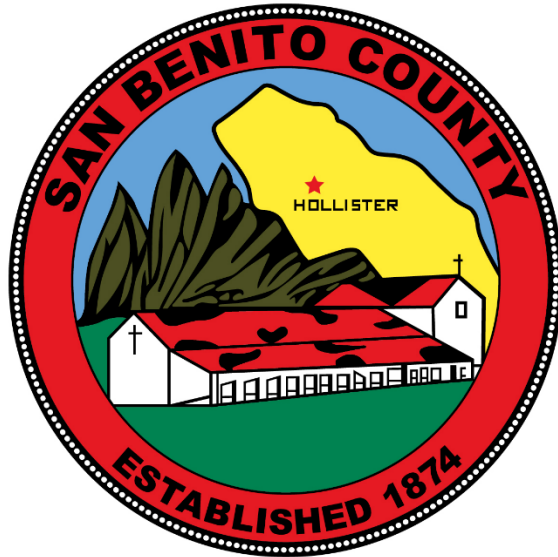


# San Benito County



## PURCHASING AND CONTRACTING POLICY MANUAL

County Administrative Office

**Revised:** Aug. 27, 2024

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|-----|-----------|---|
| 983 | 5/21/2019 | Amending Chapter 5.09 "Purchasing" of Title 5 "Finance" of the San Benito County Code.                              |
| 990 | 9/24/2019 | Amending Chapter 5.09 "Purchasing" of Title 5 "Finance" of the San Benito County Code Relating to Service Contracts |

**2023 QUICK GLANCE - PURCHASING REQUIREMENTS AND THRESHOLDS**

<b>COMMODITIES/GOODS AND SUPPLIES</b>					
<b>AMOUNT</b>	<b>BIDDING</b>	<b>AGREEMENT</b>	<b>PURCHASING AUTHORITY</b>	<b>P.O.</b>	<b>NOTICE</b>
\$0-\$500.00	Exempt	Optional	Department Head	Yes	Not required
\$501-\$5,000 (Micro Purchase)	2 (or more) oral or informal written quotes	Optional.	Department Head	Yes	Not required
\$5,001-\$20,000 (Mini Purchase)	3 or more oral or informal written quotes	Optional - <b>Except</b> req'd for software \$5,000 or more	Assistant Purchasing Agent to \$20,000	Yes	Not required
\$20,001-\$50,000 (Small Purchases)	3 or more oral or informal written quotes	Optional - Except req'd for software	Purchasing Agent to \$75,000.	Yes.	Should consider placing notice on website for <u>5</u> days.
\$50,001 and up (Regular Purchases)	3 (or more) formal written quotes	Yes	Purchasing Agent to \$75,000. Board of Supervisors > \$75,000	Yes	Shall advertise for at least 10 days

*Purchase orders are not required for goods under \$250.00, unless requested by vendor or County.*

<b>SERVICES</b>					
<b>AMOUNT</b>	<b>BIDDING</b>	<b>AGREEMENT</b>	<b>PURCHASING AUTHORITY</b>	<b>P.O. (estimate of est. expenditures)</b>	<b>NOTICE</b>
Up to \$500	Exempt	Not required if using PO and not agreement.*	Assistant Purchasing Agent	Yes.	Not required
\$500-\$10,000	Should seek 2 (or more) oral or informal written quotes.	Not required if using PO and not agreement.*	Assistant Purchasing Agent	Yes.	Not required
\$10,001-\$20,000	Should seek 3 (or more) oral or informal written quotes	Yes*	Assistant Purchasing Agent	Yes	Not required
\$20,001-\$50,000	Should seek 3 or more oral or informal written quotes	Yes*	Purchasing Agent	Yes	Notice is optional. No. of Days TBD by department.
\$50,001-\$100,000	written quotes from at least 3 sources	Yes	Purchasing Agent to \$75,000. Board of Supervisors > \$75,000	Yes	Notice for 5 days
\$100,001 and above	Formal RFP/RFQ	Yes	Board of Supervisors	Yes	Notice for 10 days

\*\* Many services are best secured through a contract as opposed to a purchase order. Only simple, routine, low-risk services should be purchased using a purchase order. When in the best interests of the County, the Purchasing Officer may authorize the use of a Purchase Order instead of a contract for acquisition of services between \$10,000 and \$50,000. This exception shall be used rarely.

PUBLIC WORKS					
AMOUNT	BIDDING	AGREEMENT	PURCHASING AUTHORITY	P.O.	NOTICE
\$0-\$10,000	No. Should solicit three (or more) proposals	Agreement not required for less than \$10,000.	Public Works Director	Yes	Not required
\$10,001-\$60,000	No. Should solicit 3 or more proposals.	Yes	Public Works Director	Yes	On County's website for 5 days. Provide emailed notice to any person who has requested notice.
\$60,001-\$200,000	Informal	Yes	Public Works Director	Yes	Yes, per statute
\$200,001+	Formal	Yes	Board of Supervisors	Yes	Yes, per statute

*All Purchase Orders for Public Works or Maintenance must be reviewed by County Counsel, unless waived by County Counsel*

**2024 QUICK GLANCE- PURCHASING REQUIREMENTS AND THRESHOLDS**

**COMMODITIES/GOODS AND SUPPLIES**

AMOUNT	BIDDING	AGREEMENT	PURCHASING AUTHORITY	P.O.	NOTICE (*except if any statutory or grant requirements)
\$0-\$500	Exempt	Optional	Department Head/Assistant Purchasing Agent	Yes	Not required
\$501-\$5,000 (Micro Purchase)	2 (or more) oral or informal written quotes	Optional	Department Head/Assistant Purchasing Agent	Yes	Not required
\$5,001-\$10,000 (Mini Purchase)	3 or more oral or informal written questions	Optional - <b>Except</b> req'd for software \$5,000 or more	Department Head/Assistant Purchasing Agent	Yes	Not required
\$10,001-\$20,000 (Mini Purchases)	3 or more oral or informal written questions	Optional - <b>Except</b> req'd for software \$5,000 or more	CAO/Purchasing Agent	Yes	Not required
\$20,001-\$50,000 (Small Purchases)	3 or more oral or informal written quotes	Optional- <b>Except</b> req'd for software	CAO/Purchasing Agent	Yes	Should consider placing notice on website for 5 days
\$50,001 and up (Regular Purchases)	3 or more formal written quotes	Yes	Board of Supervisors	Yes	Shall place on County's website for at 10 days or more

**Purchase orders are not required for goods under \$250.00 when the product to be purchased is clearly identified (such as by catalogue, email, etc.)**

**SERVICES**

AMOUNT	BIDDING	AGREEMENT	PURCHASING AUTHORITY	P.O. (of estimated expenditures)	NOTICE (*except if any statutory or grant requirements)
Up to \$500	Exempt	Not required if using a PO*	Department Head/Assistant Purchasing Agent	Yes	Not required
\$501-\$10,000	Should seek 2 (or more) oral or informal written quotes	Not required if using a PO*	Department Head/Assistant Purchasing Agent	Yes	Not required
\$10,001-\$20,000	Should seek 3 (or more) oral or informal written quotes	Yes*	CAO/Purchasing Agent	Yes	Not required
\$20,001-\$50,000	Should seek 3 (or more) oral or informal written quotes	Yes*	CAO/Purchasing Agent	Yes	Notice is optional. No. of days TBD by department.
\$50,001-\$100,000	written quotes from at least 3 sources	Yes	Board of Supervisors	Yes	Notice on county's website for 5 days
\$100,001 and above	Formal RFP/RFQ	Yes	Board of Supervisors	Yes	Notice on county's website for 10 days

\*\*Many services are best secured through a contract as opposed to a purchase order. Only simple, routine, low-risk services should be purchased using a purchase order. When in the best interests of the County, the Purchasing Officer may authorize the use of a Purchase Order instead of a contract for acquisition of services between \$10,000 and \$50,000. This exception shall be used rarely.

**PUBLIC WORKS**

AMOUNT	BIDDING	AGREEMENT	PURCHASING AUTHORITY	P.O.	NOTICE (*except if any statutory or grant requirements)
\$0-\$10,000	Formal bidding not required but should solicit three (or more) proposals	Agreement not required for less than \$10,000	Public Works Director/Assistant Purchasing Agent	Yes	Not required
\$10,001-\$60,000	Formal bidding not required but should solicit three (or more) proposals	Yes	CAO to \$50,000, Board of Supervisors above \$50,000	Yes	On County's website for 5 days. Provide emailed notice to any person who has requested notice.
\$60,001-\$200,000	Informal	Yes	Board of Supervisors	Yes	Yes, per statute
\$200,001+	Formal	Yes	Board of Supervisors	Yes	Yes, per statute

**All Purchase Orders for Public Works or Maintenance must be reviewed by County Counsel, unless waived by Counsel Counsel**



**SECTION 1**

**INTRODUCTION AND GENERAL INFORMATION**

**1-1. PURPOSE**

The purpose of this Purchasing Policy is to provide direction regarding the policies and practices relating to procurement of goods and professional services for all San Benito County departments and to assure continuity, uniformity, and fairness in the application of such policies and practices.

Each department shall maintain a Purchasing Manual, including this policy as well as any applicable departmental protocols or policies. This policy has been adopted by the Board and may be modified periodically from time to time. It is important for the policy to be maintained current and up to date by each department. As revisions or supplements are approved by the Board and distributed by the Purchasing Agent, each department is responsible for ensuring that such items are added to its Purchasing Manual.

This Purchasing Policy shall constitute the "Purchasing and Contracting Policy Manual" pursuant to San Benito County Code Section 5.09.016.

**1-2. PURCHASING AGENT**

The County Administrative Officer has been designated San Benito County's Purchasing Agent. The duties and authority of the Purchasing Agent are defined by California statute, the San Benito County Code, and other resolutions and orders of the Board of Supervisors. The Purchasing Agent, with approval of the Board, may delegate to County departments the authority to make purchases upon the terms and conditions specified by the Purchasing Agent, this policy, and the San Benito County Code. The Purchasing Agent may suspend any such delegation for cause, subject to subsequent review of the suspension by the Board of Supervisors. The CAO may delegate duties assigned to him to other staff, as his/her authorized designee.

**1-3. COMPETITIVE PROCUREMENT AS COUNTY GOAL**

The County of San Benito is committed to a program of active competition in the purchase of goods and services. No specifications for the purchase of goods shall be written in such a manner as to limit bidding directly, or indirectly, to any one specific vendor, or any one specified brand or product, except for those items that are exempt from competitive bidding requirements by law, or are approved as "sole manufacturer" or "sole source" purchases as described in this Policy.

Except as otherwise provided for in this Policy or by law, regulation or County ordinance, all purchases for goods and services will be made through open competition to the maximum extent feasible as determined by the Purchasing Agent and by whatever methods and procedures, formal or informal, that are determined by the Purchasing Agent to best meet the goals and objectives detailed in this Policy.

Except as otherwise provided by law, even when bids are submitted pursuant to a request for competitive bids, the Purchasing Agent, may reject any and all bids received if the Purchasing Agent, or his/her designee, determines that the price, terms or surrounding circumstances of the bid or

proposal are such that an award would not be in the best interests of the County.

Although Elections materials are exempt from competitive bidding pursuant to State law and Section 3 of this Policy, the Elections Department shall keep records that show price comparisons and may, at the option of the County Registrar of Voters and without placing the security or conduct of an election at risk, attempt to secure the best prices for elections-related materials, commodities, and services. No provision of this Policy shall be interpreted to direct that the purchase of election materials, commodities and services must be subject to any competitive bidding process.

#### **1-4. LOCAL PREFERENCE**

Consistent with Section 5.09.013 of the San Benito County Code, a local preference for bidders shall be granted as set forth below, except as prohibited by statute, grant or funding requirements, or where the contract must be awarded to the "lowest responsible bidder." In the event of a dispute as to whether or not a business is "local", the Purchasing Authority will consider reasonable evidence, including advertising records, Fictitious Business Name Notices, utility billings, and other evidence submitted by the bidder.

1. For ~~Bids~~ bids where the lowest responsible bid is between one dollar (\$1.00) and ~~one hundred five hundred~~ thousand dollars (~~\$100,000~~), the preference shall be ~~five percent (35%)~~ three percent (3%)
2. ~~For Bids where the lowest responsible bid is between one hundred thousand and one dollars (\$100,001) and five hundred thousand dollars (\$500,000), the preference shall be two and one half percent (2.5%).~~
3. ~~For Bids where the lowest responsible bid is above five hundred thousand and one dollars (\$500,001), the preference shall be two percent (2%).~~
4. ~~2.~~ For bids above ~~one million~~ five hundred thousand (\$500,000) ~~a~~ dollars (~~\$1,000,000~~), there shall be no local preference.

#### **1-5. ORAL PURCHASE COMMITMENTS**

No oral purchase commitments shall be allowed.

#### **1-6. PROCEDURES FOR PURCHASING FIXED ASSETS**

Fixed assets must be approved by the **Board of Supervisors** and appropriated in the respective departmental budget prior to purchase in an appropriate line item. For purposes of this Policy, "fixed assets" are defined as those items of equipment, five thousand dollars (**\$5,000.00**) or more each and have a life of greater than one (1) year.

Fixed assets or goods approved in the budget may be purchased without any further approvals by:

- a) the Assistant Purchasing Agent if the fixed asset is under ~~\$2010,000~~ \$2010,000; or
- b) the Purchasing Agent, even if the purchase is greater than ~~\$7550,000~~ \$7550,000

In his/her discretion, the Purchasing Agent may refer such approvals to the Board of Supervisors, if there is question about the need or appropriateness of the purchase, the solicitation process, or the funds to pay for the purchase.

In order to avoid the need for subsequent Board approval at the time of the purchase of a fixed asset, the fixed asset must be described in general terms in the budget, either in the annual adopted budget or as may be amended, in the fixed assets category defining the type of item being purchased. Only that type of item may be purchased. (e.g., if the budget approves the purchase of a dump truck, a bulldozer could not be purchased.)

Transfers may be made by the CAO up to the sum of \$50,000 to a fixed asset account from services and supplies, but transfers to fixed assets from salaries require Board of Supervisors' approval.

If a department wishes to purchase an alternate fixed asset in lieu of that previously specified in the budget, a request shall be submitted to the Purchasing Agent for approval. Depending upon the nature of the alternative, subsequent Board approval may be required.

Departments should plan their annual purchasing and make every effort to consolidate similar items into a single (or as few as possible) purchasing order(s). Items shall be ordered in quantities sufficient for a reasonable period of time and consistent with future needs and available storage space. The Purchasing Agent<sup>1</sup> shall assist in consolidating the purchases of the various departments when an economic benefit to the County is apparent.

## **1-8. RECORD RETENTION**

Pursuant to California Government Code Section 25501.5, all requisitions and related procurement documents shall be retained for a period of not less than three (3) years unless the law or specific policy prescribes a longer period. After that time, the records may be destroyed.

## **1-9. DELEGATED APPROVAL AUTHORITY FOR CONTRACTS AND PURCHASE ORDERS**

- Up to ~~Twenty-Ten~~ Thousand Dollars (\$~~20~~10,000) - Assistant Purchasing Agents- Department Heads or others designated individuals pursuant section 5.09.005 of the San Benito County Code
- Up to ~~Seventy-five~~~~Fifty-~~ Thousand Dollars (\$~~75~~~~50~~,000) - Purchasing Agent
- Above Fifty Thousand Dollars (Board of Supervisors unless otherwise delegated)

The CAO may authorize the renewal or extension of a Board approved contract or a Board approved amended contract, in an additional amount not to exceed ~~Twenty-Ten~~ Thousand Dollars (\$~~20~~10,000) of the Board approved contract or Board approved amended contract.

