

COUNTY of COCHISE

PROCUREMENT POLICY

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Procurement Department
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SECTION ONE: INTRODUCTION & GENERAL PROVISIONS

1.1 Purpose. The purpose of the Cochise County Procurement Policy is to:

- Simplify, clarify, and modernize the rules governing procurement by the County.
- Permit the continued development of County procurement policies and practices.
- Provide for a uniform system of control to enhance accountability and increase public confidence in the process followed in County procurement.
- Ensure full and equitable economic opportunities to persons or businesses that compete for business with Cochise County government.
- Provide increased economy in County procurement activities and maximize the fullest extent practicable the purchasing value of public monies of the County.
- Foster effective broad-based competition within the free enterprise system.
- Provide safeguards for the maintenance of a procurement system of quality and integrity.
- Substantially comply with all procurement requirements prescribed by the Arizona Revised Statutes applicable to Counties (A.R.S. §11- 254.01 and A.R.S. §11-255).
- In cases where this policy does not address a particular situation, the Arizona State Procurement Code found in Title 41, Chapter 23 of the Arizona Revised Statutes will be followed.

1.2 Applicability.

- This policy applies only to procurement initiated after adoption unless the parties agree to its application to procurement initiated before such dates.
- This policy applies to every expenditure of public monies by this County irrespective of their source, including federal assistance monies except as otherwise specified in A.R.S. §41-2637.
- This policy also applies to the disposal of County materials, equipment and supplies.
- Nothing in this policy shall prevent this County from complying with the terms and conditions of any grant, gift, bequest or cooperative agreement.
- This policy shall not apply to the procurement of experts to provide testimony or other professional services relating to pending or anticipated litigation or administrative proceedings.

1.3 Authority

In accordance with ARS §11-201, The Board of Supervisors is the only entity that has the authority to incur financial, legal and other obligations on behalf of the county, its agencies and elected officials. Although some county officials may have express or implied authority to enter into contracts, all of their expenditures are subject to budgetary approval by the Board of Supervisors. To ensure fiscal control, the Board of Supervisors must approve all contracts or specifically authorize a designated elected or appointed official to enter into contracts. To this end, the Board has delegated this authority as follows:

1.3.1. The Procurement Director will approve purchases and contracts for amounts up to \$100,000.

1.3.2. County Departments may make purchases for amounts less than \$1000 without submitting a Requisition to the Procurement Department. See Procurement Card Policy and Section 8.2, Delegated Purchases Up To \$1,000, for specifics and restrictions on these purchases. In accordance with Arizona Revised Statutes § 41-2535.c; it is unlawful to artificially divide a purchase to circumvent source selection requirements.

1.3.3. Neither elected nor appointed Department Directors may exceed the limits of this Procurement Policy unless the Board of Supervisors or the Arizona Revised Statutes delegate specific authority.

1.4 Short Title: This policy shall be known and may be cited as the “County of Cochise Procurement Policy.”

SECTION TWO: AUTHORITY OF PROCUREMENT DIRECTOR (A.R.S. § 41-2511)

2.1 General Procurement Officer: The Cochise County Board of Supervisors, as agents of Cochise County, designates and assigns authority to the Procurement Director to serve as General Procurement Officer for all offices, departments and Departments of Cochise County.

2.2. Supervise Procurement Department: The Procurement Director shall have general supervision of the Procurement Department, and shall have the powers and duties prescribed in this Procurement Policy.

2.3 Establish Levels of Procurement Authority: The Procurement Director will establish levels of Procurement Approval Authority for the Procurement Department Staff in accordance with Arizona Revised Statutes § 41-2535.

2.4. Duties and Responsibilities of Procurement Director: Unless otherwise provided in this policy, the authority, duties and responsibilities of the Procurement Director shall be as follows:

2.4.1 Serve as the principle public Procurement Officer for the County and shall be responsible for the procurement of supplies, equipment, services and construction in accordance with this policy as well as the management and disposal of surplus property.

2.4.2 The Procurement Director may adopt policies and procedures consistent with this Procurement Policy, develop and maintain countywide procurement standards, operational procedures, procedure manuals and standard contract terms and conditions as necessary to implement the procurement function in all County departments consistent with State Statutes and the provisions of this Procurement Policy.

2.4.3 The Procurement Director will review all Contract Agreements for form and content prior to submission to the Board for approval, and will sign-off on the Agreement indicating this review has been conducted.

2.4.4 Issue standard forms and guidelines in compliance with this Policy to facilitate and standardize county wide application of the Procurement Policy.

2.4.5 Conduct procurement for all county departments except those conducted by departments to whom the Procurement Director has delegated procurement authority for specific commodities and/or classes of supplies.

2.4.6 Issue Invitation for Bid, Request for Proposal, Request for Quotation, Request for Qualification, Request For Information for all materials, equipment, services and construction for Cochise County purchases.

2.4.7 To establish and maintain programs for the inspection, testing and acceptance of supplies and services.

2.4.8 To supervise the Fixed Asset Management program for the county.

2.4.9 To prescribe procedures governing the disposal, transfer and reutilization of county property and equipment consistent with state law and adopted policy.

2.4.10 Delegate procurement authority to departments meeting the certification requirements established pursuant to this policy.

2.5 Delegation Authority.

2.5.1 The Procurement Director may delegate or rescind procurement authority to a department except that authority delegated to the Procurement Director under Subsection 2.1 of this policy may not be delegated to a department.

2.5.2 Departments having been delegated procurement authority under this Section shall comply with this policy and all implementing procedures, forms and terms established by the Procurement Director.

2.5.3 The Procurement Director shall consider the following factors in making the decision to delegate or rescind procurement authority:

2.5.3.1 In making the decision to delegate procurement authority, the Procurement Director shall consider:

- The procurement expertise, specialized knowledge and past experience of the department;
- The impact the delegation of the procurement on efficiency and effectiveness;
- Department adherence to the procurement policy, standards, procedures and manuals.

2.5.3.2 Delegation or any modification of authority shall be in writing and shall specify:

- The scope and type of authority delegated or modified;
- Any limits or restrictions on the exercise of delegated authority;
- Whether the authority may be further delegated; and
- The duration of the delegation subject to Section 2.4.10.

2.5.4 The Procurement Director shall monitor contracts and purchase orders developed and administered by departments with delegated procurement authority, and shall be available to provide technical assistance.

2.5.5. Notwithstanding the delegation of procurement authority, the Procurement Director shall retain all other authority, responsibilities and duties relating to procurement.

2.5.6. Delegations to other county officials and departments. The authority of the Procurement Director to negotiate purchases for all using departments shall not be abridged by excepting any particular department. Unless otherwise provided in this policy, it shall be unlawful for any County officer or employee to order the purchase of any supplies or make any contract within the purview of this policy other than through the Procurement Department, and any purchase order or contract made contrary to the provisions of this policy shall not be approved by the county officials and the county shall not be bound thereby.

2.6. Debar Vendors. The Procurement Director shall have the authority to debar vendors. When debarment is recommended, the Procurement Director shall prepare a written statement of the reason for placing the vendor on debarment. The Board of Supervisors shall be informed by copy of the intended debarment at the time the vendor is notified. The vendor shall have the right to appeal the debarment before a Review Board Committee, consisting of the County Administrator or designee, the Finance Director or designee, and the head of the affected department or designee. An appeal must be initiated by written request to the Procurement Director within 10 days of receipt of the written statement. A hearing shall be scheduled as soon as possible following receipt of the appeal, but not more than 30 days after the appeal is initiated.

2.6.1 The causes for debarment or suspension include the following:

2.6.1.1 Conviction of any person or any subsidiary or affiliate of any person for commission of a criminal offense arising out of obtaining or attempting to obtain a public or private contract or subcontract, or in the performance of such contract or subcontract.

2.6.1.2 Conviction of any person or any subsidiary or affiliate of any person under any statute of the federal government, this state or any other state, for embezzlement, theft, fraudulent schemes and artifices, fraudulent schemes and practices, bid rigging, perjury, forgery, bribery, falsification or destruction of records, receiving stolen property or any other offense indicating a lack of business integrity or business honesty which affects responsibility as a county contractor.

2.6.1.3 Conviction or civil judgment finding a violation by any person or any subsidiary or affiliate of any person under state or federal antitrust statutes.

2.6.1.4 Violations of contract provisions of a character that are deemed so serious as to justify debarment action, such as either of the following:

2.6.1.4.1 Knowingly fails, without good cause, to perform in accordance with the specification or within the time limit provided in the contract.

2.6.1.4.2 Failure to perform or unsatisfactory performance in accordance with the terms of one or more contracts, except that failure to perform or unsatisfactory performance caused by acts beyond the control of the contractor shall not be considered a basis for debarment.

2.6.1.5 Any other cause deemed to affect responsibility as a county contractor, including suspension or debarment of such person or any subsidiary or affiliate of such person by another governmental entity for any cause listed in regulations of the Procurement Director.

2.6.2 A written determination to debar or suspend shall be issued by the Procurement Director which shall:

2.6.2.1 State the reasons for the action taken.

2.6.2.2 Inform any debarred or suspended person involved of the right to administrative review as provided in the article.

2.6.3 A copy of the decision under Subsection 2.6 shall be mailed or otherwise furnished to any debarred or suspended person and to any intervening party.

SECTION THREE: PROCUREMENT ETHICS

3.1 Employee Ethics

3.1.1 It is the policy of the Cochise County Procurement Department to promote the County's reputation for courtesy, fairness, impartiality, integrity, service, progressivism, economy, and government by law. The responsibility for implementing this policy rests with each individual who participates in the procurement process, including the using department and suppliers, as well as purchasing personnel. The Procurement Department adheres to the ethical standards modeled after the American Bar Association (ABA) Model Procurement Code as set

forth by the National Purchasing Institute (NPI) and the National Institute of Governmental Purchasing (NIGP).

3.1.2. Among the prescribed practices for County employees are the following:

- No public employee, having official responsibility for a procurement transaction, shall represent the County in that transaction when the employee is contemporaneously employed by a bidder, offeror or contractor involved in the procurement transaction;
- The employee, or any member of the employee's immediate family holds a position with a bidder, offeror or contractor such as officer, director, trustee or partner, has a personal and substantial participation in the transaction, or owns or controls more than five (5%) percent of the firm;
- The employee, or any member of the employee's immediate family has a pecuniary interest arising from the transaction;
- The employee or any member of the employee's immediate family is negotiating, or has an arrangement concerning prospective employment with a bidder, offeror or contractor.

3.1.3 No employee having official responsibility for a procurement transaction shall solicit, demand accept or agree to accept any payment, loan subscription, advance deposit of money, services, entertainment or anything of more than nominal value from any bidder, offeror, contractor or subcontractor.

3.1.4 A County employee may attend functions that are not limited exclusively to Cochise County employees, i.e., an industry trade fair, or like function.

3.1.5 Any purchases made directly from any County employee must be reviewed by the Finance Director and a written conflict of interest statement must be submitted to the Clerk of the Board of Supervisors to be entered into the public record.

3.1.6 Any person involved in a transaction may request a written County Attorney's opinion about the applicability of these provisions.

3.2 Vendor Ethics: Cochise County requires vendors to also be held to certain ethical requirements as follows:

- No bidder, offeror, contractor or subcontractor shall confer upon any public employee having official responsibility for a procurement transaction any payment, loan, subscription, advance, deposit of money, services or anything of more than nominal value, present or promised;

- All bidders, offerors, contractors or subcontractors shall submit with their bid a disclosure of interest form to inform any personal interest of any member of the Board of Supervisors, County Administrator, County Attorney, Finance Director, Procurement Director, or the family members of each official;
- Failure to make the required disclosure may result in disqualification, debarment, and suspension from bidding and recession of contracts;
- No contractor or subcontractor shall give, demand or receive from any supplier, subcontractor, or competitors any bribe, kickback, or anything of value in return for participation in a procurement transaction or agreeing not to compete in a transaction; and
- Architects or engineers employed by the county may not furnish building materials, supplies or equipment for any structure or project on which they are providing professional services.
- The County does not accept bids or proposals from consultants or bidders who have solely and directly prepared specifications for a specific requirement, regardless of whether the consultant/bidder was paid for the specification.

3.3 Fraud: An act of fraud, is committed if an employee of the County negotiates a personal procurement by fraudulent use of a County requisition number or purchase order number. Fraud also occurs if an employee claims a purchase is on behalf of Cochise County when in fact the purchase was made solely for personal use. A personal procurement from the State Contracts is an offense subject to prosecution. Fraud is subject to prosecution and employee discipline.

3.4 Penalty: In accordance with A.R.S. § 41-2616, any person who contracts for or purchases any material, services or construction in a manner contrary to the requirements of this Policy is personally liable for the recovery of all public monies paid plus 20% of such amount and legal interest from the date of payment and all costs and damages arising out of the violation. Willful violation of the County's Procurement Ethics Code may result in disciplinary action up to and including termination of employment.

3.5 County Attorney Opinion: County employees are encouraged to request assistance from the County Attorney's Office whenever questions arise regarding the applicability of these provisions.

SECTION FOUR: GENERAL PROVISIONS

The overriding principle that guides the Procurement Department in searching for new suppliers and in dealing with current suppliers is the desire to stimulate as much competition as possible. While it is impractical to secure bids or quotes from every qualified supplier, it is necessary that competition be as representative and as broad as circumstances permit. To assure this competition, every effort is made to solicit bids from manufacturers as well as distributors or dealers.

4.1 Bidders List

4.1.1 Prospective Vendors Lists. The Procurement Department shall maintain a prospective vendors list. Inclusion of the name of a person shall not indicate whether the person is responsible concerning a particular procurement or otherwise capable of successfully performing a County contract.

4.1.2 Suppliers are put on the bidders list when they so request by completing a Bidders List Application. The vendor will remain on one or more commodity lists until either they have failed to bid on a particular commodity for a reasonable period of time or are determined by the Procurement Director to be no longer responsive and responsible.

4.1.3 It is the sole responsibility of the vendor to ensure that vendor registration information is current and active.

4.1.4 The Procurement Director may remove a person or supplier from the prospective vendors list if it is determined that inclusion is not advantageous to the County.

4.2 Taxes

Cochise County does pay Sales Tax and is responsible for the payment of all applicable sales and use taxes as may be required by the State of Arizona or its political sub-Departments. The County is exempt from the payment of Federal excise taxes. Out-of-state vendors should not apply sales tax to purchases made by this county (unless required by their city) as the County is required to pay Use Tax to the Arizona Department of Revenue. A copy of the state form attesting to this is available upon request.

4.3 Records Retention

4.3.1 All procurement records shall be retained and disposed of by the County in accordance with the records retention guidelines and schedules issued by the State of Arizona Department of Library, Archives and Public Records. If a contract is funded in whole or in part by assistance from a federal agency, then the records retention requirements of that granting agency shall be followed.

4.3.2 All determinations and other written records pertaining to a solicitation, award or performance of a contract shall be maintained by the Procurement Department in the solicitation file.

4.3.3 Defacing or changing records is expressly prohibited and will result in disciplinary action. Original bid and contracting documents are not to be removed from the Procurement Department without approval of the Procurement Director.

4.4 Conflict of Interest (ARS § 38-501 through 511)

4.4.1 Any public officer or employee of a public agency who has, or whose relative has, a substantial interest in any contract, sale, purchase or service to such public agency shall make known that interest in the official records of such public agency and shall refrain from

voting upon or otherwise participating in any manner as an officer or employee in such contract, sale or purchase.

4.4.2 The mere employment of an individual simultaneously by the County and an outside company that has a direct or indirect business relationship with the County, in itself, establishes no conflict of interest. A conflict of interest would arise if actions by the County employee conferred a direct or indirect pecuniary or proprietary benefit on the County employee or a relative by virtue of that person's connection with the outside business. The law provides that when the potential for a conflict of interest arises, the County employee must make his or her interest (or that of a relative) known and refrain from taking any action or otherwise participating in any way in the matter.

4.4.3. When a potential for conflict of interest arises, the County employee must provide written notification to the Clerk of the Board identifying what relationship exists that could be classified as a potential conflict.

4.4.4 Should a question arise pertaining to any potential conflict of interest in a purchasing situation, consult the Procurement Director, the Finance Director, or the County Attorney for advice.

4.5 Confidential Information

4.5.1 Pricing information obtained during the solicitation process may not be divulged to a competing vendor(s) until the selection process has been completed and the award of the Contract or Purchase Order has been made.

4.5.2 Procurement information shall be a public record to the extent provided in ARS § 39-121 and shall be available to the public as provided in the statute.

4.5.3 Claims of confidentiality may be honored in limited circumstances to the extent allowed under the law as an exception to the public records requirements. Confidential information shall be designated as follows:

4.5.3.1 If a person believes that a bid, proposal, offer, specification, or protest contains information that should be withheld, a statement advising the Procurement Director of this fact shall accompany the submission and the information shall be so identified wherever it appears.

4.5.3.2 The information identified by the person as confidential shall not be disclosed if the Procurement Director makes a determination that disclosure should not be made. The County Attorney's office may be asked to assist in these determinations.

4.5.3.3 Claims of confidentiality will be considered on a case-by-case basis.

4.6 Severability: The provisions of this policy are declared to be separate and severable. The invalidity of any clause, sentence, paragraph, sub-Department, or Department, or the invalidity

of the application thereof to any person or circumstance(s) shall not affect the validity of the remainder of this policy, or the validity of its application to other persons or circumstances.

4.7 Lost, Stolen or Destroyed Materials: The loss, theft, or destruction of materials shall be immediately reported to the appropriate law enforcement agency and/or the Risk Management Office. Loss of Capital Assets must also be reported to the County Property Director.

4.8 Supplementary General Principles of Law Applicable: Unless displaced by the particular provisions of this Policy, the principles of law and equity, including the Uniform Commercial Code of this state, the common law of contracts as applied in this state and law relative to agency, fraud, misrepresentation, duress, coercion and mistake or other applicable laws supplement the provisions of this policy.

4.9 Local Vendor Preference Policy: The Cochise County Board of Supervisors hereby establishes the following local vendor preference policy effective January 1, 2012. In recognition of the benefits from transaction privilege taxes ("TPT") and property taxes paid by local businesses to Cochise County, as well as indirect benefits to County residents from vibrant local businesses, a local preference credit of 3% shall be granted to local vendors when evaluating bids for supplies, equipment and materials and personal services. This preference is subject to the following:

1. The local preference credit does not apply to bids on construction projects.
2. In no event will the credit on any one bid exceed \$2,500.
3. The 3% credit will apply only to the parts of the bid on which TPT are paid. For example, if the total amount of a bid is \$75,000, in which \$50,000 is subject to payment of TPT, and \$25,000 is exempt from TPT, the 3% credit will be \$1,500 (.03 x \$50,000).
4. A vendor is deemed a local business—and therefore entitled to the 3% credit—if the TPT on the bid will be paid to, or inure to the benefit of, Cochise County or a city or town in Cochise County. The vendor will be responsible for demonstrating this to the satisfaction of the Procurement Director, who will make the determination in his sole discretion.
5. A local preference will also be allowed on Requests for Proposals, in which case the 3% credit will be calculated on the points otherwise scored by a vendor. The determination as to whether a vendor is deemed a local business will follow the guidelines above.
6. The Procurement Director has developed forms to make the application for the credit uniform and fair, including an affidavit of eligibility for the credit.
7. From time-to-time questions as to eligibility, and amounts of credit, will arise. When these arise, the Procurement Director will make the determination in consultation with the County Administrator or Deputy County Administrator.

SECTION FIVE: METHODS OF SOURCE SELECTION

5.1 General. Subject to the limitations of this Procurement Policy, any type of contract which will promote the best interests of this County may be used.

5.2 Sealed Bidding Process. All contracts of \$100,000 or more shall be awarded by competitive sealed bidding or competitive sealed proposals except as otherwise provided in Sec. 7.1 (Competitive Sealed Bidding), Section 12.3 (Contracting for Legal Counsel), Section 9.8 (Sole Source Procurement), Section 10 (Emergency Procurements), Section 12 (Procurement of Technical & Professional Services), Section 13 (Procurement of Construction and A/E Services), and Section 13.13 (Direct Selection of Pre-qualified Technical Registrants) of this Policy.

5.3 Solicitation Prohibitions. Any bid or proposal that is conditioned upon award to the respondent of both the particular contract being solicited and another Cochise County contract shall be deemed not responsive or unacceptable.

