda to existing contracts in accordance with the Purchasing Policy.

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The authority levels for change orders executed by Purchasing staff are in accordance with Section 7.0 of the Purchasing Policy.

In addition to the above, Public Contract Code Section 20142 permits the Purchasing Agent (or his/her designee) to execute change orders to construction contracts in the amount of 10% if the original contract is between \$50,000 and \$250,000, or \$25,000 +5% if the original contract is greater than \$250,000, provided the change order does not exceed \$210,000.

- C. Trade-In Allowances.** The Purchasing Agent (or his/her designee) may solicit and accept trade-in allowances for County personal property which has scrap value of less than \$10,000, as provided by Government Code Section 25503.
- D. Department Heads.** Department Heads may authorize their respective staff to purchase goods or services of \$4,000 or less in accordance with the Small Purchases policy by the use of an informal order or County issued procurement card.

Urgent purchases of greater than \$4,000 but less than \$5,000 must be reported to the Purchasing Agent by the responsible department as soon as feasible after the action.

Urgent purchases of \$5,000 or more must be submitted by the responsible department to the Board of Supervisors for ratification at the next regularly scheduled Board meeting, in accordance with Purchasing Policy Section 7.5 (B).

7.0 VEHICLE LICENSING

Purchasing is responsible to work with the Department of Fleet Services for the administrative aspects of all registration and licensing of County owned and leased vehicles and heavy equipment pursuant to Procurement Policy Section 7.0.

Newly Acquired Vehicles or Equipment. Purchasing will collaborate with Fleet Services to prepare and submit all forms as required to the California Department of Motor Vehicle (DMV) to title and register County-owned vehicles or equipment, unless otherwise noted on the purchase order. If a dealer or manufacturer is required to title and register County-owned vehicles or equipment, Procurement will be responsible to ensure this requirement is fulfilled per instructions. Procurement will retain original title and registration for all County-owned vehicles or equipment. Additional registrations for undercover law enforcement vehicles will be prepared and submitted by, and in accordance with, the individual Department's processes.

Disposal, Transfer, or Sale. Purchasing and Fleet Services are responsible to prepare title and supportive documents as required by the DMV for proper transfer and release of liability for County-owned vehicles or equipment that are disposed, transferred, or sold.

8.0 SURPLUS PROPERTY

Nevada County Code Section 2.104.070 entrusts Purchasing with the management and/or disposal of surplus personal property. Purchasing, in cooperation with County Departments, will work together to exchange and/or repurpose surplus equipment and materials, and reduce and/or eliminate the amount of surplus waste that may eventually end up at local landfills. Purchasing will make every effort to ensure surplus property is

made available to other governmental agencies. When governmental entities are not interested in the surplus equipment, the material may be distributed to qualifying non-profit organizations that have expressed an interest in receiving the material. If no governmental agency or qualifying non-profit organization has expressed interest in the surplus equipment, the equipment may be disposed of through a public auction process.

Disposal of Surplus Property. Purchasing will utilize the following steps to repurpose, auction and dispose of surplus equipment:

- A.** Surplus equipment which still has some useful life and which can be used internally through the County or donated to authorized governmental agencies and/or non-profit organizations.
- Surplus equipment that has been deemed by Purchasing to have some useful life shall be delivered to Purchasing's Surplus facility by the Department.
 - When sending capital assets to Surplus, the transferring Department shall complete a Capital Asset Transfer request. The transferring Department shall submit this request to Purchasing at the time the surplus item is transferred. Purchasing will acknowledge the request and send a copy to the Auditor-Controller's Office so that the item will be transferred to Purchasing's custody.
 - Purchasing is responsible for obtaining approval from the Board of Supervisors before selling or disposing of capital assets with an original purchase price of more than \$5,000.
 - Items transferred to Surplus and classified as "useful" may be made available to County departments, other government agencies, or may be offered to non-profit organizations.
 - Surplus equipment will be made available for viewing as defined by the Purchasing Division.
 - The non-profit organization seeking the surplus property shall provide proof that they are an authorized non-profit organization that is exempt from federal income taxation pursuant to Internal Revenue Code 26 U.S.C. 501(a) and 501(c)(3). The non-profit organization must submit a donation request letter for capital assets. All items donated to non-profit organizations and other government agencies must be documented.
 - If equipment remains within the Surplus facility for an extended period of time, the Purchasing Agent or designee may deem the surplus equipment as public auction or disposal items.
- B.** Surplus equipment that has been determined by Purchasing to be a public auction item.
- Items may be disposed through a public auction process as allowed by Government Code Section 25504.
 - Procurement shall set minimum value for surplus equipment.
 - Items listed for sale should be advertised for a minimum fourteen (14) calendar days on the auction website. Pictures and information describing the condition of the item is to be included.
 - If any bid received does not meet the minimum value, Purchasing may award the auctioned item to the bidder who submits the highest bid if determined to be in the best interest of the County by the Purchasing Agent or designee.

