



SAN BENITO COUNTY

PURCHASING AND CONTRACTING POLICY MANUAL

MAY 25, 2010

SAN BENITO COUNTY
INTERNAL SERVICES DEPARTMENT

PURCHASING AND CONTRACTING POLICY MANUAL

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PURCHASING AND CONTRACTING POLICY MANUAL

INTRODUCTION

The San Benito County Board of Supervisors is committed to preserving county dollars and maintaining good fiscal control. The purpose of this Purchasing And Contracting Policy Manual is to set forth the conduct of purchasing and contracting activities in San Benito County as defined by the County Ordinances. The Board of Supervisors has approved a Purchasing Ordinance and a Public Project Ordinance, both of which are referenced in this document. This Purchasing And Contracting Policy Manual has also been approved by the San Benito County Board of Supervisors in support of those ordinances. Failure of a County employee to comply with this Purchasing And Contracting Policy Manual may result in disciplinary action.

The Internal Services Department is responsible for the development and maintenance of the County Purchasing And Contracting Policy Manual. It is the responsibility of the Department to provide direction and guidance. The manual has been prepared to establish procedures for purchasing supplies, equipment, and services procured by the County, at the lowest cost commensurate with quality needed. In addition, this manual defines Public Projects and the procedures required for public works projects and construction projects.

The intent of this manual is to set policy to exercise positive financial control over purchasing, and clearly define authority for the procurement process in San Benito County. This manual defines the differences between purchasing, contracting and public projects and how the County complies with each of these activities.

The purchasing guidelines are based upon state and federal law, and accounting practices. The procedures and guidelines for public projects and construction are based upon state and federal laws related to the Public Contract Code and construction and public works projects.

Any question as to the interpretation or the intent of any provision within this manual shall be resolved by the Director of Internal Services or the County Administrative Officer.

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ETHICAL STANDARDS FOR PURCHASING ACTIVITIES

1.0 ETHICAL STANDARDS FOR PURCHASING ACTIVITIES

1.1 Policy Statement

It is the policy of San Benito County to promote government integrity and guard against the appearance of impropriety by prescribing the following essential standards of ethical conduct.

- (a) 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.
- (b) County employees shall not solicit, demand, accept or agree to accept a gratuity, an offer of employment or any other benefit in connection with any decision, approval, disapproval, recommendation, or preparation of any part of a program requirement, specification, standard, solicitation or contract.
- (c) County employees shall not participate directly or indirectly in a procurement when the employee knows that:
 - (1) The employee or any member of the employee's immediate family has a personal financial interest pertaining to the procurement;
 - (2) A business or organization in which the employee, or any member of the employee's immediate family, has a personal financial interest pertaining to the procurement; or
 - (3) Any other person, business or organization with which the employee or any member of the employee's immediate family is negotiating or has an arrangement concerning employment is involved in the procurement.
- (d) County employees who fail to comply with this policy may be subject to disciplinary action and criminal prosecution.

1.2 Discovery of an Actual or Potential Conflict of Interest

Upon discovery of an actual or potential conflict of interest, an employee shall promptly withdraw from further participation in the transaction involved and notify the Director of Internal Services or designated Management Analyst who will consult with County Counsel for an opinion whenever there is a question of an appearance of conflict.

1.3 Supplier Ethics

- (a) It shall be a breach of ethical standards for any person to offer, give, or agree to give any County employee a gratuity, an offer of employment or

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- any other benefit in connection with any decision, approval, disapproval, recommendation, specification, standard, solicitation or contract.
- (b) It shall be a breach of ethical standards for any person or firm to present false documents or falsely represent its firm.
 - (c) Suppliers shall exercise reasonable care and diligence to prevent any actions or conditions that could result in a conflict with the best interest of the County. This obligation shall apply to suppliers' employees, agents, subcontractors, and third parties associated with accomplishing work for the County.
 - (d) A breach of Section 1.3 (a) or (b) may result in debarment for consideration of awards as described in Section 11 of this manual.
 - (e) Personal purchases shall not be made for County employees through the County's procurement system unless such purchases have been authorized by the Board of Supervisors as a special program available to all County employees.

1.4 Unlawful Purchases

If any office, department, or employee other than employees authorized to make purchases or sign contracts for any supplies, materials, equipment or contractual services contrary to the purchasing policies as described in this manual and in the County Code, such purchase or contract shall be void and of no effect, and the cost shall not constitute a legal charge against the County.

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PURCHASING

2.0 PURCHASING

It is the intent of San Benito County to reduce the total costs associated with the acquisition and management of materials, supplies, equipment and services by purchasing competitively and wisely and by providing training to employees specifically tasked to be skilled in the business of purchasing.

The County Administrative Officer has been designated as the County's Purchasing Agent. County law governing purchasing is found in "Purchasing" Chapter 5.09 of the San Benito County Code.

2.1 Scope of Work – County Purchasing Agent:

The Purchasing Agent shall have the following authority:

- A. Acquisition of Personal Property – To purchase equipment, materials, supplies and all other personal property and services for the County where funding has been approved and budgeted by the Board, unless specified otherwise in County Code or in the Purchasing And Contracting Policy Manual.
- B. Professional Service Contracts. – To engage independent contractors to perform professional services through contracts for the county and offices thereof with or without furnishing of material, where the aggregate cost does not exceed \$10,000. Contracts shall not be split between fiscal years to circumvent this dollar limitation.
- C. Renewal/Extension of Contracts – To renew or extend contracts for professional services that are critical to ongoing county projects provided the financial obligation falls within his/her preview of authority.
- D. Rental of Real Property - To negotiate and execute in the name of the county, contracts to lease or rent for the county real property or storage space where funding has been approved by the Board, with an annual rent not to exceed \$10,000.
- E. Transfer of Property Within the County – To transfer personal property within the county with an estimated value of not more than three thousand dollars. Such transfers shall be made only with the approval of the heads of both the donating and receiving departments.

2.2 Designation of County Assistant Purchasing Agents

The Purchasing Agent has the authority to designate such assistants and limit or rescind authority. Each department head of the County of San Benito shall serve as an Assistant Purchasing Agent for purposes of their respective budgets only. Assistant Purchasing Agents may request authorization to designate additional Assistant Purchasing Agents within their department, subject to the approval of the County Administrative Officer and the County Auditor.

2.3 Scope of Work - County Assistant Purchasing Agents

Pursuant to Purchasing Ordinance each department head or acting department head of

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the County of San Benito shall serve as Assistant Purchasing Agents for purposes of their budgets. The Assistant Purchasing Agent has the authority to request authorization to designate additional assistants subject to approval of the County Administrative Officer and the County Auditor.

The County Assistant Purchasing Agents shall have the following authority:

- a) Acquisition of Personal Property – To purchase, lease, lease/purchase or rent all equipment, materials, supplies and all other personal property and services for the County where funding has been approved and budgeted in their department budget, unless specified otherwise in County Code or in the Purchasing And Contract Policy Manual.
- b) Personal Service Contracts – To engage independent contractors for personal services through contracts where the cost does not exceed \$3,000, where funding has been approved and budgeted in their department budget, except for items noted under Section 2.6. Contracts shall not be split between fiscal years to circumvent this dollar limitation.
- c) Rental of Personal Property - To negotiate and execute in the name of the county, contracts to lease or rent for the county real property or storage space, with an annual rent not to exceed \$3,000, where funding has been approved and budgeted in their department budget by the Board.

Special Powers and Duties for County Counsel's Office

County Counsel is authorized to engage outside attorneys for professional services through contract, when it does not involve litigation and the cost does not exceed \$10,000.

Special Powers and Duties for the Public Works Department

Under the direction of the Public Works Administrator the Public Works Department shall be given additional special powers and duties as it relates to the following:

- A. Sale or Disposal of Surplus Personal Property – To declare surplus any item of an estimated value of three thousand dollars or less and sell, trade or dispose of in the best interest of the County through bid, solicitation or transfer. Any other item of personal property above this amount, are subject to the Board of Supervisors.
- B. Construction & Repair Contracts To employ independent contractors, upon receipt of a requisition, suitable specifications, and supporting documentation for construction and repair work where the estimated aggregated cost does not exceed the amounts specified in the Public Contract Code Section 20131, Public Contract Code Section 20150.4 and the San Benito County Code Chapter 15.09 Public Projects.

2.4 Objectives

- (a) To provide increased economy in County procurement activities and to maximize

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to the fullest extent practicable the value of public funds expended for purchased materials or services.

- (b) To provide safeguards to ensure the maintenance of a procurement system of high quality and integrity.
- (c) To ensure the fair and equitable treatment of all persons and businesses that deal with the County.
- (d) To buy the right material of the right quality and in the proper quantity at the right time from the proper source.
- (e) To reduce the overhead cost of buying through a reduction in the volume of individual orders and improving the flow of paperwork.
- (f) To seek values that provide the best combination of price, quality and service.
- (g) To seek purchasing savings by consolidating departmental requirements and making volume purchases, whenever possible.
- (h) To promote a system of standardization throughout the County whenever appropriate and practical.

2.5 Competitive Purchasing - General

- (a) The County is committed to a program of purchasing competitively and wisely. Departments are forbidden to artificially divide purchase requisitions to circumvent any competitive bidding requirement. In addition, no department or employee shall draft or cause to be drafted any specifications in such a manner as to limit the bidding directly or indirectly to any one specific concern, or any specific brand, product, thing, or service. Certain items are approved as exempt from competitive bidding requirements or are approved as sole source purchases as provided for under manual Section 2.6 - Exceptions and Section 3.5 - Sole Source Requests. It is the objective of Purchasing to require that competition is obtained from responsible suppliers, and the materials bought through such competition are properly suited to the job intended, both as to price and quality.
- (b) The Purchasing Agent and Assistant Purchasing Agents are authorized to make purchases from other public agencies without seeking competitive bids and may use Joint Powers Agreements, Cooperative Purchasing Programs, Pooling Agreements, and other recognized types of agreements used by government to combine agency requirements for purchases. However, the prices paid must be competitive with comparable products offered in the marketplace.
- (c) Except as otherwise provided by law, the County may reject all bids received in response to an Invitation for Bids (IFB) if it is determined that the price, terms or surrounding circumstances of the bids received are such that award of a contract based on that IFB would not be in the best interests of the County. (Sections 3.2

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and 9.10).

- (d) Although election materials are exempt from competitive bidding pursuant to Section 2.6(b) of this Purchasing Policy Manual and State law, the Elections Department will keep records that show price comparisons and may, at the option of the Registrar of Voters and without placing the security or conduct of an election at risk, attempt to secure the best prices for like elections-related materials, commodities and services of election items. The Registrar of Voters is encouraged to use the purchasing procedures for items that are non-election sensitive when possible. No provision of the Purchasing Policy Manual is to be interpreted to direct that the purchase of election materials, commodities, and services must be processed in this manner or subject to the normal competitive bidding process, as provided in the California Public Contract Code (§ 100) and the California Elections Code (§ 12107).