SECTION SIX: STATUTORY REQUIREMENTS FOR PROCUREMENT (A.R.S. § 11-254.01)

6.1. Purchase of Supplies & Materials Greater than \$100,000. All purchases of supplies, material, equipment and contractual services, except professional services, made by the County and having an estimated cost in excess of one-hundred thousand dollars (\$100,000) or more per transaction, or the aggregate amount thereof (A.R.S. § 41-2535), shall be based on competitive sealed bids. Purchases may not be artificially divided or fragmented so as to constitute a purchase under this section and to circumvent the source selection procedures required by A.R.S. §§ 41-2533 or 41-2534. (See Section Seven below)

6.2. Purchase of Supplies & Materials Less than \$100,000. Any procurement which does not exceed an estimated dollar amount of one-hundred thousand dollars (\$100,000) may be made in accordance with adopted policies contained herein and procedures promulgated by the Procurement Director, except that the procurement shall be made with such competition as is practicable under the circumstances. See Section 4.9 for Local Vendor Preference Policy and 8.1.1 below. If the required amount of quotations cannot be obtained, the Procurement Officer shall document why this was not possible.

6.2.1 For purchases costing less than \$1,000, departments will use procedures providing for adequate and reasonable competition as promulgated by the County Procurement Director. (Also see Section 8.2)

6.2.2 For purchases costing at least \$1,000, but less than \$5,000, the Procurement Officer should obtain at least two (2) price quotations. (Section 8.1.1.3)

6.2.3 For purchases costing at least \$5,000 but less than \$100,000, the Procurement Officer should obtain at least three (3) verbal or written price quotations. (Section 8.1.2) (Section 8.1.1.2)

SECTION SEVEN: SOURCE SELECTION AND CONTRACT FORMATION (A.R.S. § 41-2535)

7.1 . Competitive Sealed Bidding (A.R.S. § 41-2553; A.R.S. § 11-254.01; A.R.S. §11-255; A.R.S. § 34-201)

7.1.1 In all Competitive Sealed Bidding for supplies, commodities, equipment, construction and contractual services, the Procurement Director shall approve the Invitation For Bids.

7.1.2 Invitation For Bids shall be issued in sufficient time before the date and time set for bid closing to permit free competition, unless a shorter time is deemed necessary for a particular procurement as determined in writing, by the Procurement Director.

7.1.3 The Invitation For Bids shall be published in a newspaper in accordance with the provisions of Title 39, Chapter 2 and may include the following:

- Instructions and information to respondents concerning the bid submission requirements, including the time and date set for bid closing,
- the address of the office to which bids are to be received,
- the period that the bid shall remain open,
- The purchase description, specifications, evaluation criteria, delivery or performance schedule, and inspection and acceptance requirements;
- The Contract terms and conditions, including warranty and bonding or other security requirements, as applicable.
- and any other special information;

7.1.4 If the Invitation For Bids incorporates documents by reference, the Invitation For Bids shall specify where such documents may be obtained.

7.1.5 The Invitation For Bids shall require the acknowledgment by the Respondent of the receipt of all addenda issued.

7.1.6 An Invitation For Bids may require the submission of bid samples, Descriptive Literature, Technical Data and may require a demonstration, inspection or testing of a product before Award.

7.1.7 Notices of the Invitation for Bids shall be supplied to, and bids shall be solicited from, qualified sources consistent with the items to be purchased as determined by the County Procurement Director, including all qualified suppliers who, before the issuance of the invitation, notify the Procurement Department in writing that they desire to bid on materials, supplies, equipment or contractual services.

7.1.8 A record shall be maintained of prospective Respondents notified of Invitations for Bids.

7.2 Late Bids. A bid is late if it is received at the location designated in the invitation for bids after the time and date set for bid opening. The Procurement Department’s clock is the governing clock. A late bid shall be rejected. A late bid shall not be opened; except for, if necessary, identification purposes. Such bids shall be returned to the bidder. Bidders submitting bids that are rejected as late shall be so notified.

7.3 Bid Opening. Bids shall be opened publicly in the presence of one or more witnesses at the time and place designated in the invitation for bids. The amount of each bid and such other relevant information as the Procurement Director deems appropriate, together with the name of each bidder shall be recorded. This record shall be open to public inspection. In the event no attendees are present for bid opening, the sealed bids shall be opened by the Procurement Department designee and a “bid” or “no bid” may be recorded on the tabulation sheet. The bid may then be given to the appropriate person for recording. The attendance sheets will indicate that there were no attendees present.

7.3.1 Unless otherwise determined by the Procurement Director, the bids shall not be opened for public inspection until after a contract is awarded. After contract award, the bids shall be available for public inspection, except to the extent the bidder designates and the County concurs (unless otherwise required by law) that certain trade secrets or other proprietary data are contained in the bid documents which shall then remain confidential in accordance with regulations promulgated by the County.

7.3.2 If the bidder designates a portion of its bid as confidential, it shall isolate and identify in writing the confidential portions in accordance with Section 4.5 of this policy.

7.4 Facsimile Submissions. Unless authorized by Section 7.26 below, a facsimile transmission of a proposal, intended to be submitted as a sealed bid, may not be received via a County owned and operated machine.

7.4.1 A facsimile bid document will be accepted if it is;

- Transmitted to a third party,
- Delivered to the Procurement Department in a sealed envelope,
- The envelope is identified as required by the solicitation,
- The original documents must be received in the Procurement Department within three (3) working days of the due date. Failure to do so will be cause for the offer to be considered non-compliant with the terms and conditions of the solicitation and rejected.

7.4.2 If the bidder chooses to transmit a facsimile bid, the County will not be responsible for any failure attributable to the transmission or receipt of the facsimile bid including, but not limited to:

- Receipt of garbled or incomplete bid,
- Availability or condition of the receiving facsimile equipment,
- Incompatibility between sending and receiving equipment,
- Delay in transmission or receipt of bid,

- Failure of the bidder to properly identify or sign the bid,
- Illegibility of the bid,
- Security of bid data, and
- Unavailability or inability of a third party to receive and deliver the bid by the time specified.

7.5 Unconditionally Submitted. Bids shall be unconditionally submitted without alteration or correction, except as authorized in this Policy. Bids shall be evaluated based on the requirements set forth in the Invitation for Bids. The Invitation for Bids shall set forth the Evaluation Criteria to be used including criteria to determine acceptability such as inspection, testing, quality, workmanship, delivery and suitability for a particular purpose as prescribed in procedures promulgated by the Procurement Director. No criteria may be used in bid evaluations that are not set forth in the Invitation for Bids.

7.6 Correction or Withdrawal of Bids. Correction or withdrawal of inadvertently submitted or erroneous bids before or after bid opening, or cancellation of awards or contracts based on such bid mistakes, may be permitted where appropriate.

- Mistakes discovered before bid opening may be modified or withdrawn by written notice received in the department prior to the time set for bid opening.
- After bid opening corrections in bids shall be permitted only to the extent that the bidder can show by clear and convincing evidence that a mistake of a nonjudgmental character was made, the nature of the mistake, and the bid price actually intended.
- After bid opening, no changes in bid prices or other provisions of bids prejudicial to the interest of the County or fair competition shall be permitted.

7.6.1 In lieu of bid correction, a low bidder alleging a material mistake of fact may be permitted to withdraw its bid if:

- The mistake is clearly evident on the face of the bid document but the intended correct bid is not similarly evident; or
- The bidder submits evidence that clearly and convincingly demonstrates that a mistake was made.
- All decisions to permit the correction or withdrawal of bids, or to cancel awards or contracts based on bid mistakes, shall be supported by a written determination made by the Procurement Director.
- After bid opening, no corrections in bid prices or other provisions of the bids prejudicial to the interest of the County or fair competition shall be permitted.
- Except as otherwise provided by regulation, all decisions to permit the correction or withdrawal of bids, or to cancel awards or contracts based on bid mistakes, shall be supported by a written determination made by the Procurement Director.

7.7 Pre-Bid Conferences. The Procurement Department may conduct a pre-bid conference within a reasonable time, at least seven days prior to Bid closing, to explain the Procurement requirements. Statements made at the pre-bid conference shall not be considered an addendum to the Invitation For Bids unless a written addendum is issued pursuant to Section 7.8 below.

7.8 Addendum To Invitations For Bids

7.8.1 An addendum to an Invitation For Bids shall be issued if necessary to:

- Make changes in the Invitation For Bids;
- Correct defects or ambiguities; or
- Furnish to other Respondents information given to one Respondent, if the information will assist the other Respondents in submitting Bids or if the lack of the information will prejudice the other Respondents.

7.8.2 An addendum to Invitation For Bids shall be so identified and made available to all Prospective Respondents notified of the Invitation For Bids.

7.8.3 The addendum shall require that the Respondent acknowledge receipt of the addendum.

7.8.4 Addendums shall be issued within a reasonable time before Bid closing to allow prospective Respondents to consider them in preparing their Bids. If the time and date set for Bid closing does not permit sufficient time for Bid preparation, the time and date for Bid closing shall be extended by addendum.

7.9 Contract Award in Competitive Bidding.

7.9.1 General. The contract shall be awarded, by appropriate notice, to the lowest responsible and responsive bidder whose bid conforms in all material respects to requirements and criteria set forth in the Invitation for Bids. See Section 4.9 for Local Vendor Preference Policy.

7.9.2 Contract Award Based on Best Value. Notwithstanding the provisions of Section 5.2., the contract may be awarded on best value analysis provided that the criteria for analysis were included in the Invitation for Bids. The contract shall be awarded by appropriate written notice to the responsible and responsive Bidder determined to be the best value to the County and whose bid conforms in all material respects to requirements and criteria set forth in the invitation for bids.

7.9.3 Consideration of Taxes in Competitive Sealed Bidding. In evaluating the bids, except for procurement of construction, and for purposes of determining the low bidder, the Procurement Director shall include the amount of applicable business privilege tax. The amount of a County's business privilege tax shall not be included in the evaluation except in those instances in which the award is between a Cochise County area bidder and an Arizona-based, non-Cochise County area bidder. In this event, the applicable County business privilege tax shall be included in the non-Cochise County area bidder's price for evaluation purposes only to determine the lowest bidder.

7.9.4 Exceeding Available Funds. In the event the low responsive and responsible bid for a construction project exceeds available funds and such bid does not exceed such funds by more than five percent, the Procurement Director is authorized, when time or economic considerations preclude a new solicitation of the work to a reduced scope, to negotiate an adjustment of the bid price with the low responsive and responsible bidder, in order to bring the bid within the amount of available funds.

7.9.5 Public Record. Upon final contract execution, bids shall be available for public inspection, except to the extent that the withholding of information is permitted or required by law. If the bidder designates a portion of its bid as confidential, it shall isolate and identify in writing the confidential portions in accordance with Section 4.5 (Confidential Information).

7.9.8 Low Bid Tie: If there are two or more low responsive bids from responsible bidders that are identical in price and that meet all the requirements and criteria set forth in the invitation for bids, award may be made by random selection in a manner prescribed by the Procurement Director.

7.10 Only One Bid Received: If only one Responsive Bid is received in response to an Invitation For Bids,

7.10.1 An Award may be made to the single Respondent if the Procurement Director determines in writing that the price submitted is fair and reasonable, and that either other prospective Respondents had reasonable opportunity to respond, or there is not adequate time for the bid to be solicited again.

7.10.2 The Bid may be rejected pursuant to the provisions of Section 9.9 (Cancellation of Solicitation) and:

- New Bids may be solicited; or
- The proposed Procurement may be canceled; or
- If the Procurement Director determines in writing that the need for the Commodity or Service continues and the acceptance of the one Bid is not advantageous to Cochise County, the Procurement may then be conducted as appropriate.

7.11 Multi-Step Sealed Bidding (A.R.S. § 41-2533)

7.11.1. The multi-step sealed bidding method may be used if the Procurement Director determines that available specifications or Purchase Descriptions are not sufficiently complete to permit an award based on competitive sealed bidding. without technical evaluations and negotiations to ensure mutual understanding between each Respondent and Cochise County;

7.11.2. An invitation for bids may be issued requesting the submission of technical offers to be followed by an invitation for bids limited to those bidders whose offers are determined to be technically acceptable under the criteria set forth in the first solicitation, except that the multi-step sealed bid method may not be used for construction contracts.

7.11.3 The Procurement Officer may hold a conference with Respondents before submission or at any time during the evaluation of the un-Priced Proposals.

7.11.4. All other requirements for competitive sealed bids will apply to multi-step sealed bidding procedures.

7.12 Competitive Sealed Proposals

7.12.1 Conditions for Use. Unless otherwise prohibited, a contract may be entered into by the use of Competitive Sealed Proposals if Competitive Sealed Bidding is either not practicable or not advantageous to Cochise County.

7.12.1.1 The Procurement Director may determine that it is either not practicable or not advantageous to Cochise County to procure specified types of Commodities or Services by Competitive Sealed Bidding, except that the Competitive Sealed Proposal method shall not be used for Construction Contracts.

7.12.1.2. Proposals shall be solicited through a Request for Proposals.

7.12.2 Public notice of the Request For Proposals shall be given in the same manner as provided in Section 7.1.3 (Competitive Sealed Bidding).

7.12.2.1 Proposals shall be opened publicly at the time and place designated in the Request for Proposals. Only the name of each Respondent shall be publicly read and recorded. All other information contained in the Proposals shall be deemed confidential until Award of the Solicitation. All information contained in the Proposals shall be open for public inspection after Contract Award of the Solicitation, except those portions deemed confidential in accordance with Section 4.5 (Confidential Information).

7.12.2.2 The Request for Proposals shall list the evaluation criteria in the order of their importance, except that one or more of the criteria may be given equal weight. Specific numerical weighting is not required.

7.12.2.3 Clarifications may be requested from Respondents.

7.12.2.4 Negotiations may be conducted with Responsible Respondents who submit Proposals determined to be reasonably susceptible to being selected for Award. Revisions may be permitted after submissions and before Award for the purpose of obtaining Best and Final Offers. In conducting negotiations, there shall be no disclosure of any information derived from Proposals submitted by competing Respondents.

7.12.2.5 The Award shall be made to the Responsible Respondent whose Proposal is determined in writing to be the most advantageous to Cochise County taking into consideration the evaluation factors set forth in the Request For Proposals and the Local Vendor Preference Policy in Section 4.9. No other factors or criteria may be used in the evaluation. The Contract file shall contain a Written Determination of the basis for the Award.

7.12.3 Evaluation of Proposals

7.12.3.1 Evaluation Criteria. The request for proposals shall state the criteria to be used in the evaluation of the proposals and may include their relative importance. Specific numerical weighting is not required. No criteria may be used in proposal evaluation that is not set forth in the bid documents.

7.12.3.2 Selection Committee. The Procurement Director or designated representative shall appoint a selection committee to evaluate the proposals and make a

recommendation based on the criteria set forth in the request for proposals. No other factors or criteria may be used in the evaluation.

7.12.3.3 Discussion with Offerors. Discussions may be conducted with responsible offerors.

7.12.4 Negotiations with Responsible Offerors and Revisions to Proposals. Negotiations may be conducted with responsible offerors. Offerors shall be accorded fair and equal treatment in conducting negotiations and there shall be no disclosure of any information derived from proposals submitted by competing offerors.

7.12.4.1 Concurrent Negotiations. Negotiations may be conducted concurrently with responsible offerors for the purpose of determining source selection and/or contract award.

7.12.4.2 Exclusive Negotiations. Exclusive negotiations may be conducted with the responsible offeror whose proposal is determined in the selection process to be most advantageous to the County. Exclusive negotiations may be conducted subsequent to concurrent negotiations or may be conducted without requiring previous concurrent negotiations. Exclusive negotiations shall not constitute a contract award nor shall it confer any property rights to the successful offeror. If exclusive negotiations are conducted and an agreement is not reached, the County may enter into exclusive negotiations with the next highest ranked offeror without the need to repeat the formal solicitation process.

7.12.5 Contract Award. Contract award shall be made by the Procurement Director, or if above \$100,000 by the Board of Supervisors, to the responsible offeror whose proposal is determined in writing to be the most advantageous to this County, taking into consideration price and the other evaluation criteria set forth in the request for proposals. The contract file shall contain the basis on which the award is made.

7.13 Cooperative Procurement (A.R.S. 41-§ 2632 and § 41-2634))

7.13.1 The Procurement Director shall have the authority to participate in, sponsor, conduct or administer a cooperative purchasing agreement for the procurement of any materials, services, or construction with one or more eligible procurement units in accordance with an agreement entered into between the participants when it is in the best interest of the County.

7.13.2 The County is not authorized to participate in cooperative purchasing unless, prior to the solicitation, an Intergovernmental or Cooperative Purchasing Agreement is executed between the parties. All agreements entered into pursuant to this Policy shall be signed by the Procurement Director and approved by the Board of Supervisors.

7.13.3 The Procurement Director shall determine, before entering into a cooperative purchasing agreement under which another public entity undertakes procurement that the public entity has conducted or will conduct procurement through competitive procedures reasonably similar to those set forth in this policy.

7.13.4 Parties under a Cooperative Agreement may:

- Sponsor, conduct or administer a Cooperative Agreement for the procurement or disposal of any materials, services or construction.
- Cooperatively use materials or services.
- Commonly use or share warehouse facilities, capital equipment and other facilities.
- On request, make available to other public procurement units informational, technical or other services that may assist in improving the efficiency or economy of procurement. The public procurement unit furnishing the informational or technical services has the right to request reimbursement for the reasonable and necessary costs of providing such services.

7.13.5. The activities described above do not limit what parties may do under a Cooperative Purchase Agreement.

7.14 Multi-term Contracts (A.R.S. § 41-2546)

7.14.1 Unless otherwise provided by law, contracts for materials or services shall be entered into for any period of up to one year with up to four one-year renewals. A contract may be entered into for an initial term exceeding one year if the Procurement Director determines in writing that such a contract would be advantageous to Cochise County. Payment and performance obligations for succeeding fiscal periods are subject to the availability and appropriation of monies.

7.14.2 A contract for job-order-contracting (JOC) construction services may be entered into for a period of time up to five years, as deemed to be in the best interest of the County, if the term of the contract and conditions of renewal or extension, if any, are included in the solicitation and monies are available for the first fiscal period at the time of contracting.

7.14.3 Before the execution of a contract exceeding one year it shall be determined in writing that:

- Estimated requirements cover the period of the contract and are reasonably firm and continuing, and
- Such a contract will serve the best interests of Cochise County by encouraging effective competition or otherwise promoting economies in Cochise County procurement.

7.14.4 If monies are not appropriated or otherwise made available to support continuation of performance in a subsequent fiscal year, the multiple year contract shall be cancelled at the County's request and the contractor may only be reimbursed for the reasonable value of any nonrecurring costs incurred at the county's request, but not amortized in the price of the materials or services delivered under the contract, or which are otherwise not recoverable. The cost of the cancellation may be paid from any funds available for such purposes.

7.15. Pre-qualification of Contracts (A.R.S. § 41-2541)

7.15.1. Prospective contractors may be required to be pre-qualified for particular types of materials, services and construction.

7.15.2. Prospective contractors have a continuing duty to provide the Procurement Director with information on any material change affecting the basis of pre-qualification.

7.16. * * Reserved for Future Use * *

7.17 Responsibility of Bidders and Offerors

7.17.1. A Written Determination of nonresponsibility of a Bid Respondent shall be made in accordance with this Policy. The unreasonable failure of a Respondent to promptly supply information in connection with an inquiry with respect to responsibility shall be grounds for a determination of Nonresponsibility with of the Respondent. A finding of nonresponsibility shall not be construed as a violation of the rights of any Person.

7.17.2 To the extent permitted by law, information furnished by a Respondent pursuant to this Section shall be confidential.

7.17.3 The Procurement Director shall determine that the Respondent is responsible before recommending an Award of the Contract to that Respondent.

7.17.4 Factors to be considered in determining if a Respondent is responsible include, but are not limited to:

- The proposed Vendors financial, physical, personnel or other resources, including subcontracts;
- The Respondent's length and record of performance and integrity;
- Whether the Respondent is legally qualified to Contract with Cochise County, and
- Whether the Respondent supplied all necessary information concerning its responsibility.

7.17.5 The Procurement Director may establish specific responsibility criteria for a particular procurement. Any specific responsibility criteria shall be set forth in the Solicitation.

7.17.6 If a Procurement Director determines that a Respondent is nonresponsible, the determination shall be in writing and set forth the basis for the determination. A copy of the determination shall be promptly sent to the nonresponsible Respondent. The final determination shall be made part of the Procurement file.

7.18 Contract Clauses

7.18.1 Contract Clauses. All County contracts for supplies, services, and construction shall include provisions necessary to define the responsibilities and rights of the parties to the contract. The Procurement Director, after consultation with the County Attorney, may issue clauses

appropriate for material, service, or construction contracts, addressing among others the following subjects:

- The unilateral right of the County to order in writing changes in the work within the scope of the contract;
- The unilateral right of the County to order in writing temporary stopping of the work or delaying performance that does not alter the scope of the contract;
- Variations occurring between estimated quantities of work in contract and actual quantities;
- Defective pricing;
- Liquidated damages;
- Specified excuses for delay or nonperformance;
- Termination of the contract for default;
- Termination of the contract in whole or in part for the convenience of the County;
- Suspension of work on a construction project ordered by the County; and
- Site conditions differing from those indicated in the contract, or ordinarily encountered, except that a differing site conditions clause need not be included in a contract;

(i) when the contract is negotiated;

(ii) when the contractor provides the site or design; or

(iii) when the parties have otherwise agreed with respect to the risk of differing site conditions.