~~The amounts set forth herein are subject to an automatic Cost of Living Adjustment, which shall be distributed periodically to the Departments by the CAO, or his/her designee.~~

## **1-10 SPLITTING OF CONTRACTS**

Splitting of contracts (dividing a single contract to two or more separate contracts) to avoid purchasing policy limits or bidding requirements is prohibited. Therefore, contracts with one vendor for one subject matter should be written in a single contract, with any amendments to that contract as may be necessary.

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<sup>1</sup> The Purchasing Agent shall be designated by the Board of Supervisors. If the CAO is designated, the term "Purchasing Agent" shall include the CAO's his/her designees, unless the Board restricts certain functions to the CAO only. If any other employee is designated as the Purchasing Agent by the Board of Supervisors, the term Purchasing Agent shall refer to that employee only, and he/she may not delegate the duties of the Purchasing Agent. In his/her absence or unavailability, the duties of the Purchasing Agent may be performed by the CAO or his/her designee.



However, there may be rare times where two or more contracts with a single vendor may be appropriate even simultaneously. The determination of when multiple contracts may be appropriate is based on a number of factors.

- Two departments working independently. (e.g., a vendor may have multiple contracts with different departments if those departments have entered into the contract independently, without an attempt to avoid Board purchasing limits.)
- Different funding sources. If a contract is billed to a one funding source (such as grant funding), and another contract with the same vendor is to be charged to a separate funding source (such as the general fund), it may be appropriate to have two separate contracts to track contract expenditures more easily.

Different subject matters (most commonly in the case of professional services). A vendor may provide services on unrelated subject matters. For example, a planning firm may work on one development project on one contract, while a second contract may be used for a different development project. An attorney may be retained to assist with one litigation matter, and then later be retained to assist with a separate litigation matter. Or a workplace investigator may be hired to do one investigation, and then later the need for a second investigation arises.

However, separate contracts should not be used when issues are related, arise at the same time, or when the need for services is recurring, routine, expected and/or on-ongoing. Recurring expected services should be addressed in a single contract.

Any uncertainty as to whether a contract may be appropriately divided shall be addressed to the Purchasing Officer who may issue a binding written opinion which may be relied upon by the Auditor's office for payment.

## **1-11 RETROACTIVE CONTRACTS**

Retroactive contracts are not prohibited, but they shall be avoided whenever possible. Normally retroactive contracts should only occur when the contract is provided late to the County by a County partner, such as the State. The CAO or the Board may be provided with periodic reports of contracts which have been entered into retroactively. The CAO or the Board may, in his/her or its discretion, decline to enter into a retroactive contract. A contract which is not approved by the County could result in personal obligation of the employee authorizing the service/purchase without appropriate authorization.

## **1-12 AMENDMENTS TO EXPIRED CONTRACTS**

When a contract expires, and then later needs to be extended or amended, legal counsel should be consulted. Generally amending an expired contract is not allowed, and a new contract will have to be prepared. It is noted that Federal/state contracts, or grant-related contracts may require rebidding or re-solicitation due to the lapse in the original contract.

In an very unusual situation, legal counsel may approve as to form an amendment to an expired contract. Normally an amendment will include a clause reaffirming or reviving the terms of the original contract. Legal counsel may decline to approve an amendment as to form.

## SECTION 2

### PURCHASING ETHICS AND UNAUTHORIZED PURCHASES

#### **2-1. COUNTY NOT OBLIGATED FOR UNAUTHORIZED PURCHASES**

Only the Board of Supervisors, the Purchasing Agent and/or each department delegated purchasing authority may assign County funds for the purchase of any goods, supplies or services for County use. Except in cases of an emergency, no unauthorized purchases shall be binding on the County or constitute a lawful charge against County funds. Unauthorized purchases may be subsequently approved and confirmed by the Purchasing Agent or the Board of Supervisors if required. Unless such purchases are approved and confirmed by either the Purchasing Agent or the Board of Supervisors, the cost thereof shall not constitute a legal charge against the County. The determination of whether a purchase shall be a legal charge against the County shall be made by the Purchasing Agent.

Unauthorized purchases are not considered an obligation of the County. Further, the individual making such purchases may be held personally liable for the cost of the purchase. An unauthorized purchase may include any of the following:

- Any purchase that does not meet the guidelines outlined in this Policy.
- Any purchase for personal use.

#### **2-2. ETHICAL STANDARDS**

In order to promote governmental integrity and to guard against the appearance of impropriety, all County employees engaged in any vendor-related activity shall comply with the following standards of ethical conduct:

- County employees shall discharge their duties impartially so as to assure fair access to governmental procurement by responsible vendors and service providers and to foster public confidence in the integrity of the County procurement system.
- County employees shall not solicit, demand, accept or agree to accept a gratuity or an offer of employment in connection with their purchasing decisions, including but not limited to any decision, approval, disapproval, recommendation, or preparation of any part of a specification, standard, bid, or contract.
- County employees shall not participate directly or indirectly in procurement when the employee knows that any of the following exists:
  1. The employee or any member of the employee's immediate family has a personal financial interest concerning 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 concerning the procurement.
  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 agreement concerning prospective employment, is involved in the procurement.
  4. Where there is any other conflict of interest as defined by law or local policy.

**2-3. GIFTS AND SPECIAL CONSIDERATION**

County employees, officers, or officials by virtue of their positions shall not receive any special consideration from vendors or merchants in their personal affairs nor shall they attempt in their official capacities to procure goods, supplies, equipment, or services for the private use of any person, including any employee, officer, or official of the County.

County employees shall not accept gifts, entertainment, or anything of more than nominal value from vendors or potential vendors. Any such gifts received by an employee shall be returned to the vendor. Examples of acceptable gifts might include pencils, scratch pads, calendars, other advertising supplies where such items can be shared at a public counter, or promotional items offered to such employees in their private capacity in the same manner as to any other member of the public.

The acceptance of any gratuity in the form of cash, merchandise, or anything of value by an official or employee of the County from any vendor is a violation of County policy and may be cause for disciplinary action.

**2-4. PRACTICES**

The County's suppliers and their products, personnel and service are a natural extension of the County's own resources. It is the responsibility of all County employees to work to maintain the reputable name of the County and to develop favorable relations between the County and its suppliers. In personal contacts with vendors, each employee represents the County and should reflect and present the interests and needs of all County departments.

**2-5. CONFLICT OF INTEREST - ACTUAL OR POTENTIAL**

Upon discovery of an actual or potential conflict of interest, an employee shall promptly (1) notify his/her supervisor or the Purchasing Agent and (2) withdraw from further participation in the transaction involved. County Counsel may be consulted for an opinion whenever there is any question of a conflict of interest.

**2-6. CONFLICT OF INTEREST**

No contracts shall knowingly be issued to any current County employee or his/her immediate family, or to any former County employee or his/her immediate family until two (2) years after separation, without prior approval of the Purchasing Agent.

Department heads are responsible for determining whether consultants contracted by the County are subject to the reporting requirements of the County's Conflict of Interest Code. Should the department head determine that the consultant is not subject to the County's conflict of interest reporting requirements, the department head shall make a written finding to that effect and shall attach a copy of the finding to the contract documents.

**2-7. 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 any other benefits in connection with any decisions, approval disapproval, recommendation, specification, standard, solicitation, or contract[GR1].

- (b) 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.
- (c) Employees shall report any breach or potential breach of this policy by a vendor to the Purchasing Agent.
- (d) The offer of any such gratuity to any official or employee of the County by any vendor shall result in suspension or debarment of a supplier or bidder. Any breach of this policy shall be cause for declaring such individual or firm to be unqualified and exclude such vendor from bidding or otherwise doing business with the County, subject to the opportunity to appeal provided in Section 9 of this Policy.

**2-8. PERSONAL PURCHASES**

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.

**2-9. PROHIBITION AGAINST PURCHASE BY EMPLOYEES OF SURPLUS PROPERTY**

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

**2-10 ALL ITEMS RECEIVED FROM A VENDOR AS TANGIBLE REWARDS**

Any reward item received as a result of a purchase shall be turned over to the CAO's office for distribution, such as to County employees during the annual employee appreciation dinner.

**SECTION 3**

**EXCEPTIONS TO THE COMPETITIVE PROCESS**

**3-1. EXCEPTIONS TO COMPETITIVE BIDDING**

In instances where there are limitations on the source of supply, necessary restrictions in specifications, quality considerations, or other valid reasons for waiving competitive bidding, purchases may be made without recourse to competitive bidding. Approval of a waiver of competitive bidding shall be made by the Purchasing Agent.

In addition, except as otherwise directed by law, competitive bidding is not required for the following purchases:

- (a) Wherever State law expressly authorizes execution of professional services contracts without competitive bidding or for expert and professional services which involve extended analysis, the exercise of discretion and independent judgment in their performance, and an advanced, specialized type of knowledge, expertise, or training customarily acquired either by a prolonged course of study or equivalent experience such as accountants, physicians, social service consultants, labor consultants, investigators, attorneys, architects, surveyors and engineers;
- (b) Election related materials, supplies and printing;
- (c) Legal brief printing, stenographic services, and transcripts;
- (d) Books, publications, subscriptions, recordings, motion picture films, and annual book and periodical contracts;
- (e) Personal property or services obtainable:
  - 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 vendor which allows such other governmental agency to acquire such property or services and resell them to other governmental agencies, or
  - 3) From any private vendor which has an agreement or contract with another public agency and such private vendor produces satisfactory documentation that:
    - (i) such other contract is currently then in effect (or recently expired), and
    - (ii) such agreement or contract has gone through a competitive process, such as competitive written bids, request for proposals, informal quotations, or competitive evaluation, and
    - (iii) such items to be acquired by the 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 the County is not greater than that specified in such other governmental contract;

4) Materials, supplies or services that are part of an existing cooperative purchasing agreement.

**Note: (3) and (4) above allow “Piggybacking” off of existing cooperative purchasing agreements.**

- (f) Property or services, the price of which is fixed by law;
- (g) Construction equipment rental; provided that the Purchasing Agent approves of the waiver of competitive bidding;
- (h) Automotive and heavy equipment repairs; provided that the Purchasing Agent approves of the waiver of competitive bidding;
- (i) Data processing, telephone, and reprographic goods, services and equipment, software, installation, maintenance, and training, providing that such installation is not a project as defined in the Public Contract Code; and provided that the Purchasing Agent approves of the waiver of competitive bidding;
- (j) Proprietary drugs and pharmaceuticals, medical supplies, and equipment;
- (k) Training, seminars, classes for County personnel;
- (l) 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; provided that the Purchasing Agent approves of the waiver of competitive bidding;
- (m) Emergency purchases necessary 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.

For the purpose of professional services and 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.

Additionally, in case of an emergency related to fulfilling obligations required to conduct an Election, in cases where competitive solicitation would normally be required, immediate purchases of supplies or services may be made if time is of the essence. This exemption should not be used for routine, readily anticipated purchases. The Auditor and the CAO shall be notified of the need for the emergency purchase.

Note: Emergency Purchases may be made by any person or official authorized to make purchases or sign requisitions, but only when the Assistant Purchasing Agent, Purchasing Agent, or CAO are not available (depending on the size of the purchase.) Emergency purchases must be approved and confirmed as soon as possible after the emergency action by the appropriate authority. The Board of Supervisors must subsequently approve and ratify emergency purchases made for services that were not previously budgeted.

- (n) When the Purchasing Agent determines that making a specific purchase without competitive bidding is reasonably necessary for the conduct of County business;

- (o) When the Purchasing Agent determines that it is in the best interest of San Benito County to renew a contract award from the previous contract period, based on satisfactory service and reasonable prices, to avoid the interruption of County business and/or based on good business sense;
- (p) 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 ninety (90) days, or until conclusion of a bidder's appeal;
- (q) Fuel credit cards/purchases;
- (r) Purchases of commodities and services from public and private non-profit corporations operating work centers for the disabled pursuant to Welfare Institutions Code sections 19403 and 19404;
- (s) Goods or services where the cost is under five hundred dollars (\$500.00).
- (t) Materials and supplies that are acquired from a vendor based on a contractual arrangement with the vendor that was established pursuant to a competitive bid process.
- (u) Appraiser services.
- (v) Insurance.
- (w) Public utility services.
- (x) Ordinary travel expenses.

## SECTION 4

### FORMAL AND INFORMAL BIDDING: AN OVERVIEW

#### **4-1. REVIEW OF BIDDING OPTIONS**

Exhibits A, B, and C to this Purchasing Policy contain specific guidance on the conduct of various types of purchasing transactions. The Exhibits may be revised at the discretion of the Purchasing Agent from time to time. This section provides an overview of various options a department may have when desiring to purchase goods or equipment.

The complexity of the goods or equipment required, and an evaluation of the county's risk exposure, determine whether informal or formal purchasing procedures are used.

Informal solicitations do not require a public bid opening, although the solicitation may require that quotes or proposals be submitted by a specific date and time.

Formal, sealed bidding procedures will generally be used for complex purchases, where the purchase of unique or high cost personal property or services is anticipated, when there is the potential for heightened risk exposure for the County, or when formal bidding is required by law or this policy.

#### **4-2. INFORMAL REQUESTS FOR QUOTATIONS**

Written, facsimile, or oral Requests for Quotations (RFQ) are typically solicited for the purchase of off-the-shelf or low dollar materials, supplies, and goods. Award is made on the basis of lowest responsive and responsible offer submitted in response to the request for quotations.

Although not required in informal bidding procedures, written solicitation of quotes is preferred. In order to establish firm pricing, delivery, and payment terms, and to reduce risk to the County, it is preferred to have written quotations. Written quotes should contain the following information:

- A precise description and/or specification of the items to be purchased.
- Quantity and price of the items to be purchased.
- Delivery date(s) and whether freight will be charged.
- Where the ownership and responsibility for the condition of the goods during shipping passes (i.e., at the vendor's dock or at the delivery location).
- The vendor's or his/her sales representative's signature.
- Storage arrangements, as appropriate.

#### **4-3. INFORMAL REQUESTS FOR PROPOSALS**

An informal written or facsimile Request for Proposals (RFP) may be used for the purchase of goods and services when "best value" cannot be determined by price alone, when there is uncertainty as to specifications, or when requirements such as vendor reputation, expertise, and performance suggest that the County's interests would be best served by procuring the goods or services on a "best value" basis.

Departments may independently use informal RFPs to procure professional services, where the cost of the service does not exceed one hundred thousand dollars (\$100,000). The RFP shall describe the scope of work to be performed, and shall clearly identify the proposal evaluation criteria, the award process,



and any special provisions or conditions.

Informal RFPs do not require the submission of sealed proposals. Thus, informal RFPs may be solicited and received by facsimile or other written means. After proposals have been submitted, the requisitioning department shall evaluate the proposals submitted in response to the RFP. Award shall be made to the offeror whose proposal is determined to provide the "best value" to the County on the basis of the evaluation criteria identified in the RFP.

#### **4-4. FORMAL BIDS**

Formal bids may be obtained through either:

- *Invitation for Bids (IFB)*. This requires a detailed purchase description including acceptance criteria and all contractual terms and conditions applicable to the procurement.
- *Request for Proposals (RFP)*. This is used to initiate competitive sealed proposal procurements. The significant difference between an RFP and an IFB is that in an RFP, the award may be negotiated.

*Note: Request for Qualifications (RFQ)* does not in formal bids being submitted, but rather calls for firms responding to the RFQ with their qualifications/experience, which are then evaluated. This is another type of formal bidding process which may be used when appropriate.

#### **4-5. COMPETITIVE SEALED BIDDING - FORMAL INVITATION FOR BIDS**

An Invitation for Bids (IFB) is normally used to solicit competitive sealed bids for the purchase of personal property where exact specifications and risks are known. The primary purpose of an IFB is to solicit firm offers from bidders under circumstances where potential risks are controlled by the terms of the IFB. Invitation for Bids is a method of procurement that includes the following elements:

- Public notice and issuance of an IFB with a purchase description that includes acceptance criteria and all contractual terms and conditions applicable to the procurement.
- Public opening and reading of bids at a pre-designated time and place.
- Evaluation of bids based upon the requirement set forth in the invitation, which may include special qualifications of potential bidders, value analysis, and any other criteria such as inspection, testing, quality, workmanship, delivery, and suitability for a particular purpose.
- Acceptance of the lowest responsive and responsible bid as submitted, and award to the lowest responsive and responsible bidder.

