

**BEFORE THE BOARD OF SUPERVISORS  
OF THE COUNTY OF YUBA**

**RESOLUTION AMENDING AND )  
ADOPTING YUBA COUNTY PURCHASING )  
AND CONTRACT POLICY MANUAL ) RESOLUTION NO. 2025-007  
)**

**WHEREAS**, Yuba County’s Ordinance Code section 2.50.030(a), states that the Board of Supervisors, by resolution, shall adopt and amend a Yuba County Purchasing and Contract Policy Manual, and the purchasing policies set forth therein as amended through the adoption date of this Code are hereby incorporated into this Chapter as the Purchasing Policies and Regulations of the County of Yuba;

**WHEREAS**, the current Purchasing and Contract Policy Manual was last updated on June 24, 2024, and now required additional updating; and

**WHEREAS**, Administrative Services has undertaken a thorough review and revision of the Manual, incorporating feedback from County departments and addressing recent regulatory and operational changes to enhance the County’s procurement processes; and

**WHEREAS**, the revised Purchasing and Contract Policy Manual is designed to strengthen Yuba County’s commitment to transparency, accountability, and efficient operations in procurement practices; and

**NOW, THEREFORE, BE IT RESOLVED** by the Board of Supervisors of the County of Yuba hereby adopts the updated 2025 Yuba County Purchasing and Contract Policy Manual in its entirety; and

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**BE IT FURTHER RESOLVED** the 2025 Yuba County Purchasing and Contract Policy Manual as documented in Attachment A, attached hereto, and incorporated herein by reference as though fully set forth, is hereby established and effective January 28, 2025.

**PASSED AND ADOPTED** by the Board of Supervisors of the County of Yuba, State of California, on the 28 day of January 2025 by the following votes:


AYES: Supervisors Vasquez, House, Fuhrer, Bradford, Messick

NOES: None


ABSENT: None

ABSTAINED: None

  
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CHAIR, GARY BRADFORD

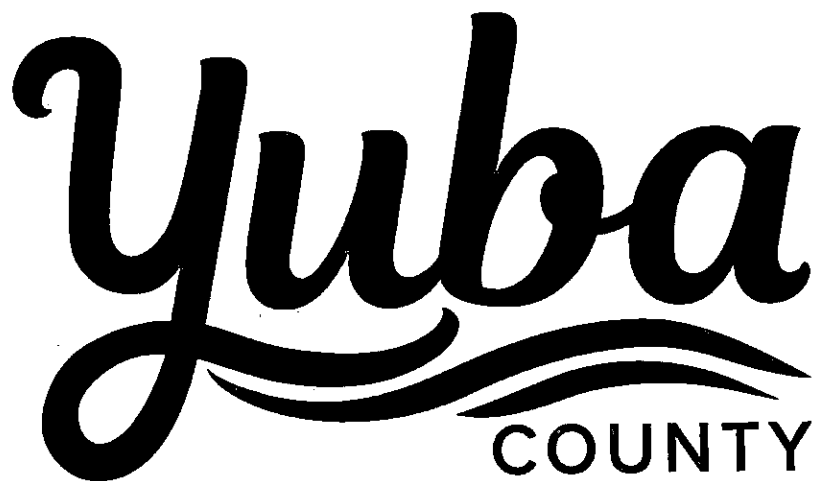
  
\_\_\_\_\_  
ATTEST: MARY PASILLAS  
CLERK OF THE BOARD OF  
SUPERVISORS

Natalie Allen, Board Clerk

  
\_\_\_\_\_  
JANET E. BENDER  
YUBA COUNTY COUNSEL  
APPROVED AS TO FORM

PURCHASING AND CONTRACT POLICY MANUAL

Approved by the Board of Supervisors  
January 2025



REVISED  
COUNTY OF YUBA, DEPARTMENT OF ADMINISTRATIVE SERVICES  
915 8<sup>TH</sup> STREET, SUITE 119, MARYSVILLE, CA 95901

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## **SECTION I:**

### **INTRODUCTION**

Purchasing involves the process of selecting and vetting vendors, establishing payment terms, strategically negotiating contracts, and the actual purchasing of goods. Purchasing is concerned with acquiring (procuring) all goods, services, and work vital to an organization.

This manual establishes a Board of Supervisors policy that requires competitive purchasing processes, defines the various methods thereof, and sets forth exemptions and exceptions thereto for certain goods and services. This policy also establishes criteria where the exemptions and exceptions may be used, and the process for using such exemptions and exceptions. This policy implements the provisions of the applicable State of California and County of Yuba laws and regulations governing the County's purchase of goods and services.

#### **1.1 Purpose**

The purpose of establishing policies and procedures to govern County purchases is to:

- 1.1.1** Foster open and free competition for County purchases and contracts;
- 1.1.2** Promote economy and efficiency in County purchases;
- 1.1.3** Ensure adherence to proper standards of conduct by County officers and employees;
- 1.1.4** Ensure compliance with applicable local, state, and federal laws and regulations;
- 1.1.5** Establish and maintain professional, business-like, ethical relationships with contractors;
- 1.1.6** Treat prospective contractors, consultants, and vendors in an equal and equitable manner; and
- 1.1.7** Provide opportunities for remedy and resolution of contract claims or disputes.

## **1.2 Policy of the Board of Supervisors:**

- 1.2.1** The County shall competitively purchase goods and/or services unless otherwise allowed for under this Policy or required by State or federal law.
- 1.2.2** The Board of Supervisors, the County Administrator, or the County Purchasing Agent, as appropriate, shall determine that the price or cost to the County of any contract for goods or services is fair and reasonable prior to awarding the contract.
- 1.2.3** The competitive purchasing requirements of this policy may be satisfied by: (a) Formal Bidding, (b) Competitive Negotiated Purchasing, or (c) through a contract competitively awarded by another governmental agency or cooperative that includes other governmental agencies.
- 1.2.4** Exemptions and Sole Source exceptions (Public Contract Code § 3400 (c)(3)) to the competitive purchasing requirements are set forth in this policy. Applicable Sole Source exceptions allowed or required by federal, State, or County laws, regulations, ordinances, or policies may also be used where it is determined that doing so would be in the County's best interests.
- 1.2.5** The County may sell any of its surplus real property to any entity the Board of Supervisors selects for purposes of cultural, residential, commercial, or industrial use or development after determining it will result in economic benefit to the County.

## **1.3 Responsibilities of Administrative Services:**

- 1.3.1** Administrative Services coordinates, monitors, and records all phases of County purchases of supplies, equipment, materials, services, and purchasing card procurements, other than public works engineering, to perform services for the County in accordance with Government Code §§ 25500 and 25501.
- 1.3.2** Administrative Services is responsible for the sale of County surplus personal property, and the leasing of real and personal property.
- 1.3.3** In performing its responsibilities, Administrative Services is guided by broad policy objectives:

- Conserve public funds through identifying the best value for cost of supplies, equipment, materials, services and construction projects, and reduce the overhead cost of contracting, buying, leasing, renting, and selling.
- Analyze alternative approaches for each procurement, such as direct purchasing, time sharing, leasing, and inter-governmental/inter-agency agreements (cooperative purchasing).
- Plan each purchasing action to consolidate similar products and separate dissimilar ones.
- Eliminate purchases of unnecessary or duplicate items and services.
- Encourage price and quality competition among suppliers, vendors, contractors, and consultants.
- Efficiently maintain accurate transaction documentation.
- Utilize technical expertise where needed for purchasing and contract processes.
- Maintain compliance with local, state and federal law, and act in a manner consistent with applicable standards of conduct and ethics.
- Require acceptable documentation of product quality and that products have been represented accurately.
- Follow the policies and processes established in this Policy Manual.

## SECTION II:

### ORDINANCE CODE OF YUBA COUNTY

The following applicable policies are contained in the Yuba County Ordinance Code, Title 2, Chapters 2.50 COUNTY PURCHASING:

#### **2.1. Office Established (§ 2.50.020)**

Pursuant to the provisions of Sections 25500, et seq., of the Government Code of the State of California, the office of Purchasing Agent is established.

The Board of Supervisors may employ a Purchasing Agent and such assistants as are necessary. (State of California Government Code § 25500)

#### **2.2. Duties Generally**

The Purchasing Agent shall have the duties and powers prescribed by the Yuba County Ordinance Code, the Yuba County Purchasing Policies and Procedure Manual, and the laws of the State of California relating to County Purchasing Agents. The Purchasing Agent shall appoint such deputies, assistants and other employees as shall from time to time be authorized by the Board of Supervisors. The Purchasing Agent shall furnish the Board of Supervisors with such reports and information as the Board may from time to time require, and shall establish methods and procedures necessary for the proper functioning of the purchasing division of the Administrative Services Department in an efficient and economical manner. (§ 2.50.040)

#### **2.3. Purchasing Duties (§ 2.50.040)**

Subject to the general direction of the County Administrator, the Purchasing Agent shall:

- 2.3.1** Purchase for the County and its offices all materials, supplies, furnishings, equipment, and other personal property of whatever kind and nature, and except in cases of emergency as provided in this chapter, no purchase of personal property by any person other than the Purchasing Agent shall be binding upon the County or constitute a lawful charge against any County funds;
- 2.3.2** Rent for the County and its offices, furnishings, and equipment, excepting however, road equipment which the Road Commissioner is authorized by law to rent;
- 2.3.3** Negotiate and execute in the name of the County all equipment service contracts and lease purchase agreements of personal property;

**2.3.4** Negotiate and execute in the name of the County as lessee all rentals of real property which the County may require;

**2.3.5** Dispose of any personal property belonging to the County as provided in Ordinance Code § 2.50.060;

**2.4. Sale of Personal Property (§ 2.50.060)**

The Purchasing Agent is authorized to sell, trade, trade in, lease, exchange, or otherwise dispose of any personal property belonging to the County which is deemed to be surplus and not required for public use by the County and which has a value of less than one thousand dollars per individual item without prior approval by the Board of Supervisors. Notwithstanding any other provision of this Code, such disposition of surplus property may be made without securing bids or advertising. For disposition of personal property less than one thousand dollars (\$1,000) per individual item, prior approval from the Board of Supervisors must be obtained. All proceeds from such sales shall be paid into the County Treasury for the use of the County.

**2.5. Surplus Property – Pooled Equipment (§ 2.50.070)**

The Purchasing Agent shall maintain a pool of extra equipment and furniture declared surplus and shall make it available to any County agency, department, office, or institution having a need therefor.

## **SECTION III:**

### **ETHICS**

#### **3.1 Policy Statement**

Yuba County employees shall adhere to the California Public Contracts Code and shall perform their duties impartially so as to assure fair competitive access to the County's purchasing process by all responsible suppliers, contractors, and providers of services and to foster public confidence in the integrity of the County's purchasing process and guard against even the appearance of impropriety.

#### **3.2 Employee Purchases**

The County Purchasing Agent and County staff are prohibited from making purchases not related to County business or of a personal nature for any person, employee, or otherwise. County staff will avoid personal purchases from County vendors that could affect the County's business relationship with that vendor.

#### **3.3 Gift Policy**

California Penal Code § 70 makes it a misdemeanor for any public employee or officer to receive any gratuity or reward or promise thereof for performing an official act.

The Board of Supervisors, and all County employees, including elected officials, classified personnel, and unclassified personnel shall comply with the Conflict of Interest Code for the County of Yuba, pursuant to Government Code §87300, and shall:

- 3.3.1** Avoid any act of impropriety, or the appearance of impropriety.
- 3.3.2** Not discriminate in the provision of services to the public, including the solicitation or acceptance of gifts in connection with services rendered in the performance of duties.
- 3.3.3** Not accept an economic advantage or discount not available to all County employees.

- 3.3.4** Report receipt of any gifts to the immediate supervisor. If a gift such as candy is opened and made available for all department employees to share, the action is acceptable. However, if the same gift is taken home for an employee's singular benefit, the action is unacceptable. If the item is nonperishable, or impossible to divide among employees, the recommended course of action, at the discretion of the department head, is to donate the item to a local charity or return the gift to the donor with a note of thanks.
- 3.3.5** Annually report gifts valued cumulatively at \$250 or more in accordance with the Fair Political Practices Commission's rules and regulations, and as set forth in the County's Conflict of Interest Code. (Government Code § 89503)

## **SECTION IV:**

### **COMPETITIVE PROCESSES OVERVIEW**

This section is an introduction of competitive purchasing processes. Specific processes are detailed in subsequent sections of this Policy Manual. Unless otherwise excepted in Section X of this Policy Manual, purchases of equipment, materials, supplies, and services shall be awarded through a competitive purchasing process.

#### **4.1 Goals and Objectives of the Competitive Purchasing Process**

The primary objectives of the competitive purchasing process are to foster open and free competition for County purchases and contracts while promoting the greatest economy and efficiency in County procurements. Adherence to proper standards of conduct by County officers and employees, and maintenance of purchasing policies and procedures, ensure compliance with local, state, and federal laws and regulations, while establishing and maintaining professional and ethical relationships with contractors.

To achieve this objective, Administrative Services has established methods to:

- 4.1.1** Purchase goods and services to fulfill County departmental needs in a timely manner.
- 4.1.2** Evaluate new products and develop standardized specifications where practical.
- 4.1.3** Achieve the best value for the County.
- 4.1.4** Seek new and/or local sources of supply in order to broaden the competitive bidding base and encompass new products and technology.
- 4.1.5** Encourage local and Disadvantaged Business Enterprises (DBEs) to participate in all aspects of purchasing and contracting whenever possible.
- 4.1.6** Develop sound County-vendor relationships.
- 4.1.7** Increase awareness of, and participation in, the County's purchasing activities by all businesses.

#### **4.2 Roles and Responsibilities, Administrative Services**

Administrative Services is responsible for:

- 4.2.1** Carrying out all purchasing activities in accordance with the policies and regulations set forth in the statutes of the State of California, the Yuba County Ordinance Code, and in this Policy Manual.
- 4.2.2** Responding to purchase requisitions approved by authorized County employees and taking appropriate purchasing actions as required. By approval of a requisition, the requestor certifies that funds have been approved and are available for the requested purchase.
- 4.2.3** Directing and coordinating vendor contact, and assisting departments directly engaged in the purchasing process. Purchasing shall also assist departments in obtaining market information, such as new developments or vendor capability, and in other matters concerning purchase transactions.
- 4.2.4** Analyzing all purchase requests so that those requests which appear to be excessive, unnecessary, uneconomical, or otherwise inappropriate may be returned to the requesting department for additional justification.
- 4.2.5** Unless otherwise provided herein, the County shall not be bound by any purchase made by any consultant, contractor, or County employee, other than the Purchasing Agent or designated Administrative Services staff, or in unusual cases, by Department Heads with special authority granted by the Board of Supervisors for specific contracts.

**4.3 Overview of Thresholds and Purchasing Types**

The competitive purchasing process covers a wide variety of purchasing types. Depending upon the type of goods or services requested, the urgency of the need, and the cost involved, one of several courses of action will be taken: More stringent solicitation methods may be required at the direction of the Purchasing Agent.

Level 1	Up to \$4,999.99	It is the requesting department's responsibility to obtain pricing.
Level 2	\$5,000- \$49,999.99	Informal Solicitation Bidding
Level 3	\$50,000 and above	Formal solicitation required.

*Public Works Projects and Public Projects see Section IX of this manual.*

- 4.3.1** "Level One" Purchases: When the price of an individual item (as distinct from the total contract) is below \$5,000, multiple price quotes are not required.

**4.3.2** “Level Two” Purchases (\$5,000-\$49,999): For individual items \$5,000 but below \$50,000, written price quotes shall be obtained from a minimum of three suppliers. While quotes must be requested, if a supplier chooses to not provide a quote, then the requestor shall record a response of “No Quote”.

The resulting order, if any, shall be placed with the supplier providing the lowest-priced, responsive and responsible offer, which is defined as the bidder submitting the lowest-priced bid that materially conforms to all requirements of the invitation for bids, and has demonstrated ability to perform the work.

**4.3.3** “Level Three” Purchases (\$50,000 and above): For individual items above \$50,000, formal bidding procedures are required at the determination of the Purchasing Agent. For more information on formal bid procedures, see sections V, VI, VII, VIII, and IX of this Policy Manual.

**4.3.4** Exceptions to Competitive Process Requirements: Purchases may be exempted from competitive purchasing processes for bona-fide emergencies, where a sole-source situation has been documented and approved by the Purchasing Agent for negotiated services, or in other situations where competitive processes are neither required by law, nor in the County’s best interests. *Refer to Section X of this Policy Manual.*

**4.3.5** More Stringent Rules May Apply: In cases where non-County funding is involved, the funding source may impose additional or more restrictive purchasing rules. In such cases, the more stringent of either the County’s or the funding source’s rules shall apply. Examples include lower dollar thresholds requiring bids, prohibition of geographical preferences by federally-funded programs, and FEMA emergency purchasing rules that must be followed to be eligible for reimbursement.

## **SECTION V:**

### **REQUEST FOR QUOTES (RFQ)**

Except as otherwise noted in Section X of this Policy Manual, "Level Two" of individual items or projects above \$5,000 but below \$50,000, shall be awarded through a competitive purchasing process. Level Two Purchases may generally be made by using the Request for Quotes (RFQ) process, which generally consists of soliciting price quotations from a minimum of three (3) known qualified suppliers. However, in all cases the County shall not arbitrarily split contracts or purchases to avoid more formal bidding procedures. (Public Contract Code § 20123.5)

The RFQ method does not require formal advertising but varies according to type of goods or services being procured. The process can be as simple as contacting vendors and documenting their pricing, and choosing the lowest-cost option from the responsible and responsive bidders. This simplified approach works well for standardized products.

A more formal RFQ process involves written specifications and solicitations. This approach is better suited for more specialized work, and for Public Works of Improvement where the County is obligated to notify bidders of specific regulatory requirements.

#### **5.1. General**

- 5.1.1** Departmental purchase requests should describe the requested goods or services sufficiently to facilitate the competitive purchasing process. The clearer such specifications are, the easier it is to obtain pricing proposals. Specifications and standards from previous successful purchases should be reused and updated whenever repeat purchases are made.
- 5.1.2** The preferred method is to issue a written RFQ solicitation that describes the desired goods or services and sets forth the terms of the purchasing to potential suppliers. Administrative Services maintains such forms for departmental use.
- 5.1.3** Quotes shall be submitted in writing to Administrative Services before requisitioning a Purchase Order, except for telephone bids obtained during emergencies. Quote proposals may be submitted electronically, at the discretion of Administrative Services.
- 5.1.4** Quote proposals are not required to be publicly opened and read aloud, but are subject to audit, review, and public information requests.

**5.1.5** Public Works of Improvement (construction and maintenance) projects are subject to additional rules, such as prevailing wage requirements for projects above \$1,000, reporting of maintenance work above \$15,000, reporting of new construction projects above \$25,000, and the requirement for bid bonds, performance bonds, and payment bonds at or above \$25,000. (State of California Civil Code § 9550, Public Contract Code §§ 20129, 20132, 20139, 20405, and SB-854).

**5.2. Award**

**5.2.1** Award will be made to supplier providing the best value to the County, which is generally the lowest-priced proposer.

**5.2.2** When the price and quality of offered products are equal, preference shall be given to vendors located inside Yuba County, unless otherwise prohibited, such as in federally funded procurements.

**5.2.3** Whenever two (2) or more quotes are received with price and other factors being equal, and the public interest does not permit the re-advertising for quotes, award will be made upon factors including whether the firms are located within the County, and if so, if the firm is a disadvantaged business enterprise, and upon past service of the equal bidders. If such evaluations are equal or unavailable, award will be made by Administrative Services by the drawing of lots in public (*Refer to Section VI of this Manual*).

**5.2.4** Formal announcement of award is not required, but non-winning proposers should be notified out of professional courtesy.

**5.2.5** Award may be executed by Purchase Order, or by written Agreement, as appropriate. *Refer to Section XI for guidance on selecting agreement types.*

## SECTION VI:

### INVITATION FOR SEALED BIDS

Except as otherwise permitted in Section X of this Policy Manual, purchases of equipment, materials, supplies, and services shall be awarded through a competitive purchasing process. The Invitation for Sealed Bids (BID) process is appropriate for purchasing services and goods where the scope of work is well-defined and the selection is price-driven, though it is primarily used for Public Works of Improvement (construction and maintenance work). The process requires additional lead time when bonds are required, or when delivery or performance will occur over a period of time, or for costly or complex procurements.

#### **6.1. General**

**6.1.1** The County Purchasing Agent, or designee, is authorized to solicit bids and award contracts for public projects in accordance with Public Contract Code § 22032 and Government Code § 25502.5).

**6.1.2** Public projects above \$200,000 require competitive formal sealed bidding, with additional advertising requirements. (Public Contract Code §§ 20150.12 and 22032). See *Section IX for additional requirements*.

#### **6.2. Process Summary**

Invitations for Bid shall include detailed specifications, general provisions, special provisions, and in some instances bond forms, legal statements, affidavits, or other documents. The bidder submits the required information in a sealed bid for public opening by Administrative Services at a specified date, time, and place. The outcome of this bidding is summarized in a bid abstract and is available to the requestor for review.