2.6 Exceptions to the Competitive Process

Except as otherwise directed by law, or as directed by the Board of Supervisors, the competitive process is not required for the following purchases:

- (a) Expert and professional services which involve extended analysis; the exercise of discretion and independent judgment in their performance; and an advanced, specialized type of knowledge, expertise, or training customarily acquired either by a prolonged course of study or equivalent experience as defined under County Code Section 1509.09.002 Definitions – Professional Services and in the Glossary of the Purchasing And Contracting Policy Manual.
- (b) Election supplies.
- (c) Legal brief printing, stenographic services, and transcripts.
- (d) Books, publications, subscriptions, recordings, motion picture films, and annual book and periodical contracts.
- (e) Appraiser services.
- (f) Insurance.
- (g) Contracts for services which by law, some other office or body is specifically charged with obtaining.
- (h) Public utility services.
- (i) Ordinary travel expenses.
- (j) Petty cash items not available through other County sources.
- (k) Personal property or services obtainable:

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- (1) from any other governmental agency and owned or provided by such other governmental agency, or
 - (2) from any other governmental agency which has a contract with a supplier that allows such other governmental agency to acquire such property or services and resell them to other governmental agencies, (i.e. cooperative purchasing agreements), or
 - (3) from any private supplier that has a contract with another public agency and such private supplier produces satisfactory documentation that:
 - (i) such other contract is currently then in effect, and
 - (ii) such contract was let through a competitive pricing process, such as competitive written bids, request for proposals, or quotes for such items, and
 - (iii) such items to be acquired by San Benito County are of comparable description and quality as the items described in such other governmental contract, and
 - (iv) the price of such items to be acquired by San Benito County is not greater than that specified in such other governmental contract.
- (l) Where law fixes the price of property or services.
 - (m) Proprietary drugs and pharmaceuticals, medical supplies and equipment.
 - (n) Training, seminars, and classes for County personnel.
 - (o) Sole source procurement, defined as an award for a commodity or service which can only be purchased from one supplier, usually because of its technological, specialized, or unique character.
 - (p) Emergency purchases necessary when unforeseen circumstances require an immediate purchase in order to avoid a hazard to life or property or serious interruption of the operation of a County department, or the necessary emergency repair of County equipment or heavy equipment required for the operation of a County department, or in order to avoid economic loss to the County.
 - (q) When the product/services are needed by the County pending a bid award and a contractor agrees to provide such product/services at the same contract price as a previous award, until a new contract has been awarded. Such interim period contracts shall not exceed six months, or until conclusion of a bidder's appeal.

2.7 Emergency Procedures

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- (a) Definition: Items or services immediately necessary when unforeseen circumstances require a purchase in order to avoid a hazard to life or property or serious interruption of the operation of a County department, or the necessary emergency repair of County equipment or heavy equipment required for the operation of a County department.
- (b) Use: May be made by any person or official authorized to make purchases or sign requisitions, but only when the Purchasing Agent or designee are not available.
- (c) Approval and Confirmations: Emergency purchases made independent of Purchasing Agent must be approved and confirmed as soon as possible after the emergency action is taken.
- (d) The Board of Supervisors must subsequently approve and ratify emergency purchases made for services that were not previously approved or budgeted.
- (e) Failure to gain approval and confirmation: Unless such purchases are approved and confirmed by either Purchasing Agent or the Board of Supervisors, the cost thereof, shall not constitute a legal charge against the County, except as such purchases may otherwise be authorized by law.

2.8 Standards

The Internal Services Department is responsible for standardization of purchasing processes. Standardization is the organized process of obtaining solutions to common problems by establishing agreement on specific quality, design, size, color, etc. The established agreement is called a standard.

There are many products the County purchases that are standardized (business cards, letterhead, computers, hardware, software, etc.). When standards are adopted, only the items meeting those standards are to be purchased. However, no standard is meant to be unchangeable and each standard is subject to review. Suggestions for changes to existing standards and suggestions for establishment of new standards should be submitted to the Purchasing Agent.

The Internal Services Department may organize one or more committees to assist in the establishing standards of type, design, quality or brand of purchases. The Internal Services shall facilitate any such committees, which may include heads of department or their representatives, and/or other staff.

2.9 Federal and/or State Grant Procurement

Federal and state grant terms and conditions often include procedural requirements for procurement and auditing of funds that are more restrictive than those required in the County ordinances or in this Purchasing And Contracting Policy Manual. The grant terms and conditions may require that procurement, bidding, sole source, the execution of contracts and auditing of funds shall meet state or federal laws and regulations. It is

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the responsibility of each department involved with state or federal grants to seek advise and counsel from County Counsel and the Auditor regarding any of the terms and conditions. It is also important to note that failure to meet the requirements can be a violation of law and a breach of the grant agreement. Upon the execution of an audit, if the department is cited on a violation the County may be required to return the funding already received and spent.

2.10 Local Business Preference

When all other factors are determined to be equal, preference may be given to individuals or firms having a bona-fide place of business within the County of San Benito. Any proposal or quote for materials and supplies from a local business which is within ten percent (10%) of the lowest proposal or quote for materials and supplies, shall be considered equal to the amount of the lowest proposal or quote.

Local businesses may also be given preference for fixed assets. Businesses can submit a proposal for the purchase of fixed assets that are normally procured through a master contract, if they can meet the pricing of the master contract proposed.

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TYPES OF SOLICITATIONS

3.0 TYPES OF SOLICITATIONS

Solicitations are purchasing processes designed to seek and obtain goods and/or services. Four types of solicitations utilized by the departments are discussed in this section. They are Quotations, Invitations For Bids (IFB), Requests For Qualifications (RFQ) and Requests For Proposals (RFP). In general, Quotations and Invitations For Bids are used when requirements are specific and well understood or when complete details are available. Quotations are typically requested when advertising is not being employed and may be used by departments in certain situations to document and support requisitions. IFB's can be used by departments for the solicitation of supplies and/or equipment. IFB's are generally used by the Public Works Department when advertising is used and for all public construction projects. RFQ's are typically used when the selection for professional services and consultants with specialized services are being considered. RFP's are generally used when there are a variety of ways to meet a need, specifications are not available or yet to be fully determined, and/or when professional services or certain personal services are required.

3.1 Quotations

(a) When to Use

Quotations may be used to obtain supplies, equipment, and certain services.

(b) Difference Between A Quotation and Invitation for Bids (IFB)

All of the policies and procedures listed in Section 3.2 (Invitation for Bids - IFB) pertain to Quotations except the requirement for public bid opening, confidentiality of Quotations and the restriction against negotiations. There is no public bid opening when a Quotation is used as the solicitation process, and negotiations may be conducted with the selected supplier for final order conditions. Therefore, quoted prices shall be maintained as confidential working papers until the resultant purchase order is awarded.

3.2 Invitation for Bids (IFB) – Non-Public Projects

(a) When to Use

The Invitation for Bids (IFB) may be used to obtain supplies, equipment, and certain services that can be clearly specified and awarded to the lowest responsible, responsive bidder.

The IFB solicitation process is also used for public projects. The procedures are more defined and follow a more stringent process under the Public Contract Code. Bidding for public projects are also subject to County Counsel's review. The bidding process for public projects is further defined in Chapter 15.09, Public Projects of the County Code, and are incorporated herein in as Sections 8.0 Public Projects and Section 9.0 Formal Bidding Procedures of this manual.

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(b) Pre-Qualification

(1) Pre-Qualification of Bidders

A two-step bidding process may be used to pre-qualify bidders when the Purchasing Agent deems this approach appropriate. Bidders are pre-qualified by responding to a solicitation to establish responsibility. This may include information regarding such factors as financial background, industry stability, capacity to perform, lines of credit, manufacturers' authorizations, relevant experience, etc.

Qualified bidders may then be asked to participate in a price solicitation.

(2) Pre-Qualification of Commodities

Commodities may be pre-qualified either through study and recommendation by a recognized standards committee, or through a two-step bidding process.

(3) The following factors, among others, may be used for pre-qualification:

- Quality of commodities or services
- Experience with the commodities involved
- Maintenance cost
- Economic life cycle cost
- Length of time the commodity has been on the market
- Compatibility of existing equipment
- Available warranties
- General reputation and experience of the bidder
- Evaluation of the bidder's ability to service the County
- Prior knowledge of and experience with the bidder in terms of past performance
- Other legal protection provided in the purchase

(c) Format for IFB Document

IFBs are prepared by the Purchasing Agents or Assistant Purchasing Agents. IFB's contain the following elements:

- (1) Specifications: Clear, concise specifications must be provided. Frequently, specifications state "brand name or equal." "Brand name" includes identification of products by manufacturer, make, and model. Such identification is intended to be descriptive, but not restrictive. Bidders offering an "equal" must submit complete specifications and/or samples with their bids. Determination of equality shall be at the sole discretion of the County.

If it has been justified and accepted by the requesting agency/department and the Purchasing Agent or an approved Standards Committee that only

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one brand can meet the County's needs, "no exceptions" shall be noted in the specifications.

- (2) Responsibility Criteria: Responsibility criteria may include such items as business references, plant capacity, credit data, financial statements, recent tax returns, licenses, bonding, insurance, etc.
- (3) Information Regarding Submission of a Bid: This includes the time and date for bidders conference (if any); where, when, and how bids are to be returned; contacts for information during the solicitation period; required signatures on bids; cost/price submission instructions, etc.
- (4) Terms and Conditions: Standard terms and conditions that will be incorporated in the purchase order/contract shall be stated in the bid document. If there are special conditions, they should be included in this section.

(d) Acceptance of Bids

Bids must be received prior to or at the time specified in the bid. Late bids shall not be considered under any circumstances. A late bid will be date stamped and remain unopened. The bid will be returned to the bidder along with a letter notifying the bidder that the bid was received late and was not considered.

(e) Bid Opening

The Purchasing Agent or Assistant Purchasing Agents shall administer all bid openings and all bids shall be opened in the presence of one or more witnesses at the time and place designated in the IFB. The County assumes no responsibility for the confidentiality of bid information unless specifically stated otherwise in the IFB.

(f) Rejection of Bids

The County may reject any or all bids when deemed to be in the County's best interest; reject any bid not accompanied by any required bid security or by other data required by bid documents; reject any bid which is in any way incomplete, irregular, or otherwise not in compliance with bid documents in all material respects or reasonable interpretation; and/or waive any informality, irregularity, immaterial defect, or technicality when deemed to be in the County's best interest.

(g) Bid Award Consideration

(1) Cost Factors

In addition to the total bid price (including any discounts), unit or extended price, and administrative costs (if applicable), hourly rates for specified personnel, the County's administrative costs, maintenance costs and

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warranty provisions may be considered. Life cycle costs, repurchase value, residual value of equipment after a specified number of years, and or cost and rate of use of consumables may be considered in cases where these costs are relevant and measurable.

(2) The following responsibility factors may be considered:

- General reputation and experience of the bidder.
- Bidder's ability to service the County.
- Financial ability of the bidder to successfully meet the requirements of the contract.
- Prior knowledge of and experience with the bidder in terms of past performance.
- Nature and extent of company data furnished by bidder upon request of the County.
- Bidder's ability to meet delivery and stocking requirements.
- Bidder's experience with the commodities or systems.
- Length of time the commodities or systems have been on the market.
- Awards shall be made to the lowest responsible, responsive bidders.

A responsible bid is one that has demonstrably met the following criteria in the solicitation:

- Capacity to perform – fiscal, physical, experience, on schedule
- Ability to comply with applicable laws and regulations – licenses, insurance, bonding

(3) Responsiveness Factors

The following responsiveness factors may be considered:

- Adherence to all conditions and requirements of the bid specifications.
- Quantity and quality of merchandise offered.
- Compatibility and/or continuity with existing commodities or systems.
- Overall completeness of the commodity line offered.
- Delivery or completion date.

A responsive bid is one that adequately meets all solicitation requirements. To be responsive, the bid or proposal must not constitute a different offer or make substitutions for requirements stated in the solicitation.

3.3 Request for Qualifications (RFQ)

(a) When to Use

A Request for Qualification may be used when the selection for professional services and consultants for specialized services are being considered. The

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TYPES OF SOLICITATIONS

qualification based system consists of an advertising process, a ranked selection process, negotiations with the first ranked firm, and upon agreement of the scope of services subject to fair and reasonable compensation, a contract agreement is reached.

(b) Qualifications Based Selection Process

The qualifications based selection process is further defined under 4.3 Professional Services and Consultants. Department Heads are advised to refer to this section for the details of this process and are advised to consult with County Counsel or Internal Services for clarification and guidance.

3.4 Request for Proposals (RFP)

(a) When to Use

A Request for Proposal may be used when the County's requirements are not precisely defined or quantified. RFPs are required to be used when it is necessary to obtain the services of professional consultants, architects, engineers, and design firms for contracted services. Awards made as a result of RFP solicitations are not based solely on cost factors but upon the technical and programmatic superiority of the offeror's proposal. However, the selected proposal should include a price that is within reasonable proximity of other qualified offerors. RFP procedures for consultants, architects and engineers are further described in Sections 4.8 and 4.9 of this Manual.

(b) General Procedures

- (1) The Department Heads shall institute a process for maintaining a current file, open for public inspection and updated regularly of firms/consultants in various professional categories to their departments. RFPs for professional consultants and architectural and engineering firms for service of more than \$50,000 require Board of Supervisors approval.
- (2) It is recommended that RFPs for professional services more than \$50,000 be submitted to County Counsel for consultation and review prior to going to the Board of Supervisors for approval and release.