Adequate public notice of the Invitation for Bids (IFB) shall be given prior to the date set for the opening of bids by conspicuously posting a notice advertising the IFB on the County's webpage for at least ten days. Notice may also include notification of prospective offerors by mail, fax, or other means.

The notice must specify the place where the copies of the Invitation for Bids are on file, the place for receipt of bids, and the location, date, and time of the bid opening. However, a defect in providing notice in accordance with this policy shall not constitute grounds for challenging a bid.

#### **4-6. COMPETITIVE SEALED PROPOSALS - FORMAL REQUESTS FOR PROPOSALS**

Solicitation of competitive sealed proposals is an alternative method for procuring goods and services where there is uncertainty as to specifications, unknown risks, or where it is advantageous to the County

to purchase the best value for goods or services as opposed to low bid. It involves issuing a written Request for Proposals (RFP), public notice of the RFP on the County's website and other locations as determined beneficial, evaluation of proposals based on predetermined criteria identified in the RFP, and allows negotiation with the top-rated offeror. The solicitation of competitive sealed proposals may be appropriate under the following circumstances:

- When the County has identified a problem to be solved or a need to be filled, and requests the offerors to propose the best method for accomplishing it.
- When it is to the County's advantage to make an award based on factors other than low bid.
- When the procurement requires the evaluation of skills, expertise, or technical capability of the offerors.
- When the procurement is extremely complex or entails unknown risks.
- When the procurement involves contracting for services or a combination of goods and services.
- When specifications for the project cannot be clearly defined.

A Request for Proposals differs from an Invitation for Bids in that the IFB bases the award on the costs of the proposal/bid. Using the RFP, the County will select the most advantageous offer by evaluating and comparing predetermined proposal criteria.

Soliciting competitive sealed proposals typically involves the following steps:

1. Solicitation of proposals through a Request for Proposal (RFP);
2. A private opening of proposals without disclosure of offerors or contents to competing offerors before or during the process of negotiation;
3. Submission of cost or pricing data from the offeror as part of the original proposal, or as a second step after the top rated offer has been determined;
4. Rating of proposals by a panel of evaluators using predetermined evaluation criteria identified in the Request for Proposals;
5. Discussions with responsible offerors whose proposals have been determined to be reasonably susceptible of being selected for award;
6. An award made to the offeror whose proposal is determined to be the most advantageous, considering the evaluation factors set forth in the Request for Proposals.

Adequate public notice of the Request for Proposals (RFP) shall be given prior to the date set for the opening of proposals by conspicuously posting a notice on the County's website for a period of ten (10 days). Notice may also be given to prospective offerors by mail, fax, or other means.

The notice must specify the place where the copies of the Request for Proposals are on file, and the time and place for receipt of proposals. However, a defect in providing notice in accordance with this policy shall not constitute grounds for challenging a bid.

#### **4-7. FORMAL 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 qualifications-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) 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 based on 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 6-7 of these procedures.

Professional contracts do not normally include work performed by County employees.

- (c) 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 services.
- (5) A lack of sufficient personnel to accomplish the work in the required time frame.

- (d) Length of Contract Term - The length of a contract term shall be determined in 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.

- (e) Contract Adjustments/Increase

Agreements for professional services may include negotiated built in cost-of-living escalators or periodic rate changes. Amendments that increase the total contract to \$75,001 or higher must be approved by the Board of Supervisors.

- (f) Incremental Contracting - 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

- (g) 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 Purchasing Agent 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 of 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.

## SECTION 5

### PURCHASING OF GOODS

#### 5-1. INTRODUCTION

Supplier selection shall be based on a competitive process whenever feasible and when in the best interests of the County. Departments shall not circumvent the purchasing policies set forth in this Policy by splitting purchases into a series of small purchases.

Multiple contracts may be issued for the same commodity to different suppliers on an as-needed basis to ensure a steady source of supply or when multiple contracts offer the lowest total cost option to the County.

#### 5-2. SOLICITATION OF GOODS – PROCESS REQUIRED

(1) **Micro Purchases** - Commodity/Equipment Purchases to \$501 to \$5,000:

Departments should seek **two (2)** oral or informal written quotes for the commodity, or provide written justification as to why an alternative method is in the best interests of the County

(2) **Mini Purchases** - Commodity/Equipment Purchasing from \$5,001-\$20,000:

Departments should seek **three (3)** oral or informal written quotes for the commodity, or provide written justification as to why an alternative method is in the best interests of the County

(3) **Small Purchases** - Commodity/Equipment Purchases from \$20,001 to \$50,000:

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.

Departments should consider placing notice on the County's website for at least five days.

(4) **Regular Purchases.** Commodity/Equipment Purchases from \$50,001 and up:

At this level, departments shall advertise for prospective suppliers by placing notice on the County's website for at least ten (10) days.

Departments **shall seek formal written** quotes from at least three sources or provide written justification as to why an alternative method is in the County's best interest.

#### 5-3. PURCHASE ORDERS- GOODS AND SUPPLIES

Goods up to \$50,000 may be purchased with a purchase order unless a contract is needed to further describe the equipment, warranty, service, insurance, or other specifics of the agreement between the parties. A written purchase order mailed, or otherwise furnished, to the bidder within the time specified for acceptance will result in a binding contract without further action by either party.

For goods over \$50,000, a contract normally will be required unless waived by the Purchasing Agent, County Counsel, the CAO, or the Board of Supervisors. On a case-by-case basis, the Purchasing Agent/CAO may require a full written contract in lieu of purchase by Purchase Order.

## SECTION 6

### PROFESSIONAL SERVICE CONTRACTS

#### 6-1. GENERAL

- For sole source professional service contracts exceeding ten thousand dollars (\$10,000), the requesting department shall submit a written sole source justification to the Assistant Purchasing Agent, Purchasing Agent or the Board of Supervisors, as applicable, on any form that may be developed by the County for this purpose. The sole source justification may be submitted prior to, or concurrent with, the recommendation for contract approval.
- Contracts shall not be split to avoid Board of Supervisor review or to bypass bidding requirements.

#### 6-2. SOLICITATION GUIDELINES

##### (1) **Personal Services Purchase/Contracts from \$500 to \$5,000**

Departments should seek two (2) oral or informal written quotes for the services, or provide written justification as to why an alternative method is in the County's best interests.

##### (2) **Personal Services Purchase/Contracts from \$5,001 to \$20,000**

Departments should seek three (3) oral or informal written quotes, or more, for the services, or provide written justification as to why an alternative method is in the County's best interests.

##### (3) **Personal Service Contracts from \$20,001 to \$50,000:**

Purchasing shall seek oral or informal written quotations from three (3) or more, prospective providers or provide written justification as to why an alternative method is in the County's best interests.

Departments may place notice for prospective providers at this level on the County's website for the number of days determined by the Department.

##### (4) **Personal Service Purchase/Contracts \$50,001 and up to \$100,000:**

Departments shall seek formal written quotes from at least three (3) probable sources or provide written justification as to why an alternative method is in the best interests of the County.

Departments must place notice for prospective providers at this level on the County's website for a period of at least five (5) days, unless it is in the County's best interest to seek providers through other means.

##### (5) **Personal Service Purchase/Contracts over \$100,000:**

Departments shall use a formal RFP/RFQ process, or provide written justification as to why an alternative method is in the best interests of the County.

Departments must place notice for prospective providers at this level on the County's website for

a period of at least 10 days, unless the Purchasing Agent determines, it is in the County's best interest to seek providers through other means.

### **6-3. PURCHASE ORDER - SERVICES**

A purchase order may be used for services that can be easily described up to the amount of Ten Thousand Dollars (\$10,000). A purchase order should only be used for services which do not present a high degree of legal risk, and that do not need specific indemnification, insurance, or other provisions incorporated into a written contract. A contract should be used for all other service agreements. On a case by case basis, the Purchasing Agent/CAO may require a full written contract in lieu of purchase by Purchase Order.

When in the best interests of the County, the Purchasing Officer may authorize the use of a Purchase Order instead of a contract for acquisition of services between \$10,000 and \$50,000. This exception shall be used rarely.

### **6-4. CONTRACT TERM**

No original contract term shall be for more than three (3) years unless authorized by the Purchasing Agent or the Board of Supervisors. Contracts may contain provisions for one (1) or more additional one-year term renewal options where market conditions or other factors favor using such options.

Whenever a contract extension or amendment results in a contract term that exceeds department head award authority, the contract extension or amendment requires the approval of the Purchasing Agent (if cumulative total seventy-five thousand dollars (\$75,000) or less, or the Board of Supervisors (if the cumulative total will be greater than seventy-five thousand dollars (\$75,000.00)).

### **6-5. REVIEW BY COUNTY COUNSEL/ INSURANCE**

All professional services contracts must be approved as to legal form by County Counsel prior to execution.

The County requires insurance coverage for all professional service contracts, unless waived by the County's Risk Manager or the CAO, or his/her designee. The contracting department is responsible for acquiring and maintaining the contractor's certificates of insurance. Departments should make prospective contractors aware of the County's insurance requirements at the time quotes, bids, or proposals are solicited. Contractors should not be given notice to proceed until the appropriate insurance certificates have been received.

### **6-6. PROFESSIONAL SERVICES – MISCELLANEOUS OR “SPECIAL SERVICES”**

Consultant and professional service contracts<sup>2</sup> are used to procure professional or technical services not provided by County employees.

Per the California Government Code, Section §31000, "The board of supervisors may contract for

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special services (and) such contracts shall be with persons specially trained, experienced, expert and competent to perform the special services. The special services shall consist of services, advice, education or training for such public entities or the employees thereof." "The board may pay from any available funds such compensation as it deems proper for these special services. The board of supervisors may, by ordinance, direct the purchasing agent to enter into contracts authorized by this section".

The following is a partial list of special or professional services: financial, economic, accounting, medical, therapeutic, administrative, airport, security, laundry or linen services. These and other professional services, with the exception of the services itemized in 6-7 below, may be obtained through competitive procurement methods or by waiver of competitive bidding and sole source award as outlined in this section.

Vendor selection shall be based on a competitive process whenever reasonably feasible. Professional services may be competitively solicited through informal Requests for Quotes (RFQ) and informal Requests for Proposals (RFP) or through formal sealed competitive bids or formal sealed competitive proposals - Invitations for Bids (IFB) and Requests for Proposals (RFP) respectively, or a Request for Qualifications (RFQ). The type of service to be contracted for, urgent timeframes, the anticipated award amount, and the potential risks involved affect the decision whether to use informal or formal purchasing procedures.

Professional service contracts may be awarded without competitive solicitation when there is only one (1) person or vendor available or capable of providing the required service, when there are limitations in the availability of potential contractors, when the services required are of such a specialized nature that precludes competitive solicitation, or when other conditions exist such that the appropriate awarding authority determines that it is in the County's best interest to waive competitive solicitation for the required professional services. Departments shall retain documentation supporting a sole source selection whenever professional services are procured without the use of a competitive solicitation.

**6-7. PROFESSIONAL SERVICES - ARCHITECTURAL, LANDSCAPE ARCHITECTURAL, ENGINEERING, ENVIRONMENTAL, LAND SURVEYING, OR CONSTRUCTION PROJECT MANAGEMENT SERVICES**

Per California Government Code, Section 4526, "Selection by a state or local agency head for professional services of private architectural, landscape architectural, engineering, environmental, land surveying, or construction project management firms shall be on the basis of demonstrated competence and on the professional qualifications necessary for the satisfactory performance of the services required." There are special procedures for acquiring these services as outlined in this section.

**Step 1.** Prospective contractors are requested to submit statements of qualifications to the County for the required services or proposed project. Statements of qualifications may be solicited through trade publications and by other methods of advertisement.

**Step 2.** The department conducting the procurement "shall evaluate current statements of qualifications and performance data on file with the agency, together with those that may be submitted by other firms regarding the proposed project, and shall conduct discussions with no less than three firms regarding anticipated concepts and the relative utility of alternative methods of approach for furnishing the required services and then shall select therefrom, in order of preference, based upon criteria established and published by (the department), no less than three of the firms deemed to be the most highly



qualified to provide the services required." (Government Code, Section 4527) The evaluation criteria shall be determined by the contracting department.

**Step 3.** The department shall negotiate a contract with the most highly qualified individual or firm as established by the evaluation procedure in step 2 above, for service at a price the department determines is fair and reasonable. Should the department be unable to successfully negotiate a contract with the most highly qualified individual or firm at a price the department deems fair and reasonable, then negotiations with that individual or firm shall be terminated; and, the department shall negotiate a contract with the second most highly qualified individual or firm.

Failing an agreement with the second most qualified individual or firm, the department shall terminate the negotiations, and then undertake negotiations with the third most qualified firm. Should the department be unable to negotiate a satisfactory contract with any of the selected firms, the department shall select additional firms in order of their competence and qualification and continue negotiations until an agreement is reached.

**SECTION 7.**

**PREVAILING WAGES (APPLICABLE TO PUBLIC WORKS PROJECTS)**

**7-1. PREVAILING WAGES**

- A. Contracts for “Public Works” projects of more than One Thousand Dollars (\$1,000) are subject to prevailing wage requirements.
- B. For prevailing wage purposes “public works projects” includes more than traditional construction projects. The definition of “Public Works” for purposes of prevailing wages is defined by Labor Code 1720 et seq. It includes construction, alteration, demolition, installation, or repair work, but also laying carpet, hauling refuse, sand or material, installation of modular furniture, tree removal and other types of work.
- C. Please consult with the Purchasing Officer or County Counsel to determine if a work is subject to prevailing wages. If a work is subject to prevailing wages, the contract shall include the requirement for payment of prevailing wages.
- D. Further information may be found at:
  - California Labor Code 1720, et. seq.,
  - <https://www.dir.ca.gov/OPRL/DPreWageDetermination.htm>.
  - 8 CCR 16000 seq.

## Section 8

### PUBLIC WORKS PROJECTS California Uniform Public Construction Cost Accounting Act

#### **8-1 INTRODUCTION**

A public works project is any work done on or to a public facility (or property such as a parking lot) or anything that is part of the facility or attached to it. Carpet installation and modular office furniture is included.

#### **8-2 LOW COST PUBLIC PROJECTS**

Public projects within the amount specified in Section [22032\(a\)](#)<sup>3</sup> of the Public Contract Code may be performed by County employees by force account, by negotiated contract, or by purchase order. Such public projects shall be authorized by the Director of the Department of Public Works, or the CAO, or their respective designees, and processed in accordance with the provisions of the Act and procedures promulgated by the State Controller and this Purchasing Manual.

An award of contracts under \$60,000 may be made to any responsible vendor, based on considerations such as cost, schedule, firm qualifications, and prior County history with the Contractor. The Department should memorialize why a specific vendor has been selected if the vendor is not the lowest bidder.

#### **8-3 INFORMAL BIDDING PROCEDURES**

(A) Public projects above the amount specified in Section [22032\(b\)](#)<sup>4</sup> of the Public Contract Code shall be let to contract by informal procedures as set forth in this section, and in compliance with any other applicable sections of the Act.

- (1) Notice to Contractors. Notice to contractors shall be provided in accordance with either subsection (A)(1)(a) or (b) of this section, or both.
  - (a) The County may maintain a list of qualified contractors, identified according to categories of work. The list shall be developed and maintained in compliance with the specifications of the California Uniform Construction Cost Accounting Commission. If notice is provided pursuant to this Section, all contractors on the list for the category of work being bid shall be mailed, faxed, or emailed a notice inviting informal bids unless the product or service is proprietary. All mailing or emailing of notices to contractors pursuant to this subsection shall be completed not less than 10 calendar days before bids are due.
  - (b) The County may elect to mail, fax, or email a notice inviting informal bids to all construction trade journals specified in Public Contract Code Section [22036](#).
- (2) Contents of Notice. The notice inviting informal bids shall describe the project in general terms and explain how bidders may obtain more detailed information about the project. It shall also state the time and place for the submission of bids.
- (3) Delegation of Authority. The Board of Supervisors hereby delegates authority to award contracts pursuant to this section to the Public Works Director.