7.18.2 Price Adjustments.

7.18.2.1 Adjustments in price resulting from the use of contract clauses required by Subsection 7.18.1 of this Section shall be computed in one or more of the following ways:

- By agreement on a fixed price adjustment before commencement of the pertinent performance or as soon thereafter as practicable;
- By unit prices specified in the contract or subsequently agreed upon;
- By the costs attributable to the events or situations under such clauses with adjustment of profit or fee, all as specified in the contract or subsequently agreed upon;
- In such other manner as the contracting parties may mutually agree; or
- In the absence of agreement by the parties, by a unilateral determination by the County of the costs attributable to the events or situations under such clauses with adjustment of profit or fee as computed by the County as accounted for in accordance with Section 7.18.4 (Cost Principles).

7.18.2.2 A contractor shall be required to submit cost or pricing data if any adjustment in contract price is subject to the provisions of Section 7.18.4 (Cost Principles).

7.18.3 Standard Clauses and Their Modification. The Procurement Director, after consultation with the County Attorney, may establish standard contract clauses for use in County contracts. If the Procurement Director establishes any standard clauses addressing the subjects set forth in Subsection 7.18.1 of this Section, such clauses may be varied with the Procurement Director's approval.

7.18.4 Cost Principles. The Procurement Director shall establish cost principles which shall be used to determine the allow ability of incurred costs for the purpose of reimbursing costs under contract provisions which provide for the reimbursement of costs.

7.18.5 Cost or Pricing Data. The submission of current cost or pricing data may be required in connection with an award in situations in which analysis of the proposed price is essential to determine that the price is reasonable and fair.

7.18.5.1 Any contract, change order or contract modification under which cost or pricing data is required may contain a provision that the price to the County shall be adjusted to exclude any significant amounts by which the County finds that the price was increased because the contractor-furnished cost or pricing data was inaccurate, incomplete or not current as of the date agreed on between the parties. Such adjustment by the County may include profit or fee.

7.18.5.2 The requirements of this section need not be applied to contracts if any of the following apply:

- The contract price is based on adequate price competition.
- The contract price is based on established catalogue prices or market prices.
- Contract prices are set by law or regulation.

7.19 Bid and Contract Security (A.R.S. § 41-2573; § 11-254.01)

7.19.1 Except as prescribed by A.R.S. § 41-2573, A.R.S. § 41-2574, the Procurement Director may require the submission of security to guarantee faithful bid and contract performance. In determining the amount and type of security required for each contract, the Procurement Director shall consider the nature of the performance and the need for future protection for the County. The requirement for security must be included in the invitation for bids or request for proposals. Nothing in this section prevents the County from requiring such bonds in relation to any construction contract.

7.19.2 Bid and Performance Bonds for Material or Service Contracts

7.19.2.1 Bid, Performance Bonds and/or Payment Bonds or other security may be required for Commodity or Service Contracts if the Procurement Director determines that such requirement is advantageous to Cochise County. The requirement for any such bond shall be included in the Solicitation.

7.19.2.2 Bid or Performance Bonds shall not be used as a substitute for a determination of Respondent responsibility.

7.19.2.3 . If a Bid is withdrawn at any time before Bid closing, any Bid security shall be returned to the Respondent.

7.19.2.4 Submission of Bid and Contract security shall comply with the requirements of Section 13.18 (Bond Requirements).

7.20 Contract Award and Notice to Proceed. All Contracts, with a value of \$100,000 or more will be Awarded by the Board of Supervisors and signed by the Chairman of the Board unless the authority has been clearly delegated and authorized to others by the Board. Upon receipt of the signed copy of the Contract from the Board Clerk, the Procurement Director or County Engineer will issue the Notice to Proceed. Purchase Orders that are based on an Intergovernmental (IGA), or Cooperative Agreement may be signed by the Procurement Director regardless of value.

7.21 Contracts Administration. Contracts administration primarily consists of actions, which must be taken by the Procurement Department from the time a contract is awarded until the supplies, or services have been delivered and accepted, and payment has been made.

7.21.1 Once the purchase has been made or the contract awarded, the Contracts Administrator is the primary link between the supplier and the using department to handle problems arising from the procurement action.

7.21.2 User departments are responsible for providing information to the Contracts Administrator to assure that the supplier delivers the product or service to the County user in accordance with the terms and conditions of the contract issued by the Procurement Office.

7.21.3 To ensure consistent contractor compliance, the Contracts Administrator's actions include, but are not limited to the following tasks:

- Holding pre-performance conferences to emphasize County requirements and contractor responsibilities under certain complex or critical contract programs.
- Follow up with the contractor and user department on problems occurring during the period of performance. It is the responsibility of the user department to document vendor performance on contracts and provide this information to the Contracts Administrator. This information is crucial in determining vendor performance and directly effects contract extensions or terminations.
- Upon notification from departments, and supported by documentation provided by the using department, a letter of non-performance will be sent to a vendor who has unsatisfactorily performed on a County contract. This notice may state performance standards that must be satisfied by a time indicated, quantity of goods to be provided, or quality of service provided.
- Follow-up on past due purchase orders and expedite delivery as necessary.

- Take necessary actions to amend existing contracts through required approval channels.
- Take necessary actions to terminate existing contracts, when required, through approved channels.
- Resolve contract provision disputes within the authority limits granted by the Board of Supervisors, Arizona State Statutes, and County Policies and Procedures.

7.22 Approval of Accounting System

7.22.1 Except with respect to firm Fixed-Price Contracts, no Contract type may be used unless it is determined in writing by the Procurement Director that the proposed Contractor's accounting system is adequate to document and allocate Costs.

7.22.2 Before the Award of any Contract, except a firm Fixed-Price Contract, the Procurement Director may determine in writing that the proposed Respondent's accounting system will permit timely development of all necessary Cost Data in the form required by the specific Contract type contemplated and is adequate to allocate Costs.

7.23 Right to Inspect Plant. The County may inspect the part of the plant or place of business of a Contractor or subcontractor which is related to the performance of any Contract Awarded or to be Awarded by Cochise County.

7.24 Right to Audit Records

7.24.1 The County may, at reasonable times and places, audit the books and records of any person who submits Cost or pricing Data or is Awarded a Cost reimbursement Contract to the extent that the books and records relate to the Cost or pricing Data. Any Respondent who receives a Contract, change order or Contract modification for which Cost or pricing Data is required shall maintain the books and records that relate to the Cost or pricing Data for five years from the date of final payment under the Contract, unless a different period is required.

7.24.2 The County is entitled to audit the books and records of a Respondent or any subcontractor under any Contract or subcontract to the extent that the books and records relate to the performance of the Contract or subcontract. The books and records shall be maintained by the Respondent for a period of five years from the date of final payment under the prime Contract and by the subcontractors for a period of five years from the date of final payment under subcontract, unless a different period is required.

7.25 Reporting Of Anticompetitive Practices

7.25.1 If for any reason collusion or other anticompetitive practices are suspected among any Respondents, a notice of the relevant facts shall be transmitted to the Procurement Director and to the State Attorney General. This section does not require a law enforcement agency conducting an investigation into such practices to convey such notice to the Procurement Director.

7.25.2 Upon submitting a Response to a Solicitation, Respondent must certify that its submission did not involve collusion or other anticompetitive practices.

7.26 Electronic Procurement

7.26.1 Authorization for Use. Under such procedures as the Procurement Director determines, the Procurement Department may use electronic documents as a means of communication to distribute or publicize solicitations, receive responses, conduct discussions or negotiations, award contracts or purchase orders, issue orders under contracts or purchase orders, communicate with bidders or respondents to a solicitation, or perform any other act in the performance of the procurement function.

7.26.2 The procedures may include requirements for bidders or respondents to any solicitation to register before the opening or receipt date and time and, as part of the registration, agree to any terms, conditions or other requirements of the solicitation, and may include requirements for bidders or respondents to be pre-qualified to submit bids or other responses electronically.

7.26.3 The electronic media and means of communication used for electronic procurement shall ensure that:

- There is appropriate security to prevent unauthorized access to bidding, evaluation, approval and award processes; and
- There is the capability for accurate retrieval and conversion of electronic documents into a medium that provides for inspection and copying.

7.26.4 This authority may be used for any procurement or type of procurement, or sale of surplus property, or approval, authorized or required by this Policy, including emergency and other limited competition procurements under Section 10 (Emergency Procurement).

7.26.5. On-line Solicitations: An on-line bidding solicitation shall set forth the specifications and the evaluation criteria. The on-line solicitation shall designate an opening date and time.

7.26.6. The closing date and time for an on-line solicitation may be fixed or remain open depending on the structure of the procurement and/or item or service being procured. Information regarding the closing date and time shall be included in the solicitation.

7.26.7 Correction or Withdrawal of Bids. The Procurement Director is authorized to approve the correction or withdrawal of on-line bids as described in Section 7.6 (Correction or Withdrawal of Bids).

7.26.8. Bid Evaluation and Award. Responses to electronic solicitations shall be evaluated to determine which bid is the most advantageous to the county concerning price, conformity to the specifications and other factors.

7.26.8.1. A response that does not meet the specifications shall be rejected as non-responsive.

7.26.8.2 The contract shall be awarded to the responsible Respondent whose bid or response is determined to be the most advantageous to the County concerning price, conformity to the specifications and other factors. In the case of bids for goods or non-construction services, price shall be evaluated without regard to applicable taxes.

SECTION EIGHT: PROCUREMENTS NOT EXCEEDING AN AGGREGATE AMOUNT OF ONE HUNDRED THOUSAND DOLLARS (\$100,000.00) (A.R.S. § 41-2535)

8.1 Non-Emergency Procurement under \$100,000. Any procurement which does not exceed an aggregate dollar amount of fifty thousand dollars may be made in accordance with procedures promulgated by the Procurement Director, except that the procurements shall be made with such competition as is practicable under the circumstances. See Section 4.9 for Local Vendor Preference Policy. Procurement requirements shall not be artificially divided or fragmented so as to constitute a purchase under this section and to circumvent the source selection procedures required by A.R.S. Section 41-2533 or Section 41-2534 or be artificially combined to circumvent this section.

8.1.1 Written Quotations: If practical, purchases estimated to cost more than \$5,000 but less than \$100,000 shall be made in accordance with the following procedures:

8.1.1.1 The Procurement Director or designee shall solicit written quotations by issuing a Request for Quotations to at least three vendors, if possible.

8.1.1.2 Bidders shall submit quotes to the Procurement Director in a format accepted by the Director, and all quotes received shall be retained in the Purchase Order File.

8.1.1.3 The award is made to the lowest bidder meeting specification requirements concerning price, conformity to specifications, and other Procurement factors.

8.1.1.4 If only one responsive quotation is received, a statement shall be included in the contract file setting forth the basis for determining that the price is fair and reasonable. This determination may be based on a comparison of the proposed price with prices found reasonable on previous purchases or current price lists.

8.1.2 Written Quotations: If practical, purchases estimated to cost more than \$1,000.00 but less than \$35,000.00 shall be made in accordance with the following procedures:

- Purchases between \$1,000 and \$4,999 require two (2) -Quotes
- Purchases between \$5,000 and \$35,000 require three (3) Quotes.

8.1.2.1 A record of vendor verbal quotations shall be documented by the responsible Buyer and included in the purchase order file to include date, person spoken to, vendor, unit price, total, terms and justification for the purchase if from other than the low bidder.

8.1.2.2 The award is made to the lowest responsive and responsible bidder meeting specification requirements concerning price, conformity to specifications, and other procurement factors.

8.2 Delegated Purchases Up To \$1,000

8.2.1 Departments are authorized to make individual purchases for materials up to \$1,000.00 (including tax and freight) if, in the opinion of the department head, such direct purchases are in the best interests of the County and are allowed for delegated purchasing. The P-Card shall be the preferred method for delegated purchases. Otherwise, the use of payment via demand shall be acceptable.

8.2.2 The delegation of authority to make small purchases is intended to facilitate the economical and orderly procurement of materials and services by County departments. The privileges extended to departments under this policy are not intended as a substitute for centralized purchasing, nor are they to be used to engage in widespread purchasing without adequate analysis and competition. Purchases may not be artificially split to avoid this provision.

8.2.3 There are certain products or services which are **not** authorized for delegated purchasing. These products and services may change from year to year at the direction of the Procurement Director, but generally they include products or services available through County-wide contracts established to take advantage of volume buying, purchases requiring specific approvals, such as software and computers, or personal services which by their nature require special contract consideration. The Procurement department shall post and maintain a list of restricted purchases on the procurement intranet.

8.2.4 Upon written request to the Procurement Director, higher Procurement Card limits for designated employees may be granted if fully justified. This approval may be requested for a one-time exception or for an indefinite period of time with approval of the Finance Director.

SECTION NINE: PREPARATION OF SPECIFICATIONS

9.1 Definition. As used in this policy, “Specification” is used interchangeably with “scope” or “scope of work” and means any description of the physical or functional characteristics, or the nature of a material, service or construction item. A Specification should include a description of any requirement for inspecting, testing, or preparing a material, service, or construction item for delivery. The Procurement Department may request advice and assistance from personnel of using departments in the development of specifications.

9.2 Maximum Practicable Competition

9.2.1 All specifications shall be written to encourage full and open market competition. Requester must ensure that specifications are not unduly restrictive and do not represent unnecessary or duplicative items. Exceptions to this policy are permitted to allow for Sole Source Procurements and purchases under the Standardization Policy (See Section 11.0). Specifics must be included with the purchase request.

9.2.2 To the extent practicable and unless otherwise permitted by this Policy, all specifications shall describe the County’s requirements in a manner that does not unnecessarily exclude a material, service, or construction item.

9.2.3 Proprietary specifications shall not be used unless the Procurement Director determines in writing that such specifications are required by demonstratable technology justification and that is not practicable or advantageous to use a less restrictive specification. Past success in the material's performance, traditional purchasing practices, or inconvenience of drawing specifications do not justify the use of proprietary specifications.

9.2.4 To the extent practicable, the County shall use accepted commercial specifications and shall procure standard commercial materials.

9.3 Specifications Prepared by Other Than County Personnel

9.3.1 All specifications, including those prepared by architects, engineers, consultants and others for public contracts, or subcontractors, shall seek to promote overall economy of the purpose intended and encourage competition in satisfying this County's needs and shall not be unduly restrictive. No person preparing specifications shall receive any direct or indirect benefit from the utilization of such specifications.

9.3.2 The requirements of this Section shall apply to all Specifications prepared by other than Cochise County Personnel. Contracts for the preparation of Specifications by other than County personnel shall require that the Specification writer to comply with all provisions of this Policy.

9.4 Brand Name or Equal Specifications

9.4.1 A brand name or equal specification may be used when the Procurement Department determines that use of brand name or equal specifications is advantageous to the County and that:

- No specification for a common or general use item or Qualified Products List is available;
- Time does not permit the preparation of another form of Specification, other than a Brand Name or Equal Specification; or
- The nature of the product, or Cochise County's requirements makes use of a Brand Name or Equal Specification suitable for the procurement

9.4.2. Such determination may be made for categories of Materials, Services or Construction items or, in appropriate circumstances, for an entire Procurement action even though a number of different items are being procured.

9.4.3. A Brand Name or Equal Specification shall designate as many different brands as are practicable as "or equal" references.

9.4.4. A Brand Name or Equal Specification shall include a description of the particular design, functional, or performance characteristics that are required unless the Procurement Director determines that the essential characteristics of the brand names designated in the Specifications are commonly known.

9.4.5. A Solicitation that uses a Brand Name or Equal Specification shall explain that the use of a brand name is for the purpose of describing the standard of quality, performance, and characteristics desired and is not intended to limit or restrict competition. The Solicitation shall state that products substantially equivalent to those brands designated shall qualify for consideration.

9.5 Brand Name Specification

9.5.1. A Brand Name Specification may be prepared and utilized only if the Procurement Director makes a Written Determination that only the identified brand name item will satisfy Cochise County's needs.

9.5.2. If a Brand Name Specification is utilized, the Procurement Director shall, to the extent practicable, identify sources from which the designated brand name item can be obtained and shall solicit such sources to achieve the maximum practicable competition. If only one source can supply the requirement, the procurement shall be made under the provisions of Section 9.8.

9.6 Qualified Products List. A Qualified Products List may be prepared and utilized when:

9.6.1 The Procurement Director determines that testing or examination of the Materials or Construction items prior to issuance of the Solicitation is desirable or necessary in order to best satisfy Cochise County's requirements.

9.6.2 The Procurement Director has solicited as many potential suppliers as practicable to submit products for testing and examination to determine acceptability for inclusion on a Qualified Products List. Any potential supplier, even though not solicited, may offer its products for consideration in accordance with the schedule or procedure established for this purpose. The Qualified Products List shall not be modified after the Solicitation is issued.

9.6.3 Qualified Products Lists' test results shall be made available in a manner to protect the identity of the supplier.

9.7 Total Life Cycle Cost Procurement (A.R.S. §§ 41-2553 & 41-2554)

9.7.1 Procurement of Information Systems and Telecommunications.

9.7.1.1 Notwithstanding the criteria for contract award prescribed in Section 7.1 (Competitive Sealed Bidding), a contract for Information Systems or Telecommunication Systems shall be awarded to the lowest Responsible and Responsive bidder whose bid conforms in all material respects to the requirements and criteria set forth in the Invitation For Bids, which shall include as price evaluation criteria the Total Life Cycle Cost and Application Benefits of the Information Systems or Telecommunication Systems to the County. No factors or criteria, other than those set forth in the solicitation, may be used in the evaluation of bids for Information Systems or Telecommunication systems. Procedures for awarding contracts for Information Systems or Telecommunications Systems pursuant to this subsection shall be the same as those prescribed in Section 7.1 (Competitive Sealed Bidding).

9.7.1.2 Notwithstanding the criteria for contract award prescribed in Section

7.12 (Competitive Sealed Proposals), a contract for Information Systems or Telecommunications Systems shall be awarded to the responsible bidder whose proposal is determined in writing to be the most advantageous to Cochise County, taking into consideration the evaluation factors set forth in the Request For Proposals, which shall include as evaluation factors the Total Life Cycle Cost and Application Benefit of each proposal. No factors or criteria, other than those set forth in the solicitation, may be used in the evaluation of proposals for Information Systems or Telecommunications Systems. Procedures for awarding a contract for Information Systems or Telecommunication Systems pursuant to this subsection shall be the same as those prescribed in Section 7.9 (Contract Award in Competitive Bidding).

9.7.1.3 Notwithstanding subsections 9.7.1.1 and 9.7.1.2 , when utilizing an existing requirements Contract for one or more similar systems under this section that is awarded to more than one bidder for Information or Telecommunications Systems, before the I.T. Department acquires such a system, it shall take into account the Total Life Cycle Cost and Application Benefit of the systems in the manner that the Total Life Cycle Cost and Application Benefit are taken into account under Subsections 9.7.1.1 and 9.7.1.2.

9.7.1.4 The Procurement Director need not use all the above referenced evaluation criteria if the Procurement Director makes a written determination to the procurement file that it has been determined the use of the specified evaluation criteria is not in the best interests of the County.

9.7.2 Procurement of Earth Moving, Material Handling, Road Maintenance and Construction Equipment: Definitions

9.7.2.1 Notwithstanding the criteria for Contract Award prescribed in Section 7.1 (Competitive Sealed Bidding), a Contract for Earth Moving, Material Handling, Road Maintenance and Construction Equipment shall be awarded to the lowest Responsible and Responsive Respondent whose Bid conforms in all material respects to the requirements and criteria set forth in the Invitation to Bid, which shall include as Price evaluation criteria the Total Life Cycle Cost including residual value of the Earth Moving, Material Handling, Road Maintenance and Construction Equipment and such other additional evaluation factors set forth in the Invitation to Bid. No factors or criteria may be used in the evaluation of Solicitations for Earth Moving, Material Handling, Road Maintenance and Construction Equipment, other than those specified in the Invitation to Bid. Additional evaluation factors shall include, to the extent practicable, outright purchase. The Contract Award shall be based on the Price evaluation criteria deemed by Cochise County to be the most advantageous. Procedures for Awarding Contracts for Earth Moving, Material Handling, Road Maintenance and Construction Equipment pursuant to this subsection shall be the same as those prescribed in Section 7.1 (Competitive Sealed Bidding).