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- Capital assets shall be reimbursed to the associated Departments. All non-capital asset revenues shall be deposited into the County's general fund.
 - Purchasing staff is prohibited from submitting a bid in any public auction of County items. County staff that belong to the division which surplused the item, or have privileged information regarding the property is prohibited from submitting a bid in a public auction of items surplused by that division.
 - Purchasing may auction items for special districts or other public agencies within the County. All of the proceeds from the auction shall be forwarded to the special district or agency.
 - At the Sheriff's discretion, Purchasing may auction confiscated or unclaimed personal property on their behalf. All proceeds from the auction of confiscated or unclaimed personal property shall be forwarded to the Sheriff's Office.
 - In the event that the surplus County equipment is not sold during the public auction stage, the Purchasing Agent or designee may deem the equipment as having no useful life.
- C. Surplus equipment which has no useful service life, is unsuitable or is not economical to repair or restore to service.
- Items classified as having no useful service life shall be disposed in a manner determined to be in the best interest of the County. The items may be disposed of by sending them to a recycler, or hauled away as rubbish.

9.0 CREDIT CARDS AND DIRECT PAY

9.1 Credit Cards

- a. The County's [credit card policy](#) was authorized by Resolution. All credit card holders, and those responsible for administering the accounts, are accountable for complying with the policies adopted by that Resolution. Key aspects of that those policies and procedures are discussed here.
- b. Any single transaction over \$4,000 must be approved *in advance* by the Purchasing Agent. This includes transactions involving either a single item or multiple items when the total exceeds \$4,000. The purpose of this policy is to allow Purchasing to consider whether certain purchases would be better made through a competitive process, either informally or formally. This policy also allows Purchasing to review larger purchases in order to check for adherence to certain policies and procedures such as best value, local preference, prevailing wage, contract and insurance requirements, approving authority, etc.
- c. To request approval for a transaction that exceeds the \$4,000 limit, send an e-mail to the Purchasing Agent that includes:
 - the name of the vendor,
 - the amount of the purchase,
 - a description of what is being purchased, and
 - an explanation of why you believe a Purchase Order is not appropriate for the purchase.

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Be sure to keep a copy of the Purchasing Agent's reply, to submit to the Auditor-Controller as authorization for the transaction. Purchasing does not maintain copies of these approvals.

9.2 Direct Pay

- a. "Direct Pay" refers to payment to a vendor through the Accounts Payable system where there has not been an encumbrance established. That is, there is no purchase order, blanket order, or contract in place. The use of Direct Pay is addressed in the Auditor-Controller's [Disbursement Policy and Procedures](#).
- b. In general, Direct Pay may be used in the same situations where credit cards may be used, (i.e., transactions not exceeding \$4,000), though use of a credit card is preferred, as it requires less overhead expenditure. Where a vendor will accept credit cards, a direct payment will not be authorized.
- c. Direct pay may be used for payment of utilities and for certain payments authorized pursuant to statute, as described in the disbursement policy.
- d. When requesting Purchasing Agent's approval for exceptions to the Direct Pay guidelines, please include:
 - the name of the vendor,
 - the amount of the transaction,
 - and an explanation as to why a Purchase Order would not be appropriate for the transaction.

Be sure to keep a copy of the Purchasing Agent's reply, to submit to the Auditor-Controller as authorization for the transaction. Purchasing does not maintain copies of these approvals.

