

	<p>COUNTY OF KINGS California</p> <p>POLICY MANUAL</p>	<p>Number: 13-1 BOS Agenda Date: <u>August 24, 2010</u></p> <p>Bookmark: B2 (Electronic)</p>
<p>SUBJECT</p> <p>Purchasing Policy, County Wide</p>	<p>By Action of the Board of Supervisors</p> <p><input type="checkbox"/> Resolution</p> <p><input type="checkbox"/> Ordinance</p> <p><input checked="" type="checkbox"/> Policy</p> <p><input type="checkbox"/> Emergency Action</p>	
<p>DEPARTMENT</p> <p>Office of Information Technology Services, Purchasing Division</p>	<p>Effective Date: <u>August 24, 2010</u></p> <p>Revision Date:</p> <p>Last Reviewed:</p>	

PURCHASING POLICY

I. STATEMENT OF POLICY

The County of Kings has created this purchasing policy (Policy) to ensure that the County's expenditures are adequately executed and tracked, in order to minimize costs for the County's goods and services.

The Policy will provide guidelines for underlying principles of procurement to (1) Promote open and free competition for County purchases and contracts; (2) Promote financially feasible procurement for the County; (3) Assure adherence to local, state, and federal laws and regulations, including Government Code and Public Contract Code, as they relate to procurement and Public Works projects; (4) Promote an ethically professional relationship with vendors and contractors; (5) Provide remedies and resolutions of contractual claims and disputes.

The County of Kings shall centralize its purchasing function to (1) increase its buying power; (2) utilize pre-bid contracts and/or cooperative agreements where feasible; (3) improve vendor relations by providing a central point of contact for departments and vendors alike.

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III. DEFINITIONS As used in this policy, the definitions of the following terms shall mean:

- **BID**—A comparative price offer made by an intended seller in reply to an invitation for bid or request for quotation.
- **Blanket Purchase Order**—A purchase order issued to a specific vendor for a specific period of time for items or services when it is determined that immediate acquisition is in the best interest of the County.
- **Buyer**—The Purchasing Manager or designated special deputies.
- **Cal Card**—Procurement card under California Department of Goods and Services, utilized as a payment mechanism for authorized County personnel.
- **Contractor**—Any manufacturer, supplier, vendor, builder, professional corporation or individual doing business by contract with the County.
- **County**—Kings County, a government agency.
- **Disadvantaged Business Enterprise (DBE)**—A program designed to encourage the participation of qualified small, minority and woman-owned businesses in the County's purchasing activity.
- **Emergency Procurement**—Circumstances that may threaten the public health or safety, or threaten the County's welfare through loss of property or program that do not lend themselves to following standard County procurement processes.
- **Equipment**—Those items used in performing a task which are basically non-consumable.
- **Family Member**—Spouse, parents and grand parents, children and grand children, brothers and sisters, mother in law and father in law, brothers in law and sisters in law, daughters in law and sons in law. Adopted and step members are also included in immediate family.
- **Force Account**—Construction work performed by County labor.
- **Formal Bid**—Bid process in which solicitations are prepared and distributed by the Purchasing Division to include any and all vendors expressing an interest in doing business with the County for that service/commodity. Award made by Board of Supervisors.

- **Informal Bid**—Bid process in which solicitations may be sent by department or Purchasing Division; at least 3 quotes are sought to achieve a competitive bid for services or commodities. Award made by Department Head in agreement with Purchasing Division.

NOTE: *Public Works follows the Uniform Construction Cost Accounting Act,*

which allows for deviations from this definition.

- **Invitation for BID (IFB)**—See Request for Quote (RFQ).
- **Kickback**—A percentage of income given to a person in a position of power or influence as payment for having made the income possible.
- **Material**—A partially processed item which is yet to be brought into final form or a product which is to be used in conjunction with other items to construct a functional product or system.
- **May**—means that the procedure is optional.
- **Minority**—a group differing, esp. in race, religion, or ethnic background, from the majority of a population: *legislation aimed at providing equal rights for minorities.*
- **Minority Business Enterprise (MBE)**—A business concern that is all of the following:
 - ◆ At least 51 percent owned by one or more minorities, or in the case of a publicly owned business, at least 51 percent of the stock of which is owned by one or more minorities.
 - ◆ Managed by, and the daily business operations are controlled by, one or more minorities.
 - ◆ A domestic corporation with its home office located in the United States, which is not a branch or subsidiary or a foreign corporation, firm, or other business.
- **Purchase or Purchases**—shall mean any contractual arrangement or transaction involving payment: (i) for the acquisition of title to personal property; (ii) for the use by rental, lease or otherwise of personal property; (iii) for the provision of services by independent contract or otherwise; or (iv) any combination of the foregoing.
- **Personal Property**—Supplies, materials, livestock, furnishings, equipment, and personal property of whatever kind or nature, except materials furnished “in kind” in lieu of cash to indigents pursuant to State law.

