

County of Yolo Administrative Policies and Procedures Manual

TITLE: Policy on Procurement

Department: ~~Financial~~-General Services

TYPE: POLICY

DATE: ~~December 7, 2021~~August 29, 2023

A. PURPOSE

This policy establishes the County's principles of procurement and ethical standards for procurement that all County officers and employees (collectively, "employees") involved in the procurement process must follow to prevent potential conflicts of interest and avoid the appearance of impropriety while effectively and efficiently procuring goods and services. Additionally, this policy articulates the delegated authority granted by the Board of Supervisors to specific County positions. All County employees involved in the purchasing process shall seek to obtain the best value for each dollar expended and uphold the public's trust by processing public procurement in an open and honest environment.

B. APPLICABILITY

This policy is applicable to all County employees involved in the procurement process. The procurement process includes:

1. The conducting of, or participation in, an informal or formal competitive solicitation process where required by this policy
2. The negotiation, contracting and/or purchasing of goods, supplies and/or services
3. The use of a County purchasing card, travel card/program or fuel card
4. The development or approval of specifications and standards to be used for procuring goods, supplies and/or services
5. The preparing or approving of sole-source or single-source justifications
6. The surplus of County property, including identifying property for surplus and the auction, sale or other disposal of the property
7. The negotiation, contracting, and approval of rents or leases for personal property
8. The negotiation, contracting, and approval of purchasing, renting or leasing real property

This policy shall be implemented in a manner consistent with all applicable Federal, State and local laws, regulations, ordinances and agreements. In the event an applicable Federal, State and/or local law, regulation, ordinance, or agreement (including, but not limited to, grant agreements) is more restrictive than this policy, the more restrictive provision shall be followed.

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In addition to this Policy, County employees involved in the procurement process shall follow the Procurement Procedures.

C. PRINCIPLES OF PROCUREMENT

The Board of Supervisors centralized the County's procurement function within the Procurement Division of the ~~Department of Financial Services~~General Services Department operating under the direction of the Purchasing Agent. The Procurement Division is responsible for:

1. Developing and implementing this Procurement Policy and the Procurement Procedures, as adopted by the Board of Supervisors, as well as Federal, State and/or local law, regulation, and ordinance, or any applicable agreement
2. Providing procurement support services such as assistance, training and oversight.

The Purchasing Agent and County employees in the Procurement Division are to implement the following procurement principles:

1. Well-Informed Decision Makers

Ensure that County elected officials and authorized employees make sound purchasing decisions and have access to meaningful information about the procurement process, so that they may fulfill their operational needs

2. Competition for Value

Ensure the County obtains quality at the best economic value using competitive solicitation processes where feasible

3. Leverage Technology

Use data analytics and electronic commerce to make intelligent procurement decisions and efficiently administer the procurement processes

4. Leverage Purchasing Power

Use a centralized procurement system to achieve economies of scale and/or enhance quality

5. Performance-based Procurement

Incorporate performance metrics to measure the efficiency, effectiveness and outcomes of procurement activity

D. CODE OF ETHICS FOR PROCUREMENT

Every employee of Yolo County involved in the procurement process shall seek to obtain the best value for each dollar expended and uphold the public's trust by processing public purchasing in an open and honest environment.

Yolo County promotes governmental integrity and guards against the appearance of impropriety by prescribing the following essential standards of ethical conduct for procurement activities:

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1. County employees shall discharge their duties impartially, so as to assure fair competitive access to governmental procurement by responsible contractors and to foster public confidence in the integrity of the County procurement system.
2. County employees shall not solicit, demand, accept or agree to accept a gratuity, offer of employment, or other personal advantage in connection with any decision, approval, disapproval, recommendation, or preparation of any part of a program requirement, specification, standard or contract. Examples includes modifying a statement of work in a competitive bid document or modifying payment provisions to be more favorable to vendor.
3. County employees shall not participate directly or indirectly in a procurement when the employee becomes aware of the possibility that:
 - a. The employee or any member of the employee's immediate family has a personal financial interest pertaining to the procurement;
 - b. A business or organization in which the employee, or any member of the employee's immediate family (which includes spouse, siblings, parents and/or children), has a financial interest pertaining to the procurement; or
 - c. Any other person, business or organization with whom the employee or any member of the employee's immediate family is negotiating or has an arrangement concerning prospective employment is involved in the procurement.
4. County employees shall treat current and/or potential contractors, suppliers and vendors in a courteous and professional manner.
5. County employees involved in the decision to place County personal or real property in surplus status shall not purchase, or make an offer to purchase, the same personal property through sealed bid, auction, or any other manner. Nor shall they request that the purchase be made on their behalf by a member of the employee's immediate family, or by another person or persons.