10.0 PURCHASE REQUISITIONS

10.1 Requisition Process

Submission of a Purchase Requisition through the Finance Plus Purchasing System is the primary way to request that Purchasing make a purchase or execute a contract on your behalf. Refer to the [FinPlus Requisition Instructions](#) for step-by-step directions on preparing and submitting a requisition. Include on a Requisition sufficient detail so that Purchasing will be able to place the order on your behalf, and so that the vendor will be able to fulfill the order.

10.2 Requisition Authority

Department-level approval of Requisitions is done within FinPlus. Requisitions are routed automatically in FinPlus according to the Approval Table submitted by each department. Changes to a department's Approval Table must be submitted on the [Finance Plus Approval Table Form](#), and must be signed by the Department Head.

Each department has a separate "IS" approval table that is to be used when purchasing computer equipment or software. These requisitions are routed through Information Systems to ensure that the items being purchased are compatible with the County's technology infrastructure. In order to ensure timely review of these requisitions, please notify the IGS [Service Desk](#) by email when you submit a requisition through your Department's IS approval group.

10.3 Capital Assets (a.k.a. "fixed assets")

- A. Capital assets are those items whose acquisition cost, inclusive of accessories, installation, tax and shipping, is \$5,000 or more. Capital assets are budgeted in Class 4 (i.e., with account codes 54xxxx). Please do not put specific model name or number in Fixed Asset budget requests.
- B. If the item is software, the license must be transferable to be a capital asset.

When submitting a Requisition for a capital asset, the capital purchase request number (number received from CEO's Office) must be indicated on the Requisition. This number is issued by the County Executive Office after Board of Supervisors approval for purchase of the asset is obtained by the requisitioning department.

11.0 ETHICS

Purchasing and Departments are equally responsible for maintaining an open and competitive process for procuring goods and services. An open and competitive purchasing environment fosters confidence from the vendor community that they will be treated fairly, encourages their participation, which in turn assures the County receives fair pricing from the marketplace.

Employees should take precautions to avoid actual, and even the appearance of, unethical practice in relationships, actions, and communications. All procurement activities conducted on behalf of the County must be in compliance with the standards outlined in applicable federal, state, and local laws, and Nevada County's policies.

Gifts and Gratuities. All employees are responsible for understanding and abiding by the Nevada County Code of Ethics regarding Gifts and Gratuities.

Nevada County employees should avoid situations in which accepting money, credits, favors, services, gifts and/or hospitality from a contractor or supplier of goods or services causes them to influence their business decisions, or causes others to perceive that the employee has been unduly influenced. Employees should never accept any gifts or services provided by suppliers or contractors for personal use of the employee or its family members.

The acceptance of business gifts by an employee, even of seemingly low value, are discouraged as a general principle. This is intended to protect the employee and the County against allegations of improper behavior.

Conflicts of Interest. Employees should not make purchasing decisions or otherwise influence the County's decisions to do business with any supplier affiliated with the county employee, a relative of the county employee, or any other individual who would be perceived as a potential conflict.

If it is deemed necessary to visit a vendor site for a product demonstration or inspection, the County should pay all related expenses for County staff.

Employees should promptly disclose in writing all actual or potential conflicts to his/her manager as actual or potential conflicts arise or are identified. The manager should disclose in writing all actual or potential conflicts to the Purchasing Agent.

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Nevada County employees who are unsure whether a conflict exists are encouraged to contact Purchasing for help in determining whether a written disclosure is appropriate.

Confidentiality. Nevada County employees must handle confidential or proprietary information with due care and proper consideration of ethical and legal ramifications and governmental regulations. An employee may not divulge to outside parties the prices, terms, or conditions quoted by other suppliers until the purchase order or contract is issued. Consult Purchasing staff for advice on disclosing specific information, or simply refer the inquiring party to Purchasing for an appropriate response.

Vendor Ethics. Suppliers, bidders, offerors, or subcontractors who conduct themselves in an unethical manner or otherwise violate the Purchasing Policy may be debarred at the discretion of the Board of Supervisors.

12.0 DEBARMENT

The Board of Supervisors shall have the authority to debar a person or firm from consideration for award of contracts. This action shall not be construed as to limit or prejudice any administrative or legal action available to the Board of Supervisors. Refer to the Purchasing Policy for further information.