(c) Pre-Qualifications

It is sometimes advantageous to conduct a two-phased RFP process in which the first phase is a pre-qualification of firms. This initial phase screens potential offerors for qualifications prior to requesting proposals. Section 3.2 (b) discusses this process.

(d) Advertising/Notice

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If appropriate, an advertisement announcing the RFP should be placed in at least one local newspaper of general circulation. Notice should also be sent to firms whose names have been provided by Internal Services Department, other interested firms and/or those firms who have been screened through a pre-qualifications process.

(e) Basic RFP Format

In order to develop consistency in the preparation of RFPs a standardized format is described below. Use of this format helps to insure that adequate information is provided about the project and what is required in the RFP. More technical proposals may require additional information. Internal Services and County Counsel are available upon request to provide assistance in the development of RFPs. A description of the basic format for the preparation of formal RFPs follows:

(1) General Project Description

This section should provide a summary description of the needed facility or program and a general description of the services required.

(2) Project Background

This section should provide relevant background information on the project. A description of the site or program, significant historical data and information on existing facilities and/or programs may be provided. A clear concept of the needed facilities or program should be outlined. A vicinity map and scale site map may be provided. Any available resources such as completed studies, surveys and preliminary feasibility work that are relevant to the project and available to consultants may be listed. Information on the overall project budget, including funding sources, may be listed if available.

(3) Scope of Work

This section should communicate the scope of work and services needed in detail. The consultant should be given a clear understanding of what will be required, including items such as the degree of community input expected and any required time schedules. It should be clearly defined whether the consultant or County will be responsible for related services such as feasibility studies, construction coordination, public meetings, obtaining permits and budget development. If construction coordination is required, the role of the consultant should be clearly defined, including level of responsibility to insure contractor compliance with construction documents and responsibilities for contract administration.

(4) Services and Materials to be Provided by County

All services to be provided by the County, and available documents relative to the project, should be listed. Typical items which may be handled by either

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the County or contractor include: obtaining surveys, permit processing, contract coordination, preparation of bid documents, obtaining geologic data and conducting public hearings and/or meetings.

(5) County Liaison

The person responsible to act as County liaison on the project should be listed including all relevant contact information, and consultants should be advised to direct all questions regarding the project to that person.

(6) Terms and Conditions

The County's standard contract terms and conditions should be included. Insurance requirements should also be included in the RFP package. The sponsoring department should contact Risk Management and/or County Counsel to obtain the appropriate language if necessary.

(7) Selection Criteria

The criteria to be used in determining selection of the contractor should be listed including the relative importance of each item. The process proposed to be used for selection should be outlined. A rating sheet should be prepared which lists the selection criteria and their relative weighting in the scoring process. A copy of the rating sheet may be provided to the offerors so that they understand the scoring factors and their relative importance to each other.

Typical selection criteria may include the following:

- (i) Technical approach.
- (ii) Qualifications of the firm.
- (iii) Qualifications of the specific personnel who will work on the project.
- (iv) Project management and adherence to required time schedules. Consideration may be given to the location of the firm's office and the resulting availability of the firm for meetings with staff and the public, if necessary.
- (v) Cost
- (vi) References

(8) Proposal Requirements

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This section should list the specific requirements to be submitted in the proposal including the time and place for submittal. Any specific insurance, licensing or legal requirements should be included.

Typical proposal requirements may include the following:

- (i) Name, address and telephone number of the firm submitting the proposal.
- (ii) Identification of the project manager and/or principal contact.
- (iii) A complete description of the approach to the analysis and how the major work elements are to be accomplished.
- (iv) Detailed estimate of work hours per task.
- (v) A listing of personnel who would actually perform the work, including any subcontractors, and the amount of time that each would commit to the project by task.
- (vi) Reference information including contact information.

(f) Acceptance of Proposals

Proposals are to be received at the time and place specified in the Request for Proposal. Late proposals will be date-stamped upon arrival, but will not be considered.

A responsible proposal is one that has demonstrably met the following criteria in the solicitation:

- (i) Capacity to perform – fiscal, physical, experience, on schedule
- (ii) Ability to comply with applicable laws and regulations – licenses, insurance, bonding

A responsive proposal is one that adequately meets all solicitation requirements. To be responsive, the bid or proposal must not constitute a different offer or make substitutions for requirements stated in the solicitation.

(g) Notification

Proposers will be notified of the award winner. Protests and appeals of award decisions are discussed in Section 10.0.

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3.5 Sole Source Requests

(a) Policy

Circumstances sometimes require that certain goods and services can only be feasibly obtained from a sole source. Sole source acquisitions must be justified in sufficient detail to explain the basis for suspending the usual competitive procurement process.

Sole source justification is unnecessary during contract renewal/continuation periods expressly provided for by an RFP or other procurement process. Justification is necessary for continuation of services beyond such periods.

(b) Justification for Requesting Sole Source Procurements

The following represent factors, if verified, that may justify sole source:

- (1) What capability does the proposed contractor have that is critical to the specific effort and makes the contractor clearly unique compared to other contractors in the same general field?
- (2) What prior experience of a highly specialized nature does the proposed contractor have that is vital to the proposed effort?
- (3) Does the proposed contractor have a substantial investment that would need to be duplicated at the County's expense by another contractor entering the field?
- (4) If timelines are involved, why are they critical and why can the proposed contractor best meet them?
- (5) Is competition precluded because of the existence of patent rights, or copyrights?
- (6) Does this acquisition require compatibility with any existing County equipment?
- (7) What unique characteristics does the equipment or material offered by the proposed contractor possess that are required to meet the County's needs?
- (8) Is competition precluded because of existing equipment maintenance program/contracts/warranties?

(c) Documentation/Approval

Sole source requests should be documented on the Justification for Sole Source/Sole form provided by Internal Services. Requests should be signed by an

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authorized Purchasing Agent, an Assistant Purchasing Agent or designated personnel when submitted to the Auditor's Office for payment.

Sole source requests for contract services require Board of Supervisors approval if the contract exceeds \$10,000.

(d) Negotiation

Sole source acquisitions require non-competitive negotiation and may require price/cost analyses by Purchasing Agent or Assistant Purchasing Agent in order to determine price reasonableness.

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4.0 CONTRACT PROCUREMENT POLICIES

This section describes procurement policies for the various types of purchases and agreements utilized by the County. A standard contract used for professional services is available from County Counsel's Office and shall be used whenever possible. All written contracts and leases must be reviewed and approved as to legal form by County Counsel prior to execution by the Board of Supervisors, Purchasing Agent, or the Assistant Purchasing Agent.

Purchasing Agents and Assistant Purchasing Agents shall be subject to stricter contracting requirements if they are utilizing federal funds. Contracts used for procurement of professional services, supplies or equipment with the use of federal funds shall include provisions required by federal law. These contracts shall be reviewed and approved by County Counsel to ensure that the contracts meet the federal requirements.

Contract procurement policies for Public Projects is addressed in the Public Project Section 8.0 of this manual and by state and federal statute. County Counsel's Office is available to assist with the development of the contracts and to review and approved as to legal form for all public project contracts to ensure all applicable laws regarding public projects and federal funding are followed.

All contracts, leases and any amendments or modifications shall be reviewed and approved as to legal form by the County Counsel's Office prior to execution of the Purchasing Agent, Assistant Purchasing Agents and/or Board of Supervisors.

Prior approval shall be obtained from County Counsel's Office before any contracts for professional services are executed. All services provided by outside attorneys shall be coordinated with the County Counsel's Office.

All original contracts upon execution by the Purchasing Agent, and the Assistant Purchasing Agents shall be submitted to the Clerk of the Board as soon as possible to ensure the public record is maintained.

4.1 Commodities/Equipment

(a) Definition

Commodities/equipment contracts include all contracts and purchase orders for supplies, materials, and equipment. Equipment (fixed asset) is defined as a capital asset costing \$3,000 or more, and its useful life expectancy is one year or more.

(b) Length of Contract Term

The length of a contract term shall be determined on the basis of the best economic benefit to the County. However, all contracts for commodities

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and equipment must be reviewed for certification or renegotiation at least every three (3) years.

(c) Contract Increases

Agreements for commodities may include negotiated built in cost of living escalators or periodic rate changes.

(d) Consolidation

Contracts shall be consolidated whenever feasible. Contracts shall not be intentionally split to avoid approval or procurement requirements.

(e) Emergencies

For the purpose of commodities/equipment contracts, an emergency shall be defined as a sudden, generally unexpected occurrence or set of circumstances demanding immediate action. If immediate action is not taken, essential services may not be continued or there may be an economic loss to the County. Emergency requests for commodities/equipment must be justified to the Purchasing Agent.

(f) Sole Source Requests

See Section 3.5 of this manual for policies and procedures for sole source requests.

(g) Approval Requirements

Government Code 25501 and Chapter 5.09 "Purchasing" of the San Benito County Code authorize the Purchasing Agent and Assistant Purchasing Agents to make purchases of commodities and equipment that are approved within their own budgets. Fixed asset equipment with a value of \$3,000 or more must be approved the Board of Supervisors during the budget process or at a subsequent meeting of the Board. The \$3,000 limit includes sales tax, other taxes and handling charges.

(h) Procurement

Supplier selection shall be based on a competitive process whenever feasible and when in the best interests of the County. A verbal or written solicitation shall be made. When considering increasing dollar amounts for procurement, the following levels are recommended:

(1) Commodity/Equipment Purchases to \$1,500:

At this level a minimum of one prospective supplier may be solicited. (See Sections 3.1- Quotations and 5.2 – Departmental Procedures).

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- (2) Commodity/Equipment Purchases from \$1,501 to \$6,500:

At these levels up to three prospective suppliers should be solicited. (See Sections 3.1- Quotations and 5.2 – Departmental Procedures). Seeking oral or informal quotes at this level to process an order in accordance with your understanding of the market and sources of supply is acceptable.

- (3) Commodity/Equipment Purchases from \$6,501 to \$15,000:

At this level, departments should seek oral or informal written quotations from at least three probable sources or provide written justification as to why an alternative method is in the best interests of the County.

- (4) Commodity/Equipment Purchases from \$15,001 and up:

At this level, departments may want to consider advertising for prospective suppliers, unless it is in the County's best interest to seek suppliers through other means. It is recommended that departments seek formal written quotes from at least three probable sources or provide written justification as to why an alternative method is in the best interests of the County.

- (5) Invoices are a better method to secure commodity purchases. For purchasing equipment that is considered to be a fixed asset, see Section 4.5 Procedures for Purchasing Fixed Asset.

4.2 Oral Quotations

Oral quotes shall be recorded on Requisition/Solicitation Form and shall be attached to the file copy of the award document. The department making the purchase shall record the name of the supplier representative submitting the quote and the date the quote was received.

4.3 Written Quotations

Written quotations shall be recorded on the Requisition/Solicitation Form and shall be attached to the file copy of the award document. The department making the purchase shall include the name and signature of the supplier representative and the date of the quote.

4.4 Procedures for Purchasing Fixed Assets

Fixed assets (those items of equipment that have a unit cost of \$3,000 or more and have a usable life of greater than one year) must be budgeted, approved by the Board of Supervisors through the budget approval process and/or through a

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subsequent request to the Board to include a Budget/Adjustment Transfer form.

Fixed assets that have not been recognized by the Board of Supervisors in the approved budget must be brought to the Board for approval before a purchase can be made. The department head shall prepare an agenda item and staff report requesting the Board of Supervisors to recognize the fixed asset and augment the budget in both revenues and expenses. A signed Budget/Adjustment Transfer form shall accompany this item to confirm funding has been identified for this fixed asset.

Purchase of equipment that draws power from a County maintained facility requires prior approval from the Public Work's Department. If the equipment to be purchased involves computer technology hardware or software needs, approval is required by the Information Technology Division. Dependent on the proposed acquisition, the appropriate parties shall be consulted to determine if adequate infrastructure and power exists to support the purchase of this equipment. Departments shall submit Requisition/Solicitation Forms to the respected department with supporting documentation for approval of equipment purchases.