9.7.2.2 Notwithstanding the criteria for Contract Award prescribed in Section 7.12 (Competitive Sealed Proposal), a Contract for Earth Moving, Material Handling, Road Maintenance and Construction Equipment shall be awarded to the responsible bidder whose Proposal is determined in writing to be the most advantageous to Cochise County. The evaluation factors set forth in the Invitation for Bid shall include the Total Life Cycle Cost including residual value and such other additional evaluation factors set forth in the Solicitation. No factors or criteria may be used in the evaluation of Proposals for Earth Moving, Material Handling, Road Maintenance and Construction Equipment, other than those specified in the Solicitation. Additional evaluation factors

set forth in the Solicitation shall include, to the extent practicable, outright purchase. The Contract Award shall be based on the Price evaluation criteria deemed by Cochise County to be most advantageous. Procedures for awarding a Contract for Earth Moving, Material Handling, Road Maintenance and Construction Equipment pursuant to this Subsection shall be the same as those prescribed in Section 7.12 (Competitive Sealed Proposals).

9.7.2.3 The Procurement Director may issue a Request for Information to obtain data about Services or Commodities available to meet a specific need. Adequate public notice shall be given as specified in Section 7.1.3.

9.7.2.4 The Procurement Director need not use all the above referenced evaluation criteria if the Procurement Director makes a written determination to the procurement file that it has been determined the use of the specified evaluation criteria is not in the best interests of the County.

9.8 Sole Source Procurement (A.R.S. § 41-2536)

9.8.1 General Information. A sole source purchase is the purchase of a commodity available from only one supplier. The provisions of this Section apply to all Sole Source Procurement unless emergency conditions exist as defined in Section 10.1. (Emergency Procurement).

9.8.1.1 A purchase of this type generally is of a special nature because of the technological, specialized or unique character and can only be purchased from one supplier. The user department will be required to justify, in writing, the reasons for selecting a product or service that is available from a sole source only, including obtaining the necessary Board approval as indicated in Section 9.8.2.4.

9.8.1.2 Sole source purchases are contrary to public purchasing procedures and shall be avoided, except when no reasonable alternative sources exist, and therefore the selection of products or services of a sole source nature must be limited as much as possible. The only justifications for sole source purchases are:

- The purchase of a sole source item is to the County's best economic interest; or,
- The items are generally classified as "captive" source items and cannot be procured from other sources because of manufacturer marketing arrangements, patents, etc.

9.8.2 Sole Source Procurement Procedures

9.8.2.1 Sole Source Procurement must be justified in writing by the Department Head. Procurement Director will be responsible for providing necessary Forms and Procedures for Sole Source Procurement.

9.8.2.2 When an item or service is required which is thought to be available only from a single supplier, the following procedures shall be followed:

9.8.2.3 Sole Source must be approved by Procurement as long as there is sufficient researched justification to support that it is a true sole source.

9.8.2.4 A record of sole source procurements shall be maintained as a public

record. The Board of Supervisors by a vote of two thirds of its membership may make, or authorize the Procurement Director to make, sole source procurements exceeding \$100,000.

9.9 Cancellation of Solicitation.

9.9.1 An Invitation for Bids, a Request for Proposals, a Request for Qualifications or other solicitation may be cancelled, or any or all bids, proposals or statement of qualifications may be rejected in whole or in part as may be specified in the solicitation, when it is in the best interest of the County. Each solicitation issued by the County shall state that the solicitation may be cancelled and that any bid, proposal or statement of qualification may be rejected in whole or in part when in the best interests of the County.

9.9.2 Cancellation Prior to Opening.

9.9.2.1 As used in this Section, "opening" means the date and time set for opening of bids, receipt of statements of qualifications or receipt of proposals in competitive sealed proposals.

9.9.2.2 A solicitation may be cancelled in whole or in part when the Procurement Director determines in writing that such action is in the County's best interest for reasons including but not limited to:

- the County no longer requires the materials, services, or construction;
- the County no longer can reasonably expect to fund the procurement; or
- proposed amendments to the solicitation would be of such magnitude that a new solicitation is desirable.

9.9.2.3 When a solicitation is cancelled prior to opening, notice of cancellation shall be sent to all persons solicited. The notice of cancellation shall:

- Identify the solicitation;
- Briefly explain the reason for cancellation; and
- Where appropriate, explain that an opportunity will be given to compete on any re-solicitation or any future procurements of similar materials, services, or construction.

9.9.3 Cancellation after opening but prior to award, all bids, proposals or requests for qualifications may be rejected in whole or in part when the Procurement Director determines in writing that such action is in the County's best interest for reasons including but not limited to:

- the materials, services, or construction being procured are no longer required;
- ambiguous or otherwise inadequate specifications or scopes of work were part of the solicitation;
- the solicitation did not provide for consideration of all factors of significance to the County;
- prices exceed available funds and it would not be appropriate to adjust quantities to come within available funds;
- all otherwise acceptable bids, statements of qualifications or proposals received are at clearly unreasonable prices; or
- There is reason to believe that the bids, statements of qualifications or proposals may not have been independently arrived at in open competition, may have been collusive, or may have been submitted in bad faith.

9.9.3.1 A notice of rejection shall be sent to all persons that submitted bids, statements of qualifications or proposals.

9.9.3.2 If all bids, proposals, or request for qualifications are rejected, all bids, proposals or statements received shall remain, to the extent possible, confidential.

9.9.3.3 Documentation. The reasons for cancellation or rejection shall be made a part of the procurement file and shall be available for public inspection.

9.9.4 Rejection of Individual Bids, Proposals, or Statements of Qualifications

9.9.4.1 A bid may be rejected if:

- the bidder is determined to be nonresponsible pursuant to Section 7.17 (Responsibility of Bidders and Offerors); or
- the bid is nonresponsive in accordance with Section 7.9 (Competitive Sealed Bidding).

9.9.4.2 A proposal, statement of qualifications, or quotation may be rejected if:

- person responding to the solicitation is determined to be nonresponsible pursuant to Section 7.17 (Responsibility of Bidders and Offerors); or
- it is unacceptable;
- the proposed price, unless prohibited, is unreasonable; or it is otherwise not advantageous to the County.

9.9.4.3 Reasons for rejection shall be provided upon request by unsuccessful bidders or offerors.

SECTION TEN: EMERGENCY PROCUREMENT: DEFINITION AND PROCEDURE

10.1 Definition: Emergency conditions may arise from, but are not limited to, floods, epidemics, riots or equipment failures. An emergency condition creates an immediate and serious need for commodities, services or construction that cannot be met through normal Procurement methods and that seriously threatens the functioning of Cochise County Government, the preservation of property or the public health or safety. The Board of Supervisors, by a two-thirds vote, may declare a procurement emergency.

10.1.1 Notwithstanding any other provisions of this Policy, upon declaration of an emergency or other approval as required under Section 12. (Procurement of Technical & Professional Services), The County Administrator, Deputy County Administrator or the Procurement Director, as set forth in Section 10.2, may make or authorize others to make emergency Procurements if there exists a threat to public health, welfare, property or safety or if a situation exists which makes compliance with Section 7.1 (Competitive Sealed Bidding) or Section 7.12 (Competitive Sealed Proposals) impracticable, unnecessary or contrary to the public interest.

10.1.2 Emergency procurements shall be made with such competition that is practicable under the circumstances. A Written Determination of the basis for the emergency and for the selection of the particular Contractor shall be included in the Contract file.

10.1.3 An emergency Procurement shall be limited in time and quantity to those Commodities, Services or Construction necessary to satisfy the emergency need.

10.2 Emergency Procurement Procedure

10.2.1 A Department seeking an emergency Procurement shall prepare a memorandum documenting the existence of an emergency condition; how it arose; and explaining the extent of procurement needed. The memorandum shall be approved by the Elected Official, Department Head or other designated official of the requesting department.

10.2.2 Emergency Procurements based on a declared emergency are to include a copy of the Emergency Resolution with the requisition. All emergency Procurements in excess of \$100,000 must be approved by the County Administrator or Deputy County Administrator. Emergency Procurement requisitions' not exceeding \$100,000 may be approved by the Procurement Director.

10.2.3 The County Administrator or Deputy County Administrator shall determine in writing whether to grant the request. If the requisition is approved by the County Administrator or Deputy County Administrator, it shall be forwarded to the Procurement Department for expeditious processing. The County Administrator or Deputy County Administrator shall submit to the Board of Supervisors, by the last business day of each month, and for successive months, as applicable, a report providing a status of the emergency until the situation has been satisfactorily resolved.

10.2.4 A copy of each requisition processed under this procedure shall be kept on file in the Using Department requesting the emergency procurement and the Cochise County Procurement Department.

10.2.5 If the nature of the emergency does not permit submission of a timely requisition, the Elected Official or Department Head may make an oral request to the County Administrator or Deputy County Administrator who may make an oral determination and delegation. The memorandum required under Subsection 10.2.1 shall be submitted to the County Administrator or Deputy County Administrator for formal approval within two working days following the initiation of the Emergency purchase and forwarded to the Procurement Director.

10.2.6 The County Administrator or Deputy County Administrator may approve a written request subsequent to the Procurement if:

- The emergency necessitated immediate response and it was impracticable to contact the County Administrator or Deputy County Administrator,
- The procurement was made with as much competition as was practicable under the circumstances,
- The price paid was reasonable,
- The request required under Subsection 10.2.1 was submitted to the County Administrator or Deputy County Administrator.

SECTION ELEVEN: STANDARDIZATION POLICY

11.1. When to Use Standardization. Standardization may be used as an evaluation criteria in determining the award of quotations, bids and proposals. Whenever possible, the decision to standardize shall be made for equipment or components that have, and will continue to have, multiple sources.

11.1.1 Standardization may be used to obtain any of the following benefits:

- Ability to stock repair parts for multiple equipment;
- Reduction in training time;
- Increased skill in maintenance and repair;
- Competitive pricing on volume parts purchases; and
- Reduction of down time because of interchangeable components;

11.2 Uniformity. Standardization may be used to continue to purchase equipment which maintains uniformity with a category or type of equipment already owned by the County, a department or group of departments.

11.3 Evaluation Criteria. When standardization will be used as an evaluation criteria in determining the award of a solicitation, that criteria must be listed in the solicitation specifications or in a timely addendum to the solicitation.

11.4 Must be uniformly used. Once the standardization criteria is used for the purchase of a category or type of equipment, it must be uniformly used as a factor until models or specifications change so that a purchase of the same "brand" or type no longer constitutes uniformity in the equipment type or category or the standardized equipment no longer performs satisfactorily.

11.5 Cannot be a criterion for an award. Standardization may not be used as the sole criteria for determining an award or as a factor in purchasing a new category or type of equipment.

11.6 Not to establish Sole Source. Standardization must not be used to establish a sole source supplier unless there is compelling technological justification. Such justification must be documented in writing by the Department Head or Elected Official and included with the initial request for the purchase.

SECTION TWELVE: PROCUREMENT OF TECHNICAL AND PROFESSIONAL SERVICES (A.R.S § 41-2538, 41-2578, 34-103)

12.1 Technical and Professional Services: These services are defined as infrequent, technical, and/or unique functions performed by independent contractors/consultants whose occupation is the rendering of such services. While not limited to licensed occupations, the services are considered "professional," and the contract may be awarded to partnerships, firms, or corporations as well as individuals.

12.1.1 Technical and professional services may, when in the best interest of the County, be procured via Competitive Sealed Proposals as described in Section 7.12.

12.1.2 Technical and professional services include, but are not limited to:

- Accounting and Billing Services
- Appraisal Services
- Artists
- Communications; Graphic Design
- Consulting Services (various)
- Data Processing Assessments
- Engineering Services
- Environmental Studies
- Financial and Operational Audits
- Industrial Planning and Human Engineering
- Land surveys and aerial surveying services
- Legal services, except witnesses or consultants retained for litigation or potential litigation
- Management Information Systems Studies
- Organizational Studies

- Personnel, Job Classifications, and Benefit Studies
- Planning and Budgeting Studies
- Property Management Services
- Quality Improvement and Process Analysis Studies
- Surveys and Feasibility Studies
- Technology Implementation Services
- Training Services
- Translation Services

12.2 Criteria for selection will include but not be limited to:

- Professional - Technical competence
- Available capacity to perform the specific work within the stipulated time frame.
- The merit of the proposed concept or method to be used in achieving the specific desired objective or end product.
- Proposed total cost, including fees

12.3 Contracting for Legal Professional Services (A.R.S. §§ 41-2513 & 41-192)

12.3.1 For the purpose of procuring the services of legal counsel, as defined by the laws of the state, the County Attorney may procure such services, except that all contracts exceeding \$100,000 in amount shall require approval by resolution of the Cochise County Board of Supervisors. No contract for the services of legal counsel may be awarded without the authorization of the County Attorney except as otherwise provided by law.

12.3.2 Selection Procedure for Services of Legal Counsel.

12.3.2.1 Conditions for Use. Unless determined by the County Attorney that direct selection is in the best interest of the County or except as provided under Section 9.8 (Sole Source Procurement) or Section 10.2 (Emergency Procurements), the services of legal counsel shall be procured in accordance with this section.

12.3.2.2 Statement of Qualifications. Persons engaged in providing the services of legal counsel may submit statements of qualifications and expressions of interest in providing such services. The County Attorney may specify a uniform format for statements of qualifications. Persons may amend these statements at any time by filing a new statement.

12.3.2.3 Public Announcement. The County Attorney shall give adequate notice of the need for such services. The notice shall describe the services required, list the types of information and data required of each offeror, and state the relative importance of particular qualifications.

12.3.2.4 Discussions. The County Attorney or a designee may conduct discussions with any offeror who has submitted a proposal to determine such offeror's qualifications for further consideration. Discussions shall not disclose any information derived from proposals submitted by other offerors.

12.3.2.5 Award over \$100,000 shall be made by the Board of Supervisors to the offeror determined in writing by the County Attorney or a designee to the best qualified and after negotiation of compensation determined to be fair and reasonable.

12.4 Procurement of Professional Services Procedure

12.4.1 The Requesting Department requiring Professional Services will prepare a Scope of work and purchase requisition and forward it to the Procurement Department for processing.

12.4.2 The Procurement Director shall issue a Request for Proposals (RFP) or Request for Qualifications (RFQ) for each contract and give adequate public notice of the Request for Qualifications in the same manner as provided in A.R.S § 41-2533.

12.4.3 Determination of Selection Process: After approval by the Department Head or delegate, the Procurement Department determines the best selection process for purchasing the required professional services. The Procurement Department may use any of the following processes.

- Request for Proposals (RFP) – An RFP is the primary selection process for professional services. The process includes soliciting proposals from offerors.
- Request for Qualifications (RFQ) – An RFQ is used to select a firm or to develop an on call list of qualified firms. An RFQ is recommended when the scope of work is not clearly defined, when a service is frequently used, or when multiple departments are expected to have a need for the same type of service i.e. the Facilities Management and Community Development Departments.

SECTION THIRTEEN: PROCUREMENT OF CONSTRUCTION AND RELATED ARCHITECT/ENGINEER CONSULTANT SERVICES

13.1 Purpose. This Section of the Cochise County Procurement Policy defines the requirements and authorities for procurement and contract activities associated with the design, construction, reconstruction and remodel of County facilities. This Policy also applies to the procurement of various Professional Services required by the County to meet its needs related to the design, construction, reconstruction and remodel of County facilities.

13.2 Responsibilities and Authority

13.2.1 Ultimate contracting authority for the County resides with the Board of Supervisors unless otherwise delegated. This authority has further been delegated to the County Procurement Director (See Section 1.3).

13.2.2 Conditions for use. Procurement for construction shall be conducted in accordance with Arizona Revised Statutes Title 34 (Public Buildings & Improvements). Provisions of

this policy and the procedures established pursuant thereto shall apply to construction-related procurement only to the extent these provisions are not inconsistent with state law.

13.2.3 Contracts. Contracts for construction projects shall be awarded using the procedures set forth in Arizona Revised Statutes Title 34 (Public Buildings & Improvements) and this Policy.

13.2.4 Notwithstanding the provision of A.R.S. Title 11-562 (Duties of the County Engineer), the Procurement Director remains responsible for the procurement of Title 34 (Public Buildings & Improvements) and Title 41, Article 9 (Procurement of Construction and Specified Professional Services) Construction.

13.2.5 The Procurement Director will provide departments with the annual statutory Contracting Limits pursuant to A.R.S. Title 34-201.D (Notice of intention to receive bids) (Cochise County is not currently subject to Title 28-6713.B - Bids for Construction, until our population census exceeds 250,000). Projects may not be artificially fragmented to circumvent the statutorily defined limits.

13.3 Construction Project Change Orders

13.3.1 All change orders within amounts appropriated in the current fiscal year budget for the subject of the bid award will be authorized and executed in the following manner. The change order will be initialed by the project Director/engineer with their recommendation and forwarded for approval or rejection.

13.3.2 Authority to approve change orders is as follows:

- \$5000 or less – Department Director
- \$5000 - 10,000 – Procurement Director
- greater than \$10,000 - County Administrator

13.3.3 The above authority for Department Director and Procurement Director applies to the cumulative amount of change orders on a project. For example, if the totals of five \$3000 change orders are incurred, the Procurement Director must approve the second and third change order and the County Administrator must approve the fourth change order, as the cumulative amount exceeds \$10,000, and all subsequent change orders within the approved contract. A change order tabulation sheet must be submitted showing all change orders incurred for a project along with each request for approval of a change order.

13.3.4 If any change order causes the total expenditures on a project to exceed the amount of the contract for that project approved by the Board of Supervisors, then the Board of Supervisors must approve that change order. The Board of Supervisors must approve any single change order exceeding \$30,000.

13.3.5. As authorized by the Procurement Director, changes to Job Orders under Job Order Contracts may be approved by the Department Head of the department administering the

contract or his/her appointee. No such change order may result in the total value of the Job Order exceeding the maximum value for Job Orders established in the Job Order Contract.

13.3.6 Upon completion of a project, a final balancing change order identifying all contract changes will be prepared by the Construction Project Director and submitted to the Procurement Director. This report shall indicate final quantities and amounts of all pay items and reference all prior amendments which have affected the contract. This final document will be forwarded to the Procurement Department and be maintained in the procurement file as a public record.

13.4 Register of Qualified Contractors and Consultants (A.R.S. § 41-2541)

13.4.1 The Procurement Director will maintain a register of pre-qualified contractors/consultants that have expressed an interest in performing work for the County and have provided evidence of their professional qualifications for such work. The register may be categorized to reflect the consultant's / contractors primary field of expertise.

13.4.2 The Procurement Director will maintain a file containing a SF 254 or SF 330: "Architect-Engineer and Related Services Questionnaire" and/or other qualifications information for each consultant on the register

13.4.3 Prospective contractors/consultants may be pre-qualified for particular types of services and construction. Pre-qualified contractors or consultants have a continuing duty to provide the Procurement Director with information on any material change affecting the basis of prequalification.

13.4.4 Solicitation mailing lists of potential contractors shall include the pre-qualified contractors.

13.4.5 The Procurement Director will notify each contractor or consultant listed on the register annually of their status and invite updating of their professional qualifications.

13.4.6 In addition to publication in the official newspaper of the County, a public advertisement may be placed in a major newspaper of general circulation in the Arizona area inviting consultants to apply for inclusion on the Agency consultant register. The register may be categorized to reflect the consultant or contractors primary field of expertise. The County Commodity Code System codes should be used for Registration. The Procurement Director will determine and implement a procedure for updating the register. Consultants may be removed from the register in accordance with Section 2.6 of this Policy

13.5 Types of Construction Procurement. Titles 34 and 41 of the Arizona Revised Statutes authorize the County to conduct several types of Construction and Professional Service Procurements. These Procurements are: Limited Scope Construction Procurement, Simplified Construction Procurement, Design-Bid-Build, Design-Build, Construction-Director-At-Risk, and Job-Order Contracting. In addition, Title 28 of the Arizona Revised Statutes authorizes the County Engineer to conduct the equivalent of the Title 34 Design-Bid-Build process. The description of each Construction Procurement method is as follows:

13.5.1 Limited Scope Construction Procurement - Statutory dollar limited Construction with a simplified Bid process. Contracts are Awarded by the Procurement Director or as delegated by the Procurement Director.

13.5.2 Simplified Construction Procurement Program - Limited to \$100,000 including all Change Orders subsequent to Award. Invitations for Bids shall be sent to Contractors listed on an annually updated Construction Contractor register. The Contracts are Awarded by the Procurement Director or as delegated by the Procurement Director.

13.5.3 Design-Bid-Build - The County's Procurement method in which sequentially a Consultant under one Contract designs a project, the project is publicly Bid, and the lowest Responsible and Responsive Bidder constructs the project under a second and separate Contract. Contracts with a value of \$100,000 or less may be awarded by the Procurement Director. Other Contracts are Awarded by the Board of Supervisors.

13.5.4 Design-Build - A Procurement method where one Contract is Awarded for both the Design and Construction of a project. Design is normally accomplished prior to Construction but, Design and Construction may occur simultaneously. The Contract is awarded by the Board of Supervisors.