Upon discovery of an actual or potential conflict of interest, an employee shall promptly withdraw from further participation in the transaction involved and notify their immediate supervisor. County Counsel should be consulted for an opinion whenever there is an appearance of conflict.

County employees who violate this Code of Ethics may be subject to disciplinary action, up to and including termination, in addition to other penalties as may be applicable under the law, such as civil penalties and/or criminal penalties.

The Purchasing Agent shall prescribe a Code of Ethics for Procurement that applies to vendors with whom the County is doing business.

E. PURCHASING AUTHORITY DELEGATED BY THE BOARD OF SUPERVISORS TO THE PURCHASING AGENT

The Board of Supervisors created and designated a Purchasing Agent who has the powers and duties prescribed by the laws of the State, County ordinance and resolutions of the Board.

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The Purchasing Agent is the head of the Procurement Division of the ~~Department of Financial Services~~General Services Department. The Purchasing Agent may delegate any part or part(s) of their procurement authority to staff within the Procurement Division. The Procurement Division shall:

1. Unless otherwise provided for herein, procure all goods, supplies, materials, equipment, and contractual services required by the County.
2. Review and approve all rents and leases for goods, supplies, materials, equipment, and contractual service required by the County.
3. Lease real property as required by the County, subject to approval by the Board of Supervisors where required by state law or County ordinance.
4. Sell, lease, store, donate, or dispose of any personal property belonging to the County which the Purchasing Agent finds not to be required for public use.
5. Develop, maintain, disseminate and enforce County purchasing policies and procedures consistent with law and other resolutions and directions of the Board of Supervisors, and after consulting with the County Administrator, County Counsel and Chief Financial Officer.
6. Perform the aforementioned services on behalf of special districts, and/or other governmental units in the County, when requested to do so.

The Board of Supervisors delegates to the Purchasing Agent the ability to make purchases (including but not limited to executing agreements) up to the maximum amount specified in the following state laws:

PROCUREMENT AUTHORITY OF THE PURCHASING AGENT		
Procurement Activity Type	Authority	Amount (as of 2018)
Goods and Supplies	Govt. Code §25501	No limit
General Services	Govt. Code §25502.5	=< \$200,000 ^(note 1)
Special Services	Govt. Code §31000	=< \$200,000 ^(note 1)
Revenue-Generating Contracts ^(Note 2)		=< \$60,000
Contracts: Time-Extensions Only		Max contract term - 5 yrs
Contracts: Non-cost changes		No limit ^(note 3)
Contracts: Assignments ^(Note 4)		No limit
Contracts: Early Terminations		=< \$100,000 ^(note 5)

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Max amount during declared emergency	Govt. Code §25502.7	=< \$250,000
Trade-In allowances	Govt. Code §25503	< \$10,000
Sale of real property	Govt. Code §25526.5	=< \$25,000
Public Works without bids	Pub. Con. Code §20131	=< \$6,500
Public Works max amount of change orders	Pub. Con. Code §20142	Max allowed in code
CUPCCAA Public Works Projects ^(note 6)	Pub. Con. Code §22034	=< \$200,000

Note 1 Maximum amount is the aggregate fiscal year amount committed to that contractor countywide.

Note 2 Revenue-generating contracts are those where the County is providing goods, supplies, and/or services to another public entity.

Note 3 Non-cost changes must be generally consistent with the original approved scope of the contract.

Note 4 Assignments are the transfer of a contract or purchase order from one vendor to another due to a merger, acquisition or other similar reason.

Note 5 The Purchasing Agent cannot terminate contracts entered into by the Board of Supervisors unless the Board specifically delegates such authority.

Note 6 CUPCCAA is the acronym for the California Uniform Public Construction Cost Accounting Act (Public Contract Code section 22000 et seq.)

In the event the cost of a procurement activity exceeds the procurement authority of the Purchasing Agent, that activity will require approval by the Board of Supervisors.