All fixed asset requisitions and purchases shall follow the procedures listed in 4.1 Commodities/Equipment and all procedures listed under 4.2 Oral Quotations, and 4.3 Written Quotations. Departments can also consult with the Internal Services Department for further information and instructions regarding the requisition and purchasing of fixed assets.

4.5 Personal Services

(a) Definition

Personal services contracts and purchase orders include agreements for services provided by skilled trades persons, technicians and others. Examples of personal services include facility and equipment maintenance, security services, installation of equipment and furnishings, tree trimming, janitorial, etc. Services contracts do not include those for public projects, consultants, engineers, architects, designers, and other professional services. Generally, specifications for personal services agreements may be specific enough so that the services can be secured through quotes and/or bids. RFQs or RFPs may also be appropriate when the service requirements so justify.

This section does not apply to contracts for printing of legal briefs or legal notices; court reporter services; transcripts of evidence; expert services for the District Attorney, County Counsel or Sheriff-Coroner; appraiser services; consultants or other experts employed directly by the Board of Supervisors; insurance; or other contracts for services which by law, some other office or body is specifically charged with obtaining.

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(b) Length of Contract Term

The length of a contract term shall be determined on the basis of the best economic benefit to the County. However, all contracts for services must be reviewed for recertification or renegotiation at least every three (3) years.

(c) Contract Increases/Adjustments

Personal services contracts may be amended up to \$10,000 or less if:

- (1) The need for the service could not be accurately projected and the relative percentage of the increase would not make re-procurement more desirable.
- (2) An emergency exists whereby time does not permit re-procurement.
- (3) Other justifiable economic factors necessitate a monetary increase in the contract.

Agreements for services may include negotiated built in cost of living escalators or periodic rate changes. Amendments that increase the total contract to \$10,001 or higher must be approved by the Board of Supervisors.

- (d) In order to prevent incremental contracting, each contract should clearly specify the services to be provided, the basis of pricing and payment, the period of the agreement, and the monetary limit.

Contracts shall not be split to avoid approval or procurement requirements.

(e) Emergencies

For the purpose of personal services contracts, an emergency shall be defined as a sudden, generally unexpected occurrence or set of circumstances demanding immediate action. If immediate action is not taken, essential services could not be continued or there could be an economic loss to the County.

(f) Sole Source Requests

See Section 3.5 of this manual for policies and procedures for sole source requests.

(g) Approval Requirements

Board of Supervisors policy has established the following contract approval limits:

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- (1) Up to \$ 3,000 – Assistant Purchasing Agent approval
- (2) Up to \$10,000 – Purchase Agent approval.
- (3) \$10,001 and up – Require Board of Supervisors approval

(h) Procurement

Contract services providers shall be selected through a competitive process whenever feasible and when in the best interests of the County. A verbal or written solicitation shall be made as follows:

- (1) Personal Services Purchase/Contracts to \$1,500:

Departments should seek a minimum of one prospective provider solicited at this level. (See Section 5.2 – Departmental Procedures.)

- (2) Personal Services Purchase/Contracts from \$1,501 to \$6,500:

Departments should seek up to three prospective providers to solicit at this level. (See Section 5.2 – Departmental Procedures.)

- (3) Personal Service Contracts from \$6,501 to \$15,000:

Departments should seek up to three prospective providers.

- (4) Personal Service Purchase/Contracts \$15,001 and up:

Departments should consider advertising for prospective providers at this level, unless it is in the County's best interest to seek providers through other means. Departments shall seek formal written quotes from at least three probable sources or provide written justification as to why an alternative method is in the best interests of the County.

4.6 Master Independent Contractor Agreement (MICA)

Under certain conditions, it may be advisable for Purchasing Agent to develop and implement a Master Independent Contractor Agreement (MICA) for personal services. MICAs may be beneficial in circumstances where the same type of service, such as laundry services, security services, modular furniture installation services, etc., are needed by multiple County departments. A master agreement may be developed after a review of various County Departmental needs for a specific type of personal service by Internal Services, and an analysis of vendor responses to an RFP conducted by Purchasing Agent based on biddable specifications. The development of Master Independent Contractor Agreements allows departments to take advantage of situations where an economy of scale can provide significant savings to the County by standardizing and fixing cost rates for a personal services over an extended period of time. It also allows departments to utilize the service without having the burden of developing their

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own separate independent contractor agreements for the same type of service or having to obtain Board approval. Master agreements may also be entered pursuant to contracts with State or local jurisdictions that allow the County to piggyback onto those contracts. These agreements require a review by the Internal Services Department or County Counsel.

4.7 Professional Services and Consultants

(a) Definition

Professional services and services provided by consultants include services which are of an advisory nature, provide a recommended course of action or personal expertise, and have an end product which is basically a transmittal of information and which is related to County programs. Providers are selected on the basis of qualification, subject to the negotiation of a fair and reasonable compensation.

Consultant contracts under this section do not include contracts for attorney services that are handled through County Counsel, District Attorney and Risk Management and approved by the Board of Supervisors. Architect and engineer services contracts are discussed in Section 4.10 (f) of these procedures.

(b) Contract Criteria

Professional services and consultant contracts may be secured when one or more of the following conditions exist:

- (1) An urgent situation that cannot be resolved by County employees.
- (2) Temporary, intermittent, or irregular services that cannot effectively be performed by County employees.
- (3) Special or highly technical skills or services that cannot be secured through County Employees.
- (4) A need for an independent opinion, appraisal, audit or similar service.
- (5) A lack of sufficient personnel to accomplish the work in the required time frame.

(c) Length of Contract Term

The length of a contract term shall be determined on the basis of the best economic benefit to the County. However, all contracts for professional services must be reviewed for recertification or renegotiation at least every three (3) years.

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(d) Contract Adjustments/Increases

Agreements for professional services may include negotiated built in cost of living escalators or periodic rate changes. Amendments that increase the total contract to \$10,001 or higher must be approved by the Board of Supervisors.

(e) Incremental Contracting

In order to prevent incremental contracting, each consultant contract shall clearly specify the following:

- (1) Work to be performed.
- (2) Service/product to be provided.
- (3) Cost detail of services/material charges.
- (4) Period of contract.
- (5) Monetary limit of contract.
- (6) Terms and conditions.

Contracts shall not be split to avoid approval or procurement requirements.

(f) Emergencies

For the purpose of professional services and consultant contracts, an emergency shall be defined as a sudden, generally unexpected occurrence or set of circumstances demanding immediate action. If immediate action is not taken, essential services could not be continued or there could be an economic loss to the County.

(g) Sole Source Requests

See Section 3.5 of this manual for policies and procedures for sole source requests.

(h) Approval Requirements

Approval by the Board of Supervisors is required for all professional services contracts of \$10,001 or more in the aggregate. The Purchasing Agent may approve contracts for professional services up to \$10,000. The Assistant Purchasing Agents can approve contracts for up to \$3,000.

A standard contract form authored by County Counsel's Office should be used and is strongly encouraged for use.

All written contracts and/or leases require approval by the County Counsel's Office prior to execution either by the Purchasing Agents, Assistant Purchasing Agents or the Board of Supervisors.

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All professional services contracts for attorneys and other litigation-related specialists are handled through the County Counsel's Office, District Attorney, and/or Risk Management Division and require approval by the Board of Supervisors.

(i) Procurement

Procurement/selection procedures for professional services and consultant contracts are based on the Qualifications Based Selection (QBS) process used by many State and Federal Government agencies. The qualifications based approach is essentially a process used to select consultants and other professional services on the basis of qualification, subject to negotiation of fair and reasonable compensation.

The typical qualifications based system consists of selecting the consultant believed to be best qualified to carry out the project then negotiating a fee for the services. If an agreement on the scope of services and compensation cannot be reached, negotiations with the first ranked firm are terminated, and negotiations are opened with the second ranked firm.

With the approval of the County Administrative Officer or at the direction of the Board of Supervisors, procedures to be used in the selection of professional services and consultants may be modified. Such modifications to procedures shall only be authorized where specific qualifications or circumstances indicate that the procedures in effect are inconsistent with the most timely or efficient selection of the best qualified contractor. When it is necessary to use modified procedures the initiating department shall note the reason for the procedural modification as part of the department contract file.

The department conducting the qualification will maintain a file of firms who have indicated an interest in doing County work and have submitted a Request for Qualifications. The list will provide the name of the firm, the type of work the firm has completed and give detailed information on the qualifications of the firm. The list of firms will be updated by the department as needed, and firms added to the list on a continual basis at their request. The cooperation of local professional organizations and individuals will be solicited to encourage participation by local firms on the list of consultants.

4.8 Architect/Engineer Services

(a) Definition

Architectural, landscape architectural, engineering, environmental and land surveying services include those professional services of an architectural, engineering, environmental, or land surveying nature as well as incidental

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services that members of these professions and those in their employ may logically or justifiably perform (Government Code 4525 (c)).

Construction project management means those services provided by a licensed architect, registered engineer or licensed general contractor for the management and supervision of work performed on construction projects. Any individual or firm proposing to provide construction management services must provide evidence that the individual or firm and its personnel carrying out onsite responsibilities have expertise and experience in construction project design review and evaluation, construction mobilization and supervision, bid evaluation, project scheduling, cost-benefit analysis, claims review and negotiation, and general management and administration of a construction project (Government Code 4525 (e) and 4529.5)

Environmental services means those services performed in connection with project development and permit processing in order to comply with federal and state environmental laws. Environmental services also includes the processing and awarding of claims pursuant to Section 25299.10 of the State Health and Safety Code relating to underground storage tank cleanup (Government Code 4525 (f)).

Architectural/engineer services may include: investigation; designs, plans and specifications; reports; opinions of probable costs and engineer's estimates; shop drawing review; supervision of construction; land surveying; and other related services when needed in support of an architectural or engineering project. These related services may include, but are not limited to, archaeology, geological and soils engineering, agronomy, limnology, biology, real estate appraisal and other property acquisition services.

(b) Length of Contract Term

If the architect-engineer services to be completed under a given contract relate to a specific project, the contract term may be based upon a reasonable estimate of the time required for the project.

(c) Contract Adjustments/Increases

Any contract amendments that increase the total contract to \$10,001 or higher must be approved by the Board of Supervisors.

(d) Incremental Contracting

In order to prevent incremental contracting, each consultant contract shall clearly specify the following:

- (1) Services to be performed.
- (1) Basis of pricing and payment.

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- (2) Period of contract.
- (3) Monetary limit of contract.

Contracts shall not be split to avoid approval or procurement requirements.

(e) Approval Requirements

Approval by the Board of Supervisors is required for all architect/engineer services contracts of \$10,001 or more. The Purchasing Agent may approve contracts up to \$10,000 and the Assistant Purchasing Agents may approve up to \$3,000.

A standard contract form authored by County Counsel's Office should be used and is strongly encouraged for use. Use of this form expedites the process.

All written contracts require approval by the County Counsel's Office as to legal form prior to execution either by the Purchasing Agents, Assistant Purchasing Agents or the Board of Supervisors.

(f) Procurement

Section 4256 of the Government Code and Chapter 5.09 of the San Benito County Code require that the selection of private architectural, engineering, environmental, land surveying or construction management firms be on the basis of demonstrated competence and on the professional qualifications necessary for the satisfactory performance of the required services. The qualifications based system described in Section 4.7(i) shall also be used in the selection of architect/engineer firms.

4.9 Public Projects

(a) Definition

Public project contracts include contracts for:

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

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(b) Length of Contract Term

The length of a contract term for public projects shall be determined by the length of time required to complete the project. The length of contract term is determined by the County and prescribed in the bid based upon a reasonable estimate of the required time for completion and accepted by the contractor in the submittal of its bid.

(c) Adjustments to Contract Amount (Change Orders)

Change orders are subject to the Board of Supervisors if costs are not covered or included in the contract.

(d) —Emergencies

In the case of an emergency, pursuant to a four-fifths vote of the Board of Supervisors, the County may order repairs and/or replacement of county facilities, take any action required by the emergency, and procure the necessary equipment, services, and supplies for those purposes, without giving notice for bids to let contracts. In these instances, the County shall comply with Section 22050 of the Public Contract Code.