13.5.5 Construction-Director-At-Risk - A Procurement method where two Contracts are awarded for the design and the Construction of a project. Design and Construction may occur sequentially or concurrently. The Contracts are Awarded by the Board of Supervisors.

13.5.6 Job-Order-Contracting - This type of Contract is basically an "on-call" Construction Contract. This type Contract is limited to five years, and by state statute cannot exceed \$1m. The Contract is Awarded by the Board of Supervisors.

13.6 Limited Scope Construction Procurement Procedure

13.6.1 The following procedures will be used to implement Limited Scope Construction Procurements:

- Prepare specifications and scope of work. The scope of work shall be written in sufficient detail to enable a Contractor to submit a written response for the described work. The scope of work may include drawings, sketches, job project coordination requirements or other data that would affect the price. The scope of work may also require a Contractor to subcontract a minor portion of the project with a consultant to prepare drawings or other documents.
- Prepare a cost estimate for the scope of work in compliance with A.R.S. § 34-201 et seq. and this Policy.
- Prepare a Request for Quotation (RFQ) that lists the date, time and location for receipt of sealed written responses. The RFQ will be on a form approved by the Procurement Director.

- Responses to an RFQ will be solicited in accordance with the following guidelines. A no-bid response shall constitute a response.
- For work of a nominal value of \$1,000.00 or less, one written response is required.
- For work greater than \$1,000.00 but less than \$5,000.00, two written responses are required.
- For work greater than \$5,000.00 but less than \$100,000, (A.R.S. §§ 34-201.C and 28-6713. B), three written responses are required.
- Respondents must submit their Offers as specified in the Requests for Quotation. Responses received after the due date and time or at the wrong location shall be non-responsive and will be returned to the Respondent unopened.
- Award of the Contract shall be made by the Procurement Director and shall be made to the lowest priced Responsive and Responsible Respondent meeting all specifications.
- Should changes in the scope of work be necessary after the Award they shall be described in a Change Order on an approved form. The Change Order shall be signed by the Project Director and approved by the Procurement Director. The initial Contract shall direct the Contractor not to begin work as the result of any change until receipt of a written approved Change Order.
- Payment for work performed, should when practical, be made in one lump sum. Payment will be made within 45 days of the request for payment after final County acceptance. If the Contract period exceeds two months, the Contractor may request a partial payment. (In compliance with standard partial payment provisions).

13.7 Simplified Construction Procurement Procedure

13.7.1 A.R.S. § 41-2535.D shall be formally adopted for Construction Procurement as set forth herein. A Procurement involving Construction not exceeding \$100,000 may be made pursuant to rules adopted by the Procurement Director in accordance with this section. At a minimum the rules require that:

- A list shall be maintained of persons who desire to receive Solicitations to Bid on Construction projects to which additions shall be permitted throughout the year.
- The list of Persons shall be available for public inspection.
- Agreements for Construction must be on forms approved by the Procurement Director.
- A Performance Bond and a Payment Bond as required by A.R.S. §41-2574 will be provided for on contracts for Construction by Contractors.
- All information submitted by Bidders pursuant to this Section MUST be held confidential according to A.R.S. §41-2533, Subsection D.

- All Bids for Construction will be opened at a public opening.
- All Persons desiring to submit Bids will be treated equitably and the information related to each project is available to all eligible Persons.
- Competition for Construction projects under the simplified Construction Procurement program will be encouraged to the maximum extent possible.
- Award of the Contract shall be made by the Procurement Director and shall be made to the lowest priced Responsive and Responsible Respondent meeting all specifications.

13.8 Design-Bid-Build (ARS § 28-6713.C.). In this process, a design consultant is selected on the basis of qualifications and a fee for the Professional Services is negotiated. Once the design is completed, the project is advertised for Bid.

13.8.1 The Construction Contract is awarded to the lowest Responsible and Responsive Bidder meeting all specifications.

13.8.2 In determining the lowest responsible bidder for horizontal construction, the County department requesting the construction services may consider the time of completion proposed by the bidder if the County department determines that this procedure will serve the public interest by providing a substantial fiscal benefit or that the use of the traditional awarding of contracts is not practicable for meeting desired construction standards or delivery schedules.

13.8.3 The formula for considering the time of completion must be specifically stated in the bidding information and approved by the Procurement Director. Documentation of basis for using A+B Bidding should be included in the master procurement file as a public record.

13.8.4 Any County Department delegated Construction Procurement authority by the Procurement Director may use this Procurement method.

13.8.5 Direct selection of Professional Services to be used in Construction Procurement is authorized for design work in design-bid-build procedures not to exceed \$100,000. See Section 13.13 for Direct Selection procedures.

13.9 Design-Build

13.9.1 A qualification-based selection method. Authority for Design-Build differs by type of Construction.

13.8.2 The Design-Build Procurement is a qualification-based selection process that produces a short list of qualified Respondents. Negotiations are initiated with the highest qualified Respondent or a Request for Proposals is sent to all the Respondents listed on the short list.

13.9.3 For each project for horizontal construction under a design-build construction services contract, the licensed contractor performing the contract shall perform, with the contractor's own organization, construction work that amounts to not less than forty-five per cent of the total contract price for construction. For purposes of this paragraph, the total contract price for construction

does not include the cost of preconstruction services, design services or any other related services for the cost to procure any right-of-way or other cost of condemnation.

13.10 Construction-Director-At-Risk

13.10.1 A qualification-based selection method that will result in multiple Contracts for the project. Authority for Construction-Director-At-Risk differs by type of Construction.

13.10.2 Construction-Director-At-Risk Procurement is a qualification-based selection process that produces a short list of qualified Respondents. Negotiations are initiated with the highest qualified Respondent or a Request for Proposals is sent to all the Respondents listed on the short list.

13.10.3 For each project for horizontal construction under a construction-Director-at-risk construction services contract, the licensed contractor performing the contract shall perform, with the contractor's own organization, construction work that amounts to not less than forty-five per cent of the total contract price for construction. For purposes of this paragraph, the total contract price for construction does not include the cost of preconstruction services, design services or any other related services for the cost to procure any right-of-way or other cost of condemnation.

13.11 Job-Order-Contracting

13.11.1 This Procurement method is a qualification-based process than may include design services and is for "on-call" Construction capability. This type of service may be procured for up to five years. If the Contract will allow renewal/extension, the provisions for and the conditions of the renewal/extension must be included in the solicitation.

13.11.2 The single maximum value of a work assignment issued under this procedure is \$1,000,000 (per state statute). The maximum yearly Contract value of a Job-Order-Contract is \$3,000,000. For the purposes of this sub-paragraph, yearly means the twelve months subsequent to the Award of the Contract.

13.12 Contracting of A/E Consultant Services: The selection of consultants or professional services required during the process of construction of County facilities and infrastructures are to be made in accordance with procedures contained in this Section. The services of architect and engineering related consultants may be acquired through one of the following: public competition, direct selection or the qualifications based selection (QBS) process.

13.12.1 Public Competition includes publishing an advertisement of the competition for not less than thirty days before the due date, stating the type and location of the work with information as to the proposed cost, and the means of obtaining full information of the proposed competition.

13.12.2 Direct Selection of Architects and Engineers (A/Es) is accomplished by selecting the consultant based on knowledge of their qualifications and experience, prior agreement on a negotiated scope of work and then fixing the compensation. If agreement on scope of work or compensation cannot be agreed upon, another consultant may be selected. Ranking of firms is not required under this selection process.

13.12.3 Qualifications Based System (QBS): Firms engaged in the lawful practice of the profession may submit an annual statement of qualifications (SOQ) and experience.

- A selection committee is formed to evaluate the current SOQ's on file with the procurement office.
- The committee should consist of at least three persons.
- The committee shall select, in order of preference and based on criteria established, a short list of at least three firms deemed to be the most qualified to provide the services required.
- The selection of the short list must be based on demonstrated competence and qualifications only.
- Fees, price man-hours or any other cost information may not be considered in the selection of the short list.

13.12.3.1 After a short list is selected, negotiations may commence for a contract with the highest rated firm for the required services. The negotiations shall include consideration of compensation and other contract terms and conditions the County determines to be fair and reasonable.

13.12.3.2 In making this determination, the County shall take into account the estimated value, the scope, complexity and nature of the required services.

13.12.3.3 If a satisfactory contract cannot be negotiated with the highest rated firm at a price or on other contract terms, negotiations shall be formally terminated.

13.12.3.4 Negotiations would then be started with the next highest rated firm, in sequence, until an agreement is reached or a determination is made to reject all firms on the short list.

13.13 Direct Selection of Pre-Qualified Technical Registrants

13.13.1 If procurement is by direct selection, the firm selected must be on the Qualified Vendors List and a written determination, by the Department Head citing the basis of award and the selection of the particular technical registrant, shall be included in the contract file. The best interests of the county shall be considered in each instance.

13.13.2 The Procurement Director shall maintain a list of technical registrants who are properly licensed with the State of Arizona Board of Technical Registration, that have expressed an interest in performing work for the County and have provided evidence of their professional qualifications for such work. The list may be categorized to reflect the person or firm's primary field of expertise. Persons or firms desiring to be included on the pre-qualified list may register with the Procurement Director using the on-line Vendor Registration process or may register at the Procurement Office in-person.

13.13.3 The Procurement Director will notify each person or firm listed on the register annually of their status and invite updating of their professional qualifications. In addition to publication in the official newspaper of the County, a public advertisement may be placed in a major

territorial newspaper of general circulation inviting firms to apply for inclusion on the County's list of pre-qualified technical registrants.

13.13.4 Firms who have failed to provide satisfactory evidence of qualifications or have performed unsatisfactorily during the past twelve (12) months may be subject to corrective action in accordance with section 13.7 of this Policy.

13.13.5 All contracts entered into under this section shall be executed in the name of the County by the Procurement Director or if above \$100,000 by the Cochise County Board of Supervisors in accordance with the requirements of A.R.S. Title 34 and the Cochise County Procurement Policy.

13.14 Exceptions to the Direct Selection Process – The County Administrator may authorize exceptions to the procedures in this Policy if special circumstances exist.

- These circumstances may include sole source contracts, time restrictions, unusual nature of a specific project or service, or if an existing agreement warrants variation from this Regulation.
- The Requesting Department should prepare a letter of exception to the County Administrator explaining the reasons for this request.
- If the exception is approved, the County Administrator will sign the memo and the Procurement Department should file the approved memo in the project file.
- A copy of the approval shall be retained in the contract file.
- All other pertinent contract requirements must be followed.

13.15 Sole Source Procurement: Except for Direct Select procurement, if the need for a sole source Procurement should arise on a Construction project or to obtain a Consultant required for a Construction Procurement, the Procurement Director shall have the authority to approve Sole Source Procurements in accordance with Section 9.8. Sole Source Procurement must be justified in writing by the Department Head. Procurement Director will be responsible for providing the necessary Forms and Procedures for Sole Source Procurement.

13.16 Emergency Construction Procurement: Emergency Procurement shall be performed in accordance with Section 10.1 and 10.2.

13.17 Public Notice of Construction Projects: Construction Procurement with a value greater than the amount stipulated in A.R.S. § 34-201 or § 28-6713 shall be advertised in accordance with A.R.S. § 39-204 and § 28-6713. The advertisement shall include:

- a description of the project,
- the location of the work,
- requirements and location to obtain a Bid package,
- cost range of project,
- date of pre-Bid and site tour (if any),
- County contact person,
- Cost to obtain plans and specification,
- Bid opening date and location.

- If there is a mandatory pre-Bid meeting and/or site tour, the date, time and location must be included in the advertisement.

13.18 Bid Bond Requirements

13.18.1 Bid Security: As a guarantee that the Contractor will enter into a Contract to perform the Proposal in accordance with the plans and Specifications, Bid security shall be required for all Competitive Sealed Bidding/Proposals for Construction if the price is estimated to exceed the amount established by A.R.S. § 41-2535.

- Bid security shall be a certified check, cashier's check or surety Bond for ten per cent of the amount of the Bid for Design-Bid-Build,
- for ten percent of the Construction expenses in a Design-Build Proposal, or
- ten percent of the estimated first year Construction costs of a Job-Order-Contracting Proposal.

13.18.2 Nothing in this section prevents a County Governmental Unit from requiring such Bid security in relation to any Construction Contract. The surety Bond shall be executed and furnished as required by Title 34, Chapter 2, of the Arizona Revised Statute and the conditions and provisions of the surety Bond regarding the surety's obligations shall follow the form required by A.R.S. § 34-201, subsection A, paragraph 3.

13.18.3 For Design-Build and Job-Order Contracting, the surety Bond shall be executed and furnished as required by Title 34, Chapter 6, of the Arizona Revised Statute and the conditions and provisions of the surety Bond regarding the surety's obligations shall follow the form required by A.R.S. § 34-606, subsection D.

- If the Invitation for Bids/Competitive Sealed Proposals requires security, noncompliance requires that the Bid/Proposal be rejected unless, pursuant to rules, it is determined that the Bid fails to comply in a non-substantial manner with the security requirements.
- After the Bids/Proposals are opened, they are irrevocable for the period specified in the Invitation for Bids/Proposals, except as provided in A.R.S. § 41-2533, subsection F. If a Respondent is permitted to withdraw its Bid/Proposal before Award, no action may be taken against the Respondent or the Bid security.
- An annual or one-time Surety Bond executed by a surety company or companies holding a certificate of authority to transact surety business in this state issued by the Director of the Department of Insurance pursuant to Title 20, Chapter 2, Article 1, and in a form prescribed by A.R.S. § 41-2573 or a certified or cashier's check shall be acceptable Bid Bond Security.

13.18.4 Non-Substantial Failure to Comply with Bid Security. The Procurement Director may determine that noncompliance of Bid security is non-substantial if:

- Only one Bid/Proposal is received and there is not sufficient time to rebid; or
- The amount of the Bid/Proposal security submitted, although less than the amount required by the Invitation For Bids, is equal to, or greater than the difference between the apparent low Bid and the next higher acceptable Bid; or
- The Bid/Proposal security is inadequate as a result of correcting or modifying a Bid in accordance with Section xxx (Mistakes in Bids), if the Respondent increases the amount of security to required limits within two days after notification.

13.18.5 Performance and Payment Bonds

- Performance and Payment Bonds are required for all Construction Contracts. If the Contractor fails to provide the required Performance and/or Payment Bonds within the time specified by the Contract, the Bid shall be rejected, Bid security forfeited, and the Contract Awarded to the next lowest Responsive, Responsible Respondent. Specific bond requirement, by Contract type, as follows:
- Performance Bonds are to be submitted to the County executed by a surety company holding a certificate of authority to transact surety business in this state issued by the Director of the Department of Insurance in the amount and for the duration specified in the Contract.
- Payment Bonds are to be submitted to the County, executed by a surety company holding a certificate of authority to transact surety business in this state issued by the Director of the Department of Insurance for the protection of all Persons supplying labor and Material to the Contractor or its subcontractors for the performance of the work required by the Contract. The Bond shall be in the amount specified in the Contract.

13.18.6 The Performance Bond and Payment Bond shall be delivered by the Contractor to the County within the time limits set forth in the solicitation. If the Contractor fails to deliver the required Performance or Payment Bond, the Contractor's Bid shall be rejected, its Bid security shall be enforced, and Award of the Contract made to the next low Responsive, Responsible Respondent.

13.19 Contract Award and Notice to Proceed

13.19.1 All contracts with a value greater than \$100,000 will be Awarded by the Board of Supervisors and signed by the Chairman of the Board. Contracts under this threshold will be signed by the Procurement Director. A Notice to Proceed will be issued by the Procurement Director.

13.19.2 Upon receipt from the Contractor of the required Bonds and Insurance Certificate after Award, a Notice to Proceed will be issued by the Procurement Director which begins the performance period of the Contract.

SECTION FOURTEEN: PROCUREMENT OF HEALTH-RELATED PROFESSIONAL SERVICES (A.R.S. §§ 11-251 (60) & 11-291)

14.1 Purpose. This Section defines the procurement requirements for acquiring medical and health-related professional services necessary for the administration of Cochise County’s health care function.

14.1.1 Professional services in this section are defined as services involving specialized knowledge, skill and expertise provided by persons with advanced training and experience that requires an extended course of specialized instruction or study, Medical and health-related professional services involve the application of medical, dental, psychiatric, and/or other health field knowledge and experience and/or professional license, certification or registration to accomplish complex treatment and/or service objectives.

14.1.2 This section does not apply to requests for materials, supplies or equipment. Procurement of materials, supplies and equipment has **not** been delegated (Section 2.2) to the Health Department Director or the Health Care Systems Director. Procurement authority for these materials, supplies and equipment remains with the Procurement Director regardless of fund source.

14.2 General Provisions

14.2.1 All procurement for medical and health-related professional services shall be controlled by the Health Department and the Director of the Cochise Health Systems (hereinafter Director). The Cochise Health Systems Director and the Health Department Director are hereby authorized to conduct procurement of “Professional Services” under this policy. All procurement under these procedures shall follow Cochise County Procurement Policy and applicable Cochise County procurement procedures.

14.2.2. The annual cumulative total cost of individual projects under any one procurement shall determine the appropriate procedures to be utilized under this policy. In the event that responses for the services solicited are inadequate, insufficient, or not in the best interest of Cochise County, the Board of Supervisors may reject the bids or quotes received and direct the appropriate department to revise and/or reissue the RFP or RFQ.

14.2.3 As provided in the Request for Proposals (RFP) Section or Request for Quotations (RFQ) Section, discussions may be conducted with responsible respondents who submit proposals determined to be reasonably susceptible of being selected for award. Such discussions shall be for the purpose of securing the terms and conditions most advantageous to Cochise County. Any changes to a proposal subsequent to such discussions shall be submitted in writing by the respondents within five (5) business days.

- Respondents shall be accorded fair and equal treatment with respect to any opportunity for discussion and revision of proposals.
- The Department shall keep a record of all discussions

- In conducting discussions, there shall be no disclosure of any information derived from proposals submitted by competing respondents.

14.2.4. Contracts In an amount up to \$100,000 per year may be executed by the Procurement Director. Contracts in an amount more than \$100,000 per year and all contracts for an Initial term of more than four years must be executed by the Board.

14.2.5 Once a contract has been awarded and duly executed; the Director or designated staff shall be responsible for the administration of the contract regardless of the dollar value. Except as provided in Section 14.2.6 below, changes to a contract shall be in the form of a written amendment prepared and processed by the Director or designated staff in accordance with this procurement policy and shall be executed by the original signatories.

14.2.6 The Director has authority to approve a written individual contract ceiling override in an amount of not more than \$500,000 per override when the County has an established legal obligation to pay for the medical or health care related professional services. A copy of each approved contract ceiling override shall be maintained in the official contract file. A contract amendment increasing the total contract value by the amount of the contract ceiling override shall be processed within 60 days of the date of the contract ceiling override.

14.2.7 All Services procured under this policy will be for a term of one year unless a longer duration is approved in conformance with this policy, The Health Department Director may authorize the procurement of medical and health-related professional services for an Initial term of two (2) years with possible renewals, through properly executed amendments for up to three (3) additional one (1) year terms.

14.2.8 The Procurement Director may authorize, in writing, a contract for a medical and health-related professional service for a term not to exceed five (5) years. The determination of contract duration shall be based on sound business judgment and the Procurement Director and Health Department Director shall endeavor to assure that the contract is the most advantageous to Cochise County.

14.2.9 Procurement procedures under this policy shall be waived in the event that the County Administrator determines that an actual emergency exists that warrants special procedures. Prior to emergency procurement the Director shall provide written justification for waiver to the County Administrator for approval under Section 10 (Emergency Procurement).

14.2.10 Procurement procedures under this policy may be waived by the Director if one of the following applies:

- Use of Intergovernmental agreement.
- Sole Source Procurement Declaration is provided
- Necessary to meet legal or regulatory mandates of a contract. (Example: AHCCCS Special Provisions).

- Existing providers where continuity of care is a primary consideration as long as reasonable market rates are in effect.
- Provider where disruption of service is a primary consideration as long as reasonable market rates are In effect.
- Revenue agreements
- Grant agreements where adhering to this policy would result in noncompliance with the terms of the grant.
- Contracts with “any willing, qualified provider’ wherein the Department sets the reimbursement rates and where all willing and qualified providers are needed to meet capacity requirements or where unique provider attributes best serve Departments needs (e.g. hospice with religious affiliation). The Director will ensure that reasonable, market based rates are established.

14.3 Procurement of medical and health-related professional services with an estimated annual cost of \$250,000 or less

14.3.1 To procure medical and health-related professional services that are estimated to cost \$250,000 or less annually, the following documentation and information will be reviewed and approved by the Director

- The desired duration of the contract;
- A written scope defining with specificity the services needed and the tasks to be performed under the contract;
- The payment basis and total cost to Cochise County; and,
- Any other pertinent information helpful or requested in the procurement process.