The Board of Supervisors requires the Purchasing Agent to ensure competitive solicitations are conducted wherever reasonably possible. The Procurement Division is responsible for coordination of solicitations for goods and supplies costing \$5,000 or more. Departments are generally responsible for the coordination of solicitations for services at any amount, and for goods and supplies costing less than \$5,000. The type of solicitation required is based on the estimated value of the item or service to be procured as follows:

COMPETITIVE SOLICITATION REQUIREMENTS	
Solicitation type	Estimated Amount ^(note 1)
Good, Supplies and Services	
No solicitation required	< \$5,000

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Informal solicitation, two quotes	=> \$5,000 - <\$10,000
Informal solicitation, three or more quotes	=> \$10,000 - =<\$50,000
Formal solicitation	> \$50,000 and up
CUPCCAA Public Works Projects ^(note 2)	
No bids required	=< \$60,000
Informal bids	=< \$200,000 ^(note 3)
Formal bids	> \$200,000

Note 1 For contracts, the estimated amount is the annual amount of per procurement.

Note 2 Threshold amounts are inclusive of administrative overhead.

Note 3 A lower threshold may apply if the project relies on Federal funds.

F. PURCHASING AUTHORITY DELEGATED BY THE BOARD OF SUPERVISORS TO COUNTY OFFICERS OTHER THAN THE PURCHASING AGENT

The Board of Supervisors delegates certain purchasing authority to the following County Officers which shall be reviewed annually:

1. All Department Heads may make purchases of goods, supplies and services on behalf of the County less than \$5,000 per vendor per fiscal year. Special commodities are not included in this delegated authority and may only be purchased by the Purchasing Agent. Special commodities are defined in Section I of this policy.

Department heads can refer their employees to the Purchasing Agent to receive training and certification as Deputy Purchasing Agents who are authorized to procure goods and services on behalf of their respective department. The purchasing authority of Deputy Purchasing Agents are specified in the Procurement Procedures. Department heads may, at their discretion, establish internal limits on the purchasing authority of their Deputy Purchasing Agents.

2. The ~~Chief Financial Officer~~ Director of General Services may exercise all of the purchasing authority delegated to the Purchasing Agent.
3. The County Administrator may award and execute contracts to procure Special Services or with other governmental entities using the purchasing authority delegated to the Purchasing Agent.

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4. The Director of the Health and Human Services Agency may award and execute contracts to procure residential 24/7 care services and services from institutions for mental disease using the Special Services purchasing authority delegated to the Purchasing Agent.
5. The Directors of Department of Community Services and General Services Department may award and execute contracts using the CUPCAA purchasing authority delegated to the Purchasing Agent.

G. STATUTORY PURCHASING AUTHORITY OF CERTAIN COUNTY OFFICERS

The Board of Supervisors recognizes that State law authorizes the following County Officer certain purchasing authority:

1. The Assessor/Clerk-Recorder/Registrar of Voters, acting as the County Elections Official, need not utilize the services of the Purchasing Agent when purchasing election materials or precinct supplies pursuant to Elections Code sections 13001 and 14100.

H. AUTHORIZED PROCUREMENT METHODS

The County can procure goods, supplies and services through a variety of methods listed below. The process of using any of these methods are detailed in the County Procurement Procedures. Any person involved in the procurement processes below must comply with the Procurement Code of Ethics.

1. Small Purchases

Small purchases are for goods and supplies that cost less than \$5,000. Small purchases can be paid for by a claim, purchase card or purchase order. Services are procured using a purchase order or a contract regardless of the cost of the vendor. Special commodities, as defined later in this policy, cannot be acquired through the small purchases method.

2. Requisition & Purchase Order

A requisition is an internal document used by a department seeking to procure goods, supplies and/or services costing equal to or greater than \$5,000 or is doing \$5,000 or more worth of purchases from the same vendor in a fiscal year. Requisitions contain detailed specifications for the item to be procured and is transmitted to the Purchasing Division for review and approval. Requisitions shall be completed and transmitted prior to completing a purchase.

Once a requisition is approved, a purchase order is created. A purchase order is a formal document issued by the Purchasing Division to the vendor to purchase goods, supplies and services. The purchase order contains all the specifications, terms and conditions of the purchase.

3. Competitive Solicitation

Competitive solicitation is the process by which the County obtains bids, proposals, qualifications, informal quotes or other pricing and related information from vendors. The County will award a contract or purchase order to the vendor that demonstrates they are either the most responsive and responsible bidder meeting

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the written specifications issued by the County or the vendor offering the highest ranked proposal or qualifications, as applicable. Competitive solicitations come in two forms; informal and formal solicitations.

Informal solicitation is the process of receiving quotes by email, facsimile, paper quote or printouts. from prospective vendors. Two quotes are required for purchases in the amount of \$5,000 to \$9,999. Three quotes are required for purchases in the amount of \$10,000 or higher.