(e) Board Approval Required

Board approval is required for all public project contracts of \$10,000 or more.

(f) Notice of Completion

Upon completion of the project, the department shall submit a request to the Board of Supervisors for approval and execution of the Notice of Completion of the project.

(g) Procurement

The bid process for public projects contracts shall be structured to provide an opportunity for all interested contractors to participate in bid competition in order to obtain the best use of public funds while taking into account the administration logistics (e.g., project size, project time frames, and project cost).

The County, in accordance with Section 20150.4 of the Public Contract Code, shall formally advertise public works projects valued at \$10,000 and above. In addition, these projects are advertised in various Building Exchanges in order to expand the bid opportunities. Supplier selection is then based solely upon bid results.

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For public works contracts that do not require Board approval, the Public Works Departments shall establish and maintain an active Potential Bidders List that would be open to all interested and potential qualified bidders. Contractors may be removed from the Bidders List due to either poor response records to bid requests or poor performance records and shall be notified in writing in the event of removal.

Procurement and bidding procedures for public projects are described in detail in Sections 8.0 and 9.0 of this manual.

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DEPARTMENTAL PROCEDURES

5.0 DEPARTMENTAL PROCEDURES

County departments have important responsibilities in the procurement of goods and services. This section of the manual outlines some of those responsibilities, policies, and procedures in order to assist departments in their purchasing activities. Departments are encouraged to utilize the resources of Internal Services Division for assistance in the matters described below. Department Heads have the authority to make purchases that were approved and identified in their budgets and approve contracts up to \$3,000 that are not subject to a contract authorization by the CAO or the Board of Supervisors.

5.1 Requisitioning Process

This purchasing process provides an accounting record of in-process purchases.

(a) Departmental Responsibilities

Department Heads are responsible for purchases appropriated in their budgets. They may contact the Internal Services Department early in the purchasing process to benefit from advice and assistance regarding the procurement, or in relation to specifications, sources of supplies, price advantages, substitutions, and a determination of a procurement process. Department Heads are also responsible for:

- (1) Determining that sufficient funds are available to pay for requested goods and services.
- (2) Ensuring that requested items/services are necessary to operations and are used for their stated purpose.
- (3) Ensuring that requisitions and purchase orders are completed and processed for payment satisfactorily.

(b) Departmental Contact with Suppliers

Departments may contact suppliers for information to gather operational or budgetary information and shall make request for solicitations as prescribed in this manual.

(c) Signature Authority

The approved requisition provides authorization to the staff to order, purchase and issue claim for payment. Signature authority for requisitions and claims is at the discretion of the CAO and Auditor. Requisitions/Solicitation forms are prepared and approved by Department Heads and/or designated management staff to initiate purchases, and to provide management with budgetary control over purchases.

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All Department Heads are required to sign the Auditor's Signature Authorization Form in order as authorized agents to sign requisitions. Authorization for designated staff must be approved by the Auditor and the CAO. Likewise, staff authorized to sign claims would also have to complete the signature form in order to process claims.

(d) Specifications

Departments must strive to ensure that specifications are nonrestrictive and clearly describe the item needed in terms of performance. Drawings or samples should clearly describe the required item. If a brand name or model is specified on the requisition, it will be assumed that "equal" items are acceptable. If there is a question regarding What is "equal" will be determined jointly by Internal Services and the requesting department.

If a department believes that only a specific make and model will meet its needs, the department shall complete the Sole Source Justification Form that calls out the unique features of the sole source item and which states why these features are required. If other brands and models have been tested or used previously, the department should specify the brands and models used, and why they are unacceptable. Similarly, prior unsatisfactory performance may be used for future source evaluations.

(e) Record Retention

All requisitions and related procurement documents shall be retained for a period of three years unless law prescribes a longer period.

(f) Requisitions Requiring Special Approval

Requests for the following items must be approved by the department listed below before forwarding requisitions to Purchasing Agent or Assistant Purchasing Agents:

<u>Items/Services</u>	<u>Approving Department</u>
Fixed Assets	Board of Supervisors
Cell Phones/ Blackberries/Landlines	Information Technology Internal Services
Copiers/ Plotters	Internal Services
Data processing/computer equipment software / hardware	Information Technology
Radios/systems/related equipment	Information Technology
Outside Attorneys	County Counsel

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DEPARTMENTAL PROCEDURES

5.2 Procurement

Department Heads are authorized to make purchases for commodities, equipment, and services where funding has been approved and budgeted in their department budget. The solicitation procedures and contract procurement procedures previously mentioned under solicitation, contract procurement apply here. Procurement can be accomplished through purchase order and invoice processes.

Department Heads are authorized to seek providers of services and negotiate service agreements. They are authorized to develop contracts for review and approval by County Counsel, and may sign contracts up to \$3,000. Department Heads must obtain approval by the CAO when implementing contracts up to \$10,000 and are required to obtain approval of the Board of Supervisors when implementing contracts over \$10,000.

5.3 Emergency Requisitions

Emergency requisitions may be issued when unforeseen circumstances require an immediate purchase in order to avoid a substantial hazard to life or property or serious interruption of the operation of a County department, or the necessary repair of County equipment or heavy equipment required for the operation of a County department.

If an emergency situation arises during normal County business hours, departments the Assistant Purchasing Agent should attempt to obtain approval from the Purchasing Agent prior to making an emergency purchase. Prepare requisition for signature and approval by the CAO.

For emergency transactions over \$10,000, the department shall seek confirmation and approval from the Board of Supervisors as soon as possible.

If an emergency situation arises after normal County business hours, a Department Head may authorize an immediate purchase of commodities or services if required. The department shall advise Purchasing Agent of any emergency purchases as soon as reasonable after the commitment. As soon as possible, the department should forward supporting documentation to Purchasing Agent. For emergency transactions over \$10,000, the department shall seek confirmation and approval from the Board of Supervisors as soon as possible.

5.4 Petty Cash

Petty cash is available to reimburse employees for personal funds expended, or to pay suppliers directly, for supplies or services valued at less than \$200. This is pursuant to the Auditor's policy for the County of San Benito.

Employees are normally reimbursed from the Petty Cash account at the Auditor's Office upon presentation of a properly approved petty cash form and associated original cash sales receipts. Department heads or designees authorized to approve petty cash

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purchases may approve petty cash forms. Sales slips are required to have the supplier's printed name and address and the date of the sale. The employee shall sign the sales slip to signify receipt of the product or service.

Department heads should seek petty cash authorization and instructions from the Auditor's Office.

5.5 Administration of Orders

(a) Receiving

Issuance of a purchase order or contract is only one part of the buying process. The department for whom the merchandise is purchased also has important functions to perform in this process.

Departments shall provide for the receiving, inspection and acceptance or rejection of deliveries of merchandise and services. The departments should assign the responsibility for receiving and inspecting shipments to specific individuals, preferably someone other than the person who approved the requisition. Departments are responsible for ensuring that commodities delivered and services performed conform to the contract specifications. Assigned staff must inspect items being received in a timely manner so that problems, if any, may be identified and more easily resolved. Generally, inspection of incoming goods should be accomplished within three business days of receipt. During inspection, assigned staff shall complete the receiving copy of the order noting the date of delivery, quantities delivered or services performed, and any discrepancies in terms of condition, quantity or conformance to order specifications.

The departments should be notified of any discrepancies or damage immediately. This will enable department's to obtain necessary return authorization or seek other remedial action with the vendor. If required Material Safety Data Sheet (MSDS) information is not received with the delivery, the department should also contact Purchasing Agent for assistance.

Departments should ensure that the Auditor's Office is promptly forwarded a payment authorization for accepted goods or services to take advantage of any discounts to which the County is entitled.

(b) Quality Control Assistance

Quality control assistance is available from the Internal Services Department for departments. The Purchasing Agent shall be contacted in the event:

- (1) A department has questions as to whether an item delivered against a contract meets specifications. (If necessary, the Purchasing Agent or designee will arrange to inspect the item in question.)

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- (2) Equipment or supplies received and placed in service do not appear to be performing as expected or as represented by the seller.
- (3) Departments are receiving poor service or experiencing other problems after items are received.

(c) Materials Expediting

If a supplier is late meeting specified delivery dates, the department should contact the buyer responsible for the purchase order or contract. The buyer will contact the supplier on the department's behalf and will continue to monitor the supplier's progress until the order is complete. The buyer will keep the user department advised of efforts to enforce the terms and conditions of the respective purchase order and the current status of these transactions.

(d) Manufacturer's Warranties

Many items of equipment purchased by departments carry a manufacturer's warranty of acceptable materials and workmanship. All departments shall register and maintain proper records of such warranties to ensure that the manufacturer repairs defects covered by the warranty.

(e) Energy Conservation

Prior to the purchase of all new equipment, except in the case of an emergency, the Purchasing Agent or any other county officer or employee authorized to purchase such equipment shall evaluate and consider the energy consumption level and the anticipated operating costs over the useful life of the new equipment in addition to the initial cost of such equipment.

(f) Special Receiving Assistance

Because of their technical nature, receipt of the following items should be made by, or shall be coordinated with, the indicated organizations:

Vehicles – Public Works Fleet

Telecommunications Equipment – Information Technology

Computer Equipment/ Hardware & Software – Information Technology

- (g) All hazardous materials ordered and received by a Department must have an accompanying Material Safety Data Sheet (MSDS). If the department does not receive this document, the department must contact the supplier and request two copies (one for the County Safety Officer and one for department) before approving the invoice for payment. Every Department is responsible for maintaining a complete file of all hazardous materials that must be filed by the

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DEPARTMENTAL PROCEDURES

name of the chemical and be made available in a central location to anyone needing the information.

5.6 Vehicles

(a) Vehicle Registration and Licensing

The Internal Services Department is responsible for the administrative aspects of all registration and licensing of County owned and leased vehicles in the general County fleet. The Department of Public Works has this responsibility for vehicles in the Public Works fleet. Likewise the Sheriff has responsibility for vehicles in the Sheriff's fleet.

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DISPOSAL OF SURPLUS PERSONAL PROPERTY

6.0 DISPOSAL OF SURPLUS PERSONAL PROPERTY

The Public Works Department is responsible for preparing and distributing procedures to help ensure the maximum utilization of surplus personal property. Although the Public Works periodically surveys departments for surplus personal property, departments should notify them whenever such property is available so that it may be evaluated for use by another department. Public Works will determine whether the item is required by another department or whether the item should be stored, transferred, or disposed.

Any item of personal property of an estimated value of \$3,000 or less may be declared surplus to County needs by the using department with the concurrence of the Purchasing Agent. Items of personal property with an estimated value of over \$3,000 may be declared surplus by the Board of Supervisors.

It is the responsibility of the Public Works Department to sell, trade (subject to the limitations under Section 6.1 of this manual), or otherwise dispose of the surplus item(s) by whatever method and procedure that will, in his/her judgment, return the greatest value to the County.

6.1 Trade-In Allowance on Purchase of Personal Property

When purchasing personal property for which it is not necessary to advertise for bids, the Public Works Department is authorized to solicit and accept advantageous trade-in allowances for County personal property which has a scrap value of less than \$10,000 and which has previously been determined by the Public Works Department or the Board of Supervisors to be of no further public use. (Government Code Section 25503)

When purchasing personal property for which the purchase price is \$10,000 or more, the Public Works Department may include in the Invitation for Bids or other solicitation, a request for offers of trade-in allowances of equipment that is no longer useful to the County and previously declared surplus by the Board of Supervisors. Any trade-in offers received will be considered in the evaluation process.

6.2 Disposition of Proceeds

The proceeds of surplus property dispositions shall be deposited into the County treasury for use of the County or applicable Special District. (Government Code Section 25504) Where the property is exchanged or traded-in, the Purchasing Agent shall secure its value on behalf of the County.

6.3 Prohibition Against Purchase by Employees

Any officer, agent or employee of the County assigned to the purchasing function, or responsible for surplus declarations, or having privileged information regarding the item or equipment or the value thereof that is not available to all prospective bidders, or assigned to the organization having custody of the surplus property shall not directly or indirectly submit a bid or purchase surplus County personal property. This policy shall be

PURCHASING AND CONTRACTING POLICY MANUAL

DISPOSAL OF SURPLUS PERSONAL PROPERTY

liberally construed to prohibit any appearance of impropriety and County Counsel should be consulted for an opinion whenever there is a question of probable conflict.