14.3.2 The Director or designated staff shall:

- Develop a list of professionals or firms available and capable of performing the services and tasks;
- Solicit quotes or proposals from available and qualified providers on the list developed;
- Review proposals received and make a selection using valid selection criteria appropriate for the professional service being procured;
- Develop the contract and process in accordance with Cochise County contract processing procedures, assuring that the solicitation number is referenced in the contract document; and

- Obtain County Attorney review and approval as to form, on any agreement when the contract includes terms different than, or in addition to, the County standard contract terms and when legal advice is necessary to protect the interests of the County.

14.4 Procurement of medical and health-related professional services with an estimated annual cost of more than \$250,000

14.4.1 To procure medical and health-related professional services estimated to cost more than \$250,000 annually, the following documentation and information shall be reviewed and approved by the Director

- The desired duration of the contract;
- A written scope defining with specificity the services needed and the tasks to be performed under the contract;
- The payment basis and cost to Cochise County;
- All appropriate and valid measures for distinguishing and evaluating quality among qualified providers; and,
- A description of any unique requirements for the services requested.

14.4.2 The Director or designated staff shall:

- Develop a list of professionals/firms available and capable of performing the services and tasks as required by Section 4.1 (Bidders List).
- Develop and prepare the RFP, obtaining the input of the requesting Department, as needed to assure accuracy;

Review the completed RFP prior to advertising;

- When circumstances warrant, appoint a team to develop and evaluate the proposals submitted in response to the RFP for a particular procurement.
- The team shall be composed of no fewer than two members and shall have at least one representative from the requesting Department and/or one technical expert;
- Assure that the RFP states all of the valid selection criteria, the weight to be assigned each criteria which will be used to evaluate the completed proposals, and contains a sample of the contract;

- Provide public notice of the RFP (See Section 7.1.3) in the official newspaper of Cochise County in accordance with Title 39, Chapter 2 Legal Ads requirements at least 10 days in advance of the date completed proposals must be received and post the RFP on the Procurement Department web site as well as on the Cochise County Cochise County Legal Ads Web Page. Notice shall briefly describe the service, the location where the RFP packet may be obtained, and the closing date for receipt of the completed proposal.
- The Director or designated staff shall also give notice of the RFP, verbally or in writing, to any contractor(s) who have been recommended by the requesting department or who are currently providing the service in a satisfactory manner;
- If a Selection Team is formed, as pursuant to instructions above - the team shall evaluate the proposals in accordance with the selection criteria and weights as stated in the RFP. No other selection criteria beyond those published in the legal ad may be used.
- During the evaluation, the team may elect to interview, visit service sites, and/or review service methodologies on-site of those respondents who might be reasonably susceptible of being selected for contract award.
- Any interviews conducted shall be uniform in nature and a record of all discussions and site visit results shall be kept In conducting any Interviews, visits, or methodology reviews, there shall be no disclosure of any information derived from proposals submitted by, or interviews or site visits with, competing offerors and,
- Obtain County Attorney review and approval as to form on any agreement when the contract includes terms different than, or in addition to, the County standard contract terms and when legal advice is necessary to protect the interest of the County.

SECTION FIFTEEN: LEGAL AND CONTRACTUAL REMEDIES

15.1 Who may protest? Any interested party may protest a solicitation, a proposed award or the actual award of a County contract. All written protests will be reviewed and receive a written response. Protests may be transmitted by facsimile machine.

15.1.1. Bidders should first contact, the Procurement Department by telephone, with their questions regarding a solicitation, award or proposed award as the first step in the protest process. Frequently, the questions or problems can be resolved in this manner. Receipt of a verbal response does not preclude filing a formal written protest.

15.1.2 Time for filing protests:

- Protests regarding alleged improprieties in a solicitation that are apparent before the bid opening shall be filed five (5) working days before the bid opening date.
- Protests regarding materials included by addendum and received less than five (5) working days before the bid opening shall be submitted with the bid.
- Protests regarding a proposed award shall be submitted as soon as known or by the date of award.
- Protests regarding the actual award of a contract shall be filed within five (5) working days of the contract award or within five (5) working days of the mailing of the notice of award, whichever is later.

15.1.3 A formal protest must be in the form of a letter from the protester to the Procurement Director. It must include:

- The name, address, and telephone number of the protester and the signature of the protester or its representative;
- State the name and number of the solicitation that is being protested;
- A detailed statement of the legal and factual grounds of the protest including copies of relevant documents; and
- The form of relief requested.

15.1.4 The Procurement Director shall issue a written decision within 14 days after a Protest has been filed in accordance with this Policy. The response shall contain an explanation of the basis for the decision and a statement that the decision may be appealed to the County Administrator. The time period for the Procurement Director’s response may be extended for good cause for up to thirty (30) calendar days.

15.1.4.1 The protester shall be notified in writing that the time for issuance of a response has been extended and the date by which a decision will be issued.

15.1.4.2 If the Procurement Director fails to issue a decision within the time limits set forth in subsection 15.1.4 above, the protestor may proceed as if the Procurement Director had issued an adverse decision.

15.2 Protest Remedies

15.2.1 If the Procurement Director sustains the protest in whole or in part and determines that a solicitation, proposed contract award, or contract award does not comply with State Statutes, County Policy or regulations, the County shall institute an appropriate remedy.

15.2.2 In determining an appropriate remedy, the Procurement Director shall consider the circumstances surrounding the procurement or proposed procurement including, but not limited to, the seriousness of the procurement deficiency, the degree of prejudice to other interested parties or to the integrity of the procurement system, the good faith of the parties, the extent of performance cost to the County, the urgency of the procurement and the impact of the relief on the County and the Procurement Director's mission. An appropriate remedy may include one or more of the following:

- Decline to exercise an option to renew under the contract;
- Terminate the contract;
- Reissue the solicitation;
- Issue a new solicitation;
- Amend the solicitation;
- Award a contract consistent with procurement policy, administrative regulations and procedures; or
- Such other relief as is determined necessary to ensure compliance with this Procurement Policy, administrative regulations and procedures.

15.3 Appeals to the County Administrator. The Procurement Director's response to a protest may be appealed to the County Administrator. Such an appeal shall be filed within five (5) working days of receipt of the Procurement Director's decision. A copy of the appeal will also be filed with the Procurement Director. The appeal shall contain;

- The information required for the original protest;
- A copy of the Procurement Director's decision;
- The precise factual or legal error in the decision of the Procurement Director from which the appeal is taken.

15.3.1 The County Administrator or authorized delegate will respond to the appellant with a decision within fourteen (14) calendar days of receipt of the appeal.

15.3.2 The written determination of the County Administrator or authorized delegate shall be final.

15.4 Other Interested Parties. Other interested parties shall be notified of a protest or an appeal as deemed necessary or requested. Material submitted in a protest or appeal may be provided to any or all interested parties. A successful contractor shall be notified immediately of a protest or appeal. The successful contractor may be required to delay performance or stop work (if begun) if deemed necessary to prevent additional costs accruing to the County.

15.5 Disputes. A formal dispute may be filed for any reason not involving a question of law arising out of Contract performance that is not resolved between the parties within a reasonable time, except as may otherwise be provided for by law. All written disputes will be reviewed and receive a written response. Disputes may be transmitted by facsimile machine.

15.5.1 A reasonable attempt must be made by the Contractor to resolve the dispute with the County department with whom they have contracted. The Contractor may contact the Procurement Department by telephone and request verbal instructions as to the correct departmental staff to contact

or any other assistance that may help them resolve the dispute at the departmental level. If the dispute is not resolved to the satisfaction of the Contractor, a formal dispute may then be filed with the County Procurement Department.

15.5.2 Time for filing disputes: A formal dispute must be filed within seven working days of receipt of a final response from the contracting department.

15.5.3 A formal dispute must be in the form of a letter from the disputant to the Procurement Director. It must include:

- The name, address, and telephone number, and signature of the disputant or its authorized representative;
- A description of the steps that have been taken to resolve the dispute at the departmental level,
- The response from the department, including copies of all relevant documentation;
- The legal and factual grounds for the dispute, and;
- The form of relief requested.

15.5.4 The Procurement Director will respond to all disputes within seven (7) working days of the receipt of the dispute. The response shall contain an explanation of the basis for the decision. The time period for this response may be extended for good cause for up to thirty (30) calendar days. The disputant shall be notified in writing that the time for issuance of a response has been extended.

15.6 Dispute Remedies

15.6.1 If the Procurement Director sustains the protest in whole or in part and determines that the dispute is legitimate, the Cochise shall institute the appropriate remedy.

15.6.2 In determining an appropriate remedy, the Procurement Director shall consider the circumstances surrounding the contractual agreement giving rise to the dispute; The needs of the contracting department; Terms and conditions of the agreement; Generally accepted business practices, common to the particular service or material category, may also be considered. Written terms and conditions of the agreement shall take precedence over verbal instructions. Verbal terms and conditions will not be considered unless both parties agree that they are applicable.

15.6.3 An appropriate remedy may include one or more of the following:

- Require full or partial payment if the dispute regards payment;
- Allow the Contractor to withdraw from the contract and not provide any further performance;
- Amend the terms of the agreement;
- Such other relief as is determined necessary to ensure compliance with procurement policy, administrative regulations and procedures.

15.6.4 The decision of the Procurement Director shall be final and conclusive unless the contractor or contracting department requests, within seven (7) working days following receipt of the Procurement Director's decision, that the County Administrator review the decision.

15.6.5 A written decision of the County Administrator will be issued within thirty (30) days and shall be the final position of the County concerning the dispute, excepting, where applicable, state or Federal law or regulation specified otherwise. The County Administrator may convene a review panel to review the dispute issues and recommend the final position. The review panel may have representatives of the contracting agency, if applicable, or representatives of other agencies with an objective third party view point.

SECTION SIXTEEN: PURCHASE REQUESTS > \$1,000

16.1 Purpose of Requisition on Procurement Department: The purpose of issuing requisitions is to provide a method for County departments to obtain necessary equipment, materials, supplies and services, and for the rental and leasing of equipment, when the anticipated cost is above \$1,000. This process is also necessary to insure that budgeted funds are available prior to committing County funds. Any purchase less than \$1,000, should be made in accordance with section 8.2.

16.2 Requirements Planning for User Departments: When unusual requests for goods and services are anticipated, the requesting department will notify Procurement as soon as possible in order to provide sufficient lead time for the purchase of the goods or services.

16.2.1 Acquiring goods and services is a many-faceted process that requires interaction and cooperation among all persons involved. Proper planning for future requirements and communication of these needs to the Procurement Office will result in materials and services being available when needed by a using department.

16.2.2 The importance of proper planning by the user cannot be overemphasized. Through effective planning, the requesting department will:

- Avoid lost staff-hours caused by material stock-outs and/or shortage;
- Reduce the number of "rush" purchases necessary to avoid stock-outs;
- Increase the overall efficiency of the County through reduced procurement costs;
- Avoid increased acquisition costs often occurring in "rush" purchase situations;
- Identify goods which can be standardized throughout the departments;
- Reduce the cost of goods or services through the continuous evaluation and modification of specifications, to identify and delete items which add cost, but not necessarily value, to the product.

16.3 Using Department Responsibilities: As soon as a department determines the need for the procurement of a commodity or service, it must submit a Purchase Request to the Procurement Department. The Procurement Department will only issue a Purchase Order after receipt of an approved Purchase Request from the using department. The requesting department may identify "Suggested Suppliers" on their requisition. Any documentation that must be attached to the Vendors copy of the Purchase Order shall accompany the Purchase Request when it is submitted for processing.

16.4 Procurement Department Responsibility: Upon receipt of a Purchase Request from a using department, the Procurement Director is responsible for selecting the vendor and conducting the procurement utilizing appropriate procurement processes.

16.5 Rejection of Requisition: The Procurement Director shall reject a Purchase Request if, after consultation with the requesting Department Head, they determine that the procurement is not

advantageous to Cochise County.

16.6 Disagreements. Disagreements between a department and the Procurement Director concerning actions taken under sub-sections 16.4 above, shall be brought to the County Administrator or Deputy County Administrator for resolution.

16.7 Requisition Mandatory for All Procurement. All expenditures, except those specifically exempted below, require submission of a Purchase Requisition by the department and presentation of a Purchase Order to the vendor. Exempt expenditures may include, but not be limited to, the following:

- Salaries and related costs
- Jury & witness fees
- Travel
- Utilities and communications (telephone, gas, electric)
- Postage
- Training classes
- Conference Registration fees
- Dues, memberships, subscriptions, publications
- Books (Excluding County Library)
- Employee reimbursement for ballistic vests, safety shoes, uniforms, business related expenses
- Settlement claims (Human Resources)
- Defense claims – ACIP (Arizona Counties Indemnity Pool) – Human Resources
- Legal Ads – Treasurer tax lien notices other than Sierra Vista Herald
- Employment ads (Human Resources)
- Stipends
- Detention medical providers at AHCCCS rates

COURT RELATED PURCHASES

- Expert Witnesses
- Attorneys
- Physicians
- Counselors
- Investigators
- Court Reporters
- Transcription Services
- Interpreters
- Visiting Judges fees
- Probate Investigators
- Search Firms/Collection Agencies
- Employment ads
- Judicial ordered disbursements/Actions – Publication of legal notification

Note: A copy of the contract and, if court appointed, a copy of the court appointed order, shall be submitted with payment request when applicable.

SHERIFF RELATED PURCHASES

- Extraditions
- Towing
- Veterinarian services
- Polygraphs
- Animal shelter services – Other than Willcox, Huachuca, Benson & Douglas police

16.8 Purchase Requisitions must be approved in writing (or on line) by the requesting Department Head or his/her Authorized Representative. A written notification must be submitted by each Department to the Procurement Director identifying their Authorized Representative. The Procurement Department is responsible to verify that procurement requests have been properly Approved by the Department Head prior to processing the Requisition.

16.9 The Procurement Department will distribute Purchase Orders/Contracts. Vendor copies of the Purchase Order along with any documentation that has been provided by the requesting department.

16.10 The Procurement Director is responsible to establish Purchase Order Approval Levels. Authority within the Procurement Department based on dollar value of the purchase order. Approval procedures will not exceed 2 levels.

16.11 The Procurement Director or his/her Authorized Representative will review all Requisitions for compliance with Arizona Revised Statutes, Cochise County Procurement Policy and other appropriate laws, rules and regulations. All Requisitions must be approved for budget capacity, by the Department Head, prior to being submitted to the Procurement Department. Should a Requisition be received in the Procurement Department showing insufficient funds, it will be returned without further procurement action. The Procurement Department is not authorized to override a procurement request that has not been funded.

16.12 Requisitions for the purchase of Capital Assets (>\$10,000) will not be submitted to the Procurement Department for processing until approved by the Board of Supervisors via a Decision Package.

16.13 Requisitions for items purchased based on Inter-governmental Agreements (IGA) or Cooperative Purchase Agreements that Cochise County is a party to will be processed immediately without additional approval of the Board of Supervisors if the purchase is already approved in the current budget.

SECTION SEVENTEEN: PURCHASE ORDERS

17.1 Legal Contract. The purchase order serves as a legal binding contract between Cochise County and a supplier for the procurement of equipment, supplies, services, materials, land, buildings, and the Lease/Purchase or rental of equipment. Purchase orders will not be prepared without a properly approved Requisition on Procurement Department. See Section 16.7.

17.2 Material Receiving Report. The receipt of materials and services obtained by the use of a Purchase Order must be documented by the use of the “Receiving Report” copy of the Purchase Order. The Receiving Report is the document that will be used to authorize payment. The Demand will not be used for this purpose. The Demand is restricted to the list as shown in Section 16.7.

17.3 Emergency Situations. Except in emergencies, the Procurement Department will only issue a Purchase Order after receipt of an approved Purchase Request from the using department.

17.4 Use of Blanket Orders (Requirements Contracts) Authorized. Blanket Orders may be issued for repetitive purchases that require multiple payments and/or deliveries for undetermined amounts. Prices, Terms and Conditions, and period covered must be pre-established.

17.4.1 Only the Procurement Department may initiate Blanket Orders.

17.4.2 The Purchase Request must indicate the time period to be covered by the order and must contain a “Not to exceed” amount listed. Blanket Orders will not be approved for a period greater than six months.

17.4.3 The department requesting a Blanket Order be initiated must provide a list of employees authorized to make releases against the order to the vendor and to the Procurement Department.

17.5 Use of Open Orders Authorized. Open Orders may be issued for open market purchases of supplies and equipment needed for day-to-day operations from the same vendor within a specified time frame. An Open Order creates a line of credit but does not pre-establish prices or the Terms & Conditions of the order.

17.5.1 Open Order total value may not exceed \$2000

17.5.2 Individual purchases may not exceed \$500

17.6 Encumbrances and Year-End Cutoff

17.6.1 It is essential that the County not obligate itself for amounts in excess of those budgeted, for a particular purpose.

17.6.2 Cochise County uses the Modified Accrual Accounting System. In an accrual accounting system, all expenditures must be charged against the budget of the year in which the goods or services are received. To achieve these goals, the budgetary device of encumbering must be employed. An encumbrance does not result in the recognition of expenditure. An encumbrance simply obligates or "reserves" a portion of an unexpended budget for the purpose of paying a liability when the related goods are received or services rendered.

17.6.3 In the encumbrance system used by the County, it will be necessary to encumber for all expenditures requiring a purchase order.

17.6.4 At fiscal year-end, all outstanding encumbrances will be analyzed as to status. All purchase orders for items, which have not been received before June 30, will be canceled, and, if

the items are still needed and provided for in the new budget, a new purchase order will be issued in the new fiscal year.

17.6.4.1 Encumbrances for items that have been received, or services which have been performed, but not yet paid at fiscal year-end will be charged to the fiscal year in which the items were physically received, or the services were performed.

17.6.4.2 In order to accomplish a timely year-end cutoff, purchase orders, other than Emergency Purchase Orders, may not be issued after the 15th of June of each fiscal year unless approved by the County Administrator or Deputy County Administrator. Departments should plan all purchases, including those not requiring the processing a Purchase Orders, with Year-end Closeout in mind.

17.7 Change Order/Contract Changes (Non-construction orders). The Procurement Department is responsible for making any changes to contracts. The department is responsible for timely notification to Procurement of any changes that may need to be made to contracts/ purchase orders. Departments will submit a Change Order Request Form to the Procurement Department as soon as the need is recognized.

17.7.1 The County, without invalidating the purchase order/contract, may order changes in the work within the general scope of the contract consisting of additions, deletions, or other revisions; the contract sum and the contract time being adjusted accordingly.

17.7.2 All such changes in the work shall be authorized by change order, and shall be performed under the applicable conditions of the contract documents. The contractor shall bear any additional fees and costs incurred by the County, architect, engineer, or consultant for fees as a result of a change order which adjusts the contract time and which is not because of any act or omission of the County, architect, engineer or consultant.

17.7.3 The cost or credit to the County resulting from a change in the work shall be determined in one or more of the following ways:

17.7.3.1 By unit price stated in the contract documents.

17.7.3.2 By cost, as defined below, properly itemized and supported by sufficient substantiating data to permit evaluation, plus a fee of 10%. Such costs shall be itemized by crafts defined within the schedule of values and limited to the following items directly allocable to the change in work:

- Cost of materials, including cost of delivery.
- Cost of labor, including, but not limited to, social security, and unemployment insurance and fringe benefits required by agreement and worker's compensation insurance.
- Rental value of equipment and machinery.
- Sales tax, insurance and bond premiums.

- Amounts for any additional supervision and field office personnel, which shall not exceed five (5%) percent of the total of the above paragraphs.

17.7.3.3 By mutual acceptance of a lump sum properly itemized and supported by sufficient substantiating data to permit evaluation; provided that such lump sum shall not exceed that amount calculated under 17.6.3 above.

17.8 Equipment, Goods, and Services Change Orders

17.8.1 All change orders within amounts appropriated in the current fiscal year budget for the subject of the bid award will be authorized and executed in the following manner. If the change order is for less than \$10,000 the Procurement Director will have authority for approval or rejection. If the change order is between \$10,000 and \$30,000, the County Director's approval is needed. If the change order exceeds \$30,000 the Board of Supervisors will have the final authority to sign the change order. If any change order exceeds the current fiscal year budget for the subject project, the Board of Supervisors must approve it.

17.9 Purchase of supplies, materials or services with Grant Funds

17.9.1 If a department uses grant funding for purchases and the specific funding agencies policies and guidelines are not covered by the County's Procurement Policy, compliance with those policies and guidelines is obligatory. Any additional policies or procedures required by outside funding sources should be followed when they apply to a particular procurement.

17.9.2 It is the responsibility of each department head to develop departmental policies and guidelines to ensure that all employees adhere to the Cochise County Procurement Policy, implementing procedures and any additional purchasing policies and procedures required by their other funding sources.