Administrative Services may execute a contract or purchase order with the lowest-priced responsive and responsible bidder, which is defined as the bidder submitting the lowest-priced bid that materially conforms to all requirements of the invitation for bids, and has demonstrated ability to perform the work.

Conversely, award of revenue-generating contracts shall be made to the highest-priced responsive and responsible bidder.

#### **6.3. Initiation**

**6.3.1** The department requesting the purchasing action shall provide the following to Administrative Services:

- Documentation, technical specifications, and scope of work which adequately describe the good or services required.
- A list of at least three potential bidders in order to provide sufficient force of competition and allow selection to be made principally on the basis of price. Full opportunity to bid shall be granted to all qualified bidders.
- A proposed bidding schedule (including advertising and contract commencement dates).
- Estimated cost of the contract. If the requesting department doesn't have sufficient budgeted funds to cover the resultant contract, the department must obtain approval from the County Administrator, and provide documentation to Administrative Services identifying the approval of additional funds.
- A suggested Project Coordinator, when appropriate, whose duties will include acting as a liaison between the requesting department and Administrative Services.
- Approval by the Department Head of the requesting department.

**6.3.2** Administrative Services will review the requesting department's documentation and confirm that the purchasing is appropriate for the sealed bidding process.

#### **6.4. Bid Documents**

Administrative Services shall prepare bid documents with input from the requesting department, which at a minimum, shall contain the following items:

##### **6.4.1 Notice to Bidders**

The Purchasing Agent or authorized designee shall publicly advertise the Notice to Bidders ("Notice") to notify potential bidders of the title and nature of the contract, and of the date, time, and place of the bid opening. The Notice shall also inform bidders of applicable Disadvantaged Business Enterprise (DBE) requirements, and other applicable requirements under federal or State laws.

The Notice shall indicate whether bonding (i.e., bidder's security) is required. The Notice shall incorporate by reference all other bid documents (i.e., General Conditions and Instructions to Bidder, Special Provisions, Technical Specifications, and others), and shall designate the method for obtaining copies of such documents.

**6.4.2** General Conditions and Instructions to Bidder

The General Conditions and Instructions to Bidder ("General Conditions") sets forth standard terms and conditions which govern the contractual relationship between the successful bidder and the County. County Counsel shall prepare and maintain the General Conditions, necessary for inclusion with all competitive sealed bid procurements. The General Conditions may be updated or revised from time to time.

**6.4.3** Special Provisions

Special Provisions prescribe terms and conditions specifically tailored to the particular contract being sought.

**6.4.4** Liquidated Damages Clause

Administrative Services may include in the Special Provisions a clause establishing the time in which the whole or any specified portion of the work called for under the contract shall be completed, and providing that each day completion is delayed beyond the specified time for performance, the contractor shall pay to the County a specified sum of money, to be deducted from any payments due or to become due to the contractor.

Liquidated damages should be included in contracts when it would be inconvenient, difficult, or impracticable to otherwise obtain an adequate remedy for the delay, or to prove the losses or to assess the actual quantity of damages. The amount to be established as liquidated damages shall be reasonable in light of the anticipated harm that may be caused by a delay in contract performance. Administrative Services staff shall evaluate these factors, and set a sum as liquidated damages.

**6.4.5** Pre-Bid Conference

If a Pre-Bid Conference is scheduled, the Notice shall advise of the date, time, and location of the conference. An attendance sign-in sheet will be used as a permanent record of the Pre-Bid Conference and shall contain the names, contact information, and business affiliations of all bidders and other interested persons in attendance.

#### **6.4.6 Qualifications of Bidders**

In contracts where the nature of the work is such that the qualifications of the bidders are essential criteria for evaluating the bidders' responsibility, Administrative Services shall identify such criteria in the Special Provisions. Contracts for services and public works of improvement (construction and maintenance) shall contain such clauses. In addition, contracts for the provision of supplies, equipment, and materials, where a specially manufactured product or technical guidance and advice are called for, shall also contain a provision regarding qualifications of bidders.

Such provision shall clearly state that the County may reject any bid that does not meet the requirements stated in the qualifications clause. Included in such clause shall be requirements that bidders demonstrate they are regularly engaged in the manufacture, construction, or provision of the work or product called for in the contract, and that they have the necessary resources, facilities, and personnel to perform under the contract. Additionally, bidders must attest that they have previously and satisfactorily performed work comparable to that specified in the contract. Finally, bidders may be required to furnish adequate references. Administrative Services may, prepare and include with the bid documents a form to be completed by bidders that covers the qualification requirements.

#### **6.4.7 Technical Specifications**

Technical Specifications shall include detailed descriptions of both the qualitative and quantitative nature of the supplies, equipment, materials, routine services, or construction to be procured. They must also set forth the minimum essential characteristics and standards to which the products and services must conform in order to satisfy the County's needs. The use of blueprints, diagrams, charts, and maps is encouraged to clarify the specifications requirements.

Technical Specifications shall not be drafted to unduly restrict competition. Brand names may be used in Technical Specifications only when it is impractical or uneconomical to specify clear and adequate descriptions of the technical requirements for a particular type of needed product. In all cases where brand names are used, bidders shall be afforded the opportunity to propose to the County a substitute alternate product of equal quality or value. The County's decision to approve or disapprove such alternate product shall be final and binding on the bidder.

Note that additional restrictions on using brand-name specifications may apply to federally funded procurements. *Refer to Section XIV for additional details.*

#### **6.4.8 Pricing Schedule**

The bidder's completion of the Pricing Schedule (also known as a "Cost Proposal") shall constitute the bidder's acceptance of all the terms and conditions contained in the bid documents, and shall also indicate the bidder's prices. Administrative Services shall develop the Pricing Schedule in coordination with the requesting department. The Pricing Schedule shall seek separate cost quotations for all relevant aspects of the procurement, including, where applicable, unit price, extended price, sales or use taxes, and cost of installation and delivery. In all cases, the Pricing Schedule shall be structured to allow the County to make an objective comparison of all bids. Whenever possible, this will be accomplished by requesting a Total Bid Price.

#### **6.4.9 Insurance Requirements**

Request For Proposal (RFP) documents shall include a form outlining the County's minimum insurance requirements for the resultant contract, if any. Consult with Risk Management for assistance in identifying the appropriate insurance requirements.

#### **6.4.10 Bonding Requirements**

Bid documents shall include a form for the bidder's bond when a security requirement is imposed. When so required, the bid document shall also include sample performance and payment bond forms.

Public Works of Improvement (construction and maintenance) projects of \$25,000 and above require bonding as follows:

- Bid Bonds - Bidder's securities protect the County's interests in the event a bidder refuses to honor its bid or fails to enter into a contract awarded by the County. Generally, 10% of total bid, though the County may adjust this amount. May be a surety bond, cash, or certified or cashier's check. (Public Contract Code §§ 20129, 20132, and 20405)

- Performance Bonds – Performance sureties secure fulfillment of a contractor's obligations. The life of the performance bond may be required to extend beyond the completion of the main work under the contract in order to cover any warranty period. The instrument must be a surety bond for 100% of total contract price - no alternate payment methods are permitted. (Public Contract Code §§ 20129(b) and 20139)
- Payment Bonds – The payment bond assures the contractor's full discharge of its obligations to its subcontractors, suppliers, and other labor used on the project. In all Public Works of Improvement (construction and maintenance) contracts, and contracts for the purchasing of services or products which involve subcontracting, a payment bond may be required. The instrument must be a surety bond for 100% of total contract price - no alternate payment methods are permitted. (Civil Code § 9550)

The County has some discretion with regards to acceptable bid bond alternatives, but not for performance and payment bonds. If a bidder is unable to secure both performance and payment bonds in cases where they are mandatory, the County must move on to the next-lowest-priced responsible and responsive bidder.

## **6.5. Advertisement for Bids**

- 6.5.1** Administrative Services will publish the Notice electronically, and when required by law, physically posted and published in at least one newspaper of general circulation. The advertisement shall state the time and place for the receiving and opening of sealed bids and shall describe in general terms the work to be done. Where a particular contract involves a trade or expertise for which there are special industry publications, Administrative Services shall advertise the notice in appropriate trade journals. (Public Contract Code §§ 22032(b), 22034, and 22037)

Public Works of Improvement projects above \$200,000 shall be physically posted and advertised in multiple trade journals (Public Contract Code §§ 22034, 22032(c), 22036, and 22037)

- 6.5.2** A minimum of (14) fourteen business days should be allowed between the time BIDs are solicited and when they close. The time limit may be increased or decreased under unusual circumstances determined by the Purchasing Agent.

**6.5.3** County employees, and consultants or contractors under the supervision of County employees, shall refrain from discussing with prospective bidders any details of goods or services advertised for bid, unless so authorized by Administrative Services.

**6.5.4** It is Administrative Service's policy to not disclose a Bid List prior to bid opening. Bid List disclosure is not required if the public interest served by temporarily withholding said information clearly outweighs any conceivable public interest served by disclosure. (California Public Records Act, Government Code § 7922.000). The only exception to the policy of Bid List nondisclosure shall be those specific trade journals with the intent to put subcontractors in touch with general contractors.

**6.5.5** To the fullest extent possible, the bid solicitation shall encourage participation of Disadvantaged Business Enterprises (DBE).

**6.6. Bid Addenda**

**6.6.1** All bidder questions should be referred to Administrative Services as specified within the BID/RFP solicitation documents. If an answer would likely affect the bid of other bidders, then all bidders shall be so advised, to prevent any one bidder from obtaining an unfair advantage.

**6.6.2** Once the Notice has been published, any necessary changes, modifications, or adjustments to specifications, requirements, or bid quantities, corrections, deadline extensions, or otherwise revise the bid documents shall be accomplished through the issuance of written Addenda, authorized and published by Administrative Services. No private modifications shall be made.

**6.6.3** All technical Addenda shall be drafted by the requesting department and approved by Administrative Services before publishing. Addenda shall identify the bid number and title, date of issuance, Addendum number, and specific reference to the provisions in the bid documents being amended and the substance of such amendment.

**6.6.4** Administrative Services shall publicly issue Addenda so that it is available to all firms or persons who have received a copy of the bid documents, except for bids that require mandatory attendance of Pre-Bid/Site Inspection Conference(s), in which case only those vendors in attendance may be forwarded Addenda.

**6.7. Bid Opening**

- 6.7.1** Bids shall be submitted in writing to Clerk-Recorder's office before the specified time and date, except for telephone bids obtained during emergencies. Bids/proposals may be submitted electronically, at the discretion of Administrative Services.
- 6.7.2** Clerk-Recorder's office shall date and time stamp sealed bids as they are received. Sealed bids shall remain unopened and stored securely until the public opening date and time specified in the Invitation for Bid or subsequent addenda.
- 6.7.3** Any bids received after the specified date and time of bid opening will not be accepted by Administrative Services unless in the best interest of the County.
- 6.7.4** Bids shall be opened publicly by the Purchasing Agent or designee. A bid opening attendance record shall be prepared at the time of the opening, containing the names, contact information, and business affiliations of all bidders and other interested non-County persons in attendance.
- 6.7.5** Bid pricing shall be read aloud by the person opening the bids. Upon request, other non-confidential information contained in the bid forms shall also be read aloud or otherwise made available for inspection. Members of the public shall be permitted to witness the bid opening.
- 6.7.6** From and following the specified date and hours of the bid opening, no bidder shall be permitted to change their bid. If the opening of the bids is delayed beyond the time specified in the Notice, all bidders shall be so notified.
- 6.7.7** Original bid documents shall be retained on file in Administrative Services, until no longer required by the County's Retention Resolution No: 2000-105, Policy, or other applicable law.

## **6.8. Evaluation of Bids**

### **6.8.1 Criteria**

Contract award, if any, shall be made to the lowest-priced responsive and responsible bidder which is defined as the bidder submitting the lowest-priced bid that materially conforms to all requirements of the invitation for bids, and has demonstrated ability to perform the work. The criteria in evaluating bids shall be: lowest monetary bid (or highest monetary bid if the County is selling goods or services), responsiveness of bid, and responsibility of bidder. Administrative Services shall be principally responsible for the evaluation of bids. In addition, the requesting department shall review the bids for compliance with the Technical Specifications.

### **6.8.2 Price/Cost Analysis**

Where more than one bidder submits a proposal, Administrative Services shall conduct a price analysis of the bids. In cases where only one bid is received or it is determined that there was a lack of adequate competition for the contract, Administrative Services shall conduct a cost analysis, unless the reasonableness of the bid price can be established on the basis of a catalog or market price for a similar commercial product sold in substantial quantities to the general public, or on the basis of prices set by law or regulation.

Administrative Services shall examine the bids to determine which bid is the lowest in price, or highest in price when appropriate (for example, when leasing out County property). In doing so, staff shall observe the following rules:

- Any formula for determining the basis for evaluating bids, as described in the contract documents, shall be utilized;
- The unit price shall govern whenever both unit price(s) and extended price(s) or total(s) are given;
- All bids showing item extensions and/or totals shall be reviewed for accuracy. Any errors in bidders' calculations shall be noted on a separate sheet of paper. No corrections or changes are to be made on or to the vendor's bid.

Administrative Services shall review the terms of payment for the effect of those terms upon the bid price. Therefore, where specified in the contract documents, terms such as discounts, transportation costs, sales taxes, and other costs shall be considered in determining which bid is the lowest (or highest) in price. Payment discounts may only be used to determine low bid if payment terms are twenty (20) days or more and prior le of the County indicates that such discounts are generally taken.

### **6.8.3** Responsiveness

Administrative Services shall determine whether the lowest or highest (if applicable) monetary bid is responsive to the contractual and technical requirements, and review the bid documents to ensure that the bidder has made no unauthorized deletions, amendments, or other changes.

Administrative Services shall verify that required proposal forms and certificates have been completed and that all signatures are in place and appear in order. Administrative Services may make a determination as to whether the deficiency is a minor irregularity (e.g. omission of a signature on a form, or a bidder's security submitted in an improper amount), or whether the deficiency is more substantive in nature (e.g., taking exception to warranty provisions, or extending the delivery period). Administrative Services may contact the bidder and discuss the aspects of any bid which appears non-responsive. With respect to deficiencies representing minor irregularities, the bidder may be given the opportunity to correct the deficiency so that the bid may be considered responsive. If the bidder does not correct the minor irregularity and make the bid responsive, or if the deficiency is substantive in nature, Administrative Services shall determine which bidder is the next lowest or highest monetary bidder and shall follow the procedure above to determine the responsiveness of that bidder.

#### **6.8.4** Responsible Bidder

Administrative Services shall determine whether the lowest-priced responsive bidder is a "responsible" bidder, i.e., whether such firm or person has sufficient experience, qualifications, and financial stability to perform the contract. The criteria to be used in making such determination may include the bidder's past experience and history of service to the County, if any; the bidder's responses on those proposal documents requiring a listing of experience, qualifications, and references, if required; and the expertise, dependability and financial stability of the bidder as revealed to the County from any other legal source. In making this determination, Administrative Services may cite the minimum requirements or specifications set forth in the Special Provisions and Technical Specifications.

#### **6.8.5** Rejection of Bids

The Board of Supervisors and the Purchasing Agent have the right to reject any and all bids when it is in the best interest of the County to do so.

Any determination to reject the lowest-priced bid on the basis that the bidder is not responsible or that the bid is not responsive must be approved by the Purchasing Agent, and may only be made if there are sound documented reasons evidencing the inability of the bidder to perform the contract, and after notice and an opportunity to have a hearing has been provided to the bidder through the usual Protest identified below in 6.9.

Following bid evaluation, Administrative Services may recommend rejecting bids in cases where:

- The bids received were too high, or the budgeted funds are insufficient to cover the amount of the contract, even if awarded to the lowest-priced responsible bidder;
- None of the bids were responsive to the requirements of the contract documents;
- None of the bidders were deemed sufficiently responsible to perform the contract in a satisfactory manner; or
- Administrative Services determines that awarding the contract would not be in the best interests of the County, based upon sound, documented business reasons.

### **6.8.6 Tied Bids**

In any case where two identically-priced responsive and responsible bids are also the lowest (or highest) priced, Administrative Services shall determine contract award using the following protocol:

- Local vendor(s) shall have preference over out-of-County vendor(s).
- In any case where a tied bidder has a history of undependable service to the County, or has suffered a termination for cause of a contract to which it was party for the rendering of the same or similar products or services to another public entity, such tied bidder may be eliminated.
- In any case where tied bidders propose different performance schedules, Administrative Services may select the bidder proposing the more favorable delivery terms (i.e., those delivery terms more convenient for the County).
- Where application of the above methods does not produce a single, lowest responsible bidder, Administrative Services shall draw lots to determine the successful bidder.

## **6.9. Protests and Appeals**

### **6.9.1 General**

Potential bidders, proposers, and sub-proposers wishing to protest or appeal a decision by Administrative Services must follow the process identified in the solicitation documents, based on the following. Protests or appeals not submitted in accordance with such procedures will not be reviewed.

### **6.9.2 Protest Submittal**

Non-awarded bidders may file a written protest no later than five (5) business days after date of posting a Notice of Intended Award. Such protests must be physically received by the Purchasing Agent before 5:00 PM local time on the last day of the five (5) business day protest period; protests submitted electronically will not be accepted. Protests filed with the Purchasing Agent shall:

- Include the name, address, business telephone number, and email address of the protestor;

- Identify the project under protest by name, solicitation number, and closing date;
- Contain a concise statement of the grounds for protest; provided, however, RFP or BID processes and procedures, including evaluation criteria, shall not be proper grounds for protest. Concerns related to those issues must be raised and addressed, prior to the bid or proposal opening date to allow adjustments before evaluation of bids or proposals; and
- Include all supporting documentation, if any. Documentation submitted after filing the protest will not be considered during review of the protest or during any appeal.

### **6.9.3** Protest Review

Upon receipt of a protest, the Purchasing Agent shall review all submitted materials, create and retain a written record of the review, and respond in writing at least generally to each material issue raised in the protest not later than ten (10) business days after receipt of the protest.

If the protest involves federal funds, parties may have the right to appeal to the appropriate federal agency. When applicable, the Purchasing Agent shall give notice to interested parties of the right to such an appeal and shall identify the federal agency by name and address. When applicable, an appeal thereunder shall be filed with the appropriate agency within five (5) business days of the dispatch of rejection notices to the interested parties.

### **6.9.4** Decision Appeal

Purchasing Agent decisions may be appealed in writing to the Board of Supervisors, with a copy to the Purchasing Agent, not later than ten (10) business days after date the Purchasing Agent's decision is mailed to the protesting party. Each party shall bear its own costs and expenses involved in the protest and appeal process, including any subsequent litigation. The decision of the appeal by the Board of Supervisors shall be final.

#### **6.10. Award of Contract**

Administrative Services may award a contract to the lowest-priced responsive and responsible bidder whose proposal materially meets the specifications and requirements outlined in the Invitation for Bid documents. In the case of revenue-generating bids, award will be made to the highest-paying responsive and responsible bidder.

Upon completion of bid evaluation and analysis, Administrative Services shall notify all bidders in writing of the County's intent to award a contract. The successful bidder must execute the Agreement and related documents, and provide proof of insurance and Unique Entity ID (UEI) Number, within the time specified by Administrative Services.

#### **6.11. Notice to Proceed**

Upon receipt of the successful bidder's executed Agreement, sureties, and evidence of insurance, the County will issue a Notice to Proceed letter to the Contractor.

#### **6.12. Contract Administration**

Once the Notice to Proceed has been issued, Administrative Services shall maintain a contract file and distribute copies of relevant correspondence to the department.

The requesting department head or designee shall be responsible for monitoring and reviewing the project in order to determine whether contract terms and conditions are being met, and for approving invoice for payment.

## **SECTION VII:**

### **REQUEST FOR PROPOSALS (RFP)**

Except as otherwise noted in Section X of this Policy Manual, purchases of equipment, materials, supplies, and services shall be awarded through a competitive purchasing process. The Request for Proposals (RFP) process is best suited to purchases where non-price factors are more important than pricing, or where the County has defined goal but a detailed scope of services to achieve it isn't feasible. When purchasing A&E services, the Request for Statement of Qualifications (SOQ) process is used instead (refer to Section VIII).

Under the RFP approach, award of contract is made on a "best value" basis by identifying the most cost-effective solution to the County's needs, with both price and non-price factors considered. Evaluation criteria identified in the RFP solicitation documents are subsequently used by an evaluation committee for scoring received proposals. Award need not be made to the lowest-priced proposer; however, in such cases selection must be based on written documentation explaining why the lowest-priced proposer was not selected. Proposers shall be afforded the right to appeal the County's selection pursuant to the protest and appeal provisions outlined in the RFP documents and Section 6.9 of this Manual.