- **Procurement**—The buying, purchasing, renting, leasing or otherwise obtaining of any materials, equipment, supplies, or services. Also included are all activities related to obtaining the above items.
- **Professional Services**—Services of attorneys, architects, engineers and other professional and/or technical consultants, individuals or organizations possessing specialized training and experience.
- **Proposal**—The assembly of documents which a contractor provides in response to a Request for Proposal. This will minimally include a discussion of the task or product, the intent of the contractor to provide the task or product, and cost involved.
- **Public Projects**—Construction, reconstruction, erection, alteration, renovation, improvement, demolition and repair work involving any publicly-owned, leased or operated facility, including painting or repainting of such facilities, and publicly-owned utility system construction, erection, improvement or repair of dams, reservoirs, powerplants, and electrical transmission line of 230,000 volts or higher.
- **Public Works Contract**—Any agreement for Public Projects, as defined above.
- **Purchasing Manager**—The Purchasing Agent for the County of Kings.
- **Purchase Order**—A written legal document signed by the Purchasing Manager stating all terms and conditions of purchase transaction or referring to such terms and conditions as may exist in an accompanying contract.
- **Purchasing System**—The combination of hardware and software system by which departments electronically enter requisitions.
- **Removal**—The permanent disbarment of a firm from doing business with the County.
- **Request for Proposal (RFP)**—The complete assembly of related documents (whether attached or by reference) furnished to a prospective contractor/supplier for the purpose of presenting a proposal for a County requirement. RFP's are subjective in that end users are asking the contractor/supplier to offer an approach on resolving a "problem" (consulting services, for example).
- **Request for Quotation (RFQ)**—The complete assembly of related documents (whether attached or by reference) furnished to a prospective contractor/supplier for specific products or services for the purpose of presenting a quote for a County requirement. RFQ's are objective in that each bidder will respond with a quote on a specific, tangible item (a 2010 Ford Taurus, for example).

- **Requisitioner**—The specific individual in a County department who initiates a requisition. It may also refer to the department represented by the requisitioner.
- **Salvage or Surplus Property**—Personal Property that is no longer useful to the County.
- **Services or Service**—shall mean any labor of specialized, short-term or an intermittent nature required in the conduct of operations of the County or Using Agency which may lawfully be performed by contract with private parties, and which excludes: (i) the work of constructing, altering or improving buildings, roads, sewer and drainage facilities and other public works; and (ii) any labor pursuant to any other contracting authority or limitation.
- **Shall, Must, and Will**—means that the procedure is mandatory.
- **Should**—means that the procedure is recommended.
- **Supplies**—Those products, often of a minor value, which are used outright and which are generally consumed through use.
- **Suspension**—The temporary removal of a firm’s name from bidder’s list and disqualification of that firm from doing business with the County for a specified period of time.
- **Transaction**—Completing the process of securing one or more items and making payment with the CAL CARD.
- **User**—The requisitioner or the County department which ultimately utilizes a product or service.
- **Using Agency**—shall mean the County of Kings or any board, commission, or joint powers agency to which the County is a party.

IV. ETHICAL CONSIDERATIONS

A. STATEMENT OF PHILOSOPHY

The primary purpose of Kings County Government is to serve the public of Kings County. To perform its mission effectively, the County must have the trust and confidence of the public it serves. That trust is dependent upon County employees discharging their duties honestly, objectively, and with personal integrity. To secure and maintain the trust and confidence of the public, County employees are committed to upholding the highest standards of ethical conduct. Of key importance in determining whether a particular action is proper or improper is how the action is perceived. The full measure of ethical review is not limited to the narrow confines of a specific job, task or department. The review must also determine whether the action gives the appearance of wrongdoing, inequity, impropriety, or the perception of misconduct when viewed by the public.