6.4 Transfer of Personal Property

The Purchasing Agent is authorized to transfer between concurring departments any item of personal property with an estimated value of \$3,000 or less. Transfer of items with an estimated value exceeding \$3,000 must be approved by the Board of Supervisors.

6.5 Donations

County property can be donated in several ways. For items with an estimated value of \$3,000 or less, Public Works can declare these items surplus and proceed to dispose of such items by whatever method and procedure which returns the greatest value to the County. If in the judgment of the Purchasing Agent, a donation of a piece of surplus property valued less than \$3,000 is in the greatest interest of the County, then such a donation can be made.

County property, with an estimated value greater than \$3,000, must be declared surplus by the Board of Supervisors. If the Board concurs, the Board can direct the Purchasing Agent to coordinate the donation of an item exceeding \$3,000 in value.

6.6 Surplus Personal Computer (PC) Systems

- (a) Department process: Surplus reusable personal computer (PC) systems including the monitor, CPU, keyboard, transferable operating system software and printer may be donated by departments to local public schools and qualified local non-profit organizations. When departments have personal computer equipment available for surplus, the Department Head should contact the Information Technology Division (as applicable) to have the equipment evaluated. This evaluation determines whether any other County departments have need for the PC system for their work purposes. If no further use is identified, the PC system will be prepared for non-profit use. Preparation of the systems shall include, but is not limited to, reformatting and erasing all County data from the hard drives or resetting the systems to the original equipment manufacturer configuration. Software licenses may also be transferred using this process.
- (b) Release of PC System: The Information Technology (IT) Division is responsible for electronically submitting the description and asset numbers of the PC System proposed for donation and will approve the release of the equipment. Public Works or IT will pick up the equipment if necessary. Once the PC system is picked up, IT will record the item description and asset numbers for referencing of equipment discarded. This surplus equipment will not be maintained or warranted by the County.

PURCHASING AND CONTRACTING POLICY MANUAL

PURCHASING PREFERENCES

7.0 PURCHASING PREFERENCES

7.1 Purchase of Recycled Products

The Purchasing Agent shall establish and maintain procedures and specifications to ensure that the County gives preference in its purchasing decisions to products containing the maximum amount of recycled materials, where the quality and fitness of such products is equal to those of products containing no, or lesser, amounts of recycled materials, and where the total cost of such products is reasonable in comparison to the total cost of those products containing no, or lesser, amounts of recycled materials.

(a) Definitions

- (1) "Recycled product" means all materials, goods, and supplies, excluding paper products, no less than 50% of the total weight of which consists of secondary and postconsumer material with not less than 10% of its total weight consisting of postconsumer material. A recycled product shall include any product that could have been disposed of as solid waste having completed its life cycle as a consumer item, but otherwise is refurbished for reuse without substantial alteration of its form. "Postconsumer material" means a finished material that would have been disposed of as a solid waste, having completed its life cycle as a consumer item, and does not include manufacturing wastes. "Secondary material" means fragments of finished products or finished products of a manufacturing process, which has converted a resource into a commodity of real economic value, and includes postconsumer material, but does not include excess virgin resources of the manufacturing process. "Recycled product" also means other flat rolled steel products no less than 25% of the total weight of which consists of secondary and postconsumer material, with no less than 10% of total weight consisting of postconsumer material. Products made with flat rolled steel include, but are not limited to, automobiles, cans, appliances, and office furniture and supplies. (Public Contract Code §12301d)
- (2) "Recycled paper product" means all paper and wood pulp products containing postconsumer and secondary materials. "Postconsumer material" means a finished material that would normally be disposed of as a solid waste, having completed its life cycle as a consumer item. "Secondary material" means fragments of finished products or finished products of a manufacturing process, which has converted a virgin resource into a commodity of real economic value, and includes postconsumer material, but does not include fibrous waste generated during the manufacturing process, such as fibers recovered from wastewater or trimmings of paper machine rolls (mill broke), wood slabs, chips, sawdust, or other wood residue from a manufacturing process. "Recycled paper product" means a paper product with not less than 50%, by fiber weight, consisting of secondary and postconsumer material with not less than 10% of fiber weight consisting of postconsumer material. For high speed copier paper, offset paper, forms bond, computer printout paper, carbonless paper, file folders, white wove envelopes, and for other

PURCHASING AND CONTRACTING POLICY MANUAL

PURCHASING PREFERENCES

uncoated printing and writing papers, such as writing and office paper, book paper, cotton fiber paper containing 25 to 75% cotton fiber, and cover stock, the minimum content standard shall be no less than 30 % of fiber weight of postconsumer materials. (Public Contract Code §12301c)

(b) Selected Environmental Products

The Purchasing Agent and/or Assistant Purchasing Agents shall evaluate the following environmentally preferable products and recommend purchasing them whenever the evaluation is favorable:

- (1) Recycled paper and paper products;
- (2) Re-refined lubricating and hydraulic oils;
- (3) Recycled plastic outdoor-wood substitutes;
- (4) Re-crushed cement concrete aggregate and asphalt;
- (5) Cement and asphalt concrete containing glass cullet, recycled fiber, plastic, tire rubber or fly ash;
- (6) Remanufactured tires and products made from recycled tire rubber;
- (7) Compost;
- (8) Remanufactured paint;
- (9) Cleaning products with lowered toxicity as described in the Integrated Pest Management program;
- (10) Energy saving products;
- (11) Waste-reduced products;
- (12) Water-saving products;
- (13) Other products designated by the Purchasing Agent which promote energy conservation
- (14) and environmental protection.

(a) Exemption

Nothing in this policy shall be construed as requiring the purchase of products that do not perform adequately or are not available at a reasonable price.

PURCHASING AND CONTRACTING POLICY MANUAL

PUBLIC PROJECTS

8.0 PUBLIC PROJECTS

The provisions of this Section apply to public projects, public works projects and bids. Bids for both public projects and public works projects are administered by the Public Works Administrator and are covered by procedures promulgated by the Public Works Department.

8.1 Definition - Public Project

Section 20150.2 of the California Public Contract Code and Chapter 15.09 Public Projects of the County Code defines a public project as follows:

- (a) A project for the erection, improvement, and repair of public buildings and works.
- (b) Work in or about streams, bays, waterfronts, or other work for protection against overflow, except maintenance, repair or reconstruction work.
- (c) Supplies and materials used in maintenance, repair or reconstruction work in or about streams, bays, waterfronts, embankments; or other maintenance, repair or reconstruction work for protection against overflows.

8.2 Maintenance Work

Maintenance work is not included in the definition of public projects. It can be defined as a public works projects. Maintenance work includes:

- (a) Routine, recurring and usual work for the preservation of any County owned or operated facility for its intended purposes.
- (b) Minor repainting.
- (c) Resurfacing of streets and highways at less than one inch.
- (d) Landscape maintenance, including mowing, watering, trimming, pruning, planting, replacement of plants, and servicing of irrigation and sprinkler systems.
- (e) Work performed to keep, operate, and maintain publicly owned water, power, or waste disposal systems, including, but not limited to, dams, reservoirs, power plants, and electrical transmission lines of 230,000 volts and higher.

8.3 Public Works

Section 20131, of the Public Contract Code states that counties which employ purchasing agents may authorize the agent to employ state-licensed independent contractors and purchase materials, furnishings, and supplies used in the construction and repair of public works estimated as costing not more than \$6,500 without the formality of obtaining bids, lettings contracts, preparing specifications and other things required by this article.

PURCHASING AND CONTRACTING POLICY MANUAL

PUBLIC PROJECTS

The Public Works Administrator is an Assistant Purchasing Agent that has been given special duties under the San Benito County Code Chapter 15.09 Public Projects Purchasing, Section 5.09.008 (B), Public Contract Code Section 20131, Public Contract code Section 20150.4.

8.4 Public Project Bid Levels (Public Contract Code § 20131 & 20150.4)

- (a) Public projects up to \$6,500 may be performed by County staff or let to contract by Public Works Department after the receipt of competitive offers.
- (b) Public projects between \$4,001 and \$9,999 shall be let by informal or formal bidding procedures.
- (c) Public projects of \$10,000 and more shall be let to contract by formal bidding procedures.

8.5 Informal Bidding Procedures (Public Contract Code § 20150.7)

- (a) The County Public Works Department will notify contractors in San Benito County of the opportunity and be notified of informal bidding proceedings.
- (b) Advertising
 - (1) The notice inviting informal bids shall be published in a newspaper of general circulation printed and published within the jurisdiction of the County.
 - (2) The notice shall be published once at least 24 hours before the time scheduled for the opening of the bids.
 - (3) The notice shall include the classification of contractor's license that the contractor must possess at the time the contract is awarded and describe in general terms the project to be done and will state a closing date for submission of informal bids.
 - (4) In addition to the published notice, Public Works may also publish notice in a trade publication and/or may supplement the notice by mailing notice to contractors registered per section (a) above.

8.6 Formal Bidding Procedures

Formal bidding procedures are described under Section 9.0 of this manual.

8.7 Plans and Specifications

For all public projects \$10,000 and above:

- (a) The Board of Supervisors shall adopt the plans, specifications and working details.

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PUBLIC PROJECTS

- (b) All bidders shall have the opportunity to examine the plans, specifications and working details.

8.8 Splitting Work

Public projects shall not be split or separated into smaller work orders for the purpose of evading provisions requiring public projects to be done by contract after bidding.

8.9 Prevailing Wages

The payment of prevailing wage rates is generally required of contractors performing construction work for the County. Exceptions to this procedure can be found in the California Labor Code.

For construction projects the Public Works Department shall make reference to and include in their contracts, the requirement for payment of prevailing wage rates adopted by the State of California, Director of Industrial Relations.

8.10 Local Businesses, Contractors and Sub Contractors

The Public Contract Code prohibits the County to give preference to local businesses, contractors and subcontractors for the competitive bidding process for public projects. The San Benito County Board of Supervisors encourages local businesses, contractors and subcontractors to participate in the bidding process. Notice will be provided as is required in the local newspaper and other trade associations to seek the lowest responsive bidder. To that end, in preparation of the RFPs or IFBs, staff will notice bidders regarding local businesses, contractors and subcontractors whom are available within the county to encourage local participation in the projects.

Local Contractors can be solicited for public works maintenance or repair projects that fall within the bidding requirements as is provided in the Public Contract Code Section 20131.

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FORMAL BIDDING PROCEDURES

9.0 FORMAL BIDDING PROCEDURES

The provisions of this Section apply to public projects bid and administered by the administered by the Public Works Department. Detailed procedures are promulgated by that department.

9.1 Definition (Public Contract Code § 20150.8)

Formal bidding is a procurement method involving competitive sealed offers that requires:

- (a) Adoption of plans, specifications and working details by the Board of Supervisors;
- (b) Formal advertising in a general circulation newspaper during a bidding process of not less than 10 days;
- (c) Public opening of bids at a pre-designated time and place;
- (d) Referral of bids to the Public Works Department or other operating department for evaluation of the bids;
- (e) Unconditional acceptance of a bid without alteration or correction except as authorized in County Code, this manual or the Public Contract Code;
- (f) Award of a contract by the Board of Supervisors 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;
- (g) Notice of Award to the selected bidder;
- (h) Completion of all required contract documentation; and
- (i) Notice to Proceed is issued to the contractor.

Formal bidding is required for all public projects with estimated costs of \$10,000 and above.

9.2 Advertising (Public Contract Code § 20150.7)

- (a) The notices inviting formal bids shall state the time and place for receiving and opening of sealed bids and distinctly state the project to be done and the place where plans and specifications are on file. The first publication of the notice shall be at least 10 days prior to the opening of bids. Notice shall be published at least twice, not less than 5 days apart, in a newspaper of general circulation, printed and published in the jurisdiction of the County.

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FORMAL BIDDING PROCEDURES

- (b) In addition to the notices published in a newspaper of general circulation, Public Works Department may also publish notice in a trade publication and/or through other means designed to encourage competition.