#### **7.1 General**

**7.1.1** Requests for outside consultant services must be approved by the County Administrator, Department Head, or designee before an RFP or negotiations are performed. California Government Code §§ 4526 and 4527(b) specify that local agencies (i.e., counties) may follow State agency processes for purchasing professional services of private architectural, landscape architectural, engineering, environmental, land surveying, or construction project management firms, with selection based on demonstrated competence and on the professional qualifications necessary for the satisfactory performance of the services required. Local governments may establish their own processes for hiring such services, including non-competitive negotiations, provided the following minimum conditions are met:

- Selection must be qualifications-based.
- Solicitation must assure maximum participation of small business firms.

- Documentation must specifically prohibit unlawful practices identified within the Code.

While negotiating such service agreements without performing an RFP or SOQ is permissible under the Government Code, the above-listed requirements must still be satisfied.

Alternatively, the Government Code also allows for price-based bidding if the needed services are technical and require little professional judgment. Therefore, the County's Request for Quotes (RFQ) or Request for Sealed Bids (BID) processes may be used when the Scope of Work supports it. *Refer to Sections V and VI of this Manual for details on these processes.*

## **7.2 Process Summary**

Requests for Proposals (RFP) shall include a detailed scope of work/services (where possible, or when not, a specific desired outcome), general provisions, special provisions, legal statements, affidavits, and other pertinent paperwork. The Proposer completes the required information and submits a timely proposal to Administrative Services as instructed in the RFP documents. RFP proposals are not subject to public examination until after the County has made an award announcement. Proposal submittals are not publicly opened, but are instead evaluated privately against criteria identified in the RFP documents on a "best value" basis, considering both pricing and other factors. Generally, it is best to consider non-price factors independently of the pricing component, to prevent pricing from affecting judgement of non-price factors. Once the winning proposal has been determined, the County may issue a Notice of Intent to Award, and may proceed with contract negotiations and execution once the protest period window has passed. Administrative Services may execute either a contract or service purchase order as appropriate, with Board approval as required.

## **7.3 Initiation**

The department requesting the purchasing action shall provide the following to Administrative Services:

- Documentation and scope of work/services which adequately describe the goods or services required.
- A list of qualified potential Proposers in order to provide sufficient force of competition. Full opportunity to bid shall be granted to all qualified bidders.

- Estimated cost of the contract. If the requesting department doesn't have sufficient budgeted funds to cover the resultant contract, the department must obtain approval from the County Administrator, and provide documentation to Administrative Services identifying the approval of additional funds.
- A suggested Project Coordinator, when appropriate, whose duties will include acting as a liaison between the requesting department and Administrative Services.
- Approval by the head of the requesting department.

Administrative Services shall review the requesting department's documentation and confirm that the purchasing is appropriate for the RFP process.

#### **7.4 RFP Documents**

Administrative Services shall prepare RFP documents under the supervision of the Purchasing Agent, with input from the requesting department. Administrative Services shall establish a review schedule, based upon the anticipated date of advertisement, which designates the date upon which all changes, comments, and required approvals must be submitted to Administrative Services. Such schedule shall permit enough time for review of the contract documents by the individuals involved.

Although the provisions and requirements in RFP documents may vary, the RFP documents shall, at a minimum, contain the following items:

##### **7.4.1 Notice Requesting Proposals**

The Notice Requesting Proposals ("Notice") is a publicly advertised document which notifies potential proposers of the title and nature of the contract, the date for a Pre-Proposal Conference, if one is scheduled, and also establishes the subsequent date and time by which proposals must be submitted to the County. To the fullest extent possible, the RFP documents shall encourage equal participation of interested Disadvantaged Business Enterprises (DBEs). The Notice shall also inform Proposers of applicable DBE requirements, and other significant requirements under federal or State laws, if any.

The Purchasing Agent or authorized designee shall publicly advertise the Notice, which shall refer to and incorporate by reference all RFP documents (i.e., the General Conditions and Instructions to Proposer, the Special Provisions, the Technical Specifications, and other certificates, forms, and documents), and shall designate the method for obtaining copies of such documents.

#### **7.4.2** Standard Term and Conditions and Instructions to Proposer

The Standard Term and Conditions and Instructions to Proposer sets forth standard terms and conditions which govern the contractual relationship between the successful Proposer and the County. County Counsel shall prepare and maintain the Standard Term and Conditions, necessary for inclusion in competitive RFP procurements. The Standard Term and Conditions may be updated or revised from time to time.

#### **7.4.3** Special Provisions

Special Provisions prescribe terms and conditions specifically tailored to the particular contract being sought.

#### **7.4.4** Liquidated Damages Clause

Administrative Services may include in the Special Provisions a clause establishing the time in which the whole or any specified portion of the work called for under the contract shall be completed, and providing that each day completion is delayed beyond the specified time for performance, the contractor shall pay to the County a specified sum of money, to be deducted from any payments due or to become due to the contractor.

Liquidated damages should be included in contracts when it would be inconvenient, difficult, or impracticable to otherwise obtain an adequate remedy for the delay, or to prove the losses or to assess the actual quantity of damages. The amount to be established as liquidated damages shall be reasonable in light of the anticipated harm that may be caused by a delay in contract performance. Administrative Services staff shall evaluate these factors, and set a sum as liquidated damages.

#### **7.4.5** Pre-Proposal Conference

If a Pre-Proposal Conference is scheduled, the Notice shall advise of the date, time, and location of the conference. An attendance sign-in sheet will be used as a permanent record of the Pre-Proposal Conference and shall contain the names, contact information, and business affiliations of all Proposers and other interested persons in attendance. Pre-Proposal Conferences may be mandatory or optional at the discretion of the County.

#### **7.4.6 Qualifications of Proposers**

In contracts where the nature of the work is such that the qualifications of the Proposers are essential evaluation criteria, Administrative Services shall include among the RFP documents a clause setting forth such required qualifications. Contracts for services shall contain such clauses. In addition, contracts for the provision of supplies, equipment, and materials, where a specially manufactured product or technical guidance and advice are called for, shall also contain a provision regarding qualifications of Proposers.

Such provisions shall clearly state that the County may reject any proposal that does not meet the requirements stated in the Qualifications clause. Included in such clause shall be requirements that Proposers demonstrate they are regularly engaged in the provision of the work or product called for in the contract, and that they have the necessary experience, training, resources, facilities, and personnel to perform such work. Additionally, Proposers must attest that they have previously and satisfactorily performed work with characteristics comparable to those specified in the contract. Finally, Proposers may be required to furnish adequate references. Administrative Services may, at its option, prepare and include with the RFP documents a form to be completed by Proposers that will cover the qualification requirements described herein.

#### **7.4.7 Scope of Work / Services**

The RFP shall include the scope of work and services being requested, applicable terms and conditions, the time in which the project must be completed, requirements concerning coordination with other entities, other information that may be useful in preparation of the proposal, and evaluation criteria specifically tailored to the project. Such criteria shall include the consultant's proven experience and competence, bondability, insurability, understanding of the scope of work, financial ability, resources to perform the work, willingness to cooperate with Administrative Services and technical staff, and proposed method for assuring timely and acceptable performance and management of the work. In the event that the County assigns weighted values to the evaluation criteria, such values shall be indicated in the RFP. In addition, résumés of the consultant's staff may be requested to allow the evaluation committee to determine the staff's training, education, experience, and overall competence to perform the work.

Specifications must include detailed descriptions of the qualitative and quantitative nature of the supplies, equipment, materials, or services to be procured. They must also set forth the minimum essential characteristics and standards to which the products, services, or work must conform in order to satisfy the County's intended use. The use of blueprints, diagrams, charts, and maps is encouraged to clarify the specifications requirements.

Specifications shall not be drafted to unduly restrict competition. Brand names may be used in Technical Specifications only when it is impractical or uneconomical to specify clear and adequate descriptions of the technical requirements for a particular type of needed product. In all cases where brand names are used, Proposers shall be afforded the opportunity to propose to the County a substitute alternate product of equal quality or value. The County's decision to approve or disapprove such alternate product shall be final and binding on the Proposer.

Note that additional restrictions may apply to federally funded procurements. *Refer to Section XIV for additional details.*

#### **7.4.8 Pricing Schedule**

Whenever reasonable and appropriate, a firm not-to-exceed price quotation shall be requested in the RFP. In other cases, the RFP shall solicit a labor fee schedule for all categories of personnel to be utilized by the consultant in connection with the project, and a total proposed project budget.

The Proposer's completion of the Pricing Schedule shall constitute both the Proposer's prices and acceptance of all the terms and conditions contained in the RFP documents, unless exceptions are thereto are so noted and approved by the County. Administrative Services shall develop the Pricing Schedule in coordination with the requesting department. The Pricing Schedule shall seek separate cost quotations for all relevant aspects of the procurement, including, where applicable, unit price, extended price, sales or use taxes, and cost of installation and delivery. In all cases, the Pricing Schedule shall be structured to allow the County to make an objective comparison of all RFPs. Whenever possible, this will be accomplished by requesting a Total RFP Price.

#### **7.4.9 Insurance Requirements**

RFP documents shall include a form outlining the County's minimum insurance requirements for the resultant contract, if any. Consult with Risk Management for assistance in identifying the appropriate insurance requirements and documents.

#### **7.5 Advertisement**

Administrative Services will publish the Invitation to RFP electronically, and when required by the funding agency or by law, in at least one newspaper of general circulation and physically posted on County premises. The advertisement shall state the time and place for the receiving of proposals and shall describe in general terms the work to be done.

A minimum of (14) fourteen business days should be allowed between the time RFPs are solicited and when they close. If abnormal conditions exist, the time limit may be increased or decreased. (Public Contract Code §§ 22032, 22034, and 22037)

County employees, and consultants or contractors under the supervision of County employees, shall refrain from discussing details of the requested goods or services with prospective proposers, unless so authorized by Administrative Services.

#### **7.6 Addenda**

All proposer questions should be referred to Administrative Services as specified within the RFP solicitation documents. If an answer would likely affect the RFP of other proposers, then all proposers shall be so advised, to prevent any one proposer from obtaining an unfair advantage.

Any necessary changes, modifications, or adjustments to specifications, requirements, or RFP quantities shall be authorized and publicized by Administrative Services. No private modifications shall be made.

Once the RFP has been published, all changes necessary to correct any errors in the RFP documents, to extend deadlines, or to otherwise revise the RFP documents, shall be accomplished through the issuance of a written Addendum, authorized and publicized by Administrative Services. No private modifications shall be made.

All technical Addenda shall be drafted by the requesting department and shall be reviewed and approved by Administrative Services before publishing. Addenda shall identify the RFP number and title, date of issuance, Addendum number, and specific reference to the provisions in the RFP documents being amended and the substance of such amendment.

Administrative Services shall publicly issue the addendum so that it is available to all firms or persons who have received a copy of the RFP documents, except in the cases of RFPs that require mandatory attendance of Pre-RFP/Pre-Proposal/Site Inspection Conference(s), in which case only those vendors in attendance may be forwarded addenda.

### **7.7 Proposal Submittals**

Proposal submittals shall be submitted in writing to Clerk-Recorder before the time and date specified in the RFP documents. Proposals may be submitted either physically or electronically, at the discretion of Administrative Services.

Clerk-Recorder's office shall date and time stamp proposal submittals as they are received. Any proposals received after the specified date and time proposals are due will not be accepted by Clerk-Recorder's office but will instead be date and time stamped and returned unopened.

Proposals are not subject to public examination until the County has an executed contract.

From and following the specified date and hours proposals are due, no Proposer shall be permitted to change their proposal, except to correct errors or provide additional information, at the discretion and request of Administrative Services.

Original RFP and proposal documents shall be retained on file in Administrative Services, until no longer required by the County's Records Retention Policy, or by applicable law.

### **7.8 Evaluation**

The Evaluation Committee (EC) will be determined by the Purchasing Agent, or designee, and will include at a minimum the Project Coordinator and other County personnel with appropriate technical expertise.

### **7.8.1** Criteria

Award shall be made to the Proposer whose proposal is determined in writing to (a) best meet the criteria set forth in the RFP and (b) provide the best value to the County. The review shall adhere strictly to the evaluation criteria set out in the RFP.

### **7.8.2** Selection Process

The County shall establish an EC composed of representatives from the County for the purpose of evaluating the proposals received in response to an RFP. The County may include as part of the Committee qualified representatives from other agencies or entities.

Proposal documentation requirements shall be set forth in the RFP to provide guidance regarding the information considered by the EC. The EC shall be responsible for performing the evaluations of each proposal based on the stated criteria, and in cases where there is a known budget limit provided to proposers, including an evaluation of the proposed budget allocations. In all other cases Administrative Services will evaluate the proposed costs separately from the EC after non-price factors have been considered, using a mathematical weighting formula.

Each member of the EC shall rate the proposals separately unless the proposals are technical in nature, in which case a subject matter expert may be called upon to score that section. The scores of each member of the EC shall then be averaged to provide a total score for each of the proposers.

### **7.8.3** Initial Evaluation: Proposal Submission and Financials

Administrative Services shall conduct an initial pass/fail analysis of (a) each proposal submittal package for completeness ("responsiveness"), and (b) the financial stability of each proposer based upon the Financial Report submitted.

Upon completion of this analysis, Administrative Services will forward the Qualification Proposals of the passing proposers to the Evaluation Committee (EC).

#### **7.8.4 Evaluation of Qualifications**

The EC will review and evaluate the Qualification Proposals based on the criteria identified in the RFP, and each proposer will be given a score. Reference checks will be performed, and proposers may also be required to submit to interviews, provide presentations, allow facility surveys, and other items deemed necessary during the evaluation process. In no case shall the County's discretionary use or disuse of these optional additional evaluation processes be grounds for protest of an award decision. Should the County exercise the option to interview, only those proposers judged by the EC to be the most qualified to perform the work shall be requested to make a formal presentation to the County. On the basis of the oral presentation and the written proposal, the evaluators shall make a final ranking of potential proposers.

#### **7.8.5 Evaluation of Pricing**

Price Proposals will remain with Administrative Services until the EC has completed the evaluation of the Qualification Proposals, except in cases where the RFP requires proposers to identify what services will be provided for a County- specified budget and how such funds will be allocated, in which case the EC may evaluate this information.

Unless so exempted in the preceding paragraph, Administrative Services shall conduct a price analysis to determine whether the compensation terms of the proposals under consideration are fair and reasonable, and shall evaluate pricing using a weighted average, with the lowest price assigned 100% of the points possible.

Proposer qualifications are of the utmost importance in service contracts; however, where two or more persons or firms appear equally qualified to perform the desired services, the one proposing the lowest total price shall be ranked first.

In the event that (a) the County receives only one proposal in response to an RFP, (b) the responses reveal a lack of adequate competition, or (c) the RFP required the proposer to outline the elements of the estimated costs for the work, Administrative Services may conduct a cost analysis to determine whether the compensation proposals are fair and reasonable.

### **7.8.6 Calculation of Final Score**

Upon completion of all phases of the evaluation process, Administrative Services shall total the scores to rank the proposals and identify the winning proposer.

### **7.9 Negotiations**

Upon Administrative Services authorization, the Project Coordinator, and those County personnel with technical expertise relating to the project, shall negotiate with the highest-ranked proposer in order to establish a precise scope of work, work schedule and completion date, cost of services, and the method and manner of payment. A recommendation for award may be made upon the successful completion of negotiations as to the terms, conditions, and technical requirements of the proposed agreement.

In the event that negotiations with the highest-ranked proposer prove unsuccessful, the County shall terminate negotiations with this firm and commence discussions with the next-highest-ranked proposer until a price determined to be fair and reasonable to both parties is obtained. Once negotiations have been terminated with a firm, the County may not go back to that firm for additional negotiations – even if the next lower ranked respondent is higher in price.

### **7.10 Award of Contract**

Award of Contract shall be made on a “best value” basis to the qualified proposer whose proposal best meets the criteria set forth in the RFP and will be most advantageous to the County, with price and all other factors considered. The Purchasing Agent shall authorize the award of contracts exceeding \$50,000, except this amount should be adjusted annually by any annual increase in the Consumer Price Index (Revenue and Taxation Code §2212). See Administrative Services for the current threshold. The Board of Supervisors must authorize any contracts above this amount. (California Government Code § 25502.3).

Upon completion of RFP evaluation and analysis, Administrative Services shall notify all proposers in writing of the County's intent to award a contract. The successful proposer must execute the agreement documents and submit the required Certificate of Insurance within the time specified in the RFP or agreement documents, or if no such time is specified therein, within the time specified in the notice of intent to award issued by Administrative Services.

### **7.11 Contract Administration**

The requesting department head or designee shall act as Project Coordinator for purposes of contract administration. Administrative Services shall maintain a contract file and distribute copies of relevant correspondence to the department. The Project Coordinator shall be responsible for monitoring and reviewing the project in order to determine whether contract terms and conditions are being met.

## SECTION VIII:

### REQUEST FOR STATEMENT OF QUALIFICATIONS (SOQ)

The Request for Statement of Qualifications (SOQ) process may be used as an alternative to the RFP process for purchasing services, with the chief distinction of the SOQ process being that award of contract is made by identifying the most qualified proposer first, before negotiating the terms of the contract.

#### **8.1 General**

California Government Code §§ 4526 and 4527(b) specifies that local agencies (i.e., counties) may follow state agency processes for purchasing professional services of private architectural, landscape architectural, engineering, environmental, land surveying, or construction project management firms, with selection based on demonstrated competence and on the professional qualifications necessary for the satisfactory performance of the services required. Local governments may establish their own processes for hiring such services, including non-competitive negotiations, provided the following minimum conditions are met:

- Selection must be qualifications-based.
- Invitation for solicitation shall be made to small business firms.
- Documentation must specifically prohibit unlawful practices identified within the Code.

While negotiating service agreements without performing an RFP or SOQ is permitted under the Government Code, the above-listed requirements must still be satisfied. The SOQ process may also be used for services other than those listed above, at the discretion of the Purchasing Agent.

Alternatively, the Government Code also allows for price-based bidding if the needed services are technical and require little professional judgment. Therefore, the County's Request for Quotes (RFQ) or Request for Sealed Bids (RFB) processes may be used when the Scope of Work supports it. *Refer to Sections V and VI of this Manual for details on these processes.*

#### **8.2 Process Summary**

The SOQ process is similar to the RFP process defined in Section VII of this Policy Manual, except proposers are ranked solely on qualification, without regard to pricing. Pricing may be requested in the initial solicitation if it is kept separately sealed from the information used to evaluate and rank the proposers. Once the most-qualified proposer is identified, the County may open the selected proposer's pricing and begin contract negotiations.

### **8.3 Initiation**

The department requesting the purchasing action shall provide the following to Administrative Services:

- Documentation, scoring criteria, and scope of work/services which adequately describe the goods or services required.
- A list of qualified potential proposers in order to provide sufficient force of competition. Full opportunity to bid shall be granted to all qualified bidders.
- A proposed bidding schedule (including advertising and contract commencement dates).
- Estimated cost of the contract. If the requesting department doesn't have sufficient funding in the current budget for the resultant contract, the department must obtain approval from the County Administrator, and in its documentation to Administrative Services shall identify the County Administrator's authorization of the solicitation for the SOQ.
- A suggested Project Coordinator, when appropriate, whose duties will include acting as a liaison between the requesting department and Administrative Services.
- Approval by the head of the requesting department.

Administrative Services shall review the requesting department's documentation and confirm that the purchasing is appropriate for the SOQ process.

### **8.4 SOQ Documents**

Administrative Services shall prepare SOQ documents under the supervision of the Purchasing Agent, with input from the requesting department. Administrative Services shall establish a preliminary schedule of events, based upon the anticipated date of advertisement, which designates the date upon which all changes, comments, and required approvals must be submitted to Administrative Services. Such schedule shall permit a sufficient time period for review of the contract documents by the individuals involved.

Although the provisions and requirements in SOQ documents may vary, the SOQ documents shall, at a minimum, contain the following items:

#### 8.4.1 Notice Requesting Statements of Qualifications/Proposals

The Notice Requesting Proposals ("Notice") is a publicly advertised document which notifies potential proposers of the title and nature of the contract, the date for a Pre-Proposal Conference, if one is scheduled, and also establishes the subsequent date and time by which proposals must be submitted to the County. To the fullest extent possible, the SOQ documents shall encourage equal participation of interested Small Business Firms and Disadvantaged Business Enterprises (DBEs). The Notice shall also inform proposers of applicable DBE requirements, and other significant requirements under federal or state laws, if any.

The Purchasing Agent or authorized designee shall publicly advertise the Notice, which shall refer to and incorporate by reference all SOQ documents (i.e., the Terms and Conditions and Instructions to Proposer, the Special Provisions, the Technical Specifications, and other certificates, forms, and documents), and shall designate the method for obtaining copies of such documents.

#### 8.4.2 Terms and Conditions and Instructions to Proposer

The Terms and Conditions and Instructions to Proposer sets forth standard terms and conditions which govern the contractual relationship between the successful proposer and the County. County Counsel shall prepare and maintain the standard Terms and Conditions, necessary for inclusion in competitive SOQ procurements. The Terms and Conditions may be updated or revised from time to time.

#### 8.4.3 Special Provisions

Special Provisions prescribe terms and conditions specifically tailored to the particular contract being sought.