B. PROHIBITED ACTIONS

1. CONFLICT OF INTEREST REGULATIONS

a. PROHIBITION OF FINANCIAL INTEREST IN CONTRACTS

State of California Government Code Section 1090 prohibits any County employee or officer from having any financial interest in any contract made by them in their official capacity or by any body or board of which they are members. It also prohibits County employees or officers from being "purchasers at any sale or vendors at any purchase made by them in their official capacity." No officer or employee shall be interested directly or indirectly in any contract or transaction with the County. No officer or employee shall receive any commission, money, or thing of value, or derive any profit, benefit or advantage directly or indirectly, from or by reason of any dealings with, or service for the County, by himself or otherwise, except his lawful compensation as such officer or employee.

b. PROHIBITION OF INCOMPATIBLE ACTIVITIES:

State of California Government Code Section 1126 prohibits County employees or officers from engaging in any activity for compensation that is "inconsistent, incompatible, in

conflict with, or inimical to his or her duties as a local agency officer or employee or with the duties, functions, or responsibilities of his or her appointing power or the agency by which he or she is employed."

2. PROHIBITION OF KICKBACKS

This Policy strictly prohibits acceptance of gifts (valued over \$50) or gratuities from vendors, subcontractors and contractors. This includes the use of property or facilities, gift cards/certificates, travel and operating support, meals, entertainment or other favors of value extended to employees or their families that may be construed as a means of inducing business with the County.

3. VALUE ADDED SERVICES

It is not in the best interest of the County to request vendors to provide value added services without appropriate compensation. If additional services are required after contract award, the change should be negotiated and the contract amended.

4. PROHIBITION AGAINST CONTEMPORANEOUS EMPLOYMENT

Kings County Policy and Procedure Manual 10-3 Section IV A, prohibits any officer or employee of the County from accepting any non-county employment or undertaking any activity which otherwise creates a conflict of interest between such non-county employment and the employee's duties as a county employee.

5. UNETHICAL USE OF CONFIDENTIAL INFORMATION

It shall be unethical for any employee or former employee knowingly to use confidential information for actual or anticipated personal gain, or for the actual or anticipated personal gain of any other person.

6. SANCTIONS FOR ETHICAL VIOLATIONS

a. Employees. An employee who violates ethical standards may be disciplined in accordance with existing County of Kings Personnel Rules Chapter 10 and collective bargaining agreements in one or more of the following ways:

- (1). Oral reprimands;
- (2). Written reprimands;
- (3). Disciplinary suspension;
- (4). Administrative salary reduction;
- (5). Disciplinary demotion, or
- (6). Dismissal.

b. Vendors. The Purchasing Division may impose one or more of the following sanctions:

- (1). Written warnings or reprimands;
- (2). Termination of contracts;
- (3) Suspension from bid notifications and/or doing business with the County of Kings: or
- (4). Removal from bid list for County business and/or barred from doing business with the County of Kings.

7. EMPLOYEE INTEREST IN SUPPLIERS

In order to avoid any actual or apparent conflict of interest, purchasing personnel shall avoid making award decisions that affect their personal financial interest or that of a family member. Any such financial interest in a County supplier or bidder must be disclosed to the Purchasing Division immediately who will take action to have that person abstain from any further involvement in that acquisition.

8. PURCHASING FROM COUNTY EMPLOYEES

California State Government Code Section 1090 states "...employees shall not be financially interested in any contract made by them in their official capacity, or by any body or board of which they are members...". Any contract made in violation of this provision is void.

9. PURCHASING FOR PERSONAL USE

County of Kings employees shall not use their official capacity or County time to negotiate or make personal purchases for themselves or others. Employees must act purely in the best interest of the public at all times and avoid the introduction of personal factors.

V. METHODS OF PURCHASING

A. Competitive Bidding and Award Processes for all County Expenditures

All County procurement, with few exceptions (examples: utilities, telephone bills), shall be made through the Purchase Order process via the County's online Purchasing System. Any requirement over \$1,000 shall be competitively bid with all records of quotes and process used provided to the Purchasing Division with the requisition. Purchasing will review and process (or request additional information) requirements that meet the standards in this Policy.

B. Sole Source Procurement of Goods and Non-Professional Services

If the competitive process cannot be used to procure goods or the department feels that such a process would not be appropriate or in the County's best interest, a sole source justification (available from the Purchasing Division) for the purchase of goods only may be submitted to the Purchasing Division for approval.