Formal solicitations include Requests for Proposals, Requests for Quotes, Requests for Qualifications, Invitation for Bids and Requests for Information. A formal document is published by the County and prospective vendors will respond to the solicitation in a manner prescribed by the County. The formal solicitation process must be conducted in a fair and objective manner.

The types of formal solicitations are as follows:

a. Request for Information

Requests for Information (RFI) are used to obtain information from potential vendors about goods, supplies and services. RFIs are commonly used to better understand the market, and/or prepare for a complex Request for Proposals. The Department generally prepares and conducts the RFI process. An RFI cannot make any award or promise of award to vendors submitting a response.

b. Invitation for Bids

Invitation for Bids (IFB) are used to procure goods, supplies and related services. An IFB is conducted by the Procurement Division and is awarded to the lowest-cost bidder.

c. Request for Quotes

Request for Quotes (RFQ) are used to procure goods, supplies and/or services. A RFQ is conducted by the Department or by Procurement Division and is generally awarded to the lowest-cost bidder. Other factors may be considered as part of the award decision, but the lowest-cost is the primary factor for consideration of the award.

d. Request for Qualifications

Request for Qualifications (RFQu) are used to procure technical special services such as architectural and engineering services. The RFQu can be used to make multiple awards to build a roster of providers. A RFQu is generally conducted by the Department that follows guidelines issued by the Procurement Division. The RFQu must be reviewed by the Procurement Division prior to its release. The proposed RFQu award must be reviewed by the Procurement Division prior to issuing a Notice of Intent to Award. The award is generally made based on the knowledge, quality and skill set of the applicant, as well as proposed cost.

e. Request for Proposals

Request for Proposals (RFP) are generally used to procure general or special services. RFPs can also be used for procuring a solution that is a mix of goods, supplies and services. A RFP is generally conducted by the Department that follows guidelines issued by the Procurement Division. The RFP

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must be reviewed by the Procurement Division prior to its release. Vendors' response to the RFP must be scored based on objective evaluation criteria. The evaluation criteria must be based on the quality of the proposal and the bid price. A review committee of no less than three people shall evaluate and score the quality of the proposal. The evaluation and scoring of the bid price is performed independently of the quality evaluation. The proposal with the lowest cost bid will generally receive the highest score for the evaluation of the bid price. The proposed RFP award must be reviewed by the Procurement Division prior to issuing a Notice of Intent to Award.

4. Contracts

A contract is a written document between parties with binding legal force, usually exchanging goods or services for money or other consideration. The term "contract" and "agreement" are synonymous. A contract may also include leases, revenue generating contracts and other forms of agreements as applicable to the County. The term contract includes memoranda of understanding ("MOU"), provided that the MOU is used to procure goods, supplies and/or services.

5. Non-competitive Purchases

Non-competitive purchases are purchases made without utilizing a competitive process. Single sourcing and sole sourcing are types of non-competitive purchases. Single source procurement is when multiple vendors could supply the good or service but one vendor is selected over the others for substantial reasons. Sole source procurement is when only one vendor is can provide the good or service.

6. Cooperative Agreements

A cooperative agreement is used when two or more governmental entities pool their commodity and/or service requirements to purchase aggregated quantities of goods, supplies and/or services. The County may utilize a cooperative agreement if the competitive solicitation process that preceded the agreement is at least as restrictive as the County's process and the use of the agreement is in the County's best interest. The use of any Cooperative Agreement in lieu of a competitive bid process is subject to the Purchasing Agent's approval.

7. Piggyback Agreements

A piggyback agreement is used when a governmental entity will extend the pricing and terms of a contract to another governmental entity. The entity with the contract must have language in their contract or competitive solicitation that allows the terms of the contract to be extended to other entities. The County may piggyback or "ride" another governmental entity's contract if the contract's competitive solicitation process is at least as restrictive as the County's process and the use of the agreement is in the County's best interest. The County may allow other governmental entities to ride the County's contract if it is in the County's best interest. The use of any piggyback agreement in lieu of a competitive bid process or to allow other governmental entities to use the County's contract is subject to the Purchasing Agent's approval.

I. SPECIAL COMMODITIES

Special commodities are goods, supplies and services determined by the Purchasing Agent to be exempt from the procurement authority delegated to departments. These items may require additional review and concurrent approval by other County Departments as indicated below.