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<sup>3</sup> Currently \$60,000 as of October 2023. Expected to increase to \$75,000 in 2024. Consult with Purchasing Officer for current limit.

<sup>4</sup> Currently \$200,000 as of October 2023. Expected to increase to \$215,000 in 2024. Consult Purchasing Officer for current limit.

- (4) Award of Contracts. All County personnel with delegated authority under subsection (A)(3) of this section shall award contracts only if the following steps are followed:
- (a) The County Purchasing Agent has made the final determination as to whether adequate competition has been sought;
  - (b) County Counsel has reviewed the procedure and contract; and
  - (c) The person with delegated authority, and a licensed engineer, have reviewed and approved of by signature the plans, designs, specifications, and/or other information regarding the project’s details in order to preserve the County’s design immunity, as determined necessary by County Counsel and the Project Engineer.
- (5) Bids Over the Statutory Amount. If all bids received are in excess of the maximum amount allowed by the Act for informally bid contracts, the Board of Supervisors may award the contract up to the statutory permissible amount by a four-fifths vote to the lowest responsible bidder if it determines that the cost estimate is reasonable (see Public Contract Code Section [22034](#)(d) for statutory limit).<sup>5</sup>
- (6) Change Orders. Change orders are permitted; provided that the maximum contract amount allowed for in the Act is not exceeded and sufficient budget authority is available to fund the overall contract affected by the change orders. All other change orders which are not consistent with this subsection shall not be effective unless and until approved by the Board of Supervisors. Change orders over \$50,000 must be reviewed by County Counsel. If no response within forty-eight hours by counsel, the approval will be deemed approved.

#### **8-4 FORMAL BIDDING PROCEDURES**

Public projects within the amount specified in Section [22032](#)<sup>6</sup> of the Public Contract Code shall be let to contract by the formal procedures set forth in the Act (see Public Contract Code Section [22037](#) et seq.).

#### **8-5 EMERGENCY CONTRACT BIDDING PROCEDURES**

Public projects to address emergency situations shall be let to contract in compliance with the provisions of Public Contract Code Section [22035](#) or [22050](#), whichever one is applicable, as they may be amended.

#### **8-6 LIST OF CONTRACTORS TO RECEIVE NOTICE OF INFORMAL BIDS**

Licensed contractors who wish to be included in C’SB’s list of qualified contractors to receive notices of inviting bids may fill out the form below. Completion of the form attached as Exhibit “D” certifies that the contractor listed is requesting to be included in County of San Benito’s list of eligible contractors to receive notices inviting informal bids.

Please send all completed forms to [bthompson@cosb.us](mailto:bthompson@cosb.us), with a copy to [legal@cosb.us](mailto:legal@cosb.us), or mail to:

County of San Benito  
 Attn: Purchasing Officer/County Counsel’s Office  
 481 Fourth St., 2<sup>nd</sup> Floor  
 Hollister, CA 95023

<sup>5</sup> \$212,500 as of September 2023. Consult Purchasing Officer for current limit.

<sup>6</sup> \$200,000 as of September 2023. Expected to increase to \$215,000 in 2024. Consult Purchasing Office for current limits.

**8-7 REGISTRATION WITH DEPARTMENT OF INDUSTRIAL RELATIONS**

All contractors and subcontractors who bid or work on a public works project must register annually with the Department of Industrial Relations (DIR). For additional information and current registration fees, please visit the DIR website at <https://www.dir.ca.gov/Public-Works/Contractors.html> .

**8.8 PROCUREMENT THRESHOLDS AND PROCEDURES – PUBLIC PROJECTS / MAINTENANCE PROJECTS**

The following thresholds apply to public works, including maintenance projects. Our County is governed under the California Uniform Public Construction Cost Accounting Act (CUPCCAA). The table below is only meant as a quick reference. Further definition is contained in various government codes including, but not limited to, Public Contract Code 22000-22045. Bid limits may change through the legislative process; therefore, one should verify limits on the State Controller’s website.

<b>Reference Guidelines for Purchases</b>		
Revised October 2023		
<b>Current Amount</b>	<b>Approval Required</b>	<b>Requirements</b>
<b>PUBLIC PROJECTS AND MAINTENANCE Performed under the CA Uniform Public Construction Cost Accounting Act</b>		
<b>A project for the construction, alteration, demolition, installation, repair, or maintenance work</b>		
Up to \$60,000	Director of Public Works  (Policy Decision TBD)	<p>Can be done by County Staff <b>OR</b> outside contractor. To use outside contractor, the dept should seek at least <u>three proposals</u> as a best practice. If only one or two proposals are received, please document the procurement process, and explain, in writing, why selection without further solicitation is in the County’s best interest.</p> <p><b><u>Above \$10,000: Department must post the opportunity on the County’s website for 5 days, and provide emailed notice to any person who has requested notice of future bidding opportunities.</u></b></p> <p><b>NOTE:</b> If the estimated total is from \$50,000 to \$60,000 and there is <b>ANY</b> chance that work will exceed \$60,000 then the department <u>must</u> follow the informal bid procedure.</p> <p>Process:</p> <ol style="list-style-type: none"> <li>1. Written quote(s) on Contractor(s) letterhead</li> <li>2. Contractor is registered with the Department of Industrial Relations (DIR) (LAB 1725.5)</li> <li>3. Contractor is licensed (LAB 1725.5)</li> <li>4. Contractor is insured for the following as required by County minimums               <ul style="list-style-type: none"> <li>• Commercial General Liability including Additional Insured Endorsement</li> <li>• Automobile Liability</li> <li>• Worker’s Compensation (LAB 1725.5)</li> <li>• Any other type of insurance as may be required</li> </ul> </li> </ol> <p>County contracts shall include:</p> <ul style="list-style-type: none"> <li>• Prevailing Wage Certification (LAB 1771), unless exempt</li> <li>• Fingerprint Certification, if applicable</li> </ul> <p>Depending on the nature of the project, formal plans and specs may not be developed. However, in every case, the project should be described in sufficient detail so there is no doubt about the work to be performed. Depending on the nature of the project, County Engineer will approve plans and specs.</p>

\$60,001 - \$200,000	Director of Public Works (Policy Decision TBD)	Informal bidding procedures. Requires Notice to Contractors. <b>NOTE:</b> If there is <b>ANY</b> chance that work will <b>exceed</b> \$200,000 then the department <b>must</b> follow the formal bid process.  Plans and specs- same as above.	
\$200,001 and up	BOS Approval	Let to contract by formal bid process. (Requires plans and specs).	
<b>Emergency Request for Public Projects:</b>			
<b>Request R# from Purchasing for emergencies, E# may be issued during a declared disaster</b>			
Up to \$60,000 (some exclusions apply)	Public Works Director	It is highly recommended that departments create a list of approved, registered vendors with insurance documents on file in case of emergencies that require a public project.	
\$60,001 and up	BOS Approval	Must follow Public Contract Code 22050. Must be brought to the Board no later than 7 days after the action, or at the next regularly scheduled meeting if that meeting occurs no less than 14 days after the action <b>and be approved by the Board by 4/5 vote</b> . At <u>each subsequent Board meeting</u> , this emergency action must be placed on the agenda and <b>must be approved by the Board by 4/5 vote</b> until the Board determines that there is no longer an emergency. To this effect, departments should resolve the emergency situation as best as possible, make the worksite stable, and then follow the usual procurement process for Public Projects.	In

## SECTION 9

### VENDORS APPEALS AND DEBARMENT

#### **9-1. CAUSES FOR DEBARMENT**

After consultation with County Counsel and after reasonable notice to the vendor involved and reasonable opportunity for the vendor to be heard, the Purchasing Agent or the Director of Public Works shall have the authority to debar a person for cause from consideration for award of contracts. This determination may be appealed to the Board of Supervisors.

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

1. Conviction of or civil judgment for:
  - (a) Commission of fraud or a criminal offense in connection with (i) obtaining, (ii) attempting to obtain, or (iii) performing a public contract or subcontract;
  - (b) Violation of antitrust statutes or rules relating to the submission of bids or proposals;
  - (c) Commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property; or,
  - (d) 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.
2. Violation of the terms of a public agency contract or subcontract so serious as to justify debarment, such as:
  - (a) Willful negligence or failure to perform in accordance with the terms of one (1) or more contracts;  
or
  - (b) A history of failure to perform, or of unsatisfactory performance of one (1) or more contracts.
3. Violation of ethical standards set forth in Section 2 of this Policy.
4. For any other cause the Purchasing Agent determines to be so serious and compelling as to affect responsibility as a County vendor, including debarment by another governmental entity;
5. If the contractor's name appears on the Federal or State debarment lists.

#### **9-2. OTHER ACTIONS**

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

#### **9-3. PROTESTS AND APPEALS**

The following procedures shall apply to procurement actions involving formal sealed bids or competitive sealed proposals.

#### **9-4. FILING OF PROTEST**

Any directly affected party who is aggrieved in connection with the solicitation or award of a purchase order or contract issued through a formal sealed bid procedure may protest the procurement action taken. Such protests must be filed in writing with:

County of San Benito  
Assistant County Counsel to Procurement/Purchasing  
481 Fourth Street, 2<sup>nd</sup> Floor  
Hollister, CA 95023

Protests must be filed in writing within five working days after bid opening. Protests received after this time will not be considered. Any protest shall include the following information:

1. The date and action taken resulting in a protest, and
2. Identify the material issue, including a detailed explanation of the basis for the protest, and the remedy sought. Specification related protests must be fully supported by technical data test results, or other pertinent information, that the substitute offered is equal to or better than the specification requirement.

#### **9-5. RESOLUTION PROCESS**

##### **Informal Resolution**

Upon receipt of protest, the Purchasing Agent will convene, at the earliest possible time, discussions between the protesting party and appropriate County staff to seek informal resolution and/or to clarify the issues.

##### **Response to Protest/Appeal**

If the protest is not resolved by mutual agreement, the Purchasing Agent shall provide a written response to the protesting party within fifteen (15) working days following the informal meeting. The response shall state the Purchasing Agent's decision, the facts supporting the decision, and shall inform the protesting party of its right to appeal the decision to the Board of Supervisors.

#### **9-6. APPEAL TO THE BOARD OF SUPERVISORS**

In the event the informal resolution procedure is unsuccessful, the protesting party may request an appeal hearing before the Board of Supervisors by filing a written request with the Clerk of the Board no later than five (5) working days after notification of the Purchasing Agent's decision. The County will attempt to schedule any appeal hearing within thirty (30) working days from the date the request is received by the Clerk of the Board. The Clerk of the Board shall notify the appellant by personal service or by deposit of a certified letter in the U.S. Mail, or email with confirmed receipt, of the scheduled hearing date not less than ten (10) working days from the date of hearing.

The appellant shall have the right to testify at the hearing, to be represented by counsel, to present witnesses on his/her behalf, and to present oral and written documents and evidence on the issue.



After the conclusion of the hearing, the Board of Supervisors shall make findings of fact and a decision concerning the issue(s).

**9-7. STAY OF PROCUREMENT ACTION DURING A PROTEST**

In the event of a timely protest under this section, the County shall not proceed further with the solicitation or the award of the contract or purchase order until the protest is resolved, unless the Purchasing Agent, in consultation with the head of the involved department and County Counsel, makes a written determination that the award of the purchase order or contract without further delay is necessary to protect a substantial interest of the County. In this case, the protest shall be heard by the County Administrative Officer, whose decision shall be final.

**9-8 OTHER APPEALS**

Any other alleged violation of the San Benito County Code related to purchasing or this policy not subject to 9-3 through 9-7 above, shall be addressed in writing to the County, no later than five (5) days after the alleged violation occurs.

County of San Benito – County Counsel’s Office  
481 Fourth St., 2<sup>nd</sup> Floor  
Hollister, CA 95023  
Attn: Assistant County Counsel for Procurement/Purchasing

## SECTION 10

### PROCUREMENT OF LOGO ITEMS

#### **10.1 LOGO / SPECIALIZED WEAR OR APPAREL**

The County may purchase and use County and Departmental logo items, promotional items, and promotional services, and may purchase specialized apparel as described below. Items imprinted with the County or departmental logo or promotional items may be used to help as recruiting tools, to commemorate an event, or to inform the public or County employees about the services. Before procurement of these items, several considerations must be reviewed to ensure appropriated funds are used only in an authorized manner.

1. It is the department's responsibility to determine that a particular item is reasonably necessary and budgeted to accomplish an authorized purpose. Expenditures must be justified based on the extent to which they will support the purpose for which the Board of Supervisors appropriated funds.
2. Purchase of Logo items (including clothing that contains the County logo – “logo wear”) with appropriated funds may be permissible if the department can justify the purchase to the Purchasing Agent, and there is a clear and justifiable need for the logo items to further the operations of the County. Up to a maximum amount of two items per employee per fiscal year (no transfers/carryovers) may be purchased unless pre-approved by the County Administrative Office
3. Apparel may be purchased if required for the performance of an employee's official duties and to identify employee as an agent of the County for a special event or outreach activities. Purchases must be approved by the Department Head. Allowed purchases may include clothing with the county/department logo on apparel and specialized wear such as, but not limited to, uniforms, specialized apparel, and accessories (such as hats and gloves). These items shall be considered county property. Such property shall be returned upon departure from the County. County-purchased apparel should not be used while off-duty, except incidental travel to/from work. **Each Department Head, or his/her designee, shall keep track of materials that are provided to each employee, having the employee sign an agreement for returning the property upon departure from the County, and documenting when apparel is returned**
4. **Purchases shall be made from such amounts as may be budgeted for this purpose from year-to year (fiscal year budgets). If budgeted, purchases shall be limited to \$150/year maximum, per employee. Any MOU provision shall prevail over the terms of this policy.**
5. Departments shall be responsible for keeping track of apparel purchases and shall provide a summary of such purchases to the Purchasing Agent or Auditor upon request. In any purchase request, the Department shall be responsible for certifying to the Auditor's office the number of prior items each employee has received during the fiscal year. Purchases for logo or specialized wear are discretionary, based on the Department's assessment of priorities and available budget.

## SECTION 11

### PURCHASE OF PROMOTIONAL ITEMS

#### 11-1. SWAG/PROMOTIONAL ITEMS - INTRODUCTION

**All items purchased pursuant to this Section 11 shall be purchased ONLY with the written approval from the CAO and the Auditor.** Individual purchasing approvals are not required when purchases are made pursuant to prior Board authorization or when purchased pursuant to a Board approved policy/program authorizing the purchase of such items.

Swag is merchandise such as mugs, shirts, key chains, pens, hats, thermoses, and bags that typically display the County's or one of its Department's name or seal. Swag items are commonly distributed to all employees or participants at a particular event for the sole purpose of promoting or advertising the County or one of its departments.

SWAG items may not be purchased with state or federal funding unless expressly authorized by the source of such funding.

#### 11- 2. SWAG/PROMOTIONAL/MOMENTO ITEMS - GENERAL RULE

The general rule is that government funds should not be used to purchase promotional or memento items.

The purchase of promotional items is appropriate, however, under circumstances where their purchase is reasonably necessary to further an authorized County function or mission.

The purchase of promotional or memento items, even in situations where the purchase is generally permitted, should be carefully considered because individual employees can be held personally liable for the improper purchase of such items. If an improper purchase of promotional or memento items is made with County Funds, the County approving, certifying or disbursing officials or employees, or their supervisors, can be held personally liable. This would require such County official or employee to reimburse the County the *entire amount* of County funds used for the improper purchase of the promotional or memento items.