If the dollar amount is not more than \$25,000 per single item and no more than \$50,000 per acquisition, the Purchasing Division may approve. Board of Supervisors' approval is required for sole source procurement of any single item costing more than \$25,000 and when any single acquisition totals more than \$50,000.

Any department requesting the issuance of a Blanket Purchase Order for the purchase of goods in excess of \$50,000 without the use of a competitive process must first get approval of the Purchase Order from the Board of Supervisors.

For non-professional services, departments may procure services not to exceed \$25,000 without using a competitive process with the Purchasing Divisions approval. Sole source requests for non-professional services in excess of \$25,000 must be submitted to the Board of Supervisors for approval. Examples of non-professional services may include, but are not limited to, the following: pumping services, furniture moving services, window cleaning services, and towing services.

Prior to seeking Board approval, the sole source request must be completed and forwarded to the Purchasing Division for review.

Exceptions to this policy may be made for utility services and purchases from other government agencies or from competitive contracts awarded by other government agencies.

C. CAL CARD Procedures

1. The Purchasing Division administers the Cal Card Program for the County. Except as prohibited by Section C.2.c below, Cal Cards may be used to make *authorized purchases* at any establishment that accepts credit cards. The merchant is responsible for obtaining authorization from the issuing bank for the transaction. Those transactions exceeding the single, daily, or monthly transaction limit, or that are for non-qualified purchases will not be processed. Department Heads are responsible for the proper use of the Cal Cards issued to employees and for insuring compliance with the policies and procedures provided in this section.

2. The Department Head may request the Purchasing Division to set up a department employee for the issuance of a Cal-Card and specify the approved Authorization Parameters. The Purchasing Division will complete the issuing bank Cal Card Cardholder Set-Up/Change Request form for each employee authorized by the Department Head to be issued a card. Issuing bank will forward the cards to the Purchasing Division. The Purchasing Division will forward the Cal Card and a Cal Card Acknowledgement Statement to the Department Head. The Cal Card Acknowledgement Statement must be signed by both the Department Head and employee to certify receipt of card and understanding of the Cal Card program. The signed Cal Card Acknowledgement Statement must be returned to the Purchasing Division. Each Cal Card will be issued a unique account number specific to the department and the employee (cardholder).

a. Lost or Stolen Cal Cards. Departments should promptly report lost or stolen cards to the issuing bank, which will immediately cancel the card and arrange for a new card to be issued. Any unauthorized charges incurred prior to notifying issuing bank are the responsibility of the

department, not to exceed \$50 in accordance with the Issuing bank Cal Card Agreement.

b. Cal Card Cancellation. When a cardholder leaves County employment or the Department Head rescinds the employee's authorization, it is the responsibility of the department to promptly destroy the card(s) and contact the Purchasing Division with a brief written explanation for cancellation. The department is responsible for any charges incurred after an employee leaves County employment if a request for cancellation has not been made.

c. Cal Card Restrictions, Single transaction levels cannot exceed amounts (typically \$2,500) set by the Department Head and agreed upon by the Purchasing Manager. Cal Cards shall not be used for any personal property items (office supplies or equipment, repair parts, equipment, fixed assets etc, except as allowed for below), cash advances, personal or professional services, purchases from foreign countries, or items with an associated contract or under a price agreement. Also, Cal Cards may not be used for non-corporation vendors that may require 1099-MISC reporting at year end.

d. Authorized Purchases using Cal Card. Cal Cards may be used for postage and post office box rentals, permits and fees, memberships, subscriptions, publications, seminars and training, training and technical materials (audio or video/cd/dvd), travel expenses (in accordance with the County of Kings Travel Policy), certain professional services where confidentiality may be an issue (drug testing, child abuse exams, etc), emergency procurement or payments where the normal purchasing procedure is not feasible, and generally any payment under \$50 authorized by the department head.

Card holders are strongly encouraged to use the purchase order process for all purchases.

e. Supporting Documentation. Approved purchases will require the employee's (cardholder's) signature verifying the items purchased, correct pricing and sales tax (when applicable). All charges must be supported by a sales draft. If the sales draft does not contain sufficient description to properly identify the items purchased, a detailed receipt or other supporting documentation by the merchant should be attached to the sales draft. Sales drafts and receipts are to be maintained by the department for three years from the

date of purchase for audit purposes and are considered public documents. The copy of the sales draft and any supporting receipts are used by the department to verify and reconcile the charges on the monthly statement from issuing bank and are to be submitted to the Department of Finance with the request for payment.

f. Cal Card Purchase Payments. At the close of each billing cycle, departments will receive a Statement of Account, which is the official invoice on which the Department of Finance will make payment. Departments must review the Statement of Account for accuracy and verify that each charge is supported by a sales draft. The Statement of Account and the Cal Card Certification signed by an authorized department employee are forwarded to the Department of Finance no later than 15 days from date of the statement. Habitually late statements may result in loss of card privileges. The Department of Finance will pay all charges as listed on the Statement of Account.