#### 8.4.4 Pre-Proposal Conference

If a Pre-Proposal Conference is scheduled, the Notice shall advise of the date, time, and location of the conference. An attendance sign-in sheet will be used as a permanent record of the Pre-Proposal Conference and shall contain the names, contact information, and business affiliations of all Proposers and other interested persons in attendance.

#### 8.4.5 Qualifications of Proposers

Because the nature of professional services obtained through the SOQ process is such that the qualifications of the proposers are essential evaluation criteria, Administrative Services includes among the SOQ documents a clause setting forth such qualifications, and contracts for services also contain such clauses. In addition, contracts for the provision of supplies, equipment, and materials, where a specially-manufactured product or technical guidance and advice are called for, also contain provisions regarding proposer qualifications.

Such provisions shall clearly state that the County may reject any proposal that does not meet the requirements stated in the qualifications clause. Included in such clause will be requirements that proposers demonstrate they are regularly engaged in the provision of the work or product called for in the contract, and that they have the necessary experience, training, licenses or certifications, resources, facilities, and personnel to perform such work. Additionally, proposers must attest that they have previously and satisfactorily performed work with characteristics comparable to those specified in the contract. Finally, proposers may be required to furnish adequate references. Administrative Services may, at its option, prepare and include with the SOQ documents a form to be completed by proposers that will cover the qualification requirements described herein.

#### 8.4.6 Scope of Work / Services

The SOQ includes the scope of work and services being requested, applicable terms and conditions, the time in which the project must be completed, requirements concerning coordination with other entities, other information that may be useful in preparation of the proposal, and evaluation criteria specifically tailored to the project. Such criteria must include the consultant's proven experience and competence, bondability, insurability, understanding of the scope of work, financial ability, resources to perform the work, willingness to cooperate with Administrative Services and technical staff, and proposed method for assuring timely and acceptable performance and management of the work. In the event that the County assigns weighted values to the evaluation criteria, such values shall be indicated in the SOQ. In addition, résumés of the consultant's staff may be requested to allow the evaluation committee to determine the staff's training, education, experience, and overall competence to perform the work.

Specifications must include detailed descriptions of the qualitative and quantitative nature of the services to be procured. They must also set forth the minimum essential characteristics and standards to which the work must conform in order to satisfy the County's intended use. The use of blueprints, diagrams, charts, and maps is encouraged to clarify the specifications requirements.

Specifications shall not be drafted to unduly restrict competition. Brand names may be used in Technical Specifications only when it is impractical or uneconomical to specify clear and adequate descriptions of the technical requirements for a particular type of needed product. In all cases where brand names are used, Proposers shall be afforded the opportunity to propose to the County a substitute alternate product of equal quality or value. The County's decision to approve or disapprove such alternate product shall be final and binding on the Proposer.

Note that additional restrictions may apply to federally-funded procurements. *Refer to Section XIV for additional details.*

#### 8.4.7 Pricing Schedule

Whenever reasonable and appropriate, pricing may be requested in the SOQ. In some cases, the SOQ may solicit a labor fee schedule for all categories of personnel to be utilized by the consultant in connection with the project, and a total proposed project budget.

The proposer's completion of the Pricing Schedule shall constitute both the proposer's prices and acceptance of all the terms and conditions contained in the SOQ documents, unless exceptions are thereto are so noted and approved by the County. Administrative Services shall develop the Pricing Schedule in coordination with the requesting department. The Pricing Schedule may seek separate cost quotations for all relevant aspects of the procurement. In all cases, the Pricing Schedule shall be structured to establish a starting point for negotiations and to allow the County to make a reasonable project cost determination. In no case shall such pricing be used to objectively compare SOQ submittals.

#### 8.4.8 Insurance Requirements

SOQ documents shall include a form outlining the County's minimum insurance requirements for the resultant contract, if any. Consult with Risk Management for assistance in identifying the appropriate insurance requirements and documents.

## **8.5 Advertisement**

Administrative Services will publish the SOQ Invitation electronically, and when required by the funding agency or by law, in at least one newspaper of general circulation and physically posted on County premises. The advertisement shall state the time and place for the receiving of proposals and shall describe in general terms the work to be done.

A minimum of (10) ten business days should be allowed between the time SOQs are solicited and when they close. If abnormal conditions exist, the time limit may be increased or decreased.

County employees, and consultants or contractors under the supervision of County employees, shall refrain from discussing details of the requested goods or services with prospective proposers, unless so authorized by Administrative Services.

## **8.6 Addenda**

All proposer questions should be referred to Administrative Services as specified within the SOQ solicitation documents. If an answer would likely affect the SOQ of other proposers, then all proposers shall be so advised, to prevent any one proposer from obtaining an unfair advantage.

Any necessary changes, modifications, or adjustments to specifications, requirements, or quantities shall be authorized and publicized by Administrative Services. No private modifications shall be made.

Once the SOQ has been published, all changes necessary to correct any errors in the SOQ documents, to extend deadlines, or to otherwise revise the SOQ documents, shall be accomplished through the issuance of a written Addendum, authorized and publicized by Administrative Services. No private modifications shall be made.

All technical Addenda shall be drafted by the requesting department and shall be reviewed and approved by Administrative Services before publishing. Addenda shall identify the SOQ number and title, date of issuance, Addendum number, and specific reference to the provisions in the SOQ documents being amended and the substance of such amendment.

Administrative Services shall publicly issue the addendum so that it is available to all firms or persons who have received a copy of the SOQ documents, except in the cases of SOQs that require mandatory attendance of Pre-Proposal/Site Inspection Conference(s), in which case only those vendors in attendance may be forwarded addenda.

## **8.7 Proposal Submittals**

Proposal submittals shall be submitted in writing to Clerk-Recorder's office before the time and date specified in the SOQ documents. Proposals may be submitted either physically or electronically, at the discretion of Administrative Services.

Proposal submittals shall be date and time stamped as they are received. Any proposals received after the specified date and time proposals are due will not be accepted by Clerk Recorder's office, but will instead be date and time stamped and returned unopened.

Proposals are not subject to public examination until the County has executed the contract.

From and following the specified date and hours proposals are due, no proposer shall be permitted to change their proposal, except to correct errors or provide additional information, at the discretion and request of Administrative Services.

Upon award of contract, all proposer Financial Reports shall be destroyed to preserve their confidentiality. Other original SOQ and proposal documents shall be retained on file in Administrative Services until no longer required by the County's Retention Resolution No: 2000-105, Policy, or by applicable law.

## **8.8 Evaluation**

### **8.8.1 Criteria**

Respondents are evaluated strictly on the basis of their qualifications, expertise, and relevant experience for performing the desired work.

### **8.8.2 Selection Process**

The County shall establish an Evaluation Committee (EC) composed of representatives from the County for the purpose of evaluating the proposals received in response to an SOQ. The County may elect to include as part of the Committee qualified panel members from other county departments, other public jurisdictions, the community at large, or recognized experts in a particular field.

Proposal documentation requirements shall be set forth in the SOQ to provide guidance regarding the information considered by the EC. The EC shall be responsible for performing the evaluations of each proposal based on the stated criteria. Each member of the EC shall rate the proposals separately unless the proposals are technical in nature, in which case a subject matter expert may be called upon to score that section. The scores of each member of the EC shall then be averaged to provide a total score for each of the proposers.

### **8.8.3** Initial Evaluation: Proposal Submission and Financials

Administrative Services shall conduct the initial pass/fail analysis of (a) each proposal submittal package for completeness ("responsiveness"), and (b) the financial stability of each Proposer based upon the financial report submitted.

Upon completion of the financial analysis, Administrative Services will forward the Qualification Proposals of the passing proposers to the EC.

### **8.8.4** Evaluation of Qualifications

The EC will review and evaluate the Qualification Proposals based on the criteria identified in the SOQ, and each proposer will be given a score. Reference checks will be performed, and proposers may also be required to submit to interviews, provide presentations, allow facility surveys, and other items deemed necessary during the evaluation process. In no case shall the County's discretionary use or disuse of these optional additional evaluation processes be grounds for protest of an award decision.

Should the County exercise the option to interview, only those proposers judged by the EC to be the most qualified to perform the work shall be requested to make a formal presentation to the County. On the basis of the oral presentation and the written proposal, the evaluators shall make a final ranking of potential proposers.

Once the most-qualified respondent is identified, Administrative Services shall notify all proposers in writing of the County's intent to award a contract, and the County may engage in price negotiations. If the County is unable to come to pricing terms with the highest-ranked respondent, then the County may close such negotiations and begin negotiating with the next-highest-ranked respondent, continuing in this manner until an agreement can be reached. The County may not return to negotiating with higher-ranked respondents once they have been passed over.

#### **8.8.5 Evaluation of Pricing**

Price Proposals will remain sealed until the EC has completed the evaluation of the Qualification Proposals.

In the event that (a) the County receives only one proposal in response to an SOQ, (b) the responses reveal a lack of adequate competition, or (c) the SOQ required the proposer to outline the elements of the estimated costs for the work, Administrative Services may conduct a cost analysis to determine whether the compensation proposals are fair and reasonable.

#### **8.9 Negotiations**

Upon Administrative Services' authorization, the Project Coordinator, and those County personnel with technical expertise relating to the project, shall negotiate with the highest-ranked proposer in order to establish a precise scope of work, work schedule and completion date, cost of services, and the method and manner of payment. In the event that negotiations with the highest-ranked proposer prove unsuccessful, the negotiating team shall commence discussions with the next- highest-ranked proposer. A recommendation for award may be made upon the successful completion of negotiations as to the terms, conditions, and technical requirements of the proposed agreement.

#### **8.10 Award of Contract**

Award of Contract shall be made to the best-qualified proposer whose proposal best meets the criteria set forth in the SOQ and will be most advantageous to the County. The Purchasing Agent shall authorize the award of contracts exceeding \$50,000, except this amount should be adjusted annually by any annual increase in the Consumer Price Index (Revenue and Taxation Code § 2212). See Administrative Services for the current threshold. The Board of Supervisors must authorize any contracts above this amount. (California Government Code § 25502.3).

Upon completion of SOQ evaluation and successful contract negotiations, the successful proposer must execute the agreement documents and submit the required Certificate of Insurance within the time specified in the SOQ or agreement documents, or if no such time is specified therein, within the time specified in the notice of intent to award issued by Administrative Services.

### **8.11 Contract Administration**

Upon successful completion of price negotiations, the County may execute a contract with the successful respondent using the Professional Services Agreement template. The requesting department head or designee shall act as Project Coordinator for purposes of contract administration. Administrative Services shall maintain a contract file and distribute copies of relevant correspondence to the department. The Project Coordinator shall be responsible for monitoring and reviewing the project in order to determine whether contract terms and conditions are being met.

## SECTION IX:

### PUBLIC WORKS AND PUBLIC PROJECTS

Public Works projects and Public projects fall under the Certified Uniform Public Construction Cost Accounting Act (CUPCCAA), which provides alternative procedures for bidding and executing Public Works projects. A Public Works project is defined in California Labor Code § 1720 and Public Contract Code § 22002.

#### **9.1 Projects of \$75,000 or Less**

Projects of \$75,000 or Less as defined by Uniform Public Construction Cost Accounting Act, are projects estimated to cost \$75,000 or less, or the current amount set in Public Contract Code § 22032(a). Projects may be performed by force account, by negotiated contract, or by purchase order. The County Purchasing Agent or Director of Public Works are authorized to award and sign contracts for these Projects.

Public Works (construction and maintenance) projects and Public projects above \$15,000 should always be solicited by written means to ensure the County's compliance with State Department of Industrial Relations regulations, and to advise contractors of mandatory bonding requirements for projects above \$25,000. (Civil Code § 9550; Labor Code § 1720; Public Contract Code §§ 20129, 20132, and 20405)

#### **9.2 Projects of \$220,000 or Less**

Projects of \$220,000 or less or within the current threshold amounts listed in Sections 22032(a) and (b) of the Public Contract Code may use an informal bidding process. The informal bidding procedures for Public Works projects and Public projects are different from the informal bidding procedures used for other types of contracts. The Informal Bidding procedures are set forth in Section 22030, et seq. of the Public Contract Code.

The procedures are as follows:

1. A notice inviting informal bids is sent to all qualified contractors on the bidder's list. Please contact the Administrative Office for bidders lists;  
OR
2. A notice inviting informal bids is sent to all construction trade journals in accordance with §22036 of the Public Contract Code; OR
3. A notice inviting informal bids is sent to contractors on the bidder's list and all construction trade journals in accordance with Public Contract Code §22036.

A copy of the Public Works Contract template must be attached to all invitations to bid. All mailing of notices to contractors and construction trade journals pursuant to the above paragraph must be completed not less than ten (10) calendar days before bids are due. The notice inviting informal bids must describe the Public Works Project in general terms, including how to obtain more detailed information about the Public Works project, and state the time and place for submission of bids.

The Board has delegated to the Purchasing Agent and the Road Commissioner the authority to award contracts not in excess of \$200,000 to vendors selected through this informal bid process. *These processes are further described in Sections VI, and VII of this manual.*

### **9.3 Projects Greater Than \$220,000**

Projects greater than \$220,000, Section 22032(c) of the Public Contract Code, must be contracted using formal bidding procedures. A copy of the Contract Template must be attached to all invitations to bid. The Project plans and specifications must be approved by the Board, and the contract must be approved and awarded by the Board. *Refer to Section VI of this manual.*

Public Works and Public projects above \$220,000 shall be physically posted and advertised in multiple trade journals. (Public Contract Code §§ 22034, 22032(c), 22036, and 22037)

### **9.4 Public Works of Improvement (construction and maintenance) projects of \$25,000 and above require bonding as follows:**

- **Bid Bonds** - Bidder's securities protect the County's interests in the event that a bidder refuses to honor its bid or fails to enter into a contract awarded by the County. Generally, 10% of total bid, though the County may adjust this amount. May be a surety bond, cash, or certified or cashier's check. (Public Contract Code §§ 20129 and 20405)
- **Performance Bonds** – Performance sureties secure fulfillment of a contractor's obligations. The life of the performance bond may be required to extend beyond the completion of the main work under the contract in order to cover any warranty period. The instrument must be a surety bond for 100% of total contract price - no alternate payment methods are permitted. (Public Contract Code § 20129)

- Payment Bonds – The payment bond assures the contractor's full discharge of its obligations to its subcontractors, suppliers, and other labor used on the project. In all Public Works of Improvement (construction and maintenance) contracts, and contracts for the purchasing of services or products which involve subcontracting, a payment bond may be required. The instrument must be a surety bond for 100% of total contract price - no alternate payment methods are permitted. (Civil Code §§ 9550 and 9554)

The County has some discretion with regards to acceptable bid bond alternatives, but not for performance and payment bonds. If a bidder is unable to secure both performance and payment bonds in cases where they are mandatory, then the County must move on to the next-lowest-priced responsible and responsive bidder.

#### **9.5 Change Orders**

The Road Commissioner or the Purchasing Agent is authorized to execute changes for any contract awarded, in an amount not to exceed \$5,000.00 for contracts of \$50,000.00 or less, or ten percent for contracts over \$50,000.00, but not to exceed \$250,000.00. In no event shall any change exceed a net total addition of \$25,000.00. (County Ordinance 9.100.020, Public Contract Code § 20395)

For contracts whose original cost exceeds \$250,000.00, the extra cost for any change or addition to the work so ordered shall not exceed \$25,000.00, plus five percent of the amount of the original contract costs in excess of \$250,000.00. In no event shall any change or alteration exceed \$150,000.00. (County Ordinance 9.100.020, Public Contract Code § 20395)

## SECTION X:

### EXEMPTIONS TO COMPETITIVE PURCHASING REQUIREMENTS

#### 10.1 General

Absent a statutory requirement, public entities are not bound to engage in competitive bidding (San Diego SAFE v. Superior Ct., (1988) 198 CA 3d 1466, and Grayden v. Pasadena Redevelopment Agency (1980) 104 CA 3d 631).

Purchases of equipment, materials, supplies, and services shall be awarded through competitive processes, except when the Purchasing Agent determines that at least one of the following conditions apply:

- Level 1 Purchase;
- Emergency;
- Sole-Source;
- Cooperative Purchasing;
- Services;
- No Advantage;
- Categorical Exemption.

#### 10.2 Level One Purchases

Competitive processes are not required when the price of an individual item (as distinct from the total contract), or the total price for services, is below \$5,000.

Public Works/Public projects above \$1,000 are subject to prevailing wage and reporting requirements, regardless of purchasing method (Labor Code §1720). *Refer to Section XI for further information.*

Federally-funded purchases may be subject to Level One Purchase thresholds different from those of the County. In such cases, the more stringent of policies shall be followed. *Refer to Section XIV for further information.*

#### 10.3 Emergencies

The County is not required to competitively purchase supplies, equipment, materials, or services when immediate action is required to avoid imminent danger to persons or property.

Emergency purchases must be authorized by the County Purchasing Agent (or designee), or if such persons are not immediately available, may be made by any person or official authorized to sign requisitions. All such emergency purchases shall be made by County personnel who have expertise related to the emergency situation, and shall be subsequently approved and confirmed by the Purchasing Agent under the following circumstances:

- Goods or services exceeding \$5,000 and up to \$50,000, adjusted annually by the annual increase in the Consumer Price Index, must be submitted by the responsible department to the Purchasing Agent within two weeks of the purchase.
- Goods or services over \$50,000, adjusted annually by the annual increase in the Consumer Price Index, must be submitted by the responsible department at a regularly scheduled Board meeting within 30 days from the date of acquisition and the Purchasing Agent must be notified within 72 hours.

If the Purchasing Agent refuses such confirmation, the Board of Supervisors may subsequently approve and confirm such purchase by a four-fifths vote of the entire board. Unless such purchases are so approved and confirmed by either the Purchasing Agent or the Board of Supervisors, the costs of the emergency purchase shall not constitute a legal charge against the County.

During a natural disaster or other such emergency, all related emergency purchases will be coordinated through the County's designated Emergency Operations Center to be eligible for reimbursement by the Federal Emergency Management Association (FEMA), purchases must follow the rules found in Section X of this Policy Manual.

#### **10.4 Sole Source**

Competitive processes are not required when the purchasing qualifies for sole-source exemption, as justified by the requisitioner and approved by the Purchasing Agent. A sole-source decision is not permitted merely upon the grounds that such approach is the most convenient, or that the subject product demonstrates technical or administrative superiority, or is preferred by staff.

A sole-source purchase can be made from only one source of supply, or when no competitive advantage can be gained through competitive processes. Such situations may arise when the item or service requirements are so unusual or distinct that the possible sources are narrowed down to one. This may be the case, for example, with replacement parts for brand-name machinery, equipment, or vehicles, or when purchasing specialized software. The sole-source vendor must be the only known supplier with the capability of meeting the County's specifications or other requirements.

Acceptable sole-source justifications include:

- Negotiated or sole-source purchases that have been specifically pre-authorized by the Board of Supervisors.
- After soliciting a number of sources, Administrative Services determines that purchasing of a basic item or service is available only from a single vendor.
- Competition is precluded because of the existence of patent rights, copyrights, secret processes, control of the basic raw material(s) or similar circumstances, and no equivalent good or service is available.
- The purchase is for parts or components for equipment, and no information or data is available to ensure that the parts or components obtained from another supplier will perform the same function in the equipment; or the parts or components could compromise the safety or reliability of the product, or would void or invalidate a manufacturer's warranty or guarantee.
- The purchase is for services from a provider with unique knowledge, skill, or ability not available from other sources.
- A distributor or service provider has an exclusive franchise or operating agreement with the supplier of goods to be purchased or maintained and no other person or entity may provide, install, service or maintain the goods in the service area. This does not include the purchase of goods where a same or similar good may be purchased and is not otherwise defined as a Sole Source item.
- The purchase is for goods and/or services where standardization is beneficial for reasons including maintenance, repair, training, and interoperability.
- The purchase is for goods and/or services where continuity of providers will provide efficiency or critical knowledge, and other providers of the goods and/or services cannot provide similar efficiencies or critical knowledge.
- When so directed by the Court, the funding source, as mandated by the state, or other relevant authority.

The requesting department shall initiate such purchase by completing a written requisition and Sole Source Justification form (Exhibit 1), which shall be approved by the head of the requesting department or authorized designee, and then sent to Administrative Services for approval. The requesting department head or designee will approve the sole-source status of the purchase only after confirmation that staff has verified that there is only one vendor or supplier of the items or services in question.

Prior to taking action on the sole source procurement, the Purchasing Agent or authorized designee shall verify that the purchase meets the sole source definition set forth above and that the requisition is complete with the proper approval of the requesting department or authorized designee.

### Cost Analysis

Unless the reasonableness of the sole-source vendor's price can be established on the basis of a catalog or market price for similar commercial products sold in substantial quantities to the general public, or on the basis of prices set by law or regulation, a cost analysis shall be conducted. A cost analysis is a detailed evaluation of the cost elements that comprise the proposed price to determine whether the contractor is applying sound management and appropriate resources to the purchase and whether the costs are proper, allowable, and allocable.