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1. Cellular/Telecommunications equipment (Department of Innovation & Technology Services)
2. Computers (but not peripherals such as keyboards or mice) (Department of Innovation & Technology Services)
3. Computer software (Department of Innovation & Technology Services)
4. Construction
5. Furniture
6. Leases/rents for equipment (such as copiers)
7. Reprographic services
8. Vehicles (inclusive of tractors, trailers and heavy equipment) (Department of Community Services)

J. ITEMS EXEMPT FROM THE COMPETITIVE SOLICITATION PROCESS

Exempt goods, supplies, and services are items deemed by the Purchasing Agent where competitive solicitation is impractical. The following items can be obtained without conducting a competitive solicitation process:

1. Utilities
2. Advertising
3. Insurance
4. Courier services such as UPS or FedEx
5. Memberships
6. Training, seminars, or classes and related travel expenses for County employees and trainings, seminars, or classes for clients of the Workforce Innovation & Opportunity Act program on a State of California approved provider list.
7. Certain expenses related to civil or criminal litigation, legal counsel with the approval of County Counsel, or confidential employment-related investigations such as attorney services, legal materials, investigators, and other related experts
8. Works of art for public places or other creative/artistic endeavors that require a particular and demonstrated skill or talent to include, but not limited to, artists, musicians, and writers
9. Certain expenses where the cost of the item or service is set by state or federal law
10. Purchases made from other federal, state or local governmental entities, provided such purchases are for rent of the entity's facilities or reimbursement for services directly provided by the entity
11. Goods, supplies, and/or services needed by the County pending a bid award, contract renewal or bid protest action and a contractor agrees to provide such goods, supplies, and/or services at the same

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contract price as a previous award, or at revised price that reflects changes in applicable governmental indexes since the beginning of the current contract period, until a new contract has been awarded. Such interim period contracts shall not normally exceed 180 days, or until resolution of a bidder's protest

12. When the Purchasing Agent or his/her designee determines that making a specific purchase without competitive bidding is reasonably necessary for the conduct of County business or is needed to avoid impairment of County functions or services
13. When the Purchasing Agent or his/her designee determines that it is in the best interest of the County to renew a contract award from the previous contract period, based on satisfactory service and reasonable prices, to avoid the interruption of County business and/or based on good business sense

K. PUBLIC WORKS PROJECTS – BOND REQUIREMENTS

The County requires public work projects to be appropriately bonded to minimize the County's risk. The bonding requirements vary depending on the type and value of the contract, the level of risk associated with the contract, and governing law.

1. Bid Bond

A bid bond is an arrangement between the surety (insurance company), the principal (contractor) and obligee (the County) whereby the surety agrees to protect the County if the contractor awarded the contract defaults in executing a contract (turns down the project award following the County's bid solicitation process). A bid bond is required when the public works project is more than \$250,000. The amount of the bid bond shall be 10% of the contractor's bid price. A bid bond shall accompany all bids for public works projects. A contractor may submit other forms of security to the satisfaction of the County's Purchasing Agent and County Counsel.

2. Payment Bond

A payment bond is an arrangement that protects the County from a defaulting contractor, and protects subcontractors, material and equipment suppliers, and workers who claim underpayment by the contractor. The amount of the payment bond shall be 100% of the total amount payable by the terms of the contract. A payment bond is required for all public works contracts more than \$25,000.

3. Performance Bond

A performance bond guarantees the complete and faithful performance of the public works contract. The amount of the performance bond shall be 100% of the total amount payable by the terms of the contract. A performance bond is required for all public works contracts more than \$25,000.

Nothing in this section prevents the County from implementing more restrictive bond requirements on a project-by-project basis.

L. PUBLIC WORKS PROJECTS –JOINT APPRENTICESHIP COMMITTEE PARTICIPATION REQUIREMENT

~~Public works solicitations for construction projects estimated to cost more than \$1,000,000 shall contain a joint apprenticeship committee requirement. Bidders are required to demonstrate that they are an active member of a joint apprenticeship training committee or joint apprenticeship committee with their bid submission.~~

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This section shall not apply if the public works project is in response to a declared emergency. Public works solicitations for Covered Projects estimated to cost more than \$1,000,000, as determined by the engineer's estimate for the Covered Project, shall contain a joint apprenticeship committee (JAC) participation requirement unless the Covered Project is deemed to be exempt by the Purchasing Agent. This JAC requirement is in addition to the apprenticeship requirements of the Prevailing Wage Laws. Contractors must submit evidence of their JAC participation with their bid submission. Participation in a JAC means the contractor is a signatory to a JAC or employs apprentices dispatched from a JAC. The form of such proof of compliance in the bid documents shall be determined by the Purchasing Agent. Failure to submit evidence of compliance with this requirement shall result in a determination that the bid is non-responsive.