Personal items such as food, eating utensils, clothing, toys, or sporting equipment normally should not be used as promotional items as they may be considered to be prohibited personal gifts.

Employees who have questions about the propriety of purchasing a particular promotional or memento item should contact County Counsel and the Auditor in advance of any purchase.

Merchandise used by program managers or County Management to promote the County of San Benito via promotional swag, and prizes shall be used only rarely.

#### 11-3. ALLOWABLE PURCHASES

##### (1) Promotional Items

County funds can be used for Promotional Items when:

- (a) The primary purpose of the items is to communicate information about authorized services to our customers (e.g., used to transmit information about authorized County functions when the objective of providing the item is to inform or educate County employees, prospective employees, customer

- agencies or the public about official County activities.)
- (b) The items are consistent with County/Department marketing guidelines
  - (c) The purchase has been approved, either by the CAO or the Board of Supervisors, as a reasonably necessary part of a County/Department promotion or marketing strategy.

Promotional Items generally should display the County's or the specific Department's information, such as the telephone number or website, so that customers can contact the County or the specific Department. Promotional Items **shall not** be used for any campaign purposes.

Promotional Items, such as balloons or leaflets, announcing an upcoming official activity or event may be purchased with County Funds.

Other items, such as lapel pins or service coins, also may be purchased if they are informational in nature or designed to assist the County in achieving internal management objectives.

The County encourages sustainable promotional product preference when purchases are made. Sustainable/Reusable swag (cotton shirts/hats/bags, metal bottles, mugs) should be purchased when possible, rather than single-use/plastic swag (plastic cups/bottles, plastic flashlights/pens/etc.)

(2) **Purchase of Memento Items.**

Memento Items are items given to an employee or other individual to serve as an award or gift other than as part of a promotional or marketing strategy. There is **no** authority to use appropriated funds to provide Memento Items such as souvenirs, keepsakes, or as informal thanks to employees or others. Generally, unless they are specifically authorized, Memento Items are considered to be prohibited personal gifts to the recipient and are not considered essential to the accomplishment of an authorized County mission.

The following two exceptions may apply:

**a. Employee Awards and Awards Ceremonies.**

- (1) The County is authorized to present awards and incur necessary expenses for the honorary recognition of County employees. An "award" as "something bestowed or an action taken to recognize and reward individual or team achievement . . . in executing their official duties . . . that contributes to meeting organizational goals or improving the efficiency, effectiveness, and economy of the Government."
- (2) The purchase of "honorary awards" including Memento Items, is acceptable as long as the items are *bona fide* awards bestowed to recognize and reward achievement recognized and approved by County Human Resources, the CAO, or the Board of Supervisors.
- (3) It may be appropriate, however, to present a memento item, such as a certificate or plaque of nominal value, to a non-County employee in recognition of a significant contribution to the County if the award can be justified as being reasonably necessary to the accomplishment of an authorized County function or program.
- (3) The presentation of an employee award is often accompanied by an awards ceremony. County Funds may be used to support or enhance an awards ceremony. It is permissible to purchase items such as banners, balloons, and light refreshments, in order to make the ceremony a celebration. The County can properly pay for these items as a necessary expense incident to an awards ceremony.

**b) Training.** County Departments may purchase training materials such as pens, paper, and notebooks. Such training material should be used during a County sponsored conference or meeting so that employees can participate fully in the conference session. Memento Items of any dollar value given to County employees as a souvenir or keepsake of the training conference or meeting that are not necessary to carry out the official County business are considered personal gifts and are prohibited.

## SECTION 12

### MISCELLEANOUS PURCHASES - KITCHEN APPLIANCES AND FOOD/DRINKS

#### 12.1 PROCUREMENT OF KITCHEN APPLIANCES

Appropriated funds may be used to purchase items customarily considered personal, such as refrigerators, microwave ovens, toaster ovens, coffee makers, and ice makers under the conditions set forth below. The primary benefit of the use of these items is that they relate to the efficient operation of a department rather than an individual. They must be in a common area for use by all departmental employees. This means they cannot be in an individual's office or personal space unless as a medical or lactation accommodation.

- Refrigerators will have a freezer compartment. Refrigerators may have a built-in ice maker as long as the facility location allows.
- Refrigerators will be Energy Star® qualified products, even if the purchase price is more expensive than a standard model. Energy Star® qualified appliances incorporate advanced technologies using 10-50 percent less energy than standard models and are less expensive to operate over a period.
- Microwave ovens may only be standard countertop models with an oven capacity no larger than two cubic feet.
- Coffee makers may not have cappuccino or espresso-making capabilities.
- Ice-making machines separate from a refrigerator ice maker may be purchased if the refrigerator ice makers are not of sufficient capacity for the number of employees.

#### 12.2 FOOD AND DRINKS

The County shall only allow the use of appropriated funds for purchase of food/drinks under the following circumstances :

1. **Board of Supervisors Meetings:** formal agendized meetings over meal hour, or when the Board takes a break of 30 minutes or less for lunch.
2. **Working lunch/Meetings:** Meetings with consultants or contractors over the meal hour and employees are not free to take the meals elsewhere without missing essential conference or meeting discussions.\*\*
3. **Participants and Volunteers:** Food may be provided to participants and volunteers of the County and other events hosted by the County Department or at awards ceremonies when it has been determined that such food would materially enhance the awards ceremony in furtherance of the objectives of the awards.\*\*
4. **Workshop, Training, and County-Hosted Events:** Appropriated funds may be used to purchase food for official County activities. Departments can host departmental workshops or training and pay for facilities and food incurred for the staff or other attendees.\*\*
5. **Emergencies:** There is a limited exception for extreme emergencies involving imminent danger to human life or the destruction of County property.
6. **Award Ceremonies and Employee Appreciation, Employee Recognition:** Authorizes appropriated funds to provide food, refreshments, and awards. This exception is available only in rare situations and heavily depends on the facts presented in a particular case.\*\*
7. **Interview Panels:** Reimbursement may be received for the purchase of refreshments or lunch for participants of selection panels engaged in official County recruitment activities as approved by the Human Resources Department. The title of the job recruitment and the persons serving on the panel must be documented on the receipt.\*\*
8. **Mutual Aid Events for Public Safety –** The County may be called upon to provide mutual aid to other public entities, or other public agencies may be called upon to provide assistance to our County. Food and drink may be authorized by the Department Head.

- *Additionally, departments may expend an amount which may be budgeted from year to year in a Department's budget for hospitality supplies, such as bottled water or coffee.*

**The Auditor's office may implement purchasing policy guidelines to implement the above.**

**\*\* These purchases must be pre-approved by the CAO, or his/her designee.**

**SECTION 13.**

**PURCHASE OF RECYCLED AND ENVIRONMENTALLY PREFERABLE PRODUCTS**

**13-1. PURCHASE OF RECYCLED AND ENVIRONMENTALLY PREFERABLE 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 cost of those products containing no, or lesser, amounts of recycled materials.

This policy shall comply with State requirements<sup>7</sup> to procure a specified amount of Recovered Organic Waste Products, to purchase Recycled-Content Paper Products, Recycled-Content Printing and Writing Paper, Janitorial Paper, and procure resources in a way that aligns with the County's goals.

Nothing in this policy requires the purchase of products that do not perform adequately or are not available at a reasonable price.

Departments may purchase recycled-content products, even if more expensive than nonrecycled products, to support the County's sustainability goals, and to assist with compliance with SB 1383.

**13-2 DEFINITIONS**

- (1) "Recycled paper product" means all paper and wood pulp products containing postconsumer and secondary materials, as further defined below.
- (2) "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.
- (3) "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.

**13-3. SELECTED ENVIRONMENTAL PRODUCTS**

The Purchasing Agent and/or Assistant Purchasing Agents shall evaluate the following environmentally preferable products and recommend purchasing 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

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<sup>7</sup> As contained in 14 CCR Division 7, Chapter 12, Article 12 (SB 1383 procurement regulations)



- (11) Waste reduced products
- (12) Water saving products
- (13) Other products designated by the Purchasing Agent which promote energy conservation and environmental protection

**13-4. RECYCLED CONTENT PAPER PRODUCTS.**

- (1) All departments and divisions of the County shall purchase Recycled-Content Paper Products and Recycled-Content consistent with the requirements of the Public Contracts Code<sup>8</sup>, if:
  - a. If fitness and quality of Recycled-Content Paper Products and Recycled-Content Printing and Writing Paper are equal to that of non-recycled items, and,
  - b. Whenever such products are available at the same or a lesser total cost than non-recycled items.
- (2) Specifically, subject to the above, the County shall purchase products with the following specifications:
  - a. Printing and Writing Paper that consists of at least thirty percent (30%), by fiber weight, postconsumer fiber. This includes highspeed copier paper, offset paper, forms bond, computer printout paper, carbonless paper, file folders, white wove envelopes, and for other 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;<sup>9</sup>
  - b. Other paper products shall consist of at least 30 percent, by fiber weight, of postconsumer recycled content fiber, except as in sections (c)-(h) below:
  - c. Toilet paper shall consist of at least 45 percent, by fiber weight, postconsumer recycled content fiber
  - d. Paper towels shall consist of at least 40 percent, by fiber weight, postconsumer recycled content fiber
  - e. Facial tissue shall consist of at least 10 percent, by fiber weight, postconsumer recycled content fiber
  - f. Toilet seat covers shall consist of at least 20 percent, by fiber weight, postconsumer recycled content fiber
  - g. General purpose paper wipers shall consist of at least 40 percent, by fiber weight, postconsumer recycled content fiber
  - h. Food service ware, including but not limited to, napkins, plates, bowls, food trays, takeout boxes, placemats, etc. shall consist of at least 40 percent, by fiber weight, postconsumer recycled content fiber
- (3) All Paper Products and Printing and Writing Paper shall be eligible to be labeled with an unqualified recyclable label as defined in Title 16 Code of Federal Regulations Section 260.12 (2013).
- (4) Records must be submitted to the County Administrative Officer, or his/her designee, of all purchases of Paper Products and Printing and Writing Paper (both recycled-content and non-recycled content), on a schedule to be determined by the County.
- (5) All vendors that provide Paper Products (including janitorial Paper Products) and printing and writing paper to the County shall:
  - a. Provide Recycled-Content Paper Products and Recycled-Content Printing and Writing Paper that consists of at least thirty percent (30%), by fiber weight, postconsumer fiber, if fitness and quality are equal to that of non-recycled item, and available at equal or lesser price.

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<sup>8</sup> Public Contract Code, §§ 22150 through 22154 and §§ 12200 and 12209, as amended

<sup>9</sup> Public Contract Code §12301c.

- b. Certify in writing the minimum percentage of postconsumer material in the Paper Products and Printing and Writing Paper offered or sold to the County. This certification requirement may be waived if the percentage of postconsumer material in the Paper Products and/or Printing and Writing Paper can be verified by a product label, catalog, invoice, or a manufacturer or vendor internet website.
  - c. Only provide Paper Products and Printing and Writing Papers that meet Federal Trade Commission Recyclability standard as defined.
  - d. Provide records to the Recordkeeping Designee for all Paper Products and Printing and Writing Paper on a schedule to be determined by the Recordkeeping Designee.
  - e. All vendors providing printing services to the County via a printing contract or written agreement, shall use Printing and Writing Paper that consists of at least thirty percent (30%), by fiber weight, postconsumer fiber<sup>10</sup>.
- (6) All pre-printed recycled content papers intended for distribution that are purchased or produced shall contain a statement that the paper is recycled content.
- (7) Copiers and printers bought shall be compatible with the use of recycled content products.

### **13-5. GREEN BUILDING & LANDSCAPING PRODUCTS AND PRACTICES**

- (1) All building and renovations undertaken by the County should follow Green Building Practices for design, construction, and operation, where appropriate, as described in the LEED™ Rating System and meet CalGreen and MWELo requirements. Building and landscaping products, purchases, and use by the County shall be consistent with CalGreen and MWELo requirements.
- (2) Hardscapes and landscape structures constructed of recycled content materials are encouraged.
- (3) The amount of impervious surfaces in the landscape should be limited.
- (4) Permeable substitutes, such as permeable asphalt or pavers, are encouraged for walkways, patios, and driveways
- (5) To instruct the public in the proper maintenance of swales, the County should create swales in all landscape renovations and construction performed by the County.
- (6) The County, including through its direct service providers, will make every effort to meet its annual procurement target for Recovered Organic Waste Products as determined by the State. Periodically, the County's Recordkeeping Designee shall distribute information to County Staff on the Procurement target and specific products that meet the SB 1383 procurement requirements.
- (7) Departments responsible for landscaping maintenance shall use SB 1383 Eligible Compost and SB 1383 Eligible Mulch produced from recovered Organic Waste, as defined in the Definitions section of this Policy, for landscaping maintenance as practicable, whenever available, and capable of meeting quality standards and criteria specified.
- (8) The County should keep records, including invoices or proof of Recovered Organic Waste Product procurement (either through purchase or acquisition), and submit records to the County recordkeeping designee, on a schedule to be determined by County. (Paragraphs 7-10 may be implemented over a period

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<sup>10</sup> Or as amended by Public Contract Code Section 12209

of time, but not later than December 31, 2026.)

- (9) General Procurement Records shall include: (a) General description of how and where the product was used and applied, if applicable; (b) Source of product including name, physical location, and contact information for each entity, operation, or facility from whom the Recovered Organic Waste Products were procured; (c) Type of product; (d) Quantity of each product; and, (e) Invoice or other record demonstrating purchase or procurement.
- (10) For Compost and SB 1383 Eligible Mulch provided to residents through giveaway events or other types of distribution methods, Departments should keep records of the Compost and SB 1383 Eligible Mulch provided. Records shall be maintained and submitted to the County in accordance with the requirements specified herein.
- (11) When a direct service provider for the County procures compost or mulch, enters into a written contract or agreement, or executes a purchase order between the County and direct service provider with enforceable provisions that include: Definitions and specifications for SB 1383 Eligible Mulch, Compost, Renewable Gas, and/or Electricity Procured from Biomass Conversion, an enforcement mechanism (e.g., termination or liquidated damages) should be included in the event the direct service provider is not compliant with the requirements.
- (12) Projects subject to California's MWELo (Model Water Efficient Landscape Ordinance) that will be used to meet the annual recovered organic waste product procurement target must comply with CCR Title 23, Division 2, Chapter 2.7, Sections 492.6 (a)(3)(B), (C), (D), and (G).

### **13-6. GAS AND OIL PROCUREMENT**

For Renewable Gas procurement (used for fuel for transportation, electricity, or heating applications), the County shall:

- (1) Procure Renewable Gas made from recovered Organic Waste for transportation fuel, electricity, and heating applications to the degree that it is appropriate and available for the Jurisdiction.
- (2) Keep records for the amount of Renewable Gas procured and used by the Jurisdiction, and submit records to the County on a schedule to be determined by the County and not less than annually. This section may be implemented over a period of time, but not later than December 31, 2026.

### **13-7. PROCUREMENT REQUIREMENT FOR PAPER PRODUCTS**

The County Administrator shall select an employee to act as the Recordkeeping Designee that will be responsible for obtaining records pertaining to Procurement of Recycled-Content Paper Products, and Recycled-Content Printing and Writing Paper who will do the following to track Procurement of Recycled-Content Paper Products, and Recycled-Content Printing and Writing Paper.

- 1) Collect and collate copies of invoices or receipts (paper or electronic) or other proof of purchase that describe the procurement of Printing and Writing Paper and Paper Products, including the volume and type of all paper purchases; and, copies of certifications and other required verifications from all departments and/or divisions procuring Paper Products and Printing and Writing Paper (whether or not they contain recycled content) and/or from the vendors providing Printing and Writing Paper and Paper Products. These records must be kept as part of the County's documentation of its compliance with 14 CCR Section 18993.3.
- 2) If non-Recycled-Content Paper Products and/or non-Recycled-Content Printing and Writing Paper are provided, include a description of why Recycled-Content Paper Products and/or Recycled-Content Printing and Writing Paper were not purchased.