Such cost analysis involves the verification of cost data, the evaluation of specific cost elements (including labor hours, quantities, tooling, testing, etc.), and the projection of the cost data to determine its effect on prices.

In judging whether the price offered is reasonable, consideration shall be given to the necessity for certain costs; the reasonableness of amounts estimated for necessary costs; the basis for allocating overhead costs; allowances for contingencies; and the appropriateness of allocations of particular overhead costs to the contract.

## **10.5 Cooperative Purchasing**

Purchasing may be made through existing cooperative purchasing agreements with other government agencies or public utilities, where the requirement for competitive purchasing has already been met by the actions of the lead agency. Non-competitive ("negotiated") cooperative agreements are not acceptable for use in situations where competitive purchasing is required. *Refer to Chapter XI of this Manual for more information.*

## **10.6 Standardization**

Where standardization of an item or service from a single source has been justified by comparative analysis or usage, and is in accordance with established policy (example: compatible parts and devices from the manufacturer or sole-authorized distributor of equipment in service); or where repair and reconditioning of equipment and devices by the manufacturer or manufacturer-authorized firms where it is necessary to take advantage of certain expertise or to comply with warranty terms.

When several non-manufacturer firms are available to make adequate repairs and no cost or other advantage is apparent in dealing directly with the manufacturer, award will be based upon competitive bidding.

## **10.7 Services**

The County is not required to competitively purchase services by law (Government Code §§ 4526 and 4527); however, County policy is that services of \$50,000 adjusted annually by the annual increase in the Consumer Price Index (Revenue and Taxation Code § 2212), and above be competitively obtained, unless exempted under the other classifications identified in Section X of this Manual.

Agreements below \$50,000, adjusted annually by the annual increase in the Consumer Price Index, may be negotiated; however, it may be in the County's best interest to purchase them using the Request for Proposals (RFP) or Request for Statement of Qualification (SOQ) processes as defined in Chapters VI and VIII of this manual. Alternatively, competitive price-based bidding may be undertaken for services with standard, non-personal qualities that are easily quantifiable, and which lend themselves to price comparison.

Regardless of the method used, the County's processes shall specifically prohibit practices which might result in unlawful activity including, but not limited to, rebates, kickbacks, or other unlawful consideration, and shall specifically prohibit government agency employees from participating in the selection process when these employees have a relationship with a person or business entity seeking a contract (Government Code § 4527).

## **10.8 Categorical Exemptions**

The following types of purchasing of goods and/or services are categorically exempt from competitive purchasing requirements:

- Pharmaceuticals and Medical Supplies: Medications that are patented and marked under a brand by a specific pharmaceutical company; Products and devices used in healthcare settings for patient care, diagnosis, and treatment.

- Utility Services: The item or service to be procured is from a utility or a direct access provider and qualifies as a Sole Source.
- Educational Services: Purchasing of educational services from a not-for-profit organization.
- Memorandums of Understanding (MOU): MOUs between governmental agencies or non-profits for trading services in kind, or for specialized services that only the specified agency is capable of providing (such as police services in a designated jurisdiction).
- Publications and Subscription Services: Notices, advertisements, and publication services used to post notices required by law or necessary to support the County operations. Information sources governed by publisher agreement, subscriptions (on-line or print) to newspapers, journals, and other periodicals. Legal research services and publications used for legal research and analysis.
- Information Technology Subscriptions: Software as a Service (SaaS), technology subscriptions paid monthly or annually to use a software, including Cloud based subscriptions.
- Standardized Software- Standardized software, as implemented countywide by the Administrative Services Department. This does not include new software purchases for a specific department.
- Memberships: Memberships in groups or organizations for which competitive purchasing is not feasible.
- Public Safety Equipment: Public Safety Equipment includes, but not limited to firearms, ammunition, specialized vests, dive equipment, handcuffs, batons, pepper spray, duty belts, tactical flashlights, Tasers, badges, etc. However, it is the sole responsibility of the public safety department to perform a cost or price analysis from time to time to ensure lowest cost and best value to the County.
- Election supplies: The Elections Department will keep records showing price comparisons and may, at the option of the Registrar of Voters and without placing the security or conduct of an election at risk, attempt to secure the best prices for like elections-related materials, commodities and services.
- Authorized Local Vendor List- See the Purchasing Agent for an authorized local vendor list.

- Vehicle/Equipment Repair- Automotive vehicle repair and certain maintenance, including heavy equipment, machinery, and construction equipment.

## **SECTION XI:**

### **CONTRACTS**

#### **11.1 General**

The County uses a variety of contractual documents designed for certain types of goods or services. Administrative Services with County Counsel and Risk Management approval may modify to meet departmental needs.

#### **11.2 Forms of Contract**

##### **11.2.1 Purchase Order**

Purchase Orders (POs) are the most basic form of contract used by the County. POs reference a standardized set of Terms and Conditions.

##### **11.2.2 Blanket Purchase Order**

Blanket Purchase Orders (BPO) are established for a specified period (generally one Fiscal Year) with a vendor for items or services as may be required during that time period. BPOs may be executed without competitive processes when the price of an individual item (as distinct from the total contract) is below \$5,000. Examples of BPO uses include sundry supplies or tools as needed throughout the year, or for as-needed repairs of vehicles or equipment.

##### **11.2.3 Agreement for Independent Contractor Services**

An independent contractor is one who provides services, exercises an independent employment or occupation, and represents his or her employer only as to the results of his work, and not as to the means whereby it is to be accomplished. The chief consideration which determines one to be an independent contractor is the fact that the County has no right of control as to the mode of doing the contracted work. Examples of independent contractors include janitorial services and security guard services.

Such agreements may be negotiated; however, the preferred purchasing methods for such services is the Request for Proposals (RFP) or Request for Statement of Qualification (SOQ) processes defined in Chapters VI and VIII of this Manual. Alternatively, competitive bidding may be undertaken for services with standard, non-personal qualities that are easily quantifiable and which lend themselves to price comparison.

Note: Contracts for maintenance or janitorial services requires a finding be made by the Board of Supervisors that the site is remote from available County employee resources and that it is economically advantageous to contract rather than pay additional travel and subsistence expenses. (Government Code § 31000)

#### **11.2.4 Agreement for Professional Services**

The Board of Supervisors may contract for special services on behalf of the County, any County officer or department, or any district or court in the County. Persons hired under these contracts are independent contractors for purposes of right of control, taxes, benefits, etc. (Government Code § 31000)

An Agreement for Professional Services is suitable for specially trained and experienced persons or firms ("consultants") from a variety of fields such as: finance, economics, accounting, legal, medical, therapeutic, administrative, hardware/software systems, or other matters involving specialized expertise or unique skills. In general, these services also include advice, education, or training for the County.

Such agreements may be negotiated; however, it may be in the County's best interest to purchase such services using the Request for Proposals (RFP) or Request for Statement of Qualification (SOQ) processes defined in Chapters VI and VIII of this manual. Alternatively, competitive bidding may be undertaken for services with standard, non-personal qualities that are easily quantifiable and which lend themselves to price comparison.

#### **11.2.5 Agreement for Professional Specialized Services**

Similar to a Professional Services contract, this form of agreement is used whenever contracting with specially-trained persons providing services in architectural, landscape architectural, engineering, environmental, land surveying, or construction project management firms. (Government Code §§ 4526 and 4527)

Professional Specialized Services agreements may be negotiated; however, it may be in the County's best interest to instead use the Request for Statement of Qualification (SOQ) process defined in Chapter VIII of this manual. Alternatively, competitive bidding may be undertaken for services with standard, non-personal qualities that are easily quantifiable and which lend themselves to price comparison.

#### **11.2.6 Agreement for Technology Services**

Similar to a Professional Services contract, the Technology Services agreement is used to obtain services of specially-trained persons to address computer programming services, and other computer technology needs of the County. This type of agreement requires a separate insurance provision attachment for IT Vendors.

#### **11.2.7 Master Agreements**

Master Agreements are established by Administrative Services through competitive purchasing processes, where required. Such agreements are generally intended for countywide participation. This is different from departmental agreements established by departments for their own internal departmental use.

Under the Master Agreement, vendors agree to provide goods and services at specific prices for specific periods of time, in accordance with the general Scope of Work and Terms and Conditions contained in the solicitation. Administrative Services estimates departmental participation under the Master Agreement and establishes an aggregated Not-To-Exceed dollar limit for the Master Agreement, obtaining Board approval as necessary.

County departments may order goods or services under the Master Agreement by means of subordinate, Purchase Order, or Blanket Purchase Order, as may be appropriate under the terms of the Master Agreement. All such orders shall be processed through the County's electronic financial management system, and Administrative Services shall monitor such departmental activity under the Master Agreement and advise the departments when spending approaches Agreement limits.

**11.2.8 Cooperative Purchasing Agreements ("Piggy-Backing")**

The Purchasing Agent may waive the competitive process for contracting with another government agency for goods or services. In some cases, the Purchasing Agent may waive the competitive process to purchase from other governmental agencies' vendor if the contract and purchasing documents allows such other governmental agency to acquire such property or services and resell them to other government agencies. The clause below (or facsimile language) must be stated in the solicitation and subsequent contract:

Public Agency Participation: It is intended that any other public agency including those identified in the solicitation, located in California, shall have the option to participate in any award made as a result of this solicitation/contract. The County of Yuba shall incur no financial responsibility in connection with orders issued or delivered by another public agency. Each public agency using this contract shall accept sole and full responsibility for placing of orders and making payments to the contractor. In addition to the above, the contractor shall provide the same level of indemnification and insurance protection to each of the participating agencies ordering products and/or services under any award made as a result of this solicitation.

If this language is not included in the public agency's solicitation and/or contract, then it cannot be used as a valid public agency participation agreement.

**11.2.9 Memorandum of Understanding (MOU)**

Department Heads of the County may execute agreements between each other after approval from County Counsel. The Purchasing Agent or authorized designee may execute MOU's between the County and non-profit entities. In cases where the parties wish to provide services-in-kind (in lieu of monetary compensation) the MOU form of agreement is appropriate.

The Board of Supervisors must execute MOU's between the County and other governmental agencies, or if monetary compensation is included in the provisions of the MOU.

### **11.2.10 Leases**

Leases for equipment are typically executed on the vendor's forms, after review and approval by County Counsel. However, property leases are typically executed on the County's forms, with terms custom-tailored to each individual agreement. Because of the complexities involved in negotiating and drafting property lease documents, such forms are administered by Administrative Services. *Refer to Section XIII of this manual for further information.*

## **11.3 Approvals**

### **11.3.1 Authority**

Contract approval authority and required processes depends largely on the dollar amount and type of agreement being executed, as detailed in Section IV of this Manual. In general, the County Purchasing Agent may execute agreements up to \$50,000, adjusted annually by the annual increase in the California Consumer Price Index (Revenue and Taxation Code § 2212), while contracts over such amount require Board approval. The Board may authorize the Purchasing Agent to sign them as the Board's designee, though Purchasing Agent signature is not required if the department receives contract-specific signing authority directly from the Board (California Government Code § 25502.3).

### **11.3.2 Approval Process (Exhibit 2)**

- Board of Supervisors Approval Required: The following policies set forth the requirements for submitting purchasing-related matters to the Board of Supervisors for approval, ratification or information:
  - (a) All contracts required by law to be approved by the Board of Supervisors;
  - (b) Contracts for rental/lease or lease-purchase of equipment (examples include automobiles, copiers, and computer software) for a period exceeding three years;
  - (c) Joint Powers or Cooperative Purchasing Agreements;
  - (d) Change orders, alterations, renewals, or addenda to a Board of Supervisors' approved contract that changes or amends the contract in an amount greater than ten percent or \$25,000.00, whichever is less, provided the change does not adversely affect the bid award.

- **Purchasing Agent Approval Required:** Generally, the Purchasing Agent, or his/her designee, has the authority to approve and sign the following, provided the monetary amounts are within those provided by this Manual:

- (a) All purchases for commodities exceeding \$50,000.00;

- (b) To engage independent contractors to perform services other than public works engineering for the county, when:

- I. the aggregate cost is under \$50,000.00, adjusted annually by the annual increase in the California Consumer Price Index (Revenue and Taxation Code §2212) and;

- II. the service was specifically and previously budgeted;

- III. Change orders, alterations, or addenda to a Board of Supervisors' approved contract that changes or amends the contract in an amount less than ten percent or \$25,000.00, whichever is less, provided the change does not adversely affect the integrity of the bid award.

- **County Administrator Approval Required:** County Administrator approval is required to engage independent contractors to perform services for the County, when:

- (a) the aggregate cost is under \$50,000.00, adjusted annually by the annual increase in the California Consumer Price Index (Revenue and Taxation Code § 2212) and the service was not specifically previously budgeted.

- **Risk Manager Approval Required:**

- (a) Risk manager approval is required on all contracts containing insurance and liability provisions.

- **County Counsel Review:**

- (a) The Office of County Counsel shall review every contract, to approve it as to form, prior to final approval.

## **11.4 Administration**

### **11.4.1 Notices**

Administrative Services shall be the authorized representative of the County and shall assume the primary role for the purposes of communicating with all vendors, suppliers, and contractors regarding the commencement and progress of contracts. Depending upon the peculiarities of a specific procurement, Administrative Services may request the using department assign these responsibilities to a designated Project Coordinator. Any such delegation shall be made known to the contractor involved.

### **11.4.2 Contract Distribution**

Copies of the fully executed agreement shall be uploaded and saved in the County ERP system.

### **11.4.3 Maintenance of Purchasing Records**

Administrative Services shall maintain a file for each contract, containing all records documenting the significant history of the contract, including all communications between the County and the contractor. In addition, such file shall include any and all documents evidencing the rationale for the method of purchasing and relating to the selection of the contractor.

### **11.4.4 Revisions**

A written revision must be issued to the contractor when the Project Coordinator deems it necessary that extra work be performed, or that certain work be omitted, or that modifications be made regarding the contract requirements. These written revisions assume that any dispute over the pricing of the contract modification has been resolved.

#### **11.4.5 Resolution of Contract Claims or Disputes**

If a dispute arises as to the payment of any additional compensation arising out of revisions issued by the County, or for any cause, including any alleged act or failure to act by the County, or the happening of any event, thing or occurrence, the contractor shall submit a written notice of potential claim to the Project Coordinator. The written notice of potential claim shall set forth the reasons for which the contractor believes additional compensation will or may be due, the nature of the cost involved, and, insofar as possible, the amount of the potential claim. The notice must be given to the County prior to the time that the contractor shall have performed any work giving rise to the potential claim for additional compensation, if based on any act or failure to act by the County, or in all other cases, within fifteen (15) business days after the happening of the event, thing or occurrence giving rise to the potential claim. The purpose of this requirement is to bring potential disputes to the attention of the County at the earliest possible time in order that such matters may be settled. In the event that a contractor fails to file written notice of a potential claim as herein required, the County may determine that the contractor has waived entitlement to any additional compensation for such claim.

The Project Coordinator shall review the notice of potential claim with the Purchasing Agent or authorized designee and shall conduct any investigation that may be required to ascertain the facts and circumstances surrounding the claim. The Project Coordinator shall assess the merits of the claim and shall consult with the Purchasing Agent as to a determination regarding said claim. The Project Coordinator shall prepare and forward to the contractor a written determination of the claim as soon as reasonably possible, but in no event more than 30 days following receipt of the notice of potential claim. Said determination shall be final and conclusive.

#### **11.4.6 Exercise of Options**

County contracts for the provision of goods that have been awarded pursuant to competitive bidding may allow for the option term, renewal, or extension of the contract term. If the original specifications provided for such an option, the Project Coordinator shall evaluate the performance of the contractor to determine if said performance has been satisfactory, and whether there are sufficient funds in the approved operating budget for the project to be extended or renewed.

If the contractor's performance has been satisfactory and there are funds in the approved operating budget to cover the option term, renewal, or extension of the contract term, such may be made in accordance with those terms and conditions specified in the original contract documents.

#### **11.4.7 Warranty Repairs**

In the event that the Project Coordinator or designee discovers any breakdown, patent or latent defect, or other failure in any item procured that is under warranty, such discovery shall be made known to Administrative Services. Following consultation with County Counsel and confirmation that the failure is covered by the warranty, the Project Coordinator shall file a Claim Under Warranty with the contractor; a copy of same shall be forwarded to Administrative Services.

Any failure by the contractor to timely meet its obligations under the warranty shall be made known to Administrative Services. In contracts where the term of the performance bond is extended to cover the warranty period, Administrative Services shall notify the surety on such bond of any such failure on the part of the contractor.

#### **11.4.8 Contract Expiration**

To ensure timely contract management, Administrative Services must be notified at least 120 days prior to the expiration of any contract. This notification will allow for the evaluation of next steps, which may include exercising a one-year contract extension, if applicable, or initiating a new solicitation process, depending on the terms and conditions of the existing contract.

The County generally seeks to avoid contracts with auto-renewal clauses, also known as ("evergreen") contracts. The automatic renewal of such contracts may result in non-compliance with established purchasing rules and contract spending limit authority.

#### **11.4.9 File Disposition**

Administrative Services retains purchasing and contract records for the period of time prescribed in the County's Board-approved Destruction of Records Schedule, unless such records are otherwise specifically mandated to be kept longer by the funding source for the purchasing or contract (County Resolution No. 2000-105).

## **11.5 Insurance and Bonding**

For contracts subject to competitive bidding, the County may require insurance and bonding from the contractor for the County's protection in the event of default, excusable failures to perform, accident, injury, or other liability or loss. The County's competitively-bid contracts include insurance, indemnification, and bonding provisions, according to the type and estimated cost of the contract, the source of funding, market conditions, and other considerations.

### **11.5.1 Insurance**

All contracts for on-site services or construction shall carry, at a minimum, Workers' Compensation, and comprehensive general liability insurance, including coverage for automobile operation. In addition, any contracts for the purchase of supplies, equipment, or materials, where on-site installation, inspection, or delivery activities are incident to the procurement, shall also include these insurance coverages. The specific amounts and types of coverage shall be determined by the Risk Manager. County approval of a contractor's insurance policies and coverages shall be a condition precedent to entering into the agreement.

### **11.5.2 Bonding**

**Bid Bonds, Performance Bonds, and Payment Bonds:** For Public Works and Public Projects (construction and maintenance) projects, the principal protection of County interests in the case of default or other failure to perform shall be by means of bonds. *Refer to the "Bonding" paragraph 6.4.10 of this Manual for details.*

**Fidelity Bonds:** In all cases where the contractor's employees will be performing services involving a high degree of confidentiality and trust with County property or funds, with County facilities, or riding or driving in County vehicles, the County may require the contractor to furnish an employee fidelity bond. Such bonds provide protection for the County in cases of negligence, misconduct, or theft by contractor's employees. The coverage type and amount shall be established by Risk Management.

**SECTION XII:**  
**VENDOR RELATIONS**

It is essential that a professional and businesslike relationship of mutual trust and confidence exist between the County and its suppliers. The primary responsibility for establishing this relationship for the County rests with the Purchasing Agent.

This section is intended to summarize the basic County policies governing vendor relationships, and to furnish information on specific purchasing practices. It is intended to supplement the policies and regulations set forth elsewhere in this Manual.

**12.1      General**

The following concepts are fundamental to the County's vendor relationships:

Vendors should be directed to make their initial contact through an appointment with Administrative Services, and shall be received promptly and courteously. However, if deemed necessary or beneficial by the Purchasing Agent, interviews for specific needs may be arranged with representatives of other County departments.

The County shall avoid vendor "back door" selling, which is an attempt to get a customer department to specify to Administrative Services a specific brand, product, or supplier, to the exclusion of legitimate competition:

- Customer department requests for information from a vendor should be handled by Administrative Services. In cases where the required technical detail or preliminary information make it advisable for others to handle the request, Administrative Services should be sent copies of all correspondence, including any proposals or quotations.
- Product demonstrations and/or samples for tests will be requested and arranged by Administrative Services.
- The Purchasing Agent shall not make, nor be asked to make, unreasonable or unnecessary demands on suppliers.
- Occasionally, it is to the advantage of the County to require bidders to submit regular production samples of products which the County intends to purchase. For example, samples may be required for new, untried products where workmanship may be a significant factor, or in cases when most of the bidders are expected to be distributors and may offer a wide variety of similar products. Bidders desiring to have samples returned must advise Administrative Services in advance and must make arrangements for the return of such goods at the bidder's expense.
- Failure to comply with the request for submission of a sample may be cause for the bid to be declared non-responsive and may be rejected.

- County departments shall not request or expect contractors to perform pre-purchase design, demonstrations, layouts, or presentations at no charge, as such services cannot be considered by Administrative Services when making an award.
- County departments shall not accept offers from vendors for free repair or services until a "no charge" purchase order is issued to cover the work to be performed. The purchase order contains terms and conditions designed to protect the County from claims for damages resulting from injuries and accidents which might occur while work is in progress.