If a department discovers an invalid charge on their Statement of Account, they must first contact the vendor and attempt to have the charge reversed. If unsuccessful, cardholders must complete a Statement of Questioned Item Form and submit it to the Department of Finance. The form will be forwarded to Issuing bank for their review.

g. Unauthorized Cal Card use. Employees that misuse their Cal Cards will lose all card privileges and may be subject to disciplinary actions, up to and including termination. Cal Cards shall only be used by the employee to whom the card was issued. Any misuse will be reported to the Department Head by the Department of Finance during the auditing process.

D. FORMAL BIDDING REQUIREMENTS FOR CONSTRUCTION PROJECTS:

1. Any public project to be undertaken by the County the estimated cost of which exceeds \$125,000 must be let to contract through this formal bidding procedure, complying with the Public Contract Code, Government Code, Labor Code and resolutions of the County of Kings as may be adopted.
2. Plans and specifications for the work must be clear and concise and explain the work to be performed in a detailed fashion.

3. Bid documents must include a Notice Inviting Bids (or Notice to Contractors/Bidders) to include the following;
 - a. description of project;
 - b. where interested parties can obtain more information on the project;
 - c. provide date, time and location for submission of sealed bids, and
 - d. include any other information required by state or local law.
4. Notice Inviting Bids must be published and distributed in accordance with Public Contract Code Section 22037.
5. Bidders shall provide bid security when called for in bid documents in accordance to Public Contract Code and local and state law.
6. If no bids are received, the Public Works Director shall have the ability to recommend award of the contract by any alternative procedure acceptable to the Board of Supervisors.
7. The County may, in its sole and absolute discretion, reject any and all bids presented and may waive any minor irregularities in bids received. If, after the first invitation for bids, all bids are rejected, and after reevaluating its cost estimates for the project, the County shall have the option of any of the following:
 - a. Abandon the project;
 - b. Re-advertise as a new project;
 - c. Declare, by a four-fifths vote by the Board of Supervisors, that the project can be performed more economically by the employees of the County and have the project completed by force account.
8. Bids shall be awarded to the lowest responsive and responsible bidder in accordance with state and local law. County staff must review bids to ensure proper licensing of contractor, insurance requirements are met, references are valid, etc., prior to recommending award to the Board of Supervisors.

E. Informal Bidding Requirements For Construction Projects:

1. Any public project to be undertaken by the County the estimated cost of which is more than \$30,000 and less than \$125,000 may be let to contract through the informal bidding requirement as outlined by the California Uniform Construction Cost Accounting Commission.
2. A list of contractors shall be developed and maintained in accordance with the provisions of Section 22034 of the Public Contract Code and in accordance with criteria promulgated from time to time by the California Uniform Construction Cost Accounting Commission.
3. Where a public project is to be performed which is subject to the informal bidding provisions, a notice inviting informal bids shall be mailed to all contractors for the category of work to be bid, as shown on the list of contractors described in paragraph 2 above, or to all construction trade journals as specified by the California Uniform Construction Cost Accounting Commission in accordance with Section 22036 of the Public Contract Code. Additional contractors or construction trade journals may be notified at the discretion of the County provided however:
 - a. If there is no list of qualified contractors maintained by the County for the particular category of work to be performed, the notice inviting bids shall be sent only to the construction trade journals specified by the California Uniform Construction Cost Accounting Commission.
 - b. If the product or service is proprietary in nature such that it can be obtained only from a certain contractor or contractors, the notice inviting informal bids may be sent exclusively to such contractor or contractors.
4. The Public Works Director, with the written concurrence of the County Administrative Officer, is authorized to award contracts pursuant to the Informal Bidding procedure, subject to the requirement that the current adopted budget provides for the work.
5. Nothing in this Section shall prohibit the Kings County

Board of Supervisors, the Public Works Director, the Kings County Roads Commissioner, or the Kings County Purchasing Manager from utilizing the alternative procedures set forth in (1) Section 20390 of the Public Contract Code, or (2) Section 25500 of the Government Code.