- 3) Collect, collate, and maintain documentation submitted by the County's direct service providers, and/or vendors, including the information reported to the Recordkeeping Designee.
- 4) As required, compile data and report on the County's direct procurement, and vendor/other procurement on behalf of the County, of Recycled-Content Paper Products, and Recycled-Content Printing and Writing Paper, consistent with the requirements set forth herein.
- 5) Department purchasing staff shall provide the above information to the Recordkeeping Designee upon request or pursuant to a routine schedule which may be developed.

**13-8. 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.

**13-9. ELECTRICAL VEHICLES**

The purchase of electrical vehicles is encouraged, while recognizing an analysis of County needs, funding availability, price considerations, and availability of electric recharging stations will ultimately affect the decision whether or not to purchasing an electrical vehicle.

**SECTION 14**

**INVOICES AND LATE INVOICES**

**14-1. INVOICE PROCESSING**

- a) All contracts should require vendors to either submit invoices on a specified periodic basis or within 30 days after completion of services or delivery of goods.
- b) After receipt by the County, invoices should be promptly reviewed by reviewing staff and thereafter timely delivered to payment personnel for processing
- c) Thereafter, invoices must be presented to the Auditor's Office in a timely manner for payment. A timely manner will normally be within **10 days** from the receipt of the invoice.

**14.2 LATE INVOICES**

- a) A late submitted invoice is defined as an invoice submitted beyond one year from the date of completion of services or receipt of goods, or later than 60 days following the close of a fiscal year for services/goods received during that year, whichever occurs first.
- b) The Department Head that is submitting the late invoice shall provide in writing a signed memo documenting the details surrounding the late submitted invoice and justification for payment.
- c) The fully executed memo shall be submitted to the Auditor's Office along with the original invoice and any supporting documentation for verification, processing, and payment.
- d) Late invoices up to \$10,000 may be approved by the Department Head, and above \$10,000 shall be approved by the CAO prior to payment.
- e) Penalties incurred as a result of late invoicing shall only be paid upon the authorization of the CAO or the Board of Supervisors.
- f) Late invoices as a result of Contractor's delay in submitting invoice may be rejected, after consultation and approval of County Counsel.

**SECTION 15**  
**REQUISITIONS**

**15-1. REQUISITIONS REQUIRED IN CERTAIN CASES**

A requisition form must be completed and receive all required signatures prior to the purchase of :

- a) Computers, or other information technology related equipment;
- b) Goods or materials in excess of Ten Thousand Dollars (\$10,000).

**15-2. SIGNATURE AUTHORITY**

The approved requisition provides authorization to the staff to order, purchase and issue claims for payment. Signature authority for requisitions and claims is at the discretion of the Purchasing Agent and the County 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.

All Department Heads are required to sign the Auditor's Signature Authorization Form in order to approve authorized agents to sign requisitions or claims. Authorization for designated staff must be approved by the Auditor and/or Auditor.

**15-3. REQUISITIONS / CONTRACTS 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:

<b><u>Items/Services</u></b>	<b><u>Approving Department</u></b>
Fixed Assets	Board of Supervisors (unless approved in budget in a fixed asset account--- see section 1.6)
Cell Phones/ Landlines	Information Technology / County Administrative Office
Copiers/Plotters	Information Technology
Data processing/computer equipment software/hardware	Information Technology
Radios/systems/related equipment	Information Technology
Outside Attorneys	County Counsel

**SECTION 16**

**RECEIVING GOODS, MATERIALS AND SUPPLIES**

**16-1. GENERAL RECEIVING REQUIREMENTS**

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, although the person approving the requisition may be part of the process.

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, and should normally occur at the time of delivery.

During inspection, assigned staff should complete the receiving copy of the order noting the date of delivery, quantities delivered, or service 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 departments to obtain necessary return authorization or seek other remedial action with the vendor.

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.

**16-2. 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  
Telecommunications Equipment – Information Technology  
Computer Equipment/ Hardware & Software – Information Technology

**16-3. QUALITY CONTROL ASSISTANCE**

Quality control assistance is available from the Purchasing Agent. The Purchasing Agent shall be contacted in the event:

- a) A department has questions as to whether an item delivered against a contract meets specifications. If necessary, the Purchasing Agent will arrange to inspect the item in question.
- b) Equipment or supplies received and placed in service do not appear to be performing as expected or as represented by the seller.
- c) Departments are receiving poor service or experiencing other problems after items are received.

**16-4. MATERIAL EXPEDITING**

If a supplier is late meeting specified delivery dates, the department should contact the Supplier directly or the Purchasing Agent for Assistance. The Department or the Purchasing Agent will continue to monitor the supplier's progress until the order is complete. If involved, the Purchasing Agent will keep the Department advised of efforts to enforce the terms and conditions of the respective purchase order/contract.

**16-5. 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.

**15-6. HAZARDOUS MATERIALS**

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 the department) before approving the invoice for payment. Every department is responsible for maintaining a complete file of all hazardous materials. The file must be organized by the name of the chemical and be made available in a central location to anyone needing the information.



SECTION 17

ADDITIONAL COUNTY PROVISIONS

**17-1. GRANT APPLICATIONS**

Grant Applications shall be presented to the CAO, or his/her designee, for approval before applying if the grant application results in mandatory obligations on the County if awarded.

**17-2. GRANTS AND SPECIAL PROGRAMS**

Administrators should follow the grantor's policies and procedures for procurement, including for selecting contractors and vendors. If grant applications have special conditions, a copy of grant and internal program policies must be given to the Purchasing Agent and Auditing for assistance in compliance monitoring. If grant guidelines or the source of funding require grantees to abide by different procurement procedures other than those adopted by the County, the grantee should resolve the situation with the Purchasing Agent and Auditing, and the federal and state regulations shall prevail.

**17-3. FEDERAL FUNDING**

In accordance with Federal requirements concerning debarment and suspension of vendors participating in and/or receiving funding related to Federal programs, Departments shall conduct searches for federally funded vendors' active exclusion records and maintain documentation of such searches with the related purchasing records.

**17-4. VEHICLES**

The County Administrative Office 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.

**17-5. 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 purchases may approve petty cash forms. Sales slips are required to have the supplier's printed name and address and the date of 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.

**17-6 USED EQUIPMENT**

If opportunities arise to purchase used equipment, such equipment may be purchased without competitive bidding, provided all the following conditions are met:

- 1) The equipment being sold is under warranty or, in the case of an "as-is, where-is" purchase, there is an inspection by a qualified party who certifies that the condition of the item is acceptable and adequate for efficient County use.

- 2) The dealer of the equipment is qualified, reputable dealer as verified through reference checks, or the equipment is being purchased from another governmental entity.
- 3) The selling price of the equipment is less than \$100,000, including tax, installation, freight, applicable training, etc.

Justification for the Sole Source purchase of used equipment must be documented and maintained as part of the procurement file.

The purchase of used equipment is not a way to avoid the competitive bidding process for the acquisition of new equipment.

#### **17-7. CONTRACT REVIEW BY COUNSEL**

All written contracts and leases must be reviewed and approved as to legal form by County Counsel prior to execution.

#### **17-8. CONFIRMATION OF BUSINESS STATUS**

Any business must demonstrate and validate its ability to operate in California. The County requires registration of a Fictitious Business Name when applicable and appropriate. If registered with the Secretary of State as a Corporation, Limited Partnership, Limited Liability Corporation, Nonprofit, the organization must demonstrate good standing.

The Secretary of State's California Business Search database allows for the lookup for abstracts of information for businesses, corporations, limited liability companies, etc. The Department preparing the contract should confirm and document the business's good standing.

#### **17-9. CONTRACT ORIGINALS.**

All original contracts, upon execution shall be submitted to the Clerk of the Board as soon as possible to ensure the public record is maintained.

#### **17-10. MEMORANDUMS OF UNDERSTANDING (MOU)**

Memorandums of Understanding (MOU's) between the County or any of its departments with an external entity must be submitted to the County Board of Supervisors for approval. Agreements between internal departments, such as regarding a division of duties or responsibilities, may be entered into between those two departments, but are not legally binding.

#### **17-11. PURCHASE ORDERS**

Unless an exception is granted by the CAO or the Auditor (or their designees), or pursuant to a policy which may be developed to implement this directive), a purchase order shall be completed for all purchases and contracts. For a multi-year contract, the purchase order shall encumber the funds which may be incurred within the fiscal year.

#### **17-12. CAO AUTHORITY**

The CAO may make exceptions to this Purchasing Policy on a case by case basis when determined in the best interests of the County, but may not make exceptions to the Purchasing thresholds set forth herein, and established by San Benito County Code.

**SECTION 18**  
**SURPLUS PROPERTY**

**18-1. DISPOSAL OF SURPLUS PROPERTY**

The Public Works Department is responsible for preparing and distributing procedures to help ensure the maximum utilization of surplus property. Departments should notify the Public Works Department whenever surplus property is available so that it may be evaluated for use by another department. The Public Works Department will determine whether the item is acquired by another department or whether the item should be stored, transferred, auctioned, recycled, or disposed of.

Any item of property of an estimated value of \$5,000 or less may be declared surplus to County needs by the using department with the occurrence of the Public Works Department. Items of property with an estimated value of over \$5,000 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 in this manual), recycle, 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.

The Public Works Department may utilize a third-party private auction company, which company's contract shall be approved by the Board of Supervisors or the Purchasing Agent, as appropriate, to find a purchaser for surplus items, and should prioritize putting surplus property up for auction to return the greatest value to the County, prior to donating, recycling, or disposing of usable goods.

**18-2. TRADE-IN ALLOWANCE ON PURCHASE OF PROPERTY**

When purchasing personal property when it 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.

**18-3. DONATIONS**

County property can be donated in several ways. For personal property items or surplus real property with an estimated value of \$5,000 or less, the Public Works Department 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; subject to compliance with all applicable laws, relating to who can receive County donated property (normally other governmental agencies and non-profits)

County property, with an estimated value greater than \$5,000, must be declared surplus by the Board of Supervisors. If the Board concurs, the Board can direct the Public Works Department or the Purchasing Agent to coordinate the donation of an item exceeding \$5,000 in value.

#### **18-4. SURPLUS COMPUTER (PC) SYSTEMS**

- 1) Department process: Surplus reusable computer (PC) systems including the monitor, CPU, keyboard, transferable operating system software and printer may be auctioned or donated by department to local public schools, qualified local non-profit organizations, or persons receiving public benefits (Gov. Code 25372).

When departments have computer equipment available for surplus, the Department Head or designee must contact the Information Technology Division (as applicable) to have the equipment evaluated. This evaluation determines whether any other County departments have the need for the PC system for their work purposes. If no further use is identified, the Information Technology Division shall prepare the PC system for disposal. Preparation of the system shall include, but is not limited to, reformatting and erasing all County data from the hard drives or resetting the system to the original equipment manufacturer configuration. Software licenses may also be transferred during this process.

- 2) 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. The Public Works or IT Division will pick up the equipment if necessary. Once the PC system is picked up, the IT Division 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.

#### **18-5. TRANSFER OF PERSONAL PROPERTY**

The Purchasing Agent is authorized to transfer between concurring departments any item of personal property with an estimated value of \$5,000 or less. Transfer of items with an estimated value exceeding \$5,000 must be approved by the Board of Supervisors.

## SECTION 19

### CREDIT

#### 19-1. COUNTY CREDIT.

No person shall open or maintain credit in the County's name, such as a credit card or other line of credit of any type, without explicit authority from the Board of Supervisors or the CAO .

All persons shall comply with all rules and regulations established for the use of a County Credit (Procurement) card.

#### 19-2. "CAL-CARD"

The purpose of the "Cal-Card" procurement card program is to provide an additional alternative within the existing procurement system to help support and/or expedite small-dollar-value operating requirements, allow purchases from the internet, and assist in travel needs. The Cal-Card does not replace traditional procurement methods such as contracts for services. The policy for the Cal-Card is attached as Exhibit "E".

#### 19-3. INTERNAL CONTROLS OVER CREDIT CARDS

##### Cardholder Responsibilities

- Cardholders must comply with the Procurement Card Policy Attached as Exhibit "E".
- Cardholders must sign the Employee Acknowledgement Agreement prior to receiving a Procurement Card.
- Cardholders must ensure their credit card is adequately secured by restricting access to it at all times, and must treat the use of the card with responsibility, care, and security.
- Cardholders must ensure that all purchases comply with County purchasing policies and procedures governing bid and vendor selection processes, and any applicable department policies and procedures.
- Cardholders must not exceed approved card limits or split orders to circumvent the limits. In addition, cardholders must not purchase personal goods/services, prohibited items,
- Unless expressly allowed by a Department Heads or the County Administrative Officer, employees shall not make purchases for other cardholders.
- Cardholders must report lost or stolen cards to U.S. Bank immediately, and notify his/her supervisor and the Program Manager no later than the next business day.
- Card purchases must be properly documented with **original** invoices or receipts, indicating the name of the vendor, location, date, and dollar amount where possible/practical. The documentation must include the vehicle number for purchases associated with County vehicles.
- Cardholders are responsible for reviewing in a timely manner their monthly credit card billing statements to ensure the information/charges are correct and/or identify and document discrepancies. Cardholders must immediately report any discrepancies to their supervisor.
- Prior to signing the charge receipt, the employee is responsible for making sure that the quantity; full description of item(s); price, and total of any, and all items, are on the charge slip or an itemized invoice or other receipt(s) from the vendor.

- Whenever a card purchase is made, all documentation associated with the purchase (e.g., card slip, itemized receipt, invoice, etc.) shall be retained as proof of purchase, and a process established where the documentation is submitted to the cardholder's supervisor for review and approval before a payment is processed, if required based on the size of the transaction.
- If the procurement card is rejected at a point of sale, the cardholder shall notify his/her supervisor and the Program Manager, to report the rejection, reason for rejection, and the vendor's name.

### **Department Responsibilities**

- **The cardholder must sign an "Employee Acknowledgement Agreement", and the department must maintain the signed agreement forms on file, and provide such documents to Auditor's office upon request.**
- Department management must closely monitor card usage to ensure that cardholders do not use County procurement cards for any personal business or unallowed purposes.
- Unless expressly allowed by a Department Heads or the County Administrative Officer Procurement cards must be assigned to an individual and not to a vehicle or to multiple employees, unless a gas card is allowed by a Department to be checked in/out for travel, with adequate controls (e.g. sign in/sign out).
- Department management must immediately obtain cards from cardholders who do not comply with card limitations, use the card for unauthorized purchases (such as personal purchases), change jobs or assignments and no longer require card use, leave County service, or who are or plan to be on an extended leave. Departments should also take disciplinary action (where appropriate) for cardholders who violate purchase limits/rules.
- Department management must manage card usage within the Department, including who will approve staff to be issued a credit card, who will approve credit card purchases, etc.
- Except when the cardholder is a Department Head, the cardholder's supervisor or at least one higher-level position must reconcile the monthly credit card billing statement's transaction detail with the purchase documentation and resolve any discrepancies. The reconciliation must be signed and dated by the reconciler indicating their review/approval.
- The Department must retain monthly billing statements with the reconciler's signature, purchase receipts, and written purchase approvals for at least five years.
- **The Department must separate duties so that the same person that uses a charge card may not approve those expenditures for payment. Cardholders may **not** approve their own purchases. For example, if the Department Head normally approves all charges, approval of the Department Head's purchases shall be assigned to the next highest ranking individual within the Department. If no management or mid-management employees are located within the Department, or in the DH's discretion, those charges shall be approved by another third party, such as designated staff at the CAO's Office or the Purchasing Officer or his/her designee.**
- Department management must maintain a list of staff with procurement cards, re-evaluate the need for each credit card at least annually, and cancel unused or unnecessary cards.