## **12.2 Bidder Lists**

Bidder lists shall be maintained by Administrative Services, organized by commodity or service classifications. Such lists may be in an electronic database format, accessible to direct application and self-certification by interested business enterprises. All business enterprises seeking to do business with the County are responsible to ensure that their information on such lists is current.

Administrative Services shall refer to such bidder lists in compiling distribution lists, contacting potential vendors or suppliers, and in all other purchasing activities involving solicitation of potential vendors, suppliers, contractors, or consultants. The bidder lists shall contain information concerning the qualifications and expertise of each person or firm, and the Disadvantaged Business Enterprise (DBE) status of each person or firm. In addition, such lists may contain comments and observations by County personnel concerning the person's or firm's past performance.

It is not practical, nor economically feasible, for the County to mail or otherwise solicit bids from all business enterprises who have requested to be placed on bidder lists. It remains the responsibility of these business enterprises to learn of purchasing opportunities for commodities or services through regularly posted advertisements in local newspapers, trade journals, and through the County's online purchasing opportunity postings.

## **12.3 Awards**

Administrative Services will provide notification to the successful bidder when award is made, and will further ensure that the appropriate Purchase Order, and/or agreement is promptly executed. Purchase Orders may be used as a document for contract award, and will act as a working document during the life of the contract.

The County acknowledges that bidders may be interested in aspects of a bid beyond whether the bidder won the award or not. Bidders may be concerned with knowing to whom the award was made, at what price, and how their bid compared to others. It would be impractical and prohibitively expensive to attempt to transmit this information to all bidders on all bids; therefore, upon request, the results of all bids, including tabulations, are available for review by interested bidders during normal working hours. Appropriate labor/material charges for reproducing the requested documents will be made. Bid results and support data become a matter of public record following execution of agreement. This or similar language will be incorporated and become standard information to bidders used in all Invitations For Bids (BIDs) or Requests For Proposals (RFPs).

## **12.4 Protests and Appeals**

Potential bidders, proposers, contractors, and sub-contractors wishing to protest or appeal a purchasing or contracting decision by Administrative Services must follow the procedures provided by this section. Protests or appeals which are not submitted in accordance with these procedures will not be reviewed.

Any complaint regarding a purchase must be handled through the administrative processes defined herein. Failure to adhere to, or attempting to circumvent or influence these administrative processes by contacting persons other than the Purchasing Agent or authorized designee identified in the solicitation documents, shall result in the protestor's immediate disqualification from consideration of award.

### Definitions

For the purposes of this procedure:

1. "Bid" includes the term "offer" or "proposal" as used in the context of formal, informal, or negotiated procurements.
2. "Days" means working days of the County of Yuba.
3. "Filing Date" or "Submission Date" means the date of receipt by the Administrative Services of the County of Yuba.
4. "Interested Party" means an actual or prospective bidder or proposer.
5. "Purchasing Agent" means the Yuba County Purchasing Agent.

### Protest Procedure

Any Interested Party may file a written protest with the Purchasing Agent not later than five (5) business days after date of mailing a Notice of Intended Award.

The protest shall be physically delivered or sent by registered mail to the Purchasing Agent. Emailed requests will not be honored.

The protest must be physically received by the Purchasing Agent in Administrative Services before 5:00 PM local time on the last day of the five (5) business day protest period.

The protest filed with the Purchasing Agent shall:

- a. Include the name, address, and business telephone number of the protestor;
- b. Identify the project under protest by name, and solicitation (RFQ/BID/RFP, etc.) number, and closing date;

- c. Contain a concise statement of the grounds for protest; provided, however, RFQ/BID/RFP process and procedures, including evaluation criteria, shall not be proper grounds for protest. Concerns related to those issues must be raised and addressed, prior to the bid or proposal opening date to allow adjustments before evaluation of bids or proposals; and
- d. Include all supporting documentation, if any. Documentation submitted after filing the protest will not be considered during review of the protest or during any appeal.

### Protest Review

Upon receipt of a protest, the Purchasing Agent shall review all the submitted materials and shall create and retain a written record of the review. The Purchasing Agent shall respond in writing at least generally to each material issue raised in the protest not later than ten (10) business days after receipt of the protest.

Purchasing Agent decisions may be appealed in writing to the Board of Supervisors, with a copy to the Purchasing Agent, not later than ten (10) business days after date the Purchasing Agent's decision is mailed to the protesting party. However, RFP or bid process and procedures, including evaluation criteria, shall not be proper grounds for an appeal. Board of Supervisors shall review and decide the appeal based on the grounds and documentation set forth in the original protest to the Purchasing Agent at the next feasible board meeting. The County may share the protest and appeal materials with other proposers and may request them to comment on the protest and appeal. Each party shall bear its own costs and expenses involved in the protest and appeal process, including any subsequent litigation. The decision of the Board of Supervisors shall be final.

If the protested purchase involves Federal funds, interested parties may have the right to appeal to the appropriate Federal agency. When applicable, the Purchasing Agent shall give notice to the interested party that he or she has the right to such an appeal and shall identify the Federal agency by name and address. When applicable, an appeal hereunder shall be filed with the appropriate agency within five (5) business days of the dispatch of rejection notices to the interested parties.

## **12.5 Vendor Performance**

Yuba County has developed many business relationships with both local and national firms. An occasional delayed shipment is to be expected; however, a vendor may be debarred from doing business with the County if that vendor continually defaults on delivery of goods or services, or whose goods and services do not conform to specifications. Bidders whose proposals are returned as undeliverable by either public or private mail carriers can also expect their name to be removed from the County's bidder lists.

A business enterprise on a bidder list may be debarred from doing business with the County by being declared "not responsible" as a result of County experience with such firm. In such case, a "not responsible" notation and the rationale therefore shall be made for that person's or firm's entry on such list. Such business enterprise may, however, remain on bidder lists, with such notation, for purposes of evaluation in the case of the County's receipt of a bid from such firm in the future.

A business enterprise may be declared "not responsible" if it is (1) slow to respond or provides unsatisfactory services and deliveries; (2) in violation of applicable federal, state, or local laws, ordinances, rules, or regulations; or (3) fails to respond to bid requests.

Before declaring an entrant on a bidder list to be "not responsible," the Purchasing Agent shall make a reasonable effort to give such firm an opportunity to correct the problem.

## **12.6      Debarment**

A business enterprise may be debarred from doing business with the County based upon direct debarment by the County as defined above, or by any other public agency, expressly the federal government and the State of California.

Purchases made using Federal funds, prior to award of any purchase order, professional services agreement, contract, or any other purchase instrument the System for Award Management (SAM) website will be checked by the requesting department to determine if the vendor is listed as "Active" and eligible to receive Federal funds. The website address is <http://www.SAM.gov>.

If the entity receiving Federal funds is listed on SAM as "Excluded," no purchase will be made from the vendor without prior approval of County Counsel and the Purchasing Agent.

## SECTION XIII:

### LEASES

#### 13.1 General

The Purchasing Agent, subject to direction by the County Administrator, may negotiate and execute in the name of the County all leases of personal property and real property that the County may require (County Code §2.24.030).

For the purposes of County policy, lease agreements and rental agreements shall be considered the same kind of document. In all lease or rental transactions, a written agreement must be made to define and clarify the intent, obligations, terms, and conditions that have been negotiated. After a review of the lease agreement by Administrative Services, the responsibility for signing a lease shall be the Board of Supervisors.

Real property leases are typically executed on the County's forms, with terms custom-tailored to each individual agreement. Because of the complexities involved in negotiating and drafting property lease documents, such forms are administered by Administrative Services.

#### 13.2 Equipment Leases

Leases may not be executed to circumvent regulations regarding the purchase of fixed assets. Considerable investigation must be performed before deciding to lease.

Because equipment leases are typically executed on the vendor's forms, County Counsel and Risk Management must review of these forms is important to protect the County's interests. All such leases shall be executed by the Purchasing Agent, or designee, unless explicit authority has been granted by the Board of Supervisors naming another individual to execute a specific agreement.

#### 13.3 Real Property Leases – County as Tenant

Departmental requests for real property leases are submitted to Administrative Services along with a detailed description of departmental needs, including square footage, interior layout, parking, etc. In developing such a description, departments should consider the following:

- Number of full-time, part-time, seasonal, or intern staff anticipated;
- Specialized (non-workstation) spaces, such as conference rooms, waiting rooms, interview rooms, workrooms, etc.;

- Number of visitors expected at any one time (affects space and parking capacity requirements);
- Quantity and type of security requirements;
- Clientele expected, and appropriate neighbors;
- Geographic boundaries for the anticipated function;
- Business hours and days services will operate, and any other specialized needs; and
- Amount and source of funds proposed for monthly lease obligations and any up-front costs for tenant improvements.

Administrative Services shall determine if any County-owned spaces meet the requesting department's needs. If so, Administrative Services shall lead negotiations with all concerned parties. Should other departments occupy such County-owned space and will relocate, both the vacating (lessor) and occupying (lessee) departments will develop an occupancy agreement encompassing at a minimum the exact delineation of the space to be occupied by the new department, including floorplan graphics; and identify any Tenant Improvements to be completed.

If no County-owned space is available or appropriate to satisfy the department's request, Administrative Services shall interface with the Department Head or designee to obtain written consent with the concept of a new lease. Administrative Services with the assistance of the requesting department shall search for a suitable location, and once found, shall negotiate lease terms.

Administrative Services shall ensure that the proposed County location meets all requisite ADA and related safety standards, prepare the lease agreement, and accompanying documents. The requesting department shall prepare the corresponding agenda item for Board of Supervisors approval, and shall work with Risk Management to ensure proper insurance coverage is in place.

Copies of the fully-executed agreement shall be with provided to the following:

- The requesting department's Department Head;
- Lessor;
- Administrative Services;
- Auditor-Controller; and

- Any additional parties as may be appropriate.

#### **13.4 Real Property Leases – County as Landlord**

The Board of Supervisors may make contracts, acquire, lease, or sublease property by a four-fifths vote of the Board, enter into leases, or concession or managerial contracts involving leasing or subleasing all or any part of County-owned, leased, or managed property devoted to or held for ultimate use for airport, vehicle parking, fairground, beach, park, amusement, recreation, or employee cafeteria purposes, or industrial or commercial development incidental thereto. (Government Code § 25536)

Real Property leases where the County is landlord are generally subject to a competitive proposal process and require approval by the Board of Supervisors.

- The Board of Supervisors shall either accept the highest proposal for the proposed lease submitted in response to a call for bids posted in at least three public places for not less than fifteen (15) business days and published for not less than two (2) weeks in a newspaper of general circulation, or reject all bids. Electronic posting may be concurrently, but not in place of, the physical posting and newspaper publication described herein.
- The proposed form of lease shall be and remain on file in the office of the Clerk Recorder for at least fifteen (15) business days prior to the opening of bids.
- Terms of lease, oral bidding, minimum rental, deposit required, and any other terms of the proposal shall be provided by order of the Board of Supervisors authorizing the call for bids.

#### **Exclusions:**

- The Board of Supervisors, by a four-fifths vote of the Board, may sell or lease all or any part of County-owned property if the County repurchases or leases back the property as part of the same transaction. (Government Code § 25536)
- Leases or licenses not exceeding ten (10) years and having an estimated monthly rental not exceeding ten-thousand dollars (\$10,000), may be excluded from the bidding procedure, except that notice shall be posted in the office of the Clerk of the Board of Supervisors, and if the lease or license involves residential property, notice shall be given to the housing sponsors, as defined by Sections 50074 and 50074.5 of the Health and Safety Code.

The notice shall describe the property proposed to be leased or licensed, the terms of the lease or license, the location where offers to lease or license the property will be accepted, the location where leases or licenses will be executed, and any county officer authorized to execute the lease or license.

- If a lease or license is excluded from the bidding procedure, the actual monthly rental in the executed lease or license may not exceed ten-thousand dollars (\$10,000), the term of the executed lease or license shall not exceed ten (10) years, and the lease or license is not renewable. (Government Code § 25537(b))

Administrative Services shall ensure that the proposed County location meets all requisite ADA and related safety standards, prepare the lease agreement, and accompanying documents. The requesting department shall prepare the corresponding agenda item to present the new lease to Board of Supervisors for approval and execution, and work with Risk Management to ensure proper insurance coverage is in place.

Copies of the fully-executed agreement shall be with provided to the following:

- The requesting department's Department Head;
- Lessee;
- Administrative Services;
- Auditor-Controller; and
- Any additional parties as may be appropriate.

### **13.5 Tenant Improvements**

Any changes or modifications to leased facilities must be approved by Administrative Services and the County Administrator by written agreement or addendum prior to beginning the work. The requesting department shall contact the landlord and obtain an itemized cost estimate of the tenant improvements. Administrative Services shall review the requested improvements to determine whether such may be made within the limitations of State law and County policy (i.e., sole- source contractor selection; use of force account; supplement to lease agreement, etc.).

Departments involved with the lease shall identify:

- Whether the cost of Tenant Improvements will be paid up front by the County, or up front by the landlord and reimbursed by the County over the initial lease term (not to exceed five (5) years).
- What utility services (water, sewer, electric, telephone, janitorial, maintenance and repairs, etc.) will be paid by which party. If the lease space is "multi-tenant" with other private or public parties, the departments involved shall determine how utility services are calculated, and which party is responsible for billing, collections, payment, and coordination of such utility services.
- Parking arrangements and terms, such as whether off-street parking is provided with the lease, or in addition to the lease.
- Cost of the space (price per square foot), and options or extensions of the leased area.
- Term of the agreement, including effective and termination dates, renewal options, and how and when termination shall be effected.

Administrative Services shall prepare the lease agreement and accompanying documents. Such documents shall specify in writing of the requirement to abide by prevailing wage laws outlined by State law, and that such provisions of the California Public Contract Code, Government Code, Labor Code and Health and Safety Code apply to any project conducted on behalf of the County.

If the proposed tenant improvements require Board of Supervisor approval, or are otherwise in conjunction with a lease agreement that requires such approval, the requesting department shall prepare the corresponding agenda item.

Copies of the fully-executed agreement shall be with provided to the following:

- The requesting department's Department Head;
- Lessor;
- Administrative Services;
- Auditor-Controller; and
- Any additional parties as may be appropriate.

**SECTION XIV:  
SURPLUS DISPOSAL**

**14.1 Surplus Disposal**

Policy

The Purchasing Agent is authorized to sell, trade, trade-in, lease, exchange, or otherwise dispose of any personal property belonging to the County which is deemed to be surplus and not required for public use by the County, and which has a value of less than one thousand dollars (\$1,000) per individual item without prior approval by the Board of Supervisors. The disposition of such surplus property may be made without securing bids or advertising.

For disposition of personal property exceeding one-thousand dollars (\$1,000) per individual item, the Purchasing Agent must obtain prior approval of the Board of Supervisors. All proceeds from such sales shall be paid into the County Treasury for the use of the County. (County Ordinance Code 2.50.060)

Purpose

This policy establishes a process for disposal of obsolete, damaged, scrap, or surplus equipment, materials, and supplies by redistribution within the County, sale, or other suitable action.

Application

This procedure shall apply to disposal of all property, other than real property.

Procedure

Each department should review all material and equipment under department control at least annually to determine its usefulness.

Whenever material or equipment becomes surplus or obsolete, the department head shall notify Administrative Services by completing a Yuba County Equipment Transfer Form (Exhibit 3), which allows the Purchasing Agent to accept and properly dispose of departmental surplus property. This same form can be used by County department to request, and when available, receive any surplus property from the Purchasing Agent's salvage.

The requesting department submits a completed Yuba County Pic Ticket and Equipment Transfer Form to the Purchasing Agent for approval. Once approved, the department will make arrangements with Administrative Services before delivering or picking up any salvage items.

Upon receipt of an approved Equipment Transfer Form, Administrative Services shall arrange to remove the material or equipment, or advise the holder to retain the material or equipment at its present location pending disposition.

Administrative Services shall periodically prepare a surplus property list containing all material and equipment determined to be surplus, but still possessing some useful life that could be utilized by another County department. The list shall be distributed to all department heads to determine if such material or equipment can be used by their department. Any department may request such material or equipment up to the time of the actual final disposition by submitting a request on the Yuba County Equipment Transfer Form.

Ten (10) business days after circulation of the list to department heads, Administrative Services will submit a list of surplus materials to the Purchasing Agent or his designee, and, upon Board of Supervisor's approval, will proceed with the disposition of the property by one of the following methods:

- Return to manufacturer or supplier for credit;
- Trade-in on new equipment;
- Sale to the public through sealed bids;
- Sell at public auction;
- Sell for scrap value;
- Determine if the property has commercial value, or the estimated cost of its continued care, handling, maintenance, or storage would exceed the proceeds of sale; or
- Otherwise dispose of any personal property in the best interest of the County.

## **14.2 Requests for Donation**

Departments with surplus property that wish to donate these assets to another entity must first obtain permission from the Board of Supervisors. This approval ensures that all donations align with the County's regulations and policies, maintaining proper oversight and accountability. By requiring this step, the Board of Supervisors can ensure that the transfer of surplus property serves the public interest and adheres to legal and fiscal responsibilities. This process also provides a formal mechanism for evaluating and documenting the suitability and appropriateness of the donation, thereby safeguarding public resources and ensuring transparency in the disposal of government property.

## **14.3 Sale of Surplus Personal Property**

### Policy

The Purchasing Agent is authorized to sell any personal property belonging to the County which is deemed to be surplus and not required for public use by the County, and which has a value of less than one thousand dollars (\$1,000) per individual item, without prior approval by the Board of Supervisors. The disposition of such surplus property may be made without securing bids or advertising.

For disposition of personal property less than one-thousand dollars (\$1,000) per individual item, the Purchasing Agent must obtain prior approval of the Board of Supervisors. All proceeds from such sales shall be paid into the County Treasury for the use of the County. (County Ordinance Code 2.50.060)

### Purpose

This policy establishes a process for the sale of any personal property belonging to the County which is deemed to be surplus and not required for public use.

### Procedure

The requesting department submits a completed Yuba County Inventory Transfer Form to the Purchasing Agent for approval. Once approved, the department will make arrangements with Administrative Services before delivering or picking up any salvage items.

Upon receipt of an approved Inventory Transfer Form a County department, Administrative Services shall arrange to remove the material or equipment, or advise the holder to retain the material or equipment at its present location pending disposition.

Any individual personal property item exceeding \$1,000 in value requires approval by the Board of Supervisors before it may be sold. The method of such sale (i.e., public auction) shall be at the discretion of the Purchasing Agent, and shall be identified to the Board for items exceeding \$1,000 in value. (County Ordinance 2.50.060)

If personal property is to be sold, regardless of the value, the Purchasing Agent shall post a notice of sale for such property for a period of not less than five (5) business days preceding the day of sale. Notices shall be posted in County office buildings, online, and in such other places within the County as deemed advisable by the Purchasing Agent.

#### **14.4 Sale of Surplus Real Property**

The sale of surplus real property shall follow the policies and procedures set forth in Government Code § 25539 and shall comply with Surplus Land Act Exemptions. (Government Code § 54220, et seq.)

## SECTION XV:

### OTHER POLICIES AND PROCEDURES

#### 15.1 Federal Requirements

The purchase of goods and services using federal grant funds is subject to requirements different from those ordinarily employed by the County. An overview of such federal requirements may be found in the Code of Federal Regulations (CFR), Uniform Guidance §§ 200.318 - 200.327.

In order to preserve the County's federal grant funding eligibility, in cases where conflict exists between the County's policies of those of the non-County funding source, the more stringent of such rules and practices shall apply. This is especially important when making emergency purchases in disaster situations for which the County may apply for Federal Emergency Management Agency (FEMA) assistance. Refer to the FEMA website for additional guidance: <https://www.fema.gov/public-assistance-policy-and-guidance#>.

##### 15.1.1 Additional processes required for federally-funded procurements:

- Different dollar thresholds for bidding processes.
- More stringent requirements for "piggyback" purchases. Such purchases are rarely allowed.
- Documented targeting of solicitations to Small/MBE/WBE/DVBE contractors. (CFR § 200.321)
- Documentation of awards to Small/MBE/WBE/DVBE contractors.
- Inclusion of references to specific federal laws and acts.
- Inclusion of specific language in solicitations and contracts.
- Mandatory purchase of recovered materials. (CFR § 200.322)
- Encouraged use of federal excess and surplus property in lieu of purchasing new equipment and property, whenever feasible.
- Encouraged use of Value Engineering clauses in contracts for construction projects of sufficient size to offer reasonable opportunities for cost reductions.
- Development of an internal independent cost estimate before receiving bids or proposals. (CFR § 200.323(a))
- Mandatory detailed cost or price analysis for purchases beyond the Federal Simplified Acquisition Threshold. (CFR § 200.323(a))
- Profit must be negotiated separately for agreements where no competition exists. (CFR § 200.323(b))
- All federally-funded purchasing and contract records must be made available for funding/awarding agency or pass-through entity review. (CFR § 200.324)

- Contracts must contain the applicable provisions described in Appendix II to CFR Part 200 – Contract Provisions for non-Federal Entity Contracts Under Federal Awards. (CFR § 200.326, and Appendix II to Part 200)

**15.1.2** Processes prohibited in federally-funded procurements:

- Geographical (i.e., Local) Vendor Preferences, or otherwise limiting solicitations or competition geographically.
- Negotiated (no-bid) agreements.
- Time & Materials (T&M) agreements without ceiling spending limits or when other types of agreements would be more suitable.
- Cost-plus-percentage-of-cost agreements, under any circumstances. (CFR § 200.323(d))
- Brand Name product specifications without identifying product qualities and including “or equal” language.
- Continuing non-bid work under an “emergency” premise after the urgency has past, rather than bidding out the continuing work separately.