F. Contracting for County Roads and Highways

1. Pursuant to the Public Contract Code Section 20395, the Board of Supervisors has authorized the Road Commissioner to contract any work upon County roads and highways.
2. The work may be done in any of the following ways:
 - a. By letting a contract covering both work and material, to the lowest responsible bidder.
 - b. By purchasing the material and letting a contract for the performance of the work. In which event, the material shall be bought at the lowest possible cost and the contract let to the lowest responsible bidder.
 - c. By purchasing the material and having the work done by day labor, without advertising for bids.
 - d. The Road Commissioner may execute changes for any contract in an amount not to exceed five thousand dollars (\$5,000) for any contracts of fifty thousand dollars (\$50,000) or less, or 10 percent for contracts over fifty thousand dollars (\$50,000), but not to exceed two hundred and fifty thousand dollars (\$250,000). In no event shall any change exceed a net total addition of twenty-five thousand dollars (\$25,000). For contracts whose original cost exceeds two hundred fifty thousand dollars (\$250,000), the extra cost for any change or addition to the work so ordered shall not exceed twenty-five thousand dollars (\$25,000), plus 5 percent of the amount of the original contract costs in excess of two hundred fifty thousand dollars (\$250,000). In no event shall any change or alteration exceed one hundred fifty thousand dollars (\$150,000) without Board of Supervisor approval.

- e. Highway work necessitated by the imminence or occurrence of a landslide, flood, storm damage, or other emergency that exceeds twenty-five thousand dollars (\$25,000) and the public interest and necessity demand immediate action to safeguard life, health, or property, letting the contract without advertising for bids is authorized.

G. Change Order Process for Construction Contracts

1. A change order is a written modification or addendum to an executed contract. In accordance with Public Contract Code Section 20142 and the limits contained in this section based on the contract amount.
2. The County Public Works Director has the authority to execute contract change orders for not to exceed a total of 10 percent of the contract value, but not exceeding \$25,000 per individual change order for Public Works Projects.
3. All change orders over \$25,000 are to be brought before the Board of Supervisors, but the change order work, if necessary to keep the project on schedule, budget or for safety reasons, may begin prior to approval.
4. It is preferred that no additional changes be authorized until the Board of Supervisors has approved the change over \$25,000.
5. Additionally, any changes above available funding sources shall require Board approval.

VI. PROCUREMENT PROCESS

A. Appointment of Special Deputies.

County of Kings ordinance no. 236, § 3, 4-1-58 grants the Purchasing Agent the authority to make any and all purchases on behalf of the County. In order to maximize efficiency and coordination in the purchasing process, the County Purchasing Manager, after approval from the Board of Supervisors, is authorized to designate Department Heads, or their designees, to perform specialized purchasing duties, pursuant to this Policy. The following is a brief list of designations authorized by the County Purchasing Manager:

1. The Public Works Director, or his/her designee, shall be assigned responsibilities for the control, maintenance and disposal of county vehicles and rolling stock.
2. The Public Works Director, or his/her designee, shall be assigned purchasing responsibilities for all Public Works Contracts.
3. The Kings County Fire Chief, or his/her designee, shall be assigned responsibilities for the control, maintenance and disposal of fire department vehicles, equipment, and fire apparatus.
4. The Kings County Road Commissioner shall be assigned purchasing responsibilities for all road and highway construction projects.
5. Department Heads, or their designee, shall be assigned duties and responsibilities for purchases using the Department's Cal Card(s).

B. Requisitions: A request for items or services to be purchased from vendors or contractors is submitted to the Purchasing Division via the on-line Purchasing System. Departments shall designate staff members authorized to initiate requisitions, and staff members authorized to approve the on-line requisitions. Contact the Purchasing Division to add/delete authorizations.

1. *Quotes.* When submitting a requisition, written quotations from at least three vendors should be provided to the Purchasing Division that includes the requisition number, invoice terms, price, delivery date, shipping charges, and any other information necessary. Advise the Purchasing Division if unable to secure quotes.