SECTION EIGHTEEN: LEASE PURCHASE AGREEMENTS (A.R.S. §§ 11-251(42); 11-651; 11-652; 11-653)

18.1 Authority to Approve Lease. The Board of Supervisors may enter into agreements for the lease-purchase of equipment for a period in excess of one year under the following terms and conditions:

18.1.1 The lease-purchase agreement shall be executed for the period of one fiscal year only and if a longer period is needed to complete purchase of the equipment, the Board of Supervisors shall have the right, at the end of each fiscal year, to enter into an agreement for continuation of the agreement for succeeding one-year periods until complete payment has been made.

18.1.2. If, at the end of the first one-year period and prior to payment of the total purchase price, the Board of Supervisors does not agree to a continuation of the lease-purchase agreement, the seller may repossess the equipment and the agreement shall be deemed terminated.

18.2 Title to the equipment which is the subject of a lease-purchase agreement made under the term of this article shall be maintained in the name of the seller until payment of the full purchase price has been made by the County.

18.3 Board may cancel Lease. The Board of Supervisors may, at any time and by giving written notice to the seller, cancel any lease-purchase agreement made under the terms of this article.

18.4 Purchases of Personal Property. In addition to the agreements authorized by Section 7.8.1, the Board of Supervisors may enter into long-term agreements for the purchase of personal property, provided the Board may cancel any such agreement at the end of a fiscal year, at which time the seller may repossess the property and the agreement shall be deemed terminated.

SECTION NINETEEN: RECEIVING OF MATERIALS, SUPPLIES, AND SERVICES

19.1 Purpose of this Section. To establish the requirement for all departments to receive, inspect and accept responsibility for all equipment, materials, supplies and services that are delivered directly to their physical location.

19.2 Requisitioning Department Responsibilities

19.2.1 It is the responsibility of the requisitioning department to receive and thoroughly inspect all equipment, materials and supplies delivered directly to their physical location. The requisitioning department is responsible for documenting the receipt of the good by preparing the Material Receiving Report and inputting this information into the New World on-line receiving module.

19.2.2 The department should inspect the materials to ensure that they are the correct items, the correct quantities, are received in good condition, and are delivered to the correct location.

19.2.3 If a shipment is not acceptable, it is the responsibility of the user department to contact the vendor and/or the Procurement office for appropriate action.

19.2.4 When assured that the proper items in the proper quantities are received in the proper condition, the person should enter the quantities received in the New World System. Any back ordered items should not be electronically received.

19.2.5 When the full quantity of merchandise has not been received, but due to various reasons the requesting department wishes to consider the order complete, as is, the department should contact the Procurement office so that they can cancel all back orders and consider the purchase order complete.

19.2.6 The receiving department is also responsible for the preparation of the Asset Identification Form (AIF) and tagging of any Fixed Assets received. Upon completion of the AIF, they will forward it to the County Property Director for inclusion in the Fixed Asset Management System.

19.3 Purchase Order Delivery Follow Up Requirements

19.3.1 The is complete only when satisfactory performance by the supplier has occurred. Conformance to contracts includes time and place, as well as quantity and quality. An interruption or delay in County activities or schedules due to the failure to keep a promised delivery date is as uneconomical and harmful as any other default, and in addition is unfair to the unsuccessful bidders.

19.3.2 The Procurement Officer and the User Department together are jointly responsible for purchase order delivery follow-up. The Procurement Office will assist the users when requested, and will take appropriate actions against suppliers when necessary. Because deliveries are made to multiple user locations, where no Procurement Department employees are present, the assistance of the user departments is very important in this regard.

19.3.3 The prerequisite for purchase order delivery follow-up is prompt knowledge of: (a) the goods, work or services ordered, including performance requirements; and (b) the receipt or lack of receipt of the goods, work or services. For this purpose, pertinent information must be available promptly for persons responsible for delivery follow-up. Such information is identified in the Purchase Order Inquiry screen on the New World System which shows the vendor, purchase order number, goods or services ordered, and the delivery due date.

- In the event the goods or services are not furnished by the required due date, the requesting department should contact the Procurement Office to determine the reasons for delay and identify when the goods or services will be furnished.
- In the event the supplier indicates that they do not intend to furnish the goods or services, or the reason for the delivery delay is not acceptable, the Procurement Officer will take the necessary steps to secure the goods or services, either from that supplier, or from another

SECTION TWENTY: INSPECTION AND TESTING OF SUPPLIES AND MATERIALS

20.1. Supervision. The Procurement Director reserves the right to supervise, or cause to be supervised, the inspection or testing of deliveries of supplies or performance of service to determine conformance with specifications.

20.2 Inspection. The Procurement Director shall have authority to delegate to appropriate Department Heads the inspection of all deliveries made to such department.

20.3 Testing. The Procurement Director shall have the authority to require chemical and physical tests of samples submitted with bids, and further, the testing, when necessary, of products received to determine their quality and conformance with the specifications. In the performance of such test, the Procurement Director shall have the authority to make use of Laboratory facilities of any agency of the County or of any outside laboratory.

20.4 Authorized to Monitor Performance of Vendor. The Procurement Director shall have the authority to monitor and inspect the performance of a contractor/consultant at the using department to determine compliance with service specifications.

SECTION TWENTY ONE: SURPLUS PROPERTY (A.R.S. § 11-251)

21.1. Procurement Director Authorized to sell. The Procurement Director is authorized to offer for sale at public auction, or as otherwise authorized by law, any property belonging to the County which the Board of Supervisors deems advantageous for the County to sell, or which the Board deems unnecessary for use by the County. A record of all sales and an accounting of the proceeds shall be filed with the Clerk of the Board.

21.2. Procurement Department is Custodian of Surplus. The Procurement Department shall be the custodian of surplus property. Personal property no longer required by the using department shall be turned over to the Procurement Department for safekeeping before sale or use as trade in on the purchase of personal property.

21.3. Requirement for Redistributing Surplus. The Procurement Department shall make every effort to identify surplus property with potential for re-utilization and to transfer such property to fill the needs of other County departments. At a time and date announced by the Procurement Department, but prior to the announced date of the public auction or sale, department personnel will be invited to view the items scheduled for auction or sale to determine if any of the said property can be used by their respective departments.

21.4 Annual Surplus Sale Mandatory. At least one (1) time per year, or as requirements dictate, the Procurement Department will offer for sale all surplus property no longer required by the County. The Procurement Department may chose to use an on-site auction or utilize the internet to auction any items they are attempting to dispose of. All personal property with more than a little value will be sold to the highest bidder at public auction which has been advertised at least 30 days prior to the auction date in the official newspaper of the County. The Property Director is authorized to solicit informal bids for personal property of little or no value or is deemed to be not auction able.

21.5. Donation Authority Reserved to Board. The Board of Supervisors, by unanimous vote, may without public auction, sell or lease any County property to other governmental entities. The Board of Supervisors, by unanimous vote, may without public auction, sell or lease any County property for a specific use to any solely charitable, social or benevolent non-profit organization incorporated or operating in this state.

SECTION TWENTY TWO: GLOSSARY OF TERMS

For the purpose of this Procurement Policy, the following terms, phrases, words, and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future; words in the plural number include the singular number, and words in the singular number include the plural number. The word “shall” always denotes a mandatory act.

Accountable Asset: County property that has a total cost of between \$5,000 and \$9,999.99. These items will bear a Fixed Asset Tag, are subject to bi-annual inventories, and will be on the County Fixed Asset Property System.

Agreement: A duly executed and legally binding contract; the act of agreeing.

Alternate Response: A substitute response; an intentional substantive variation to a basic provision or clause of a solicitation by a vendor.

Amendment/Change Order: A written modification to a contract or purchase order or other agreements.

Best Value: A result intended in the acquisition of all goods and services. Price must be one of the evaluation criteria when acquiring goods and services. Other evaluation criteria may include, but are not limited to, environmental considerations, quality considerations, and vendor performance.

Bill of Lading: A written receipt or contract, given by a carrier, showing a list of goods delivered to it for transportation. A copy of the Bill of Lading will be filed with the purchase order.

Blanket Purchase Order: Is used for repetitive purchases – such as concrete or aggregate – under which a vendor agrees to provide goods or services on a ‘purchase-on-demand’ basis. Prices, Terms, Conditions, total dollar limit of the order and the period covered is pre-established, not to exceed one year. Shipments are made ‘when needed’ or ‘as required’. The vendor must be provided a written list of Department personnel that are authorized to make releases against this type order. Only authorized personnel will make releases against this type order. This type order is not dollar limit restricted to a maximum dollar value. A Blanket is often referred to as a Requirements Contract.

“Brand Name Or Equal” Specification: A specification that uses one or more manufacturers brand names or catalogue numbers to describe the standards of quality, performance and other characteristics needed to meet the requirements of a solicitation and provide for the submission of equivalent products.

Business: A corporation, partnership, individual, sole proprietors, joint stock company, joint venture, professional association, or any other legal entity, operated for profit or nonprofit that is properly licensed or otherwise authorized to do business.

Capital Asset: County property that has a total cost of \$10,000 and up. This includes shipping, handling, taxes, installation, assembly, and testing expense.

Change Order: (A.R.S. 41-2552) A written alteration to a contract or purchase order, signed by the Procurement Director, in accordance with the terms of the contract, unilaterally directing the contractor or vendor to make changes with or without the consent of the Contractor or Vendor.

Commodity: A transportable article of trade or commerce that can be bartered or Sold

Contract: A written instrument or electronic document containing the elements of offer, acceptance, and consideration to which an agency is party. It includes but is not limited to contract of a fixed price, cost, plus a fixed fee, or incentive type. It also includes contracts providing for the issuance of job or task orders, equipment leases, real estate rentals, maintenance agreements, letter contracts and purchase orders.

Competitive Threshold: Any purchase where the aggregate total is in excess of \$100,000, must be competitively selected.

Competitive Sealed Bid: The method of procurement which requires: the issuance of an Invitation for Bid with a purchase description including acceptance criteria and all contractual terms and conditions; a public opening of bids at a pre-designated time and place; unconditional acceptance of a bid without alteration or correction except as authorized in the County Procurement Policy; and, award to the responsive and responsible bidder who has submitted the lowest bid that meets the requirements and criteria set forth in the Invitation for Bids.

Competitive Sealed Proposal: The method of procurement which involves but is not limited to: Solicitation of proposals through a request for proposals; the opening of proposals will avoid disclosure of offerors or contents to competing offerors before and during the process of negotiation; submission of cost or pricing data from the offeror where required; discussions with responsible offerors whose proposals have been determined to be reasonably susceptible of being selected for award, unless such discussions are not required by the request for proposals; and, the award is made to the responsible offeror whose proposal is determined in writing to be the most advantageous to the County, considering evaluation factors set forth in the Request for Proposals. Price is not the primary basis of selection.

Contractor: Any person who receives a bid, proposal or contract in conjunction with procurement with the County. This term also includes any person who conducts business as an agent or representative of the contractor.

Contracts Administration: The management of all actions after the award of a contract that must be taken to assure compliance with the contract; e.g., timely delivery, acceptance, payment, closing contract, etc. Primary responsibility typically designated to the Procurement Department Contracts Administrator unless this authority has been delegated to the using department by the County Procurement Director.

Contract Modification: Any written alteration in specifications, delivery point, frequency of delivery, period of performance, price, quantity, or other provisions of any contract accomplished by mutual action of the parties to the contract. A contract modification is also known as an Amendment or a Change Order.

Cooperative Procurement: The combining of requirements of two or more governmental units to obtain the benefits of volume purchases and/or reduction in administrative expenses.

Debarment: The disqualification of a vendor to receive invitations to bid or quote for a period of time not to exceed three years. Length of debarment will be commensurate with the seriousness of the offense resulting from vendor's conduct or failure or inadequacy of performance.

Department: Any office, Department, or department or other entity of Cochise County.

Design Specification: A specification setting forth the required characteristics to be considered for award of contract, including sufficient detail to show how the product is to be manufactured.

Destination: The place to which a shipment is consigned. All deliveries to Cochise County shall be made F.O.B. Destination, unless otherwise unavoidable.

Document Type: The Procurement Department uses document type to differentiate among different functions for a requisition, solicitation, contract, purchase order, receiving report, invoice, bill of lading, and packing slip.

Emergency Acquisition: The procurement of supplies, materials, equipment or services without benefit of formal procurement procedures. An Emergency Purchase Order is to only be used in a situation when a threat to public health, safety or welfare that threatens the functioning of government, the protection of property or the health of the public is endangered if immediate corrective or preventive action is not taken.

Equal or Approved Equal: Used to indicate that an item may be substituted for a required item if it is equal in quality, performance and other characteristics.

Escalation Clause: A contract provision which permits the adjustment of contract prices by an amount or percent if certain specified contingencies occur, such as changes in the vendor's labor or raw materials costs. Usually tied to an economic indicator, such as the Bureau of Labor Statistic's Producer Price Index (PPI) or some other third party developed index; i.e. ADOT.

Evaluation of Responses: The examination of responses after opening to determine the vendor's responsibility, responsiveness to requirements, and other characteristics of the solicitation relating to the award.

Grant: A financial assistance mechanism that provides money, property, or technical assistance in lieu of money, awarded by a government agency or private organization to an eligible entity to carry out an approved project or activity, or to accomplish some public benefit or purpose. Ownership or Title to materials purchased with Grant Funds is determined by the language in the Grant itself.

Informal Solicitation: A solicitation which does not require a sealed response. In Cochise County, any solicitation below the formal solicitation threshold of \$100,000 is considered an informal solicitation.

Invitation for Bid (IFB): A formal request to prospective vendors/contractors soliciting price quotations or bids. It contains by reference, the specifications or scope of work and all

contractual terms and conditions. If the value of the work/purchase is over \$100,000, you must use the Formal Bid process. In accordance with Arizona Revised Statutes Section 41-2535.c; it is unlawful to artificially divide a purchase to circumvent source selection requirements.

Invoice: A list of goods or services sent to a purchaser showing information including prices, quantities and shipping charges for payment.

Lead Time: The time it would take a supplier to deliver goods after receipt of order. Using departments need to consider lead times when requesting deliveries by date certain. This does not include routine Procurement Department handling and processing time.

Life Cycle Costing: A procurement evaluation technique which determines the total cost of acquisition, operation, maintaining and disposal of the item acquired; the lowest ownership cost during the time the item is in use.

Line Item: An item of supply or service specified in a solicitation for which the vendor must specify a separate price. Each unique item on a purchase order or material receiving report will have a unique line item number or description.

Liquidated Damages: A specific sum of money, agreed to as part of a contract to be paid by one party to the other in the event of a breach of contract in lieu of actual damages, unless otherwise provided by law.

Local Vendor: A vendor having an office within the limits of the County.

Lowest Responsible Vendor: The vendor with the lowest price whose past performance, reputation and financial capability is deemed acceptable.

Managed Asset: Items that cost less than \$1000 which are highly pilferable and require the departments to maintain records of individuals that have been charged with the care and custody of the same. These items require an asset tag to be affixed indicating that the item is the property of Cochise County. Managed Asset Tags can be obtained from the County Property Director. Examples PDA, cell phone, desk top printer, etc.

Model Procurement Code (MPC): A publication approved by the American Bar Association which sets forth procurement statutory principles and policy guidelines for managing and controlling the procurement of supplies, services and construction for public purposes; administrative and judicial remedies for the resolution of controversies relating to public contracts; and a set of ethical standards governing public and private participants in the procurement process.

Negotiation: Requests for proposals are often used as a starting point for negotiations to establish a contract. RFP's generally include more than just price considerations. This method is especially applicable when dealing with a single source manufacturer.

NIGP: National Institute of Governmental Purchasing. A nonprofit, educational and technical assistance corporation of public purchasing agencies and activities at the federal, state and local levels of government.

No Bid: A response to a solicitation for bids stating that respondent does not wish to submit an offer. It usually operates as a procedure consideration to prevent suspension from the vendors list for failure to submit a response.

Option to extend/renew: A provision (or exercise of provision) which allows a continuance of a contract for an additional period of time (typically one-year periods) according to permissible contractual conditions.

Packing List: A document which itemizes in detail the contents of a particular package or shipment.

Performance Bond: A contract of guarantee, executed subsequent to award by a successful vendor to protect the buyer from loss due to the vendor's inability to complete the contract as agreed.

Performance Specification: A specification setting forth performance requirements determined necessary for the item involved to perform and last as required.

Point of Origin (shipping point): The location where a shipment is received by a transportation line from a shipper.

Prequalification of Vendors: The screening of potential vendors in which such factors as financial capability, reputation and management are considered when developing a list of qualified vendors. Also see Vendors List.

Price agreement: A contractual agreement in which a purchaser contracts with a vendor to provide the purchaser's requirements at a predetermined price. Usually involves a minimum number of units, orders placed directly with the vendor by the purchase, and limited duration of the contract. See also Blanket Contract and Requirements Contract.

Procurement: The combined functions of purchasing, inventory control, traffic and transportation, receiving, inspection, store keeping, and salvage and disposal operations.

Proprietary or Sole Brand: The only items that can perform a function and satisfy a need. This should not be confused with "Sole Source." An item can be proprietary and yet available from more than one source. Example: A lens for a particular brand camera. The manufacturer's lens is the only one that will fit the camera but it can be purchased from more than one source, thus, it is not sole source.

Public Procurement: The process of obtaining goods and services for public purpose following procedures implemented to protect public funds from being expended extravagantly or capriciously. Procurement practices are mandated by legislature.

Qualified Products List (QPL): A list of products that, because of the length of time required to test and evaluate, are tested in advance of procurement to determine which suppliers comply with the specification requirements. Also referred to as an "approved brands list."

Qualified Vendor/Responsible Vendor: A vendor determined by a buying organization to meet minimum set standards of business competence, reputation, financial ability and product quality for placement on the vendor list.

Request for Information: Known as an RFI, this process refers to the solicitation of quotations from vendors and suppliers and is intended to provide assistance to the requisitioning unit in determining pricing, specifications, and market availability. This is for information purposes only and not an actual RFQ. Often used to determine if vendors are available to provide the services required.

Request for Proposal (RFP): The most intensive type of “full and open” procurement process. A Formal sealed-bid process for the solicitation of quotations from vendors and suppliers when the work/purchase is over \$100,000. This procurement technique is used when the requirements are not clearly known, are qualitative rather than quantitative, when the term of contract is multi-year, or when the requesting department is looking for a solution to a problem, and/or the selection of a supplier is being made not only on price but a combination of non-price-factors such as – specifications, warranties, liabilities, quality, performance abilities, experience, lead time, delivery, setup and references. Frequently this process is conducted with the assistance of a selection committee who will “grade or rate” proposals based on the various ‘weighted’ criteria.

Request for Quotation (RFQ): An informal request for information where oral or written quotes are obtained from vendors without formal advertising or receipt of sealed bids. This process is used when statutes do not require formal sealed bids in the solicitation of quotations from vendors and suppliers and is based primarily, if not exclusively, to the pricing on the same or like products and services. Used when price competition is desired. Verbal and written Quotation Thresholds for Cochise County are as follows:

- For purchases greater than \$5,000 but less than \$35,000 you must Obtain oral price quotations from three or more vendors.
- For purchases cost at least \$35,000 but less than \$100,000. Obtain written price quotations from three or more vendors

Requisition on Procurement (RPD): The procurement process does not start until the end-user prepares and forwards an approved purchase request to the Procurement Department. The purpose of the requisition is to provide the Procurement Department with the proper approvals and sufficient information necessary for initiating procurement.

Responder: One who submits a response to a solicitation document.

Responsible Bidder: A bidder whose reputation, past performance, and business and financial capabilities are such that the bidder would be judged by an appropriate authority as capable of satisfying an organization’s needs for a specific contract.

Responsive Bidder: A bidder whose bid does not vary from the specifications and terms set out in the invitation for bids.

Sealed: A method determined by the Procurement Director to prevent the contents being revealed or known before the deadline for submission of responses.

Open Purchase Order: Used for open market purchases of bits and pieces of equipment or supplies needed for day-to-day operations from the same vendor within a specified time frame. Prices, Terms and Conditions are not pre-determined. An Open Order does no more than establish a “line of Credit”. Open Purchase order total cannot exceed \$1000. Individual purchases made on this type order will not exceed \$100 per transaction. Procurement requirements may not be artificially divided to circumvent these source selection requirements.

Personal Property: All supplies, equipment and materials, excluding real property.

Procurement Card or P-card: A credit card issued to an individual employee of the County for the purpose of making authorized purchases of products on its behalf. The procurement card program is designed to reduce the amount of processes, time, and costs incurred when making various purchases for the County. The County realizes substantial cost savings by reducing: 1) the number of purchase orders; 2) checks that must be printed and issued; and 3) the volume of invoices that must be matched and paid.