In addition, contractors bidding on non-exempt Covered Projects subject this Policy must certify that they have not been found in violation of State or local apprenticeship laws or regulations in the past three years. A copy of the contractor's certification must be included in the bid submission or the bid will be deemed non-responsive.

1. Definitions. For purposes of this JAC requirement, the following definitions apply:

- a. "Covered Project" means a "public project" as defined in Public Contract Code section 22002(c), as that definition may be amended from time to time. Maintenance work is expressly excluded from the definition of a "Covered Project."
- b. "Joint apprenticeship committee" or "JAC" means an apprenticeship program comprised of an equal number of employer and employee representatives approved by the State of California Division of Apprenticeship Standards.
- c. "Maintenance Work" shall have the same meaning as set forth in Public Contract Code section 22002(d), as that definition may be amended from time to time. Maintenance Work projects shall not be subject to the JAC requirement.
- d. "Prevailing Wage Laws" means the prevailing wage laws set forth in Labor Code section 1720 et seq., including the apprenticeship requirements in Labor Code section 1777.5.

2. Exemptions. The JAC requirement shall not apply in the following circumstances, as determined by the Procurement Manager:

- a. *Emergency Projects.* The Covered Project is part of an emergency or in response to a declare emergency.
- b. *No Apprenticeable Trades.* The Covered Project does not involve the use of apprenticeable trades or crafts.
- c. *No Responsive Bids.* The Covered Project was advertised for bids with the JAC requirement, and no responsive and responsible bids were received that complied with the JAC requirement, in which case the Purchasing Agent may waive the JAC requirement or reject all bids and re-bid the Covered Project without the JAC requirement.
- d. *Conflict with Project Funding.* Application of this JAC requirement would violate the conditions of state, federal, or other project funding sources.

M.

N.M. SUBRECIPIENT CONTRACTING

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This section implements federal requirements contained within the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, commonly called the Uniform Guidance in the Code of Federal Regulations, Title 2, Chapter 200 (2 CFR 200). When a contract is issued to another entity to perform duties required or necessitated by a federal funded program, the entity is a “subrecipient” receiving a subaward from the County. The County must perform additional obligations to meet federal funding requirements for such subrecipient agreements.

Departments receiving federal funding and managing a subrecipient contract must determine whether the federal funding program has additional requirements beyond those required by the Uniform Guidance.

Prior to the award of any contract that utilizes federal funding, the Department must also complete a subrecipient determination checklist to the County Procurement Division for review and concurrence. When an entity is determined to be a subrecipient, Departments then complete a subrecipient risk assessment analysis. The results of the analysis must be incorporated into the contract. Departments are responsible for developing and implementing a risk monitoring plan.

After the award of the contract, Departments are responsible to document their subrecipient monitoring efforts, including their annual review of the risk monitoring plan. The results of the monitoring effort and any changes to the risk monitoring plan must be forwarded to the Department of Financial Services.

The Internal Audits Division, the Procurement Division, or the County’s external auditors may access the contract file at any time to review monitoring activity and may require Departments to undertake additional steps to mitigate subrecipient risk.

P-N. PROTESTS

The Purchasing Agent shall be responsible for the review and disposition of any protest of a competitive solicitation.

A vendor may request a review of the solicitation requirements and specifications provided that the request is received by the Purchasing Agent prior to the end of the question and answer period.

A non-selected vendor can file a protest of the Notice of Intent to Award no later than 4:00 PM Pacific Time five business days after the date the notice is posted. Only those vendors that submitted a bid are eligible to protest the Notice of Intent to Award.

All protests shall be delivered by the vendor in writing by mail, facsimile and/or electronic mail to both the Purchasing Agent and the competitive solicitation coordinator. The protest must be written in a manner prescribed by the Purchasing Agent and include specific facts, circumstances, reasons and/or basis for the protest. Protests received after the time specified are untimely and shall be denied on that basis.

The Purchasing Agent will evaluate the protest and issue a written decision within 30 business days of confirmed receipt. The Purchasing Agent’s decision is final. In the event the Purchasing Agent is unable to perform this role, the ~~Chief Financial Officer~~General Services Director shall handle the protest responsibilities.