### **CAO responsibility**

- The CAO, or designee, should work with the card issuer to establish electronic credit card transaction limits (where applicable) and allowable purchase categories and provide overall management of the program.

## SECTION 20

### PURCHASE ORDERS

#### **15.1 Purchase Order Requirements**

A purchase order is a formal agreement between the County and a supplier to purchase goods (supplies/commodities) at the prices, terms, and conditions stated in the purchase order. Departments also issue purchase orders for services. When accepted by the seller, becomes a contract binding both parties.

Purchase orders are authorized by the appropriate purchasing authority as established by this policy.

No one has authority to create an oral contract for the County. The cost created by an oral contract is not a legal charge against the County. All charges must be authorized by a purchase order or by a written contract.

#### **15.2 Blanket Purchase Order**

A blanket purchase order is an open, written contract between the County and the vendor issued under the appropriate purchasing authority, authorizing frequent and repetitive purchase of goods and/or services. Blanket purchase orders exclude fixed asset purchases. A blanket purchase order is inappropriate if it will result in a violation of the purchasing thresholds of this policy. The purchase order is generally only issued for the amount to be encumbered within a fiscal year.

#### **15.3 Shipping Terms**

Knowledge of shipping terminology can reduce freight charges and clarify who is responsible for loss and damage occurring in transit. The definitions regarding commonly used shipping terms for Purchase Orders are as follows:

A. Free On Board (FOB) Destination or FOB Delivered; Freight Prepaid and Allowed (**Preferred**)

- Vendor pays the freight, which is included in the price.
- Vendor owns goods in transit.
- Freight claims and damages are responsibility of the vendor.

2. FOB Shipping Point; Freight Prepaid and Charged Back

- County pays the freight, which is not applicable to sales tax.
- County owns goods in transit.
- Freight claims and damages are responsibility of the County.

#### **15.4 Payment Terms**

Some common payment terms of a Purchase Order may be defined as:

- Net 30: The full invoice amount is due and payable within 30 days. (**Most common**)
- xx%/30: A discount (xx%) may be taken if payment is made within 30 days.
- xx%/25th prox.: A discount (xx%) may be taken if payment is made by the 25th day of the following month.

xx = the discount percentage offered by the awarded vendor

Note: Cash discount period is calculated from the date of receipt of proper and correct invoice or date merchandise was received and accepted by County, whichever is later.

### **15.5 Auditor Allowance on Over Expenditure**

Notwithstanding purchasing limits established in this policy, upon department request, the Auditor may allow over-expenditures on purchase orders without supplementing the purchase order, when the purchase order estimate is exceeded by less than 10%.

### **15.5 Purchase Orders In An Emergency**

In an emergency with CAO approval, a purchase order may be utilized without a written contract, even cases where a contract would otherwise be required, as long as the key terms (such as but not limited to, price, scope of services, description of goods, necessary insurance, indemnification, timeline for completion, etc., are clearly set forth in the purchase order.



## EXHIBIT "A"

### INTRODUCTION TO SPECIFICATIONS IN BIDDING

#### A-1 SPECIFICATIONS.

Departments shall ensure specifications are non-restrictive and clearly describe the required items in terms of functional performance. Drawings or samples should clearly describe the required item. If a brand name or model is specified during a purchase transaction, normally an "or equal" specification should be added unless clearly not appropriate.

If a department believes that only a specific make and model will meet its needs, the department shall maintain an objectively written explanation which 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 shall specify the brands and models used, and why they are unacceptable, since prior unsatisfactory performance may be used to determine vendor responsibility during formal or informal bid procedures.

#### A-2 APPROVED EQUAL

When brand names are specified, the words "or approved equal" should be added unless compelling reasons make only the single brand acceptable, in which case a written justification must be signed by the department head, or designee. Use of a brand name as part of "approved equal to" specifications should be for the sole purpose of describing the standard of quality, performance, and functional (including aesthetic) characteristics the County desires and not be intended to limit or restrict competition. Use of "approved equal to" specifications should, whenever possible, identify a minimum of two (2) brand names as "approved equal".

Using specifications provided by a specific manufacturer should be avoided if possible; but if used, the name of the manufacturer, model number, etc. should be indicated with a statement that use of the manufacturer's specifications is for the sole purpose of establishing "approved equal" criteria.

#### **SPECIFICATIONS AND SOLE SOURCE DEFINED**

**"Brand Name Specification"** means a specification limited to one (1) or more items by manufacturer's name or catalog number. It is written to have the effect of limiting the product to a single kind.

**"Brand Name or Equal Specification"** means a specification which uses one (1) or more manufacturer's names or catalog numbers to describe the standard of quality, performance, and other characteristics needed to meet the County's requirements, and which provides for the submission of equivalent products.

**"Design Specifications"** customarily employ dimensional and other physical requirements of the item to be procured. These specifications provide information on how the product is to be fabricated or constructed.

**"Performance Specifications"** specify the functions or level of performance required. Performance specifications are results oriented and allow bidders considerable latitude in achieving the required performance results.

**"Sole Manufacturer Specification"** is a specification for goods meeting specific physical, functional, or performance characteristics that restricts competition to a particular manufacturer's model or catalog identification, which may be available on a limited competitive basis from more than one (1) vendor.

**"Sole Source Specification"** is a specification for goods that meet specific physical, functional, or performance characteristics that preclude alternate sources of supply or competition. Sole source

specifications may include proprietary items, which are items held under exclusive title, trademark, or copyright.

"**Sole Manufacturer Justification**" is a written memorandum justifying a sole manufacturer specification and identifying the physical, functional, and performance characteristics of the goods required and/or the market conditions that require limiting competition to a single manufacturer's product. The sole manufacturer justification shall be signed by the department head or his/her designee.

"**Sole Source Justification**" is a written memorandum justifying a sole source specification and identifying the physical, functional, and performance characteristics of the goods required and/or the market conditions that require limiting competition to a single supplier. The sole source justification shall be signed by the department head or his/her designee. The following represents factors, if verified, that may justify sole source: (1) What capabilities does the proposed contractor have that is critical to the specific effort and make 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 programs/contracts/warranties?

## **EXHIBIT "B"**

### **GUIDELINES ON HOW TO CONDUCT INVITATIONS TO BID**

#### **B-1 PREPARATION OF BID SPECIFICATIONS**

Preparation of Bid Specifications should:

- Be clear, definitive, and concise to enable prospective bidders a basis on which to submit bids.
- Be written to allow for competitive purchase of goods, supplies and equipment and not to exclude all but one type or kind, unless warranted.
- Not call for features or a level of quality not required for the intended use, except in cases where such features or the level of quality are essential for some future consideration or result in overall economic advantage to the County.
- Describe the performance requirements rather than its formulation, description, or design, as may be warranted.
- Be prepared to permit free and full competition ("or equal") as is reasonably possible under the circumstances.

Some latitude is permissible in specifying features of certain items. While it is not necessary to prepare specifications in a manner that every conceivable manufacturer could competitively bid, the County must be able to demonstrate a clear reason for any restrictive specifications.

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

#### **B-2 BID DOCUMENTS**

All bidders shall promptly notify the Purchasing Agent of any ambiguity, inconsistency, or error that they may discover upon examination of the bidding documents. The County will not assume any responsibility for errors or misinterpretations resulting from the use of incomplete sets of bidding documents.

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.

The County makes copies of the bidding documents available on the above terms 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.

Bidders shall promptly notify County of any inconsistency or error discovered upon examination of the bidding documents, or of the site and local conditions.

Bidders requiring clarification or interpretation of the bid documents shall make a written request (facsimile acceptable) which shall reach the County at least five (5) working days prior to the date for receipt of bids, or as otherwise specified in the bid document.

Any interpretation, correction or change of the bidding documents will be made by formal 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, or changes.

#### **B-3 SUBSTITUTIONS**

Materials, products, and equipment described in the bidding documents establishes a standard of required function, dimension, appearance, and quality to be met by any proposed substitution. The burden of proof of merit of proposed alternate or substitute is on the bidder.

Non-solicited alternates may be considered for award if submitted by the bidder who would otherwise be the low bid.

Each substitution proposed shall include the name of the material or equipment for which it is to be substituted and a complete description of the proposed substitute. Drawings, cuts, performance specifications, test data and other information necessary for an evaluation shall be submitted by the bidder with the bid offered. A statement setting forth any changes in other materials or equipment resulting from incorporation of the substitution shall be included.

The County's decision of approval or disapproval of a proposed substitution shall be final.

#### **B-4 BID ADDENDA**

Addenda will be emailed, mailed, or delivered to all that are known by the Department to have received a complete set of bidding documents. Thus, the Department should keep a record of all vendors requesting a complete set of bidding documents. Copies of addenda will be made available for inspection wherever bid documents are on file for that purpose. No addenda will be issued later than four (4) working days prior to the date for receipt of bids, except for an addendum withdrawing the request for bids or one that includes postponement of the date for receipt of bids.

Each bidder shall be responsible for ascertaining prior to submitting a bid, that the bidder has received all addenda issued. Bidders shall sign and submit all required addenda in order to receive award consideration unless otherwise indicated in the bid document.

#### **B-5 BIDDERS' CONFERENCE**

Pre-bid conferences may be conducted to explain the procurement requirements and specifications. Pre-bid conferences may also be conducted to review work sites with prospective bidders. Any pre-bid conferences shall be announced in the Invitation for Bids.

#### **B-6 PROCUREMENT SCHEDULE AND BID OPENING DATE**

Each Invitation for Bids shall be assigned a bid opening date and time by which bids must be received to be considered. This date should provide sufficient time to allow prospective bidders ample opportunity to prepare bid documents. "Sufficient time" varies, and the procurement schedule should be based on a realistic evaluation of market conditions and potential bidders' ability to respond to the Invitation for Bids. In formal bidding, the bid opening date should not be less than ten (10) working days after the notice inviting bids has been made public.

#### **B-7 FORM OF BID**

To receive consideration, bids shall be made on the forms and in the manner set forth in the Invitation for Bids. Further:

- Bids received after the date and time advertised for opening will be considered non-responsive and

- will be rejected.
- Each bid must be completed in ink, typewritten or computer generated, and all changes and/or erasures must be initialed in ink, or if submitted electronically, by an electronic approved method.
- Each bid must be signed in ink or authorized electronic signature by an authorized representative of the vendor and include the legal name of the bidder.
- 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.

## **B-8 BID SECURITY**

At the discretion of the Department or Purchasing Agent, a bid bond or bid deposit (certified or cashier's check) made payable to the County of San Benito 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 proceed with performance. A required bid bond or bid deposit must be submitted with the bid, if required, and be in the amount as specified in the Invitation for Bid.

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

Bid bonds or bid deposits, except those of the lowest bidder, should be returned as soon as practical following the bid opening and checking of bids. The guarantee of the lowest bidder should be retained until the contract or purchase order has been executed and approved and any performance bond and certificate of insurance provided, at which time the bid bond will be released except where forfeited. However, the bidder's bonds 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 cash, 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.

## **B-9 RECEIPT OF BIDS**

All bids must be received sealed in an envelope, or submitted electronically if specified in the IFB, prior to the time specified in the IFB. Bids must be promptly date/time stamped and deposited unopened in the respective bid folder; they should not be left unattended. Bids shall be submitted electronically if specified by the IFB.

Late bids will not be opened and will not be considered under any circumstances. A late bid will be date-stamped and promptly returned unopened to the bidder accompanied by a letter from the Purchasing Agent, notifying the bidder that the bid was received late and was not considered. A copy of the rejected bid envelope and the letter will be retained in the bid file. Late bids received without a return address on the envelope will be date/time stamped upon receipt and retained in the bid file unopened.

## **B-10 BID OPENING**

All bid openings shall be opened publicly in the presence of one or more witnesses at the time and place designated in the IFB, or as soon thereafter as is possible. The only information that will be read aloud is the information that will be recorded in the bid abstract. Details of any bid's exceptions or nonconformance will not be read in public, but the fact of their existence will be publicly noted. The County assumes no responsibility for the confidentiality of bid information unless specifically stated otherwise in the IFB, and bids once opened, may become public record.

## **B-11 CORRECTION AND WITHDRAWAL OF BIDS**

**General Rule.** The essential rule in evaluating actions to mistakes in bids is that no change or correction may be permitted that would prejudice the interest of the public or be unfair to other bidders.

**Waiving Informalities.** The IFB may contain provisions allowing the County to waive informalities and accept the bid that appears to be in the best interest of the County. Such informalities may consist of the correction of minor errors, but only if the bid is substantially in compliance with the terms and conditions of the IFB. Errors that are not material and do not invalidate the legitimacy of a bid may be waived.

**Bid Withdrawal Prior to the Bid Opening.** Prior to bid opening, mistakes in bids detected by a bidder may be corrected or a bid withdrawn upon authorized written request signed by an authorized representative of the bidder and received by County. A facsimile copy or electronic copy will suffice. Oral or telegraphic shall not be permitted. Oral corrections or withdrawals by bidder shall not be permitted.

**Judgmental Errors.** After opening, a bid may not be withdrawn as the result of a mistake attributable to the bidder's error in judgment. For example, a bidder judges he/she can provide a bid item at a significantly lower price than the bidder's competitors and submits the bidder's bid based on that judgment, but later wishes to withdraw the bid because bidder has determined that bidder cannot provide the item at the price offered. This is an error in judgment, and the bid may not be withdrawn.

Bid withdrawal by reason of non-judgmental error may be allowed, but only to the extent that it would not be prejudicial to the interests of the County or the fair treatment of other bidders.

**Correcting Mistakes in Bids.** During or after bid opening, mistakes detected in bids may not be corrected by the bidder except:

- (a) 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, arithmetical errors. **However, a bidder shall not be permitted to correct a bid for errors of judgment.**
- (b) An otherwise low bidder may, in the discretion of the County, be permitted the opportunity to furnish other information called for by the IFB and not supplied due to oversight, so long as it does not affect responsiveness.

### **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) Non-solicited alternates may be considered for award if submitted by the bidder who would otherwise be the low bid.
- (3) Solicited alternates may be awarded based on the sole judgment of the County.

**Confirmation of Bid.** When the Purchasing Agent knows or has reason to believe that a mistake has been made in a bid, the bidder should be requested to confirm the bid. Situations where confirmation should be requested include obvious or apparent errors in the bid documents or a bid unreasonably lower than other bids. Such confirmation shall be requested and received in writing, and facsimile or electronic or emailed copies will suffice for request and receipt of confirmation.

The Department shall maintain complete and sufficient records of evidence used to establish an error in the 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 waiver of bid mistakes and the withdrawal of bids shall be made in writing, approved by Purchasing Agent and retained in the bid file via hardcopy or electronic methods.

## **B-12 BID EVALUATION**

Bids shall be evaluated based on the requirements set forth in the IFB, which may include criteria to determine acceptability such as inspection, testing, quality, workmanship, delivery, and suitability for a particular purpose. The criteria affect price shall be objectively measurable, such as discounts, transportation costs and life cycle or total ownership costs. The IFB shall set forth the evaluation criteria to be used.

Examples of evaluation criteria that may be used include:

- Adherence to all conditions and requirements of the bid specifications.
- Total price (including any discounts), unit price, or extended price.
- General reputation and experience of bidders based on references or prior performance.
- Hourly rates for specified personnel. Ability to meet delivery and stocking requirements.
- Financial responsibility of the bidder.
- Needs and requirements of the County.
- Experience with the products involved.
- Nature and extent of product data furnished, upon request of the County, for review and evaluation.
- Quality of merchandise offered, including product appearance, workmanship, finish, taste, feel and results of product testing.
- Overall completeness of product line offered.
- Availability of product or service required.
- Maintenance costs and warranty provisions.
- Repurchase value or residual value of equipment after specified number of years where the residual value can be objectively ascertained.
- Compatibility with County's current equipment/products.