Individual federal agencies may impart additional unique requirements beyond those listed above or found in the CFRs. For this reason, it's important County departments check with the appropriate federal agency for such details when planning the purchasing process.

**15.2 Environment & Recycling**

Yuba County encourages innovation and efficiency improvements. By adopting environmentally-friendly purchasing practices, the County can reduce its environmental impact, reduce costs and liabilities, and improve environmental quality.

**15.2.1 Purpose**

The County of Yuba Recycling and Waste Reduction Purchasing Policy generally provides that whenever financially feasible and practical, recycled content products and recyclable or reusable products be procured to meet the County's needs. This policy is adopted to foster market development for recycled products, to close the recycling “loop” and to reduce the amount of waste generated. This policy is also a program that was selected for implementation in the Bi-County Region Source Reduction and Recycling Element Final Draft prepared and submitted June 1992.

This policy is being updated by the addition of Specific Policies to address specific requirements contained in Title 14 of the California Code of Regulations Division 7, Chapter 12, Article 12, Section 18993.3 developed pursuant to Senate Bill 1383 (Lara, Chapter 395, Statutes of 2016) for jurisdictions to purchase Recycled-Content Paper Products and Recycled Content Printing and Writing Paper.

### **15.2.2 Overview**

In addition to addressing the specific policies for compliance with specific State of California regulatory requirements, the general policies promote the purchase of recycled, recyclable, and reusable products by establishing purchase programs applicable to the County and contractors, whenever it is financially feasible and practical. This policy requires the County to evaluate its opportunities for the use of recycled, recyclable, and reusable products, materials, supplies, etc., and to revise contracting and purchasing procedures and specifications to increase the purchase of recycled, recyclable, and reusable products whenever it is financially feasible and practicable.

Buying recycled, recyclable, and reusable products benefits the County in a variety of ways. Diversion of materials that can be recycled reduces the amount of materials being collected for disposal in landfills; thereby reducing transportation and landfill costs. Buying recycled, recyclable and reusable products additionally conserves the use of virgin raw materials, whose costs continue to rise. Further benefits include the creation of jobs and economic development opportunities.

### **15.2.3 General Policies**

The County shall purchase recycled, recyclable, and reusable products whenever practical. Special emphasis shall be placed on the purchase of products manufactured with post-consumer recycled materials.

The County will establish and maintain a list of recycled, recyclable, and reusable products that shall be purchased whenever practical, including minimum pre and/or post-consumer recycled content standards for designated recycled products to maximize recycled content, especially post-consumer recycled content, and to maximize competition. The County may require purchasing of designated recycled, recyclable, or reusable products above the levels required by the established list. Evaluation of recycled, recyclable, and reusable products on the established list:

1. **REVIEW** – As products come up for competition, the County will review their relative specifications. This review is to determine whether existing specifications either require the use of products manufactured from virgin materials or exclude the use of recycled, recyclable, or reusable products.
2. **ELIMINATE** – If the specifications exclude the use of recycled, recyclable, or reusable products or require the use of virgin materials, the County will document that the recycled, recyclable or reusable products would not achieve a necessary performance standard or that the product will negatively impact health, safety, or operational efficiency.
3. **PLAN** – Within the bidding cycle, the County must ensure that the performance standards for particular products can be met and that the specifications are not unnecessarily stringent. The County must also ensure that the specifications will incorporate a requirement for recycled, recyclable and reusable materials to the maximum extent practical.

Contracts and Purchase Orders issued by the County shall require recycled materials content whenever practical and contractors or sellers provide certification of this content and report of amounts use. The County shall require its contractors and consultants to use the specified recycled, recyclable, and reusable products in fulfilling contractual obligations whenever practical. The County shall promote the use of recycled, recyclable and reusable products by publicizing its purchasing policy whenever practical.

#### **15.2.4 Recycled Product Preference**

Whenever the Purchasing Agent, or designee, purchases services, supplies, materials, and/or equipment for the County through the use of competitive process, including quotes, bids, and proposals, for evaluation purposes, a five- percent (5%) price preference may be given to recycled products, reusable products offered as alternatives to disposable products, and products designed to be recycled, where they are offered as alternatives to non-recyclable products. The Recycled Product Preference does not apply to bids conducted jointly with other public agencies, nor when prohibited by state or federal statutes or regulations, or as may otherwise be exempted.

When bid submissions are evaluated, a five percent (5%) Recycled Product Preference shall be deducted from the total dollar amount bid by vendors on competitive quotes and bids that contain recycled or reusable products, and from the total evaluated aggregate proposal score obtained by such vendors.

The total amount of Recycled Product Preference granted in a single bid shall not exceed five-thousand dollars (\$5,0000) over a non-recyclable products vendor. The award shall be made at the full price of the quote, bid or proposal.

In the case of an absolute tie and no other tie-breaker policy is applicable, an award will be made to the recyclable/reusable products vendor. In the case of a tie between recyclable/reusable products vendors, and no other tie-breaker policy is applicable, the award will be determined by lot.

For federally-funded procurements, the use of recovered materials shall be mandated in accordance with CFR § 200.322.

#### **15.2.5 Requirements for Vendors**

All vendors that provide Paper Products (including janitorial Paper Products) and Printing and Writing Paper to the County shall:

- a) Provide Recycled-Content Paper Products and Recycled-Content Printing and Writing Paper that consists of at least thirty (30%) by fiber weight, postconsumer fiber, if fitness and quality are equal to that of non-recycled items, and available at an equal or lesser value;
- b) Only provide Paper Products and Printing and Writing Papers that meet the Federal Trade Commission Recyclability standard as defined in Title 16 Code of Federal Regulations Section 260.12 (2013);
- c) Certify in writing, under penalty of perjury, the minimum percentage of postconsumer material in the Paper Products and Printing and Writing Paper offered or sold to the County. This certification requirement may be waived if the percentage of postconsumer material in the Paper Products, Printing and Writing Paper, or both can be verified by a product label, catalog, invoice, or a manufacturer or vendor internet website;

- d) Certify in writing, under penalty of perjury, that the Paper Products and Printing and Writing Paper offered or sold to the County is eligible to be labeled with an unqualified recyclable label as defined in Title 16 Code of Federal Regulations Section 260.12 (2013);
- e) Provide records to the Recordkeeping Designee of all Paper Products and Printing and Writing Paper purchased from the vendor within sixty (60) days of the purchase (both recycled-content and non-recycled content, if any is purchased) made by a division or department or employee of the County. Records shall include a copy of the invoice or other documentation of purchase, written certifications as required above for recycled-content purchases, purchaser name, quantity purchased, date purchased, and recycled content (including products that contain none), and if Non-Recycled Content Paper Products and/or Recycled-Content Printing and Writing Paper were not provided;
- f) All vendors providing printing services to the County via a printing contract or written agreement, shall use Printing and Writing Paper that consists of at least thirty percent (30%), by fiber weight, postconsumer fiber, or as amended. (Public Contract Code § 12209(c)(1)).

**15.2.6 Recordkeeping Responsibilities**

The Administrative Services Department will be the responsible department and will select an employee to act as the Recordkeeping Designee that will be responsible for obtaining records pertaining to purchasing of Recycled-Content and/or non-Recycled-Content Paper Products and Recycled-Content and/or non-Recycled Content Printing and Writing Paper.

The Recordkeeping Designee will do the following to track Recycled-Content and/or non-Recycled Content Paper Products and Recycled-Content and/or non-Recycled Content Printing and Writing Paper:

- a) Collect and collate copies of all invoices or receipts (paper or electronic) or other proof of purchase that describe the purchasing of Printing and Writing Paper and Paper Products, including the volume and type of all paper purchases; and, copies of certifications and other required verifications from all departments and/or divisions purchasing Paper Products and Printing and Writing Paper (whether or not they contain recycled content) and/or from the vendors providing Printing and Writing Paper and Paper Products. These records must be kept as part of the County's documentation of its compliance with Title 14 of the California Code of Regulations Section 18993.4.
- b) Collect, collate, and maintain documentation submitted by the County Direct Service Providers, and/or vendors, including the information reported to the Recordkeeping Designee in accordance with the above requirements.
- c) Maintain the documentation compiled pursuant to subsections above as part of the County's SB 1383 Implementation Record for a period of at least five (5) years.
- d) Compile an annual report on the County's Recycled-Content Paper Products and Recycled Content Printing and Writing Paper purchasing activities and provide that report to the Board of Supervisors annually as evidence of implementing these Specific Policies.

#### **15.2.7 Exemptions**

Nothing contained in this policy shall be construed as requiring the County or contractor to purchase products that do not perform adequately for the intended use or are not available at a reasonable price and within a reasonable period of time.

Nothing in this policy shall be construed as requiring the County to purchase products where the warranty for recycled products is not equal to virgin products or where the recycled material voids, shortens, interrupts, or cancels the warranty of other supplies or units or components.

#### **15.3 Electronic Purchasing (E-Procurement) and Electronic Signatures**

Pursuant to the requirements set forth in Government Code § 16.5, the Purchasing Agent or his/her designees shall be authorized to develop, implement, and facilitate procedures for the use of electronic records, digital signatures, and security procedures for all other purposes, and may authorize methods, means, and standards for secure electronic purchasing transactions

for non-personnel expenditures of County funds. This includes conducting all or some of the purchasing function over the internet through point, click, buy, and ship internet technology, as well as conducting more complicated competitive purchasing solicitation, submittal, communication, and evaluation processes online. When mentioned throughout this Policy Manual, the term "written" does not preclude the use of an electronic format. The use of a digital signature shall be at the County's option, and shall have the same force and effect as the use of a manual signature only if it embodies all of the following attributes:

1. It is unique to the person using it.
2. It is capable of verification.
3. It is under the sole control of the person using it.
4. It is linked to data in such a manner that if the data are changed, the digital signature is invalidated.
5. It conforms to regulations adopted by the Secretary of State. (Government Code §16.5)

#### **15.4 Compliance with Accessibility/ADA Laws**

Yuba County is a local agency subject to Title II of the Americans with Disabilities Act. As such, the County is required to comply with the requirements of Title of the ADA. Title II requires State and local governments to make their programs and services accessible to persons with disabilities. While many individuals with disabilities are able to take part in various government programs and activities without any accommodations, for many others their disabilities combined with environmental obstacles impose significant barriers to an equal opportunity to participate. The ADA protests the Civil Rights of people with disabilities against discrimination on the basis of disability. Title II of the ADA outlines the ways in which environmental, communication, and policy barriers must be addressed by Yuba County and those who enter into contracts with the County. (American with Disabilities Act of 1990, Title II)

Proposers with a disability may receive accommodation regarding the means of communication and participating in the purchasing process. Proposers with a disability should contact Administrative Services' designated Point of Contact as identified in the solicitation documents to request reasonable accommodation no later than the deadline for accommodation requests as detailed in the solicitation.

## SECTION XVI:

### GLOSSARY OF PURCHASING TERMS

The terms defined in this section shall have the meanings set forth below whenever they appear in this Manual.

**A/E (ARCHITECTURAL & ENGINEERING) SERVICES:** Professional services that require performance by a registered architect or engineer that are associated with research, planning, development, design construction, alteration or improvement of a public project as defined in the California Public Contract Code.

**ADVERTISE:** To make a public announcement or legal notice of a solicitation with the aim of increasing the response and enlarging the field of competition; often required by law or policy.

**AGREEMENT:** An understanding, usually in writing, between two or more competent parties, under which one party agrees to perform as defined in the agreement and the second party agrees to pay compensation for the performance in accordance with the conditions of the agreement. The terms *Agreement* and *Contract* are frequently used synonymously. Also see *CONTRACT*.

**AMENDMENT:** 1. An agreed addition to, deletion from, or correction or modification of a document or contract. 2. To revise or change an existing document; a formal revision, improvement or correction.

**AUCTION:** A public sale in which property or items are sold to the highest bidder.

**AWARD:** The acceptance of a bid or proposal; the presentation of a purchase agreement or contract to a bidder or offer or.

**BEST PRACTICE:** A business process, activity or operation that is considered outstanding, innovative or exceptionally creative by a recognized peer group. It may be considered as a leading-edge activity that has been successfully adopted or implemented and has brought efficiency and effectiveness to an organization. It may result in improved productivity, quality, reduced costs and increased customer service.

**BID:** A solicitation made to potential vendors/contractors requesting costs to provide supplies, equipment, materials and labor. A bid may be classified as "formal" or "informal". Also refers to the proposal submitted by a bidder in response to a solicitation. Sometimes the complete set of bid solicitation documents may be referred to as "the Bid". See also *INVITATION FOR BIDS*.

**BID BOND:** An insurance agreement, accompanied by a monetary commitment, by which a third party (the surety) accepts liability and guarantees that the bidder will not withdraw their bid. The bidder will furnish bonds in the required amount and if the contract is awarded to the bonded bidder, the bidder will accept the contract as bid, or else the surety will pay the specified amount.

**BID, INFORMAL:** A competitive bid, price quotation, or proposal process for goods or services that is conveyed verbally, by letter, fax, e-mail or other manner, that does not require a formal sealed bid or proposal, public opening, or other formalities. Used where price is the primary decision factor. This term is also used by the Public Contracting Code to refer to the less-rigorous sealed bidding process applicable to Public Works of Improvement projects valued below \$200,000 (Public Contract Code § 22032(c)).

**BID, INVITATION FOR:** A competitive sealed bidding process, and complete assembly of related documents (whether attached or by reference) furnished to a prospective bidder for the purpose of bidding.

**BID, FORMAL:** Broadly refers to sealed bidding and RFP processes in general; however, the Public Contracting Code uses this term specifically for the more rigorous competitive sealed bid process reserved for Public Works of Improvement projects valued at or above \$200,000. (Public Contract Code §22032(c)) See also *FORMAL PROCUREMENT*.

**BID OPENING:** The official process in which sealed bids are opened, usually in the presence of one or more witnesses, at the time and place specified in the invitation for bid. The amount of each bid is recorded and bids are made available for public inspection. It may be open to the public. Note: Electronically submitted bids are automatically sealed until the bid date. A bid tabulation or bid summary is provided to all respondents within a reasonable time frame.

**BID, SEALED:** A competitive purchasing process by which bidders respond to an Invitation for Bid (IFB) by submitting a sealed price proposal that is only opened on the date and time identified in the solicitation. Award is made to the lowest-priced bidder who is both responsive (conforming with material bid requirements) and responsible (competent and otherwise qualified to perform under any resulting contract).

**BIDDER LIST:** A listing of names and addresses of vendors from whom bids, proposals or quotations can be solicited. The list is generally retained in a retrievable electronic data base.

**BIDDING, COMPETITIVE:** The process of inviting and obtaining bids from competing sources in response to advertised competitive specifications, by which an award is made to the lowest-priced "responsive and responsible" bidder meeting the specifications. The process contemplates giving potential bidders a reasonable opportunity to bid, and requires that all bidders be placed on the same plane of quality. Each bidder must bid on the same advertised specifications, terms, and conditions in all the items and parts of a contract. The purpose of competitive bidding is to stimulate competition, prevent favoritism, and secure the best goods and services at the lowest practicable price, for the benefit of the agency. Competitive bidding cannot occur where contract specifications, terms, or conditions prevent or unduly restrict competition, favor a particular supplier, or increase the cost of goods or services without providing a corresponding benefit to the agency.

**BID TABULATION:** A summary of all bids received based upon bid evaluation criteria, such as price and other terms, applicable to determining the best value or lowest responsive and responsible bid. It lists each bidder and their applicable bid information.

**BID PREFERENCE:** Where allowed, purchasing laws mandating that bid prices for a preferred class of bidders be given special consideration when comparing their bid prices with those of other bidders not in the preferred class (i.e., local vendors may be given a bid preference over out-of-state vendors).

**BLANKET PURCHASE ORDER (BPO):** An agreement to purchase a given quantity of specific goods over a specified period of time, usually one year.

**BUYER:** The Purchasing Agent or designated Administrative Services staff.

**CAN:** Permissive (discretionary) form of action.

**COMPETITIVE PROCUREMENT:** Any purchasing process leveraging competitive market forces through the solicitation of offers, either directly by the County, or by another agency when using Cooperative Agreements.

**COMMODITY:** Goods consisting of supplies, materials, and equipment.

**CONSTRUCTION:** The process of utilizing labor to build, alter, repair, improve, or demolish any structure, building or public improvement.

**CONSULTING SERVICES:** Services of an advisory nature required to support policy development, decision-making, administration, or management of a business or public entity; generally provided by individuals or organizations who possess specific knowledge, technical skills or unique abilities not usually available in-house or from within the entity.

**CONTRACT:** A legally binding promise, enforceable by law; an agreement between parties with binding legal and moral force, usually exchanging goods or services for money or other considerations. The terms "contract" and "agreement" are synonymous. The term "contract" includes, but is not limited to, a purchase order, a contract for services, an addendum or change order, a letter agreement, or a memorandum of understanding. A contract may also include leases, revenue generating contracts and other forms of agreements as applicable to the County. Also see *AGREEMENT*.

**CONTRACT AWARD:** Final agreement on the terms and conditions of a contract between the County and Vendor/Contractor as authorized by the Board of Supervisors or its designee(s). See also *NOTICE OF INTENT TO AWARD*.

**CONTRACT EXTENSION:** An action to change and extend a contract termination date pursuant to a provision in the scope of work and upon written mutual agreement by both parties. Reasons for a contract extension include: an excusable delay, a contractor's acceptable performance record, unused allocated funding, or agency need for continued service until a new contract is in place. Extension should be based on sound legal advice so as to avoid challenges by other interested vendors. A contract extension is not the same as a contract renewal.

**CONTRACT RENEWAL:** A renewal clause allows an agreement to continue for a defined period if the existing agreement isn't renegotiated within a specified time measured from the expiration of the current contract. The term of renewal depends on the specific contract language, but such clauses generally provide that the contract shall be automatically renewed for the same period (or some lesser term) unless either party, at some stipulated and predetermined time (i.e., 60 days before expiration), gives notice to the other of its desire to end the agreement.

**CONTRACTOR:** Any manufacturer, supplier, vendor, contractor, or individual doing business by contract with the County.

**CONTRACTUAL SERVICES:** Services which for reasons of specialized equipment, volume, or scope of work could not satisfactorily be performed by County forces. These include electric power, gas, telephone, guard service, and garbage services; rental of equipment or machinery (with or without operator); towel, uniform, window washing and cleaning services; construction, remodeling or repair services; and all other types of agreements under which the contractor provides services required by the County.

**COOPERATIVE PURCHASING / COOPERATIVE PURCHASING:** 1. The action taken when two or more entities combine their requirements to obtain advantages of volume purchases including administrative savings and other benefits. 2. A variety of arrangements whereby two or more public purchasing units purchase from the same supplier or multiple suppliers using a single IFB or RFP. 3. Cooperative purchasing efforts may result in contracts that other entities may "piggyback."

**COUNTY:** Yuba County, a government agency.

**COUNTY EMPLOYEE:** A person officially occupying a position with the County. This includes all probationary, permanent, full-time, or part-time employees or extra-help employees and others who are considered "agents" of the County as defined by contract between the individual and the County.

**DEBARMENT:** 1. To prohibit a seller/contractor from bidding on future requirements for cause for a certain period of time. 2. A sanction brought against a seller whereby they may not engage in future purchasing actions. 3. To exclude or shut out of future solicitations and contracting opportunities.

**DELEGATED PURCHASER:** Authorized or appointed individuals who are delegated authority under the entity's rules and procedures that allow them to make small dollar purchases on behalf of the agency.

**DELEGATION OF AUTHORITY:** The conferring of actual authority by someone who has actual authority, to another person, in order to accomplish a task.

**DESIGNEE:** A duly authorized representative.

**DIGITAL SIGNATURE:** An electronic identifier, created by computer, intended by the party using it to have the same force and effect as the use of a manual signature. Provides the ability to execute a signature electronically via the Internet.

**DISADVANTAGED BUSINESS ENTERPRISE (DBE):** A for-profit small business concern where socially and economically *disadvantaged* individuals own at least a 51% interest and also control management and daily business operations. African Americans, Hispanics, Native Americans, Asian-Pacific and Subcontinent Asian Americans, and women are presumed to be socially and economically disadvantaged. Other individuals can also qualify as socially and economically disadvantaged on a case-by-case basis.