Professional Services: services involving specialized knowledge, skill and experience in a field that requires an extended course of specialized instruction and study.

Public Procurement: The process of obtaining goods and services for public purpose following procedures implemented to protect public funds from being expended extravagantly or capriciously. Public purchasing has rules that corporate purchasing departments often are not required to follow.

Purchase Order: A purchaser’s written document to a vendor formalizing all the terms and conditions of a proposed transaction, such as a description of the requested item(s), delivery schedule, terms of payment, and transportation.. This document, which when signed and executed by an authorized agent, becomes a legal contract enforceable by law.

Purchase Order Change Notice: a written form documenting a change made to a purchase order.

Purchase Requisition: Sometimes referred to as a PR or RPD. A written request, from a using department to the Procurement Department, to obtain material or services and granting authority to commit funds to cover the purchase.

Procurement: Buying, purchasing, renting, leasing or otherwise acquiring any materials, services or construction. Procurement includes all functions that pertain to the obtaining of any material, service or construction, including description of requirements, selection and solicitation of sources, preparation and award of contract, and all phases of contract administration.

Procurement Director: The principal public Procurement official for the County. This individual is responsible for the administration of these policies and is the head of the Procurement Department of the Finance Department.

Procurement Officer: The individual within the Procurement Office charged with the responsibility of processing Requisitions and contacting suppliers and vendors to obtain the required supplies, equipment or construction. May also be referred to as Buyer, Senior Buyer or Contracts Administrator. Members of using department delegated authority, in writing, from the Procurement Director, may also be referred to as a Procurement Officer.

Qualified Vendor List (QVL) : Qualified Vendor Lists contain vendors that have met required qualifications through an RFQ process to provide professional services. These lists are valid for two years, and may be updated with additional vendors after one year.

Qualifications Based System (QBS): The lawful process for selection of design professionals by public owners in Arizona. It is a negotiated procurement process for selection based on qualifications and competence in relation to the work performed. Price is not allowed to be used as an evaluation criterion in a QBS, but is negotiated after the highest rated firm is selected.

Request for Proposals (RFP): An RFP is the primary selection process for professional services. The process includes soliciting proposals from offerors.

Requesting Agency: Department, Department, Board, Committee or other unit in the Cochise County Government using supplies, materials, equipment and purchase service.

Request for Qualifications (RFQ): An RFQ is used to select a contractor or to develop a list of qualified vendors. An RFQ is recommended when the scope of work is not clearly defined, when a service is frequently used, or when multiple departments are expected to have a need for the same type of service.

Responsible Bidder: A bidder who has the capability in all respects to perform fully to the contract requirements, and the tenacity, perseverance, experience, integrity, reliability, capacity, facilities, equipment, and credit which will assure good faith performance.

Responsive Bidder: A bidder who has submitted a bid, which conforms in all material, respects to the requirements set forth in the Invitation for Bid.

Services: The furnishing of labor, time or effort by a contractor or subcontractor, not involving the delivery of a specific product other than reports, which are merely incidental to the required performance. This term does not include “Professional Services” such as those rendered by architects, lawyers, certified public accountants, consultants, programmers, appraisers, and engineers.

Sole Source Procurement: A contract awarded for a material, service or construction item without competition. Sole source procurement shall be avoided, except when no reasonable alternative sources exist. A “Sole source” exists when a single seller controls the supply of products or services in a defined market. These situations are usually the product of market conditions such as technology leadership, patent protection, limited/exclusive/protected franchise distributorships, mergers and acquisitions, etc. Sole Source Procurement must be justified in writing by the Department Head. Procurement Director will be responsible for providing necessary Forms and Procedures for Sole Source Procurement.

Specification: Any description of the physical or functional characteristics, or of the nature of supply, material, equipment, or service item. It may include description of any requirement for testing, inspections, or preparing a supply or equipment for delivery. Specification is used interchangeably with “Scope” or “Scope of Work” and means any description of the physical or functional characteristics, or nature of a material, service or construction item.

Standard: An items characteristic or set of characteristics generally accepted by the manufacturers and users of the item as a required characteristic for all such items.

Standardization: The process of defining and applying the conditions necessary to ensure that a given range of requirements can normally be met, with a minimum of variety, in a reproducible and economic manner based on the best current techniques.

Surplus Property: Property in excess of the needs of a given department and not required for its foreseeable use. This includes obsolete, scrap, and non-expendable supplies that have completed their useful life cycle.

Tabulation: The recording of responses for the purpose of comparison, analysis and record keeping.

Term of Contract – Time period covered by a contract.

Terms and Conditions of Contract (T’s & C’s): Stipulations made in a contract. A phrase generally applied to the rules under which all bids must be submitted and the stipulations included in most purchase contracts; often published by the purchasing organization for the information of all potential vendors. Cochise County Terms & Conditions are posted at the Procurement Department website.

Policy.

Unauthorized Order – Any order placed which does not conform to this Procurement

Uniform Commercial Code (UCC): A comprehensive modernization of various statutes relating to commercial transactions, including sales, lease, negotiable instruments, bank deposits and collections, fund’s transfers, letters of credit, bulk sales, documents of title, investment securities and secured transactions. The Arizona UCC is found in Arizona Revised Statutes (A.R.S.), Title 47.

Value Analysis: An organized effort directed at analyzing the function of systems, products, specifications, standards, practices and procedures for the purpose of satisfying the requires function at the lowest total cost of effective ownership consistent with requirements for performance, reliability, quality and maintainability.

SECTION TWENTY THREE: Federal Grant Procurement Procedures

§ 200.317 Procurements by Counties.

When procuring property and services under a Federal award, a county must follow the same policies and procedures it uses for procurements from its non-Federal funds. The county will comply with § 200.322 Procurement of recovered *materials* and ensure that every purchase order or other contract includes any clauses required by section § 200.326 Contract provisions. All other non-Federal entities, including subrecipients of a state, will follow §§ 200.318 General procurement standards through 200.326 Contract provisions.

§ 200.318 General procurement standards.

(a) The non-Federal entity must use its own documented procurement procedures which reflect applicable State, local, and tribal laws and regulations, provided that the procurements conform to applicable Federal law and the standards identified in this part.

(b) Non-Federal entities must maintain oversight to ensure that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders.

(c)

(1) The non-Federal entity must maintain written standards of conduct covering conflicts of interest and governing the actions of its employees engaged in the selection, award and administration of contracts. No employee, officer, or agent may participate in the selection, award, or administration of a contract supported by a Federal award if he or she has a real or apparent conflict of interest. Such a conflict of interest would arise when the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated herein, has a financial or other interest in or a tangible personal benefit from a firm considered for a contract. The officers, employees, and agents of the non-Federal entity may neither solicit nor accept gratuities, favors, or anything of monetary value from contractors or parties to subcontracts. However, non-Federal entities may set standards for situations in which the financial interest is not substantial or the gift is an unsolicited item of nominal value. The standards of conduct must provide for disciplinary actions to be applied for violations of such standards by officers, employees, or agents of the non-Federal entity.

(2) If the non-Federal entity has a parent, affiliate, or subsidiary organization that is not a state, local government, or Indian tribe, the non-Federal entity must also maintain written standards of conduct covering organizational conflicts of interest. Organizational conflicts of interest means that because of relationships with a parent company, affiliate, or subsidiary organization, the non-Federal entity is unable or appears to be unable to be impartial in conducting a procurement action involving a related organization.

(d) The non-Federal entity's procedures must avoid acquisition of unnecessary or duplicative items. Consideration should be given to consolidating or breaking out procurements to obtain a more economical purchase. Where appropriate, an analysis will be made of lease versus purchase alternatives, and any other appropriate analysis to determine the most economical approach.

(e) To foster greater economy and efficiency, and in accordance with efforts to promote cost-effective use of shared services across the Federal Government, the non-Federal entity is encouraged to enter into state and local intergovernmental agreements or inter-entity agreements where appropriate for procurement or use of common or shared goods and services.

(f) The non-Federal entity is encouraged to use Federal excess and surplus property in lieu of purchasing new equipment and property whenever such use is feasible and reduces project costs.

(g) The non-Federal entity is encouraged to use value engineering clauses in contracts for construction projects of sufficient size to offer reasonable opportunities for cost reductions. Value engineering is a

systematic and creative analysis of each contract item or task to ensure that its essential function is provided at the overall lower cost.

(h) The non-Federal entity must award contracts only to responsible contractors possessing the ability to perform successfully under the terms and conditions of a proposed procurement. Consideration will be given to such matters as contractor integrity, compliance with public policy, record of past performance, and financial and technical resources. See also § 200.213 Suspension and debarment.

(i) The non-Federal entity must maintain records sufficient to detail the history of procurement. These records will include, but are not necessarily limited to the following: rationale for the method of procurement, selection of contract type, contractor selection or rejection, and the basis for the contract price.

(j)

(1) The non-Federal entity may use a time and materials type contract only after a determination that no other contract is suitable and if the contract includes a ceiling price that the contractor exceeds at its own risk. Time and materials type contract means a contract whose cost to a non-Federal entity is the sum of:

(i) The actual cost of materials; and

(ii) Direct labor hours charged at fixed hourly rates that reflect wages, general and administrative expenses, and profit.

(2) Since this formula generates an open-ended contract price, a time-and-materials contract provides no positive profit incentive to the contractor for cost control or labor efficiency. Therefore, each contract must set a ceiling price that the contractor exceeds at its own risk. Further, the non-Federal entity awarding such a contract must assert a high degree of oversight in order to obtain reasonable assurance that the contractor is using efficient methods and effective cost controls.

(k) The non-Federal entity alone must be responsible, in accordance with good administrative practice and sound business judgment, for the settlement of all contractual and administrative issues arising out of procurements. These issues include, but are not limited to, source evaluation, protests, disputes, and claims. These standards do not relieve the non-Federal entity of any contractual responsibilities under its contracts. The Federal awarding agency will not substitute its judgment for that of the non-Federal entity unless the matter is primarily a Federal concern. Violations of law will be referred to the local, state, or Federal authority having proper jurisdiction.

§ 200.319 Competition.

(a) All procurement transactions must be conducted in a manner providing full and open competition consistent with the standards of this section. In order to ensure objective contractor performance and eliminate unfair competitive advantage, contractors that develop or draft specifications, requirements, statements of work, or invitations for bids or requests for proposals must be excluded from competing for such procurements. Some of the situations considered to be restrictive of competition include but are not limited to:

(1) Placing unreasonable requirements on firms in order for them to qualify to do business;

(2) Requiring unnecessary experience and excessive bonding;

(3) Noncompetitive pricing practices between firms or between affiliated companies;

(4) Noncompetitive contracts to consultants that are on retainer contracts;

(5) Organizational conflicts of interest;

(6) Specifying only a “brand name” product instead of allowing “an equal” product to be offered and describing the performance or other relevant requirements of the procurement; and

(7) Any arbitrary action in the procurement process.

(b) The non-Federal entity must conduct procurements in a manner that prohibits the use of statutorily or administratively imposed state, local, or tribal geographical preferences in the evaluation of bids or proposals, except in those cases where applicable Federal statutes expressly mandate or encourage geographic preference. Nothing in this section preempts state licensing laws. When contracting for architectural and engineering (A/E) services, geographic location may be a selection criterion provided its application leaves an appropriate number of qualified firms, given the nature and size of the project, to compete for the contract.

(c) The non-Federal entity must have written procedures for procurement transactions. These procedures must ensure that all solicitations:

(1) Incorporate a clear and accurate description of the technical requirements for the material, product, or service to be procured. Such description must not, in competitive procurements, contain features which unduly restrict competition. The description may include a statement of the qualitative nature of the material, product or service to be procured and, when necessary, must set forth those minimum essential characteristics and standards to which it must conform if it is to satisfy its intended use. Detailed product specifications should be avoided if at all possible. When it is impractical or uneconomical to make a clear and accurate description of the technical requirements, a “brand name or equivalent” description may be used as a means to define the performance or other salient requirements of procurement. The specific features of the named brand which must be met by offers must be clearly stated; and

(2) Identify all requirements which the offerors must fulfill and all other factors to be used in evaluating bids or proposals.

(d) The non-Federal entity must ensure that all prequalified lists of persons, firms, or products which are used in acquiring goods and services are current and include enough qualified sources to ensure maximum open and free competition. Also, the non-Federal entity must not preclude potential bidders from qualifying during the solicitation period.

§ 200.320 Methods of procurement to be followed.

The non-Federal entity must use one of the following methods of procurement.

(a) Procurement by micro-purchases. Procurement by micro-purchase is the acquisition of supplies or services, the aggregate dollar amount of which does not exceed the micro-purchase threshold (§ 200.67 Micro-purchase). To the extent practicable, the non-Federal entity must distribute micro-purchases equitably among qualified suppliers. Micro-purchases may be awarded without soliciting competitive quotations if the non-Federal entity considers the price to be reasonable.

(b) Procurement by small purchase procedures. Small purchase procedures are those relatively simple and informal procurement methods for securing services, supplies, or other property that do not cost more than the Simplified Acquisition Threshold. If small purchase procedures are used, price or rate quotations must be obtained from an adequate number of qualified sources.

(c) Procurement by sealed bids (formal advertising). Bids are publicly solicited and a firm fixed price contract (lump sum or unit price) is awarded to the responsible bidder whose bid, conforming with all the material terms and conditions of the invitation for bids, is the lowest in price. The sealed bid method is the preferred method for procuring construction, if the conditions in paragraph (c)(1) of this section apply.

(1) In order for sealed bidding to be feasible, the following conditions should be present:

(i) A complete, adequate, and realistic specification or purchase description is available;

- (ii) Two or more responsible bidders are willing and able to compete effectively for the business; and
- (iii) The procurement lends itself to a firm fixed price contract and the selection of the successful bidder can be made principally on the basis of price.

(2) If sealed bids are used, the following requirements apply:

(i) Bids must be solicited from an adequate number of known suppliers, providing them sufficient response time prior to the date set for opening the bids, for local, and tribal governments, the invitation for bids must be publically advertised;

(ii) The invitation for bids, which will include any specifications and pertinent attachments, must define the items or services in order for the bidder to properly respond;

(iii) All bids will be opened at the time and place prescribed in the invitation for bids, and for local and tribal governments, the bids must be opened publicly;

(iv) A firm fixed price contract award will be made in writing to the lowest responsive and responsible bidder. Where specified in bidding documents, factors such as discounts, transportation cost, and life cycle costs must be considered in determining which bid is lowest. Payment discounts will only be used to determine the low bid when prior experience indicates that such discounts are usually taken advantage of; and

(v) Any or all bids may be rejected if there is a sound documented reason.

(d) Procurement by competitive proposals. The technique of competitive proposals is normally conducted with more than one source submitting an offer, and either a fixed price or cost-reimbursement type contract is awarded. It is generally used when conditions are not appropriate for the use of sealed bids. If this method is used, the following requirements apply:

(1) Requests for proposals must be publicized and identify all evaluation factors and their relative importance. Any response to publicized requests for proposals must be considered to the maximum extent practical;

(2) Proposals must be solicited from an adequate number of qualified sources;

(3) The non-Federal entity must have a written method for conducting technical evaluations of the proposals received and for selecting recipients;

(4) Contracts must be awarded to the responsible firm whose proposal is most advantageous to the program, with price and other factors considered; and

(5) The non-Federal entity may use competitive proposal procedures for qualifications-based procurement of architectural/engineering (A/E) professional services whereby competitors' qualifications are evaluated and the most qualified competitor is selected, subject to negotiation of fair and reasonable compensation. The method, where price is not used as a selection factor, can only be used in procurement of A/E professional services. It cannot be used to purchase other types of services though A/E firms are a potential source to perform the proposed effort.

(e) [Reserved]

(f) Procurement by noncompetitive proposals. Procurement by noncompetitive proposals is procurement through solicitation of a proposal from only one source and may be used only when one or more of the following circumstances apply:

(1) The item is available only from a single source;

(2) The public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation;

(3) The Federal awarding agency or pass-through entity expressly authorizes noncompetitive proposals in response to a written request from the non-Federal entity; or

(4) After solicitation of a number of sources, competition is determined inadequate.

§ 200.321 Contracting with small and minority businesses, women's business enterprises, and labor surplus area firms.

(a) The non-Federal entity must take all necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible.

(b) Affirmative steps must include:

(1) Placing qualified small and minority businesses and women's business enterprises on solicitation lists;

(2) Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;

(3) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises;

(4) Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises;

(5) Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce; and

(6) Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in paragraphs (1) through (5) of this section.

§ 200.322 Procurement of recovered materials.

A non-Federal entity that is a state agency or agency of a political subdivision of a state and its contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

§ 200.323 Contract cost and price.

(a) The non-Federal entity must perform a cost or price analysis in connection with every procurement action in excess of the Simplified Acquisition Threshold including contract modifications. The method and degree of analysis is dependent on the facts surrounding the particular procurement situation, but as a starting point, the non-Federal entity must make independent estimates before receiving bids or proposals.

(b) The non-Federal entity must negotiate profit as a separate element of the price for each contract in which there is no price competition and in all cases where cost analysis is performed. To establish a fair and reasonable profit, consideration must be given to the complexity of the work to be performed, the risk borne by the contractor, the contractor's investment, the amount of subcontracting, the quality of its record of past performance, and industry profit rates in the surrounding geographical area for similar work.

(c) Costs or prices based on estimated costs for contracts under the Federal award are allowable only to the extent that costs incurred or cost estimates included in negotiated prices would be allowable for the non-Federal entity under Subpart E - Cost Principles of this part. The non-Federal entity may reference

its own cost principles that comply with the Federal cost principles.

(d) The cost plus a percentage of cost and percentage of construction cost methods of contracting must not be used.

§ 200.324 Federal awarding agency or pass-through entity review.

(a) The non-Federal entity must make available, upon request of the Federal awarding agency or pass-through entity, technical specifications on proposed procurements where the Federal awarding agency or pass-through entity believes such review is needed to ensure that the item or service specified is the one being proposed for acquisition. This review generally will take place prior to the time the specification is incorporated into a solicitation document. However, if the non-Federal entity desires to have the review accomplished after a solicitation has been developed, the Federal awarding agency or pass-through entity may still review the specifications, with such review usually limited to the technical aspects of the proposed purchase.

(b) The non-Federal entity must make available upon request, for the Federal awarding agency or pass-through entity pre-procurement review, procurement documents, such as requests for proposals or invitations for bids, or independent cost estimates, when:

- (1) The non-Federal entity's procurement procedures or operation fails to comply with the procurement standards in this part;
- (2) The procurement is expected to exceed the Simplified Acquisition Threshold and is to be awarded without competition or only one bid or offer is received in response to a solicitation;
- (3) The procurement, which is expected to exceed the Simplified Acquisition Threshold, specifies a "brand name" product;
- (4) The proposed contract is more than the Simplified Acquisition Threshold and is to be awarded to other than the apparent low bidder under a sealed bid procurement; or
- (5) A proposed contract modification changes the scope of a contract or increases the contract amount by more than the Simplified Acquisition Threshold.

(c) The non-Federal entity is exempt from the pre-procurement review in paragraph (b) of this section if the Federal awarding agency or pass-through entity determines that its procurement systems comply with the standards of this part.

- (1) The non-Federal entity may request that its procurement system be reviewed by the Federal awarding agency or pass-through entity to determine whether its system meets these standards in order for its system to be certified. Generally, these reviews must occur where there is continuous high-dollar funding, and third party contracts are awarded on a regular basis;
- (2) The non-Federal entity may self-certify its procurement system. Such self-certification must not limit the Federal awarding agency's right to survey the system. Under a self-certification procedure, the Federal awarding agency may rely on written assurances from the non-Federal entity that it is complying with these standards.

The non-Federal entity must cite specific policies, procedures, regulations, or standards as being in compliance with these requirements and have its system available for review.

§ 200.325 Bonding requirements.

For construction or facility improvement contracts or subcontracts exceeding the Simplified Acquisition Threshold, the Federal awarding agency or pass-through entity may accept the bonding policy and requirements of the non-Federal entity provided that the Federal awarding agency or pass-through entity has made a determination that the Federal interest is adequately protected. If such a determination has not been made, the minimum requirements must be as follows:

(a) A bid guarantee from each bidder equivalent to five percent of the bid price. The “bid guarantee” must consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of the bid, execute such contractual documents as may be required within the time specified.

(b) A performance bond on the part of the contractor for 100 percent of the contract price. A “performance bond” is one executed in connection with a contract to secure fulfillment of all the contractor's obligations under such contract.

(c) A payment bond on the part of the contractor for 100 percent of the contract price. A “payment bond” is one executed in connection with a contract to assure payment as required by law of all persons supplying labor and material in the execution of the work provided for in the contract.

§ 200.326 Contract provisions.

The non-Federal entity's contracts must contain the applicable provisions described in Appendix II to Part 200 - Contract Provisions for non-Federal Entity Contracts Under Federal Awards.