P-O. DEBARMENT AND SUSPENSION

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After reasonable notice to the person involved and reasonable opportunity for that person to be heard, the Purchasing Agent, after consultation with the Using Department and the County Counsel's Office, shall have authority to debar a person for cause from consideration for award of contracts. The debarment shall not be for a period of more than three years. The Purchasing Agent, after consultation with the Using Department and the County Counsel's Office, shall have authority to suspend a person from consideration for award of contracts if there is probable cause for debarment. The suspension shall not be for a period exceeding three months. The authority to debar or suspend shall be exercised in accordance with this policy.

The causes for debarment or suspension include the following:

1. conviction for commission of a criminal offense as an incident to obtaining or attempting to obtain a public or private contract or subcontract, or in the performance of such contract or subcontract;
2. conviction under State or federal statutes of embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, or any other offense indicating a lack of business integrity or business honesty which currently, seriously, and directly affects responsibility as a County contractor;
3. conviction under State or federal antitrust statutes arising out of the submission of bids or proposals,
4. violation of contract provisions, as set forth below, of a character which is regarded by the Purchasing Agent to be so serious as to justify debarment action:
 - a. deliberate failure without good cause to perform in accordance with the specifications or within the time limit provided in the contract; or
 - b. a recent record of failure to perform or of unsatisfactory performance in accordance with the terms of one or more contracts; provided that failure to perform or unsatisfactory performance caused by acts beyond the control of the contractor shall not be considered to be a basis for debarment;
5. any other cause the Purchasing Agent determines to be so serious and compelling as to affect responsibility as a County contractor, including debarment by another governmental entity for any cause listed in regulations; and
6. for violation of the ethical standards.
7. The Purchasing Agent shall issue a written decision to debar or suspend. The decision shall:
8. state the reasons for the action taken; and
9. inform the debarred or suspended person involved of its rights to or administrative review as provided in this policy.
10. A copy of the decision shall be mailed or otherwise furnished immediately to the debarred or suspended person and any other party intervening. A decision shall be final and conclusive, unless fraudulent, or
11. the debarred or suspended person commences an action in court; or
12. for a decision of debarment only, the debarred person appeals administratively to the Board of Supervisors in accordance with the following:
 - a. The debarred person shall file its appeal with the Board within 60 days of the receipt of a decision to debar.
 - b. The Board shall decide whether, or the extent to which, the debarment or suspension was in accordance with the policy, the best interests of the County, and was fair. The proceeding shall be *de novo*. Any prior determinations by administrative officials shall not be final or conclusive.

A determination of an issue of fact by the Board shall be final and conclusive unless arbitrary, capricious, fraudulent, or clearly erroneous.

P. ELECTRONIC SIGNATURES AND ELECTRONIC PROCUREMENT

An “electronic signature” is the broad umbrella category under which all electronic and digital signatures fall. The legality and use of electronic signatures are governed by federal and state law. (See 15 United States Code §§ 7001, et seq. [U.S. Federal Electronic Signatures in Global and National Commerce Act]; California Government Code §16.5; Uniform Electronic Transactions Act (California Civil Code §§ 1633.1, et seq.).

The Purchasing Agent is authorized to develop, implement, and facilitate procedures for the use of electronic and digital signatures. The use of electronic signatures is permissible to execute documents where it is operationally feasible to do so, where existing technology permits, where it is otherwise appropriate based on the Department's preferences, and as allowed by law. The Purchasing Agent may also authorize methods, means, and standards for secure electronic procurement transactions, as well as conducting competitive procurement solicitation, submittal, communication, and evaluation processes electronically.

The requirements for an electronic signature are as follows:

1. Unique to the person using it;
2. Capable of verification;
3. Under the sole control of the person using it;
4. Must be linked to the data in such a way that if the data is changed the signature will be invalidated; and
5. Conforms to regulations adopted by the Secretary of State.

The Purchasing Agent, in consultation with the Innovation & Technology Services Department, is authorized to determine acceptable technologies and electronic signature providers and create a list of approved electronic signature providers, consistent with current state legal requirements and industry best practices to ensure the security and integrity of the data and the signature.

Q. PREFERENTIAL PURCHASING PROGRAMS

The Board of Supervisors may from time to time adopt preferential purchasing programs to effect policy goals through County procurement activity. The Purchasing Agent shall be responsible for implementing and administering adopted preferential purchasing programs. Current preferential purchasing programs are:

1. Local Business Preference
2. Recycled Content Preference

Unless otherwise required or prohibited by an applicable federal or state law, regulation, ordinance, or contract, the Purchasing Agent determines when it is in the best interest of the County to utilize preferential purchasing programs during a competitive solicitation process.