9.3 Bid Documents

- (a) Copies of Bid Documents

- (1) Bidders may purchase complete sets of bidding documents from Public Works Department as set forth in the Invitation for Bids.
- (2) Bidders shall use complete sets of bidding documents in preparing bids; the County will not assume any responsibility for errors or misinterpretations resulting from the use of incomplete sets of bidding documents.
- (3) The County in making copies of the bidding documents available on the above terms does so only for the purpose of obtaining bids for the specified commodities or services and does not confer a license or grant for any other use.

- (b) Interpretation or Correction of Bidding Documents

- (1) Bidders shall promptly notify the Public Works Department of any inconsistency or error that they may discover upon examination of the bidding documents or of the site and local conditions.
- (2) Bidders requiring clarification or interpretation of the bidding documents shall contact the Public Works Department at least five (5) working days prior to the date for receipt of bids, or as specified in the Invitation for Bids.
- (3) Any interpretation, correction or change of the bidding documents will be made by written addendum. Interpretations, corrections or changes of the bidding documents made in any other manner will not be binding, and bidders shall not rely upon such interpretations, corrections and changes.

- (c) Alternate Bids

- (1) The materials, products and equipment described in the bid documents establish a standard of required function, dimension, appearance and quality to be met. An equal product must meet minimum specifications and the burden of proof of merit of proposed alternate or substitute is on the bidder.
- (2) Solicited alternates may be awarded based on the sole judgment of the County.

- (d) Addenda

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FORMAL BIDDING PROCEDURES

- (1) Addenda will be mailed or delivered to all prospective bidders known by the Public Works Department, as to whom has received a complete set of bid documents.
- (2) Copies of addenda will be made available for inspection wherever bidding documents are on file for that purpose.
- (3) No addenda will be issued later than five calendar days prior to the date for receipt of bids except an addendum withdrawing the request for bids or one that includes postponement of the date for receipt of bids. For bids opened on Tuesdays, this means addenda will not be issued after the preceding Thursday except as described above.
- (4) Each bidder shall be responsible for ascertaining prior to submitting a bid that it has received all addenda issued.
- (5) Acknowledgement of receipt of addenda shall be submitted by bidders in order to receive award consideration unless otherwise indicated in the bid documents.

9.4 Form of Bid

In order to receive consideration, bids shall be made on the forms and in the manner set forth in the Invitation for Bids.

- (a) Late bids shall not be accepted.
- (b) Each bid must be signed by an authorized representative of the bidder, include the legal name of the bidder and a statement of non-collusion signed by the bidder.
- (c) Bidders shall not change the bid form nor make additional stipulations on the bid form which are not consistent with the provisions of the specifications.

9.5 Bid Security

A bid bond or bid deposit (certified or cashier's check) made payable to San Benito County may be required to protect the County in the event the bidder awarded the contract does not execute the contract, furnish any required performance bond, and/or proceed with performance. A required bid bond or bid deposit must be submitted with the bid, and be in the amount as specified in the Invitation for Bids.

In the event an otherwise low bidder is allowed to withdraw its bid due to claim of error, the County may retain the bid guarantee to offset its costs of administrative handling of the bid.

Bid bonds or bid deposits, except those of the lowest bidder, should be returned as soon as practical following the bid opening and evaluation of bid responses. The guarantees of the lowest bidder should be retained until the contract has been executed and

PURCHASING AND CONTRACTING POLICY MANUAL

FORMAL BIDDING PROCEDURES

approved and any performance bond and certificate of insurance provided, at which time they will be released except where forfeited. However, the bid bond or bid security of the second and third lowest responsible bidders may be retained until the contract has been fully executed and insurance certificates are obtained. The cashier's checks and certified checks submitted by all other unsuccessful bidders shall be returned to them within ten (10) calendar days after the receipt of bids, and their bid bonds shall be of no further effect.

9.6 Receipt of Bids

All bids must be received sealed in an envelope by the time specified in the Invitation for Bids. Bids must not be left unattended and must be promptly time-stamped and deposited unopened in the respective bid folder. Late bids shall not be opened and shall not be considered under any circumstances. A late bid will be date-stamped and remain unopened in the bid file. A letter from Public Works Department will be sent notifying the bidder that the bid was received late and was not considered.

9.7 Opening of Bids

The Public Works Director or designee shall administer all bid openings and all bids shall be opened publicly in the presence of one or more witnesses at the time and place designated in the Invitation for Bids. The County assumes no responsibility over the confidentiality of bid information unless specifically stated otherwise in the Invitation for Bids.

9.8 Correction or Withdrawal of Bids (Public Contract Code § 5100 - 5107)

In any request or decision involving a bid mistake, correction or withdrawal, Public Works staff shall consult with County Counsel. Except as otherwise specified in Section 5100 of the Public Contract Code, correction or withdrawal of inadvertently erroneous bids before or after bid opening may be permitted only if such correction or withdrawal is not prejudicial to the interest of the County or fair competition. Further:

- (a) Mistakes in bids detected prior to bid opening may be corrected or withdrawn by the bidder by written request received by the Public Works Department prior to the time designated for opening of bids. Any written request or personal appearance made in order to correct or withdraw a bid prior to bid opening must be made by a bona fide representative of the bidder with proper identification. An acknowledgement form must be signed by the bidder indicating that they have received the bid submission. The written request must be signed by the same person who signed the original bid, and shall be sealed, time-stamped and deposited in the same manner as the original bid. Oral, telegraphic, or facsimile transmission of corrections or withdrawals shall not be permitted. Any resubmitted bid must be received by the bid deadline.
- (b) Mistakes in bids detected during or after bid opening may not be corrected by the bidder except:

PURCHASING AND CONTRACTING POLICY MANUAL

FORMAL BIDDING PROCEDURES

- (1) A bidder may be permitted to correct a material mistake that would cause such bidder to have the low bid if the mistake is clearly evident from examining the bid document; for example, mathematical errors. However, a bidder shall not be permitted to correct a bid for errors of judgment. A low bidder shall not be permitted to increase its bid price and still be considered as the low bidder.
- (2) An otherwise low bidder may be permitted the opportunity to furnish other information called for by the Invitation for Bids and not supplied due to oversight, so long as it does not affect responsiveness.

The Public Works Administrator or designee shall maintain complete and sufficient records of evidence used to establish an error and intended price. Records of bid withdrawals shall also be maintained to ensure there is no abuse of the competitive bidding process. All decisions to permit the correction of bid mistakes and the withdrawal of bids shall be made in writing by the Public Works Administrator and retained in the bid file. In the event that the correction of a bid subsequent to bid opening results in a new low bidder, the Public Works Administrator, at his/her discretion, may recommend, or make, given proper approval requirements, an award to the new low bidder, or may request new bids.

9.9 Bid Evaluation

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

9.10 Rejection of Bids

In its discretion, the County may reject any bids presented. The County may:

- (a) Reject a bid not accompanied by any required bid security or by other data required by the bidding documents.
- (b) Reject a bid that is in any way incomplete, irregular, amplified, unqualified or otherwise not in compliance with the bid documents in all material respects.
- (c) Waive any informality, irregularity, immaterial defects or technicalities, in any bids received.
- (d) Cancel an Invitation for Bids or reject all bids because of any of the following reasons:
 - (1) Inadequate or ambiguous specifications.
 - (2) Specifications have been revised.

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- (3) Supplies or services are no longer needed.
- (4) Change in County requirements.
- (5) All bids deemed unreasonable.
- (6) Bids were not independently arrived at or were submitted in bad faith.
- (7) A determination is made that all the necessary requirements of the bid process have not been met.
- (8) Insufficient competition.
- (9) For other reasons which indicate the cancellation or rejection of all bids is clearly in the best interest of the County.

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

9.11 Cost Estimate Re-evaluation (Public Contract Code § 20150.9 & 20150.10)

If, after a first invitation for bids, all bids are rejected after re-evaluating its cost estimates of the project, the County shall abandon the project or shall readvertise for bids. If, after re-advertising, the County again rejects all bids presented, the County may proceed with the project by use of County personnel or may readvertise again. If two or more bids are the same and the lowest bids, the County may accept the one it chooses. If no bids are received, the County may have the project done without further complying with Chapter 15.09 of the County Code.

Notwithstanding the provisions of above, on any project which is less than \$75,000, if, after the first invitation for bids, all bids are rejected, the County may, after re-evaluating its cost estimates of the project, pass a resolution by a four fifths (4/5) vote of the Board of Supervisors declaring that the project can be performed more economically by County personnel, or that in its opinion a contract to perform the project can be negotiated at a lower price than that in any of the bids, or the materials or supplies can be furnished at a lower price in the open market. Upon adoption of such a resolution, the County may have the project done in the manner stated without further complying with Chapter xxx of the County Code.

9.12 Bid Award

If the County decides to award a contract, the County generally must award the contract to the lowest responsible and responsive bidder whose bid best meets the requirements and criteria set forth in the Invitation for Bids. In the event the successful bidder fails to perform or such bidder's bid is authorized to be withdrawn, the County may award a contract to the next lowest responsible and responsive bidder that will best meet the needs of the County.

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9.13 Cancellation of Bid Award

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

9.14 Public Notice of Award

The Public Works Department shall maintain a summary of all contract awards for public projects and make it available for public inspection. The summary shall, at a minimum, include the date of the award, the contract numbers, the suppliers, the contract amounts, and a brief description of the commodity or service.

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PROTESTS AND APPEALS

10.0 PROTESTS AND APPEALS

10.1 Construction Projects – Bid Protests

The provisions of Section 10.1 apply to public projects bid administered by the Public Works Department. Detailed procedures are promulgated by that department.

- (a) Any actual or prospective bidder, offeror or contractor who is allegedly aggrieved in connection with the solicitation or award of a construction contract for a public work may file a protest. The bid protest shall be filed with the Clerk of the Board within three working days of the bid opening or notification of bid award recommendation, whichever date is later. The Board of Supervisors shall hear the bid protest prior to the execution of the contract, unless subject to (b) below. The protesting party may protest the bid award for the County's or successful bidder's failure to comply with the requirements of County procedures, the bid documents or any other applicable provision of County or State code. The Board shall sustain a bid protest only if it finds evidence that award of the bid would violate County code or other applicable law. The decision of the Board shall be final.
- (b) In the event that the County Administrative Officer, in consultation with County Counsel and the Public Works Administrator, makes a determination that the award of the contract without delay is necessary to protect a substantial interest of the County, then the Board of Supervisors will not hear a bid protest prior to the execution of the contract. In this instance the Board of Supervisors may delegate hearing of the bid protest to the Office of the County Administrator.

10.2 Protests and Appeals of Other Procurement Awards

Any actual or prospective bidder, offeror or contractor who is allegedly aggrieved in connection with the solicitation or award of a contract other than bid protests as described under Section 10.1 may protest to the County Administrative Officer. The protest shall be submitted in writing to the County Administrative Officer within five (5) working days after notification of the recommendation of award.

10.3 Protests to the County Administrative Officer

The County Administrative Officer shall issue a written decision within ten (10) working days after receipt of the protest. The decision shall:

- (a) State the reason for the action taken;
- (b) Inform the protestant that a request for further administrative appeal of an adverse decision must be submitted in writing to the Clerk of the Board of Supervisors within seven (7) working days after receipt of the decision by the County Administrative Officer. If the award is not subject to approval by the Board of Supervisors (contracts for services for up to \$10,000), the County Administrative Officer shall make the final decision on the merits of the protest.

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The County Administrative Officer shall discuss with County Counsel all protests prior to issuing a written decision.

10.4 Appeals to the Board of Supervisors

If so requested as set forth in Section 10.3 (b) above, and the award is subject to approval by the Board of Supervisors, the decision of the County Administrative Officer may be appealed to the Board of Supervisors. If the award is not subject to approval by the Board of Supervisors, the County Administrative Officer shall make the final decision on the merits of the protest per Section 10.3 (b).

10.5 Appeal Time Limits

Appeals of decisions shall be initiated within ten days of the decision. The county shall be considered an interested party. When the appeal period ends on a day when the county offices are not open to the public for business, the time limits shall be extended to the next full working day.