The Department shall maintain complete and sufficient records of bid evaluations to ensure that there is no abuse of the competitive bidding process. The justification for an award recommendation shall be made in writing and retained in the bid file via hardcopy or electronic methods.

## **B-13 RESERVATION OF RIGHT TO REJECT BIDS AND/OR REQUIRE REBID**

Every bid must be carefully examined to determine whether it contains a material variance. Any bid that contains a material variance must be rejected. A test of material variance is a variance that gives the bidder a substantial benefit or advantage not enjoyed by the other bidders. Prior to any rejection for a material variance, the Purchasing Agent shall be consulted.

The County reserves the right to reject any or all bids in whole or in part and may waive any irregularities or informalities in any bid when, after consideration of all relevant circumstances, such action is considered in the best interest of the County.

The County may:

- Reject a bid not accompanied by any required bid security or by other data required by the bidding documents.
- Reject a bid that is in any way incomplete, irregular, amplified, unqualified or otherwise not in compliance with the bid documents in all material respect.
- Waive any informality, irregularity, immaterial defects, or technicalities, in any bids received.
- Cancel an Invitation for Bids or reject all bids for any of the following reasons:
  1. Inadequate or ambiguous specifications.
  2. Specifications have been revised.
  3. Supplies or services are no longer needed; change in County requirements.
  4. All bids deemed unreasonable.
  5. Bids were not independently arrived at or were submitted in bad faith.
  6. A determination is made that all the necessary requirements of the bid process have not been met.
  7. Insufficient competition.
  8. For other reasons which indicate the cancellation or rejection of all bids is clearly and demonstrably in the best interest of the County.
  9. Insufficient funds have been budgeted for the purchase.

The Department 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 via hardcopy or electronic methods.

#### **B-14 BID AWARD**

A bid award shall be made to the lowest responsive and responsible bidder. All awards shall be made by written notice to the successful bidder and shall be promptly made public information.

##### **Responsive Bid.**

A bid shall be considered responsive when the bidder has complied with the terms, conditions, provisions, specifications, instructions, and all other requirements of the Invitation for Bids. The determination whether or not a bid is considered responsive is an administrative decision, and shall be made by the Department, or the Purchasing Agent.

##### **Responsible Bidder.**

A bidder shall be considered responsive when it has been established that he/she has the technical capability, financial capacity, facilities, and work force required to perform as outlined in the provisions and conditions of the bid. Reference checks and documented past performance history may be considered when determining whether a bidder has the capability to fulfill the requirements of the IFB.

The determination of whether a bidder is non-responsive is an administrative decision, which shall be made by the Purchasing Agent, in consultation with County Counsel as needed. Any determination that a bidder is non-responsive shall be documented by the Purchasing Agent, along with the reasons for making such a determination.

#### **B-15 CANCELLATION OF BID AWARD**



Failure on the part of the successful bidder within the time allowed to execute the contract or comply with any other requirement imposed, 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 Department and Purchasing Agent.

**B-16 PUBLIC NOTICE OF AWARD**

The Public Works Department shall maintain a summary of all contract awards 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.

## **EXHIBIT "C"**

### **GUIDELINES ON HOW TO CONDUCT REQUEST FOR PROPOSALS**

#### **C-1 EVALUATION PHILOSOPHY**

When using Requests for Proposals it is important to be as objective as possible, to clearly describe the procurement process, and to identify the evaluation criteria so that the procurement process and the evaluation criteria can be easily understood by the prospective offerors, the evaluation panel, and the awarding officials. Sufficient records should be generated and retained to allow a post award review by an impartial party.

The objective of the process is to screen proposals to determine the proposal that provides the best value to the County, and to then enter into final negotiations with the offeror who submitted that proposal. Usually, award will be made to the offeror of the highest rated proposal unless the parties are unable to conclude a mutually agreeable contract, in which case negotiation with that offeror shall be terminated and negotiations entered into with the second ranked offeror. Should the County be unable to conclude a mutually agreeable contract with the second ranked offeror, then negotiations with that offeror shall be terminated and negotiations entered into with the third ranked offeror, and so forth, until an agreement is reached. At no time shall the County's negotiators conduct concurrent negotiations with two (2) or more offerors.

#### **C-2 EVALUATION PANEL**

An evaluation panel shall be formed to review all proposals and document all findings and recommendations. The panel should have at least three (3) members. The evaluation committee may include people who are not County employees but have experience or expertise to contribute. Such non-county employees shall abide by the ethical standards set forth in the Purchasing Policy. An evaluation panel and evaluation schedule may be determined prior to soliciting proposals.

#### **C-3 EVALUATION CRITERIA**

The careful selection of evaluation criteria is an important element in preparing an RFP because the evaluation criteria determine how the County will rate and ultimately select the proposal that offers the best value to the County.

Evaluation criteria should be as objective as possible.

Typically, each Request for Proposal will have its own unique requirements. Thus, an RFP's evaluation criteria will be determined by the scope of work to be performed, the services to be provided, and any other relevant factors that may influence the decision to award a contract. The following nonexclusive list of possible evaluation criteria has been presented below to provide examples of criteria that may be useful for evaluating proposals:

- The quality, viability, and suitability of the solution offered, or of the goods or services offered, when compared with the requirements and specifications of the RFP.
- Overall responsiveness of the proposal and whether the proposal adequately addressed the scope of work, specifications, and other requirements of the RFP.

- The offeror's technical capability, expertise, or skill to provide the required goods or services, including the offeror's past experience providing similar goods or services.
- The offeror's ability to perform the contract or provide the required services promptly, or within the specified time without delay or interference.
- The offeror's reputation as determined by references and documented past performance history.
- The sufficiency of the offeror's financial resources.

#### **C-4 REQUEST FOR PROPOSALS - PROCEDURAL CHECKLIST**

##### **Frequency of Issuing RFPs.**

To the extent possible, in order to assure potential contractor's access to County business and to ensure that the County continues to receive competitive prices and the best available resources, RFPs for ongoing services should be, under most circumstances, issued at least once every three (3) years. This may be extended upon approval of the Purchasing Agent.

##### **Procedures.**

These procedures are generally applicable to all procurements that require competitive sealed proposals. Although the competitive sealed proposals are not required for professional service and consultant contracts under fifty thousand dollars (\$50,000), it may be desirable to develop an RFP if there is a competitive market for the required goods or services, or if conducting an RFP may result in better pricing or improved service. Departments are encouraged to contact the Purchasing Agent in determining when the use of a Request for Proposal is appropriate.

- Budget Considerations - Prior to an RFP or informal interview procedure being initiated, sufficient funds must be approved by the Board of Supervisors, or be already available in the Department's budget.
- Coordination and Planning - The RFP process normally involves the solution to a problem. The better the County clarifies its own thinking beforehand and communicates it to the prospective contractors, the more complete and acceptable the proposals received will be. The following issues may be considered:
  1. Definition of the problem to be solved. The problem must be clearly stated so that it can be understood and successfully addressed by potential offerors.
  2. Identification of what the successful offeror is to accomplish. This would include the desired approach to the problem; practical, policy, technological, and legal limitations; specific questions to be answered; description of the items to be delivered; format and number of copies of the completed reports; and the extent and nature of the assistance to be made available by the County to the successful offeror.
  3. Budgetary requirements and limitations.
  4. Estimated time frame including projected dates for award of contract, commencement of performance, progress reporting, completion, and payment.
  5. Preliminary listing of potential contractors.

#### **C-5 DRAFTING THE RFP**

The requesting department will develop a draft RFP that includes all of the legal, boilerplate, minimum requirements, and evaluation criteria necessary to the process. The draft may include some or all of the following as tailored to the specific project:

- Background discussion of San Benito County - population demographics, local economy, etc.
- General discussion of the scope of the services to be provided and minimum qualifications for participation.
- Discussion of current work method or services being provided.
- Description of the RFP procurement and award process.
- Identification of the proposal evaluation criteria and a clear statement that low bid will not be the sole basis of award.
- General Information: This will include the format to be followed in submitting proposals; a statement of the minimum qualifications required to participate in the RFP process; the name, address, and telephone number of the county's official contact for the RFP; the location, date and time proposals are due; and, instructions to submit one (1) original signed proposal and at least three (3) copies of the proposal prior to the final closing date and time.
- Special provisions, including any bid bond and performance bond requirements that may be required.
- General provisions.
- Standard County insurance requirements with minimum limits as determined by Risk Management.
- A draft copy of the County's professional services contract for review by prospective offerors (if possible, at time of RFP)

## **C-6 RECEIPT, OPENING, AND RECORDING OF PROPOSALS**

Proposals shall be submitted in a sealed envelope. Upon receipt, proposals shall be marked with the date and time of receipt and shall be stored in a secure place until the date and time set for the opening of proposals. Electronic, emailed, or faxed RFP's may be accepted **if** specified in the RFP. Telephonic or telegraphic will not be accepted. Proposals received after the advertised closing date and time will be considered non-responsive and will be rejected. The County bears no responsibility for the failure of the RFP to be received by the County by the due date.

On the date established in the RFP, the proposals shall be opened at the location specified in the RFP. Because RFPs are negotiable, they will not be opened in public, and proposal content and evaluation information will only be made available after an award recommendation has been made.

Each proposal must contain an original signature of a party authorized to act as an agent of the offeror. In general, an original signature contained anywhere in the proposal shall be sufficient to show intent to sign the proposal. If an electronic submission is allowed, an electronic signature may be allowed if allowed in the RFP.

Proposal information, including the company name of the offeror and any other pertinent information will be recorded on an abstract of proposals, which shall be signed by the opener.

## **C-7 EVALUATION OF PROPOSALS**

The proposals are reviewed by the issuing department to make sure the entire minimum, mandatory, and administrative requirements for the RFP are met. Those proposals not meeting the minimum, mandatory, and administrative requirements may be determined to be non-responsive and given no further consideration. Those proposals remaining after the initial review will then be forwarded to the evaluation panel for in-depth evaluation as set forth in the Request for Proposal. Evaluation of proposals will be made by the panel, who will note any exceptions and record each proposal's scores based on the established criteria. Scores shall be summarized and recorded when the evaluations have been completed.

## **C-8 DISCUSSIONS WITH OFFERORS AND REVISIONS TO PROPOSALS**

Discussions may be conducted with offerors who have submitted proposals determined to be reasonably susceptible of being selected for the award. Typically, the evaluation panel will conduct discussions and/or site visits with no more than the three (3) highest ranked offerors for the purpose of clarification of proposals and to assure full understanding of the scope of work and the requirements of the Request for Proposals. In conducting discussions, there shall be no disclosure of information derived from proposals submitted by competing offerors.

The offerors selected for further discussions shall be accorded fair and equal treatment with respect to any opportunity for discussion and revision of proposals, and such revisions may be permitted after submission and prior to award for the purpose of obtaining best and final offers. The evaluation panel may re-evaluate the proposals and revise proposal scores after discussions with the offerors, after receiving revised proposals, or after receiving best and final offers.

## **C-9 CONTRACT NEGOTIATION**

Once discussions with the offerors have been completed, the panel shall make a quantified evaluation of the proposals under consideration and shall rank the proposals accordingly. The evaluation panel shall then make a written award recommendation, which documents the reasons the top-rated proposal has been selected. After the panel has made an award recommendation, the specific terms and conditions of the contract shall be negotiated with the offeror's representatives by the Department, subject to approval by the County Counsel's office.

Typically, the original RFP and the offeror's proposal will be made part of the contract. The County's general insurance requirement and the final proposal are always included as an integral part of the contract. If not clearly defined in the proposal, the contract must include a cost and payment schedule as well as a specific implementation schedule for completion of services. Depending upon the final negotiated total contract amount, the contract may require action by the Board of Supervisors.

## **C-10 INTENT TO AWARD**

When negotiations have been completed, the Department shall notify in writing all offerors that submitted proposals of the award recommendation and the proposed award date.

**Exhibit "D"  
Vendor Application**



**COUNTY OF SAN BENITO**

**California Uniform Public Construction Cost Accounting Act  
(CUPCCAA) Informal Bid Application**

The Board of Supervisors of the County of San Benito has elected to become subject to the CUPCCAA procedures pursuant to Public Contract Code 22032. The COSB is inviting licensed contractors to submit their information for inclusion on the County's list of entities eligible to submit informal bids to the County. It does not pre-qualify the contractor for any formally bid project. Completion of the form below certifies that the contractor listed is requesting to be included in County of San Benito's list of eligible contractors to receive notices inviting informal bids.

**DATE OF APPLICATION:**

**1. CONTRACTORS' INFORMATION**

Firm Name:			
Contact Name and Title:			
Address:			
City:		State:	
		Zip code:	
Telephone:		Fax:	
Email Address:			
Alternate Contact Name and Title:			
Telephone:		Fax:	
Email Address:			
CA State License No.	License Classification	Expiration Date	
DIR #	Expiration Date		

**1.2. QUALIFICATION CATEGORIES** Check the applicable box for each trade category for which eligibility is requested. In addition to other qualification criteria, the Applicant must currently possess a valid and in good standing California Contractors' License required (as noted below) for each trade category for which qualification is requested. General Engineering (Class A), General Building (Class B) and/or Specialty (Class C) contractors should circle those categories of work in which they have specialized knowledge and skill, and in which they would be interested in participating in an informal bid project with the County. Please add license category if not included below.

	General Engineering Contractor	Class A
	General Building Contractor	Class B
	Residential Remodeling Contractor	Class B-2

	Specialty Contractor	Class C
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**CATEGORIES OF WORK**

	Asbestos Abatement	C-22
	Boiler, Hot Water Heating & Steam	C-4
	Building Moving, Demolition	C-21
	Cabinet, Mill Work & Finish Carpentry	C-6
	Concrete	C-8
	Construction Zone Traffic Control	C-31
	Drywall	C-9
	Earthwork & Paving	C-12
	Electrical (General)	C-10
	Electrical (Signs)	C-45
	Elevator Installation	C-11
	Fencing	C-13
	Fire Protection	C-16
	Flooring & Floor Control	C-15
	Framing, and Rough Carpentry	C-5
	Glazing	C-17
	Fencing	C-13
	Insulation & Acoustical	C-2
	Landscaping	C-27
	Lathing & Plastering	C-35
	Limited Specialty	C-61
	Lock & Security	C-28
	Low Voltage Systems	C-7
	Masonry	C-29
	Ornamental Metal	C-23
	Parking and Highway Improvement	C-32
	Pipeline	C-34
	Plumbing	C-36
	Roofing	C-39
	Sanitation System	C-42
	Sheet Metal	C-43
	Sign Contractor	C-45
	Solar Contractor	C-46
	General Manufactured Housing Contractor	C-47
	Reinforcing Steel	C-50
	Structural Steel	C-51
	Swimming Pool Contractor	C-53
	Ceramic and Mosaic Tile	C-54
	Warm-Air Heating, Ventilating and Air-Conditioning	C-20
	Water Conditioning	C-55
	Well Drilling	C-57
	Welding Contractor	C-60
	Limited Specialty	C-61
	Other (Describe)	

**Certifications** Unless allowed by law, Contractors with an asbestos certification can only perform abatement work within the license classification(s) they already hold. Hazardous substance removal certifications are only issued to contractors who hold an "A", "B", C-12, C-36, C-57, or C-61/D-40 contractor license.

	Asbestos Certification	
	Hazardous Substance Removal Certification	

**Mail or Email form to:**

**County of San Benito**  
**Attn: Purchasing Officer, County Counsel's Office**  
481 Fourth St., 2<sup>nd</sup> Floor  
Hollister, CA 95023  
Tel: (831) 636-4040 ext. 12  
Fax: (831) 636-4044  
Email: [bthompson@cosb.us](mailto:bthompson@cosb.us) with a copy to: [Legal@cosb.us](mailto:Legal@cosb.us)



***EXHIBIT "E"***  
***PROCUREMENT CARD POLICY***