R. EMERGENCY PROCUREMENT

This policy recognizes that certain purchases are necessitated by emergency conditions. Emergency purchases are limited to those immediately necessary for protection from substantial hazard to life or property, or occasions when the purchasing agent or their designee is not accessible and the need is unforeseeable and immediate for

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continued operation of a county function. Every emergency purchase shall be promptly reported to the Purchasing Agent in writing with the facts constituting the emergency.

S. PURCHASING AUTHORITY DURING A DECLARED STATE OR LOCAL EMERGENCY

During a declared state or local emergency, the Board of Supervisors delegates to the Purchasing Agent authority to make purchases equal to or less than \$250,000 per vendor per emergency.

The Purchasing Division shall follow informal bidding procedures to the extent necessary and feasible under emergency circumstances. The Purchasing Agent may waive the requirement to use the lowest cost vendor depending on the availability to receive the requested goods, supplies and/or services.

The ~~Chief Financial Officer~~General Services Director and the County Administrator have the same authority as the Purchasing Agent during a declared state or local emergency.

T. STANDARDIZED PURCHASES

The Purchasing Agent may establish and chair a Procurement Standards Committee as needed to review County spending patterns and establish standards concerning the type, design, quality or brand of a specific article or group of related items or services purchased by the County. Adopting standardized purchases based on spend analysis allows the County to establish or maintain uniformity in appearance and/or quality and/or achieve cost savings through volume pricing.

U. SURPLUS

County personal property that is no longer useable or required by the department is considered surplus. The Purchasing Agent or designee is responsible for determining whether the property can be:

- Transferred to a surplus pool under the supervision of the Purchasing Agent for reuse by another department
- Transferred to another department
- Placed for sale by the Purchasing Agent or designee
- Placed for auction by the Purchasing Agent or designee
- Donated to another governmental entity or a non-profit organization, if the value is equal to or less than \$10,000
- Recommended to the Board of Supervisors for donation to another governmental entity or a non-profit organization when the value is greater than \$10,000
- Disposed of by way of recycling or waste
- Donating surplus computer equipment directly to qualifying persons receiving public benefits in a process consistent with California Government Code §25372(c)

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The department shall notify the Purchasing Agent if the personal property was purchased with grant funds and if any restrictions exist as to the disposal of the property.

V. ACCOUNTABILITY

All County employees involved in the procurement process are accountable to the public for the effective and efficient spending of public funds. The following mechanisms help to provide assurance of this accountability.

1. Receiving Process

Department heads are responsible for establishing a departmental process to ensure that the quality and quantity of the received goods, supplies and/or services meet expectations and conform with the specifications, terms and conditions in the applicable contract or purchase order.

Departments shall keep complete records showing the date of delivery, quantity delivered or services performed and any discrepancies. Quality and performance testing of commodities and equipment is the responsibility of the receiving department, unless prior arrangements are made with the Purchasing Agent.

Departments are responsible for reporting all discrepancies immediately to the vendor, take appropriate action, and maintain a record of the default.

2. Vendor Performance

Departments shall record the vendor's performance. If the vendor's performance falls below expectations, the utilizing department shall notify the vendor and insist on a corrective action plan or other appropriate remedial steps until the poor performance is resolved. Departments shall document efforts to correct poor vendor performance. The department is responsible for informing the Purchasing Division of the vendor's performance, where it will be used to determine the renewal of the purchase order, cancellation, or replacement of the vendor.

3. Unauthorized Purchases

An unauthorized purchase is a purchase that is either:

- a. Entered into by an individual that is not authorized to purchase on behalf of the County
- b. Entered into by an individual normally authorized to purchase, but who uses an unauthorized procurement method
- c. Entered into by an individual who exceeds their delegated authority

County employees who make unauthorized purchases may be personally liable for all costs incurred in connection with the unauthorized purchase of goods and services. Repeated and/or flagrant violation of the County Policy of Procurement and the Purchasing Procedures may result in disciplinary action up to and including termination.

4. Availability of Funds

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Except as to purchases initiated by the Purchasing Agent, the Purchasing Agent shall have no responsibility to determine that funds are budgeted or available for any purchase, and this responsibility shall belong to the County employee approving the requisition.

5. Reporting

The Purchasing Agent shall annually report to the Board of Supervisors the activities of the Purchasing Division, including:

- a. Use of Preferential Purchasing Programs
- b. Contracts signed using delegated purchasing authority
- c. Emergency purchases
- d. Use of confirming purchase orders and contracts