**DISADVANTAGED INDIVIDUALS:** In federally-funded procurements, bidders may be eligible if they are a member of a group of persons the funding agency considers as disadvantaged, which may include women, Black Americans, Hispanic Americans, Native Americans, Asian-Pacific Americans, Subcontinent Asian-Pacific Americans, or other minorities found to be disadvantaged by the U.S. Small Business Administration (SBA). Persons who are not members of one of the above groups and own and control their business may also be eligible if they establish their "social" and "economic" disadvantage. People with disabilities have disproportionately low incomes and high rates of unemployment, and therefore may also be considered socially and economically disadvantaged. A determination of whether an individual with a disability meets DBE eligibility criteria is made on a case-by-case basis by the funding agency.

**DISPOSITION:** Transferring, trading-in, selling, recycling, destroying, or otherwise discarding of items that are excess property, surplus property, or scrap.

**EMERGENCY:** An emergency is a situation requiring immediate purchase of goods or services to address an unforeseen and urgent need that poses a threat to public health, safety, or property, or to prevent significant disruption of essential services. In such circumstances, adhering to standard competitive purchasing procedures would be impractical, detrimental, or increase the risk of significant adverse outcomes.

**ENERGY STAR:** A voluntary energy efficiency labeling program derived from a partnership between the U.S. Environmental Protection Agency and the U.S. Department of Energy. ([www.energystar.gov](http://www.energystar.gov))

**EQUIPMENT:** Major items such as tools, equipment, furnishings and fixtures that are not expendable except through depreciation or wear and tear and which, although they may be fixed or positioned in prescribed places, do not lose their identity or become integral parts of other items or installations.

**ENVIRONMENTALLY PREFERABLE PURCHASING:** Environmentally Preferable Purchasing (EPP) is an attempt to address environmental challenges by taking advantage of government's vast purchasing power to create strong markets for environmentally friendly products and services. EPP is also known as *Green Purchasing*.

**E-PURCHASING (Electronic Procurement):** Conducting all or some of the purchasing function over the Internet.

**FORMAL BID:** (See BID, FORMAL)

**FORMAL PROCUREMENT:** A structured, written procedure to solicit bids, proposals, or statement of qualifications, requiring a written document officially noticed to the public, and distributed as widely as possible with specific instructions regarding due date and format for written responses; may include an evaluation and selection process.

**GOODS:** Any and all consumable supplies, materials and tangible property acquired by the County other than services or real property. Also see *COMMODITY*.

**GRANT:**

1. A transfer of Federal or State Government funds to State or local governments to support or stimulate programs authorized by federal or state laws, to accomplish objectives that are locally defined and managed under a broad federal or state program.

2. The furnishing of assistance by a jurisdiction whether financial or otherwise, to any person to support a program authorized by law; does not include an award whose primary purpose is to purchase supplies, services or construction.

**INFORMAL BID:** Often referred to as “getting quotes”, this is a competitive process used for goods and services where price is the primary decision factor, but is less structured than the sealed bid process. Under the PCC, this term also refers to the less-stringent requirements for getting sealed bids for Public Works projects valued below \$200,000 (Public Contract Code § 22032(c)). See also *Request For Quotation*.

**INFORMATION TECHNOLOGY (IT):** An all-encompassing term that refers to the devices used for creating, storing, using, or exchanging information, and to the design and practical application of the devices themselves.

**INVITATION FOR BID (IFB):** Refers to both the process and the complete collection of documents used to solicit competitive or multi-step sealed bids. A formal solicitation method where price is the determining factor after it has been determined the bidder offer meets the minimum specifications of the solicitation and the bid is both responsive and responsible.

**LEASE:** A contract by which one party (lessee) enters into a contract with a second party (lessor) for possession and use of an asset (property or equipment) for a specified period of time at a predetermined cost. The benefits of leasing are: Obsolescence can be minimized or eliminated; Avoidance of large capital outlays; Maintenance problems may be reduced; The Lessee’s working capital is not consumed and may be utilized for other projects.

**LEASE RATE:** The periodic rental payment to a lessor for the use of assets. (Alternative definition: The implicit interest rate in minimum lease payments.)

**LEGAL NOTICE:** A public notice required by law, ordinance or executive order. Generally placed in a newspaper of general circulation or may be posted on a web-site, magazine or other media, depending on the specific legal requirements.

**LESSEE:** The user of equipment or property being leased.

**LESSOR:** The party to a lease agreement who has legal or tax title to the equipment or property, grants the lessee the right to use the equipment or property for the lease term, and is entitled to receive the rental payments.

**LOWEST-PRICED RESPONSIVE AND RESPONSIBLE BIDDER:** The bidder who fully complied with all of the bid requirements and whose past performance, reputation, and financial capability is deemed acceptable and who has offered the most advantageous pricing or cost benefit, based on the criteria stipulated in the bid documents.

**MAINTENANCE:** The upkeep of property that doesn’t add to its permanent value appreciably, but instead keeps it in an efficient operating condition.

**MATERIAL:** A raw or partially-processed substance from which something is made or can be made, such as building materials, metals, paper, plastic, etc.

**MAY:** Permissive (discretionary) form of action.

**MULTIPLE AWARD CONTRACTS:** Contracts awarded to more than one supplier for comparable supplies and services. Awards are made for the same generic types of items at various prices. Usually the result of aggregated line item bids of similar product categories.

**MULTI-YEAR CONTRACT:** A purchasing contract that extends for longer than one year.

**MUST:** Imperative (non-discretionary) form of action.

**NOTICE OF INTENT TO AWARD:** Final agreement on the terms and conditions of a contract between the County and Vendor/Contractor as authorized by the Board of Supervisors or its designee(s). See also *CONTRACT AWARD*.

**OPTION TO RENEW:** A contract provision that allows a party to reinstate the contract for an additional term, beyond that stated in the original contract, in accordance with contract terms.

**PAYMENT BOND:** An instrument executed, subsequent to award, by a successful bidder that protects the public entity from loss due to the bidder's inability to pay subcontractors and suppliers. A financial or contractual instrument, issued by a surety, that guarantees that subcontractors will be paid for labor and materials expended on the contract. Acceptable forms of payment bonds may include: cashier's check, certified check, or irrevocable letter of credit issued by a financial institution; a surety or blanket bond; United States Treasury bond; or certificate of deposit. Payment bonds are also known as Labor and Materials Bonds.

**PERFORMANCE BOND:** An instrument executed, subsequent to award, by a successful bidder that protects the public entity from loss due to the bidder's inability to complete the contract as agreed.

**PIGGYBACK AGREEMENT (PUBLIC AGENCY PARTICIPATION):** A form of intergovernmental cooperative purchasing in which a government entity will be extended the pricing and terms of a contract entered into by another government entity. Generally, a larger entity will competitively award a contract that will include language allowing for other entities to utilize the contract, thereby gaining economies of scale that they normally would not receive if they had competed on their own.

**PREVAILING WAGE RATE:** The mandatory wage rate, including fringe benefits, paid to workers on Public Works of Improvement projects above \$1,000 in a geographic area for the identified type of work as established by the California Department of Industrial Relations (DIR).

**PROCUREMENT:** Purchasing, renting, leasing, or otherwise acquiring any materials, equipment, supplies, services, or construction. Also included are all activities related to obtaining the above items, such as functions that pertain to the acquisition, including description of requirements, selection and solicitation of sources, preparation and award of contract, and all phases of contract administration. Also includes the combined functions of purchasing, inventory control, traffic and transportation, receiving, inspection, storekeeping, salvage and disposal operations.

**PURCHASING CARD / PURCHASING CARD (P-CARD):** A payment method whereby internal customers (requisitioners) are empowered to deal directly with suppliers for purchases using a credit card issued by a bank or major credit card provider. Generally, a pre-established credit limit is established for each card issued. The Administrative Services Department manages the P-Card program and policies for the County of Yuba.

**PROPOSAL:** The assembly of documents provided by a contractor in response to a Request for Proposal. This will minimally include a discussion of the task or product, the intent of the contractor to provide the task or product, and the pricing involved.

**PROTEST:** A written objection by a bidder or potential bidder to a solicitation or award of a contract, with the intention of receiving a remedial result.

**PUBLIC BID OPENING:** The process of opening and reading bids at the time and place specified in the solicitation and in the presence of anyone who wishes to attend. Electronic bid submittals are sealed until the deadline for submitting bids. In lieu of a public opening, bids are tabulated into a summary and electronically distributed to bidders and publicly made available on the County's website for transparency.

**PUBLIC NOTICE:** An announcement made by a public agency concerning a solicitation or other information of general public interest. Public notices are usually placed on a website and in a newspaper of general circulation or circular, magazine or other vehicle of general publication.

**PUBLIC PROJECT:** Construction, reconstruction, erection, alteration, renovation, improvement, demolition, and repair work involving any publicly owned, leased, or operated facility. Painting or repainting of any publicly owned, leased, or operated facility. Public Project does not include maintenance work. (Public Contract Code §20161)

**PUBLIC WORKS:** Construction, reconstruction, erection, alteration, renovation, demolition, maintenance, and repair work paid for in whole or in part out of public funds. May include pre-construction activities such as inspection and land surveying. (Labor Code §§ 1720-1743)

**PURCHASE:** All forms of acquisitions of supplies, materials, equipment, and services, including rental, lease, or lease purchase.

**PURCHASE ORDER (PO):** A written document issued by Administrative Services to a vendor stating all terms and conditions of the proposed transaction, or referring to such terms and conditions as may exist in an accompanying contract. A PO in and of itself is a legal and binding contract.

**PURCHASE REQUISITION (PR):** A document created by a requestor authorizing the commencement of a purchasing transaction. PRs include a description of the need and other information relative to the transaction.

**PURCHASING AGENT:** The Office of the Purchasing Agent of Yuba County, as established by Yuba County Ordinance §2.50.020, and the official appointed to such office to be in charge of procurement, who is authorized to enter into contracts and is responsible for oversight of all associated purchasing programs.

**PURCHASING AUDIT:** A comprehensive, systematic, independent, and periodic examination of an organization's purchasing environment, objectives, strategies, and activities with a view toward identifying strengths and weaknesses, including a plan of action to improve purchasing performance.

**QUOTE:** A price proposal for goods or services. See also REQUEST FOR QUOTATION.

**REGULATION:** A statement by a governmental body to implement, interpret, or prescribe law or policy, or to describe organization, procedure, or practice, often in accordance with an administrative procedures act.

**REMOVAL:** The permanent disbarment of a firm from doing business with the County.

**REQUEST FOR PROPOSAL (RFP):** A competitive purchasing process used where non-price factors weigh heavily. Also refers to the complete assembly of related solicitation documents issued by the County to prospective contractors for the purpose of presenting a proposal.

**REQUEST FOR QUOTATION (RFQ):** An informal competitive purchasing process used for goods or services where there is a well-defined need and price is the primary decision factor. Also refers to the complete assembly of related solicitation documents issued by the County to prospective contractors for the purpose of presenting a price proposal. Generally used for small orders. Evaluation and recommendation for award should be based on the quotation that best meets price, quality, delivery, service, past performance, and reliability.

**REQUEST FOR STATEMENT OF QUALIFICATIONS (RF-SOQ):** A formalized competitive purchasing process used for specialized professional services, such as architectural and engineering, where the proposer's qualifications are the most important decision factor. Price is never part of the SOQ selection process, but rather is negotiated with the highest-ranked firm after evaluations are completed. May also be used to obtain statements of the qualifications of potential development teams or individuals (i.e. consultants) to gauge potential competition in the marketplace, prior to issuing a Request for Proposals.

**REQUISITIONER:** The specific individual in a County department who initiates a Requisition. It may also refer to the department represented by the specific individual.

**RESPONSIBLE BIDDER:** A vendor/contractor, business entity or individual who is fully capable to meet all of the requirements of the solicitation and subsequent contract. Must possess the full capability, including financial and technical, to perform as contractually required.

**RESPONSIVE BIDDER:** A vendor/contractor, business entity or individual who met all of the requirements of the solicitation with their bid proposal.

**SCOPE OF SERVICES:** Written contractual language describing the work a contractor shall perform, usually including such things as a narrative, drawings, tables, timelines, goals, and deliverables. Implemented at the time of contract negotiation, it is typically based on the scope of work from the competitive solicitation that led to the resultant contract. See also SCOPE OF WORK.

**SCOPE OF WORK:** A detailed, written description of the conceptual requirements for a project. It is developed at the beginning of the purchasing cycle, as a written description of the County's needs and desired outcomes for the procurement, and becomes the basis for any resulting solicitation. The scope of work should establish a clear understanding of what is required by the County, and generally becomes part of the resulting contract. It defines what will be done, how, by whom, and cost, and may include such things as a narrative, drawings, tables, timelines, goals, and deliverables. See also SCOPE OF SERVICES.

**SEALED BID:** See BID, SEALED.

**SERVICE:** The furnishing of labor, time, or effort by a contractor which normally does not involve the delivery of a specific end product other than reports, unless the service is a construction service.

**SERVICE/SERVICES CONTRACT:** 1. An agreement calling for a contractor's time and effort. 2. The furnishing of labor, time, or effort by a contractor or vendor, which may involve to a lesser degree, the delivery or supply of products.

**SHALL:** Imperative (non-discretionary) form of action.

**SOLE-SOURCE:** A situation where only one manufacturer, distributor, supplier, or service provider can provide the required goods and/or services, resulting in the selection of that one particular supplier to the exclusion of all others. This decision may be based on lack of competition, proprietary technology, copyright or a supplier's unique capability. Requires a completed Sole Source justification form.

**SOLICITATION:** An invitation for bids, a request for proposals, request for qualifications, telephone calls, or any document used to obtain bids or proposals for the purpose of entering into a contract.

**SOURCING:** The identification and selection of the supplier whose costs, qualities, technologies, timeliness, dependability, and service best meet the organization's needs.

**SPECIFICATION:** A precise description of the physical or functional characteristics of a product, good or construction item; a description of goods and/or services; a description of what the purchaser seeks to buy and what a bidder must be responsive to in order to be considered for award of a contract. Specifications generally fall under the following categories: design, performance, combination (design and performance), brand name or approved equal, qualified product lists and samples.

**STANDARDIZATION:** The adoption of a single product or group of products to be used by different organizations or all parts of one organization.

**STATEMENT OF QUALIFICATIONS (SOQ):** A proposer's response provided to the County's competitive solicitation request. May also be used to collectively refer to the complete assembly of related solicitation documents (whether attached or by reference) issued by the County to prospective contractors for the purpose of presenting a proposal. See also REQUEST FOR STATEMENT OF QUALIFICATIONS (RF-SOQ).

**SUPPLIES** - Those products, often of a minor nature, which are used outright and which are generally consumed through use.

**SURPLUS:** 1. Overstocked quantity of goods that exceeds the County's needs. The overstocked goods may be returned to the vendor, sold at auction or disposed of in a method acceptable to the entity. 2. Goods or materials that are obsolete or no longer needed by the agency and are designated for disposal.

**SUSPENSION:** The temporary removal of a firm's name from Bid Lists and disqualification of that firm from doing business with the County for a specified period of time.

**TERM CONTRACT:** A contract in which a source of supply is established for a specified period of time.

**USER:** The requisitioner or the County department which ultimately utilizes a product or service.

**VALUE ENGINEERING:** A systematic and creative analysis of each contract item or task to ensure that its essential function is provided at the overall lowest cost. Typically required in larger federally-funded construction projects.

**VENDOR:** Any manufacturer, supplier, vendor, contractor, or individual doing business by contract with the County

**WAIVER OF BIDS:** A process, usually statutory, whereby a government purchasing office may purchase items without formal bidding procedures because of unique circumstances related to that particular action. For example, bids are waived for emergency purchases due to a threat to the public safety.

**WILL:** Imperative (non-discretionary) form of action.

**SECTION XVII:**

**EXHIBITS**

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**EXHIBIT 1**

**SOLE SOURCE JUSTIFICATION FORM**

Yuba County Purchasing and Contract Policy Manual requires purchases to be competitively awarded. Competition is not only our policy, it offers numerous advantages, is a good business practice, and sends a clear message to our community that the County will obtain goods and services through competition in a fair and open manner. Sole source acquisitions must be justified in sufficient detail to explain the basis for suspending the usual competitive procurement process.

**How to Request**

Except for consultants, sole source requests must be in written form, signed by department head/elected official and attached to purchasing requests when submitted to Administrative Services. Sole source requests for consultants will be approved by the County Administrator's Office.

Describe the item or service, its function, and the total cost estimate (state labor and materials separately):

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**Reason for sole source request:**

- There is only one known source because:
  - This is a sole provider of a licensed, copyrighted or patented good or service.
  - This is a sole provider of items compatible with existing equipment or systems.
  - This is a sole provider of factory-authorized warranty service.
  - This is a sole provider of goods or services that perform the intended function or meet the specialized needs of the County.
- One source is the only practical way to respond to overriding circumstances that make compliance with competitive procedures under the County's codes and policies not in the best interest of the County.

**What steps were taken to verify that these goods or services are not available elsewhere?**

- Other brands/manufacturers were examined (List brands and why they were rejected)
- Other suppliers were contacted (List the names and phone numbers and explain why these were not suitable by attached memorandum.)
- Other (Explain by attached memorandum)

**BUDGET APPROVAL:**  YES  NO

DEPARTMENT CONTACT PERSON	PHONE
REQUESTED VENDOR/CONSULTANT NAME	VENDOR CONTACT PHONE NUMBER

\_\_\_\_\_  
*Signature of Requestor*

\_\_\_\_\_  
*Date*

\_\_\_\_\_  
*Department Head Signature*

\_\_\_\_\_  
*Date*

\_\_\_\_\_  
*Approval Signature – IT MANAGER*

\_\_\_\_\_  
*Date*

\_\_\_\_\_  
*Approval Signature – PA OR CAO*

\_\_\_\_\_  
*Date*

**Sole Source Requests**

The following represents factors that might justify sole source:

- (1) What capability does the proposed contractor have that is critical to the specific effort and makes the contractor clearly unique compared to other contractors in the same general field?

\_\_\_\_\_  
\_\_\_\_\_

- (2) What prior experience of a highly specialized nature does the proposed contractor have that is vital to the proposed effort?

\_\_\_\_\_  
\_\_\_\_\_

- (3) What facilities, staffing, and/or equipment does the proposed contractor have that are specialized and vital to the commodities or services required?

\_\_\_\_\_  
\_\_\_\_\_

- (4) Does the proposed contractor have a substantial investment that would have to be duplicated at the county's expense by another contractor entering the field?

\_\_\_\_\_  
\_\_\_\_\_

- (5) If schedules are involved, why are they critical and why can the proposed contractor best meet them?

\_\_\_\_\_  
\_\_\_\_\_

- (6) If lack of drawings or specifications is a justification for sole source acquisition, why is only the proposed contractor best able to perform under these conditions? Why are drawings and specifications lacking? How much lead time is required to obtain drawings and specifications suitable for competition?

\_\_\_\_\_  
\_\_\_\_\_

- (7) Is competition precluded because of the existence of patent rights, copyrights, or secret processes?

\_\_\_\_\_  
\_\_\_\_\_

(8) Does this acquisition require compatibility with any existing county equipment?

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(9) What unique characteristics does the equipment or material offered by the proposed contractor possess that are required to meet the county's needs?

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(10) Is competition precluded because of existing equipment maintenance program/contracts?

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EXHIBIT 2

CONTRACT APPROVAL PROCESS

Approval Process for final contracts that require Board of Supervisors approval.

1	Requesting Department/Administrative Services draws up proposed contract.	
2	Requesting Department/Administrative Services sends proposed contract to Risk Manager for review and signature.	
3	Requesting Department/Administrative Services sends proposed contract to County Counsel for review and signature.	
4	Requesting Department/Administrative Services sends proposed contract to Vendor for review and signature.	
5	Requesting Department/Administrative Services places proposed contract on the agenda for the Board of Supervisors approval.	
6	Board of Supervisors, Administrative Services, Requesting Department and Vendor retain a copy for record.	

Approval Process for final contracts that do not require Board of Supervisors approval.

1	Requesting Department/Administrative Services draws up proposed contract(s).	
2	Requesting Department/Administrative Services sends proposed contract to Risk Manager for review and signature.	
3	Requesting Department/Administrative Services sends proposed contract to County Counsel for review and signature.	
4	Requesting Department/Administrative Services sends proposed contract to Vendor for review and signature.	
5	Purchasing Agent approves proposed contract.	
6	Administrative Services, Requesting Department and Vendor retain a copy for record.	

EXHIBIT 3

**Equipment Transfer Form  
County of Yuba**

Asset Number:	Description	Serial Number	Asset Tag # (if applicable)
<b>Transferred From:</b> Department: _____ Location: _____ Date: _____		<b>Transferred To:</b> Department: <u>Administrative Services</u> Location: <u>9900-01</u> Date: _____	
Authorized Individual (Print)		Authorized Individual (Print)	
Authorized Signature		Authorized Signature	

Do not write in this area - Auditor use only	
_____ Entered by - Signature	_____ Date

Original: Auditor-Controller

Copy 1: Transferring Dept

Copy 2: Acquiring Dept

END OF DOCUMENT