10.6 Initiation of Appeals

An appeal shall be filed with the Clerk of the Board of Supervisors on a form provided and shall state, as appropriate, any of the following:

- (a) A determination or interpretation is not in accord with the purpose of these procedures or County Code;
- (b) There was an error or abuse of discretion;
- (c) The record includes inaccurate information; or
- (d) A decision is not supported by the record.

~~In the event of a timely appeal before the Board of Supervisors under this Section, the County shall not proceed further with the solicitation or with the award of the contract until the appeal is resolved, unless the County Administrative Officer, in consultation with County Counsel, and the using department, makes a written determination that the award of the contract without delay is necessary to protect a substantial interest of the County~~

10.7 Appeal Procedure

- (a) **Appeal Hearing Date.** An appeal shall be scheduled for a hearing before the Board within thirty days of the County's receipt of an appeal unless the protestor and County consent to a later date.
- (b) **Notice and Public Hearing.** An appeal hearing shall be a public hearing. Notice of the public hearing shall be mailed or delivered to the protestor within ten days of the scheduled hearing date.

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- (c) Hearing. At the hearing, the Board shall review the record of the decision and hear oral explanations from the protestor and any other interested party.
- (d) Decision and Notice. After the hearing, the Board shall affirm, modify or revise the original decision. When a decision is modified or reversed, the Board shall state the specific reasons for modification or reversal. The Clerk of the Board of Supervisors shall mail notice of a County Board decision. Such notice shall be mailed to the protestor within five working days after the date of the decision and to any other party requesting such notice.
- (e) A decision by the Board regarding an appeal shall become final on the date the decision is announced to the public.

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DEPARTMENT OF SUPPLIERS/CONTRACTORS

11.0 DEPARTMENT OF SUPPLIERS/CONTRACTORS

After consultation with County Counsel and after reasonable notice to the supplier/contractor involved and reasonable opportunity for the supplier's/contractor's representative to be heard, the Board of Supervisors shall have the authority to debar a person or firm for cause from consideration for award of contracts. The debarment shall not be for a period of more than two years.

11.1 Causes for Debarment

The causes for debarment include the following:

- (a) Conviction of or civil judgment for:
 - (1) Commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public contract or subcontract;
 - (2) Violation of antitrust statutes relating to the submission of bids or proposals;
 - (3) Commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property; or
 - (4) Commission of any other offense indicating a lack of business integrity or business honesty that seriously and directly affects the present responsibility of a contractor or subcontractor.
- (b) Violation of the terms of a public agency contract or subcontract so serious as to justify debarment, such as:
 - (1) Willful negligence or failure to perform in accordance with the terms of one or more contracts; or
 - (2) A history of failure to perform, or of unsatisfactory performance of one or more contracts.
- (c) Violation of ethical standards set forth in Section 1.3 of this manual.
- (d) For any other cause the Board of Supervisors determines to be so serious and compelling as to affect responsibility as a County contractor.

11.2 Other Actions

This section shall not be construed as to limit or prejudice any administrative or legal action available to the Board of Supervisors.

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Addendum. An addendum is a change or modification to achieve correctness. An addendum is also an alteration, modification, deletion or addition to a solicitation document such as an Invitation for Bids. An addendum must be in writing.

Assistant Purchasing Agent. Department Heads. By ordinance the Department Heads have been designated as Assistant Purchasing Agents.

Award. An award is the presentation of a purchase agreement or contract to a bidder or the acceptance of a bid or proposal.

Best Interests of the County. A term used in granting a purchasing official authority to use discretion to take action that is felt most advantageous to the County. This authority is used when it is difficult or impossible to anticipate adequately the circumstances that may arise so that more specific directions could be delineated by the law or regulation. Case law affirms discretion for purchasing officials in these actions.

Bid Bond. An insurance agreement in which a third party agrees to be liable to pay a certain amount of money in the event that a specific successful bidder fails to sign the contract as it was bid.

Bidders List. A database maintained by Purchasing that provides a listing of suppliers and the goods and services they provide.

Blanket (Open) Purchase Agreement. A blanket purchase agreement is an arrangement under which a purchaser contracts with a supplier to provide the purchaser's requirements for an item(s) or a service, on an as-needed basis. Properly prepared, such an arrangement sets a limit on the period of time it is valid and the maximum amount of money that may be spent within a specified period.

Change Order. Written modification, addition or deletion to a purchase order or contract.

Competitive Bidding. The submissions of offers by individuals or firms competing for a contract, privilege or right to supply merchandise or services.

Commodity. An article of trade, product, or goods.

Competitive Sealed Bidding. A method of procurement that requires the following elements: issuance of an Invitation for Bids with a purchase description/specifications, acceptance criteria and all contractual terms and conditions applicable to the procurement; a public, contemporaneous opening of bids at a pre-designated time and place; an unconditional acceptance of a bid without alteration or correction except as authorized in this manual; and an award to the most responsive and responsible bidder who has submitted the lowest bid that meets the requirements and criteria set forth in the Invitation for Bids.

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Confirming Purchase Order. A purchase order issued to a supplier, listing goods or services and terms of an order placed verbally by a Buyer, or otherwise, in advance of the issuance of the usual purchase document.

Consultant Services. A type of service where an independent contractor provides expert advice or services that involve extended analyses and the exercise of discretion and independent judgment, such as financial audit firms, grant writers, program specialists and others. See also **Professional Services**.

Contract. An agreement, enforceable by law, between two or more competent parties, to perform a particular act within the law, for a consideration. Also, any type of agreement or order for the procurement of supplies, services or construction.

Debarment. Process in which a supplier or contractor is prevented from being considered for the award of contracts.

Discount. Generally, a supplier's deduction from the list price, or some cost-reducing condition or negotiation, such as prompt payment (i.e., 2% if payment received within 30 days).

Emergency Purchase. An immediate acquisition by a department obtain of goods or services in order to avoid a substantial hazard to life or property, or serious interruption of the operation of a County department. Such action may be taken by a department when Buyers are not available in the evenings or on weekends.

Fixed Asset. A fixed asset is an item of equipment that costs \$3,000 or more and has a useful life expectancy of greater than one year. Purchase requires prior Board and CAO approval.

Formal Bidding. Formal bidding is a procurement method involving competitive sealed offers that requires: adoption of plans, specifications and working details by the Board of Supervisors; formal advertising in a general circulation newspaper during a bidding process of not less than 10 days; public opening of bids at a pre-designated time and place; referral of bids to the operating department for evaluation of the bids; unconditional acceptance of a bid without alteration or correction except as authorized in County Code, this manual or the Public Contract Code; award of a contract by the Board of Supervisors 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; Notice of Award to the selected bidder; completion of all required contract documentation; and a Notice to Proceed is issued to the contractor.

Independent Contractor Agreement (ICA). Contract document, including attachments, utilized by the County for the purchase of services.

Informal Bidding. Informal bidding is a procurement method which utilizes advertising to seek bids but does not require the same level of documentation as formal bidding. For example, Board of Supervisors approved plans and specifications are not necessary

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for informal bidding; advertising requirements and degree of detail may be less stringent; etc.

Informal Quotation. Verbal or written solicitation by a Purchasing Agent/ Assistant Purchasing Agents for goods and services without the use of competitive sealed bids.

Invitation for Bids. All documents, whether attached or incorporated by reference, utilized for soliciting bids in accordance with the procedures set forth in this manual.

Invoice. Seller's itemized document referencing order/contract number stating prices and quantities of goods and/or services delivered, and sent to the County for payment.

Local Preference Local preference for supplies, equipment or services may be considered. when all other factors are determined to be equal, preference shall be considered for firms having a bona-fide place of business within the County of San Benito

Master Independent Contractor Agreement (MICA). A master agreement procured by Purchasing for a personal service that is used by multiple departments. Upon approval of the Board of Supervisors, departments secure the service through a purchase order based on the terms of the master agreement.

Open (Blanket) Purchase Order. An open purchase order is an arrangement under which a purchaser contracts with a supplier to provide the purchaser's requirements for an item(s) or a service, on an as-needed basis. Properly prepared, such an arrangement sets a limit on the period of time it is valid and the maximum amount of money that may be spent at one time or within a specified period.

Performance Bond. A contract of guarantee executed subsequent to award by a successful bidder to protect the County from loss due to the inability to complete the contract as agreed.

Personal Property. Materials, supplies, machinery, furnishing, equipment and any other tangible article required for the conduct of business of the County.

Personal Services. Personal services contracts and purchase orders include agreements for services provided by skilled trades persons, technicians and others. Examples of personal services include facility and equipment maintenance, security services, installation of equipment and furnishings, tree trimming, janitorial, etc. Personal services agreements do not include those for public projects, consultants, engineers, architects, designers, and other professional services. Generally, specifications for personal services agreements may be specific enough so that the services can be secured through quotes and/or bids. RFPs may also be appropriate when the service requirements so justify.

Pre-Qualification. A process in which bidders/vendors/service providers are pre-qualified by responding to a solicitation to establish responsibility. This may include information regarding such factors as financial background, industry stability, capacity to

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perform, lines of credit, manufacturers' authorizations, relevant experience, etc. Qualified firms may then be asked to participate in a price solicitation.

Prevailing Wages. Wage rates adopted by the State of California, Director of Industrial Relations, the payment of which is required of contractors performing construction work for the County.

Procurement. The purchasing process of seeking and obtaining goods and services.

Professional Services. Professional services and services provided by consultants include services which are of an advisory nature, provide a recommended course of action or personal expertise, and have an end product which is basically a transmittal of information and which is related to County programs. Providers are selected on the basis of qualification, subject to the negotiation of a fair and reasonable compensation. Classification as professional services may also require an advanced, specialized type of knowledge, expertise or training customarily acquired either by a prolonged course of study or equivalent experience such as accountants, physicians, labor consultants, investigators, attorneys, architects, surveyors, or engineers. See also **Consultant Services**.

Public Project. Section 20150.2 of the California Public Contract Code and Chapter 15.09 Public Projects of the County Code defines a public project as a project for the erection, improvement, and repair of public buildings and works; work in or about streams, bays, waterfronts, or other work for protection against overflow, except maintenance, repair or reconstruction work; and supplies and materials used in maintenance, repair or reconstruction work in or about streams, bays, waterfronts, embankments; or other maintenance, repair or reconstruction work for protection against overflows.

Purchase. This term refers to any contractual arrangement or transaction involving payment; the acquisition of title to personal property; the use by rental, lease or otherwise of personal property; the provision of services by independent contract or otherwise; or any combination of the foregoing.

Purchase Order. A written document prepared by the buyer and provided to a supplier formally stating all terms and conditions of procurement.

Purchasing Agent. Chief purchasing official. By ordinance, the County Administrative Officer has been designated as the County's Purchasing Agent.

Quotation. A statement of price, terms of sale, and description of goods or services offered by a supplier to a prospective purchaser; the stating of the current price of a commodity; the price so stated.

Request for Proposal. All documents, whether attached or incorporated by reference, utilized for soliciting proposals in accordance with the policies set forth in this manual.

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Requisition. A requisition is an internal document by which a department initiates the procurement process.

Responsible Bidder or Offeror. A person or firm that has the capability in all respects to perform fully the contractual requirements, and the integrity and reliability to assure good faith performance.

Responsive Bidder or Offeror. A person or firm that has submitted a bid which conforms in all material respects to the Invitation for Bids, including the specifications set forth in the IFB.

Specifications. A detailed statement of particulars prescribing dimensions, materials, performance, quality of work etc. for something to be purchased, built or installed.

Sole Source Purchase. A sole source purchase is an award for a commodity or service that can only be purchased from one supplier, usually because of its technological, specialized, or unique character.

Solicitation. Solicitations are purchasing processes designed to seek and obtain goods and/or services. They include requests for quotations, requests for qualifications (RFQ), invitations for bids (IFB), and requests for proposals (RFP).

Standardization. Standardization is the organized process of obtaining solutions to common problems by establishing agreement on specific quality, design, size, color, etc. The established agreement is called a standard.

Warranty. A written guarantee of the integrity of a product and of the maker's responsibility for the repair or replacement of defective parts.