- a. If required or practical and reasonably ascertainable, quotes should include Disadvantaged Business Enterprises (DBE), Disabled Veterans Business Enterprises (DVBE), Minority Business Enterprises (MBE), Women Business Enterprises (WBE) and local vendors.
- b. The department may recommend the low bidder to the Purchasing Division as the suggested vendor.
- c. Properly completed requisitions and quotes may not be competitively bid again by the Purchasing Division provided the items are not fixed assets, or the total dollar amount is not more than \$25,000, and the low bid vendor is the suggested vendor. A Purchase Order should be prepared if these conditions are met.

2. Construction and Repairs. In accordance with Kings County Ordinance Number 536, any public project to be undertaken by the County the estimated cost of which is less than \$30,000 may be performed by Kings County employees by force account, by negotiated contract, or by purchase order.

- a. Any public project to be undertaken by the County the estimated cost of which is less than \$125,000 may be let to contract by the informal procedures identified in Section V, E.
- b. If over \$125,000, the formal bidding process is required as identified in Section V, D.

C. Purchase Order Purchase Orders (PO's) must indicate the selected vendor, expenditure accounts, the items ordered, price, quote or contract number, delivery location, billing address, and the terms of the transaction. The completed PO will result in an encumbrance against the department's budget. After the PO is issued, the original Vendor and Auditor copies are mailed to the requestor. Departments should verify the listed items or service with the original request submitted on the requisition to insure that the correct items or service has been solicited. After verification the Department may forward the original signed PO to the Vendor. Vendors may request that PO's be emailed to them through the online purchasing system. In this case, the vendor will have received their PO via email and the department need not mail, fax or email a copy.

D. Rentals and Leases for Personal Property. A purchase order is required to rent or lease personal property items. The Purchasing Manager will sign the rental/lease agreement on behalf of the County and issue the Purchase Order on those at or under \$25,000. A lease or rental over \$25,000 (total cost) requires Board

approval.

Booth and/or space rentals for job fairs, marketing of services, etc. may be processed using a purchase order or advance payment. If the County is required to execute an agreement, it may be executed by the Purchasing Manager (or Board of Supervisors, depending on dollar amount) upon approval as to form by County Counsel. If County Counsel believes the agreement requires the County to assume any unusual or unreasonable risk or liability, the agreement must be submitted to the Risk Manager for approval.

E. Real Estate/Real Property Leases. Any and all leases for real estate or real property shall be approved and signed by the Board of Supervisors.

F. Blanket Purchase Orders. To request a blanket purchase order, submit a requisition stating the items or service to be provided, the requested vendor, the duration, price agreement number when applicable, the anticipated amount of funds required, and a detailed justification. The Department of Finance will encumber the funds when the blanket purchase order is issued. Blanket purchase orders are subject to the bidding requirements set forth in this policy, sections VI, VII and VIII below.

G. Advance Payment

Postage, post office box rental, magazine and text subscriptions, membership dues, and training and technical materials on audio or videocassettes are expenditures that generally require advance payment. This payment can be made on the CAL CARD or by processing a Claim Authorization for Release of Funds.

For payment with a Claim Authorization for Release of Funds, submit a claim form to the Department of Finance which includes the information regarding the desired payment, such as item, cost per item, sales tax, shipping instruction, invoice number, and inclusive dates of subscription. Attach invoices, request for dues, etc., to the claim for proof of legal expenditure. The requesting department is responsible for determining the correct payee, payee address, and price. Warrants will be mailed directly to the vendors, except for postage, or unless otherwise requested.

H. Emergency Procurement of Goods/Services. Any procurement determined (by Board of Supervisors, Administration and/or Purchasing, depending on the situation) to be of an emergency nature shall be forwarded to the Purchasing Division for immediate action. If not feasible to contact the Purchasing Division, copies of

the paperwork (invoices, quotes if any, etc) shall be forwarded to the Purchasing Division with a written justification describing the nature of the emergency and the procurement process used.

VII. COUNTY CONTRACTS

The power to bind the County lies with the Board of Supervisors, County Administrative Officer and the Purchasing Manager. For contracts that can be executed by the Purchasing Manager, not to exceed \$25,000, the contracts should be submitted to the Purchasing Division, where they will be reviewed and, when applicable, forwarded to County Counsel. This should be done at least thirty working days prior to the anticipated starting date of the services. Contracts over \$25,000 require Board of Supervisor approval.

A. Department Responsibility The Department Head is responsible for the content of contracts handled by the department. The Department Head must be able to explain and to defend the business terms and conditions, specifically those terms and conditions that impose unreasonable and unusual liability and risk for the County.

1. The Purchasing Division, Department Head or his/her designee and County Counsel are fully responsible for preparation and negotiation of business terms, conditions, and substantive content of all contracts for goods or services provided to or managed by the department. The substantive content includes, but is not limited to, total cost, per unit costs, deliverables, delivery dates, performance specifications, warranties, termination provisions, insurance and indemnification provisions, and County audit requirements. County Counsel must review and comment on statutory compliance adequacy and accuracy of terms and enforceability of all contracts.

2. In negotiating with vendors, providers, consultants, experts, and any contractor, the Purchasing Division shall inform the contractor of the County terms and conditions or use a standard form of contract that contains such terms. The Purchasing Division and Department shall negotiate terms and conditions that are favorable to the County, that insure timely delivery of goods and services, and that protect the County's interests. If a contractor insists on the County using their standard form contract that does not comply with the County's standard terms and conditions, the Purchasing Division shall consult with County Counsel and Risk Management as soon as possible for guidance and assistance.

3. The Department Head is responsible for ensuring that the contractor is performing and complying with the terms and

conditions of the contract prior to payment being made.

- B. *Authority To Enter Contracts On Behalf Of The County* lie only with the Board of Supervisors, County Administrative Officer, and the Purchasing Manager, with the exception of Public Works contracts, which allows the Public Works Director authority to enter certain contacts discussed in Section V, D and E, of this Policy.
- C. *Common Types of Contracts.* What follows are the most common kinds of County contracts:

1. *Purchase Order.* The Purchasing Manager has authority to purchase all materials, supplies, furnishings, equipment, livestock, and other personal property (except election supplies), not to exceed \$25,000 per item, or \$50,000 for multiple line items. Board approval shall be required for purchases over these dollar amounts. Fixed assets shall be approved through the budget process (or by Board of Supervisors approval), but are still subject to County bid procedures.

2. *Leasing/Renting Furnishings/Equipment for County Offices.* The Purchasing Manager has authority to rent the furnishings and equipment for the various County offices, not to exceed \$50,000. Board of Supervisors approval shall be required for leases/rentals above this dollar amount.

3. *Service and Training Agreements.* The Purchasing Manager has authority to execute agreements for personal/professional services not to exceed \$25,000. Board of Supervisors approval shall be required for agreements over this dollar amount.

VIII. COMPETITIVE PROCESS FOR PERSONAL ITEMS (GOODS) AND PROFESSIONAL SERVICES AGREEMENTS

Contracts/Agreements in excess of \$25,000 for procuring personal property and professional services must be approved by the Board of Supervisors following a competitive Request for Proposal (RFP) process.

For goods and services not exceeding \$25,000, the RFP process must be used and the contract may be approved by the Purchasing Manager. If it is not possible to use an RFP process or the department feels that such a process would not be appropriate, or in the County's best interest, sole source procurement may be recommended with the Purchasing Managers approval. Goods and services over \$25,000, the department shall submit the sole source justification to the Board of Supervisors sufficiently justifying the procurement and requesting Board approval. (See Section V, B)

State or federal funding agencies may require other specialized procurement procedures, which must be integrated into the County procedure. When the funding agency requires a significant deviation from the County procedure, it is the requesting department's responsibility to properly and adequately notify the Purchasing Division, County Administrative Office, and other affected departments.

A. RFP Procedure

1. Each RFP process may vary somewhat due to different circumstances, however each RFP process must provide for the following:

a. The department prepares the scope of work or product specification, including a sample agreement (if for a service).

b. The department then forwards the scope of work or specification and sample agreement to the Purchasing Division for review and comment.

c. The Purchasing Division will attach the proper terms and conditions to the document, assign a County bid or quote number, and return it to the department or distribute it for them.

2. The department forms an RFP evaluation committee, made up of at least two individuals from an outside agency, and including the Purchasing Division if available. The evaluation committee selects a proposer, and an agreement

for goods or services is negotiated.

3. The agreement is forwarded to County Counsel for approval as to form and to the County Administrative Office for comment. Board approval is required for any contract over \$25,000.

B. General RFP Requirements.

It is recommended that one person be assigned to interact with potential proposers. All information in a response to an RFP, including price, timing, staffing, etc., shall be confidential until the evaluation committee makes a selection. For all RFP's, this individual shall be the Purchasing Manager or designee.

At a minimum, the RFP should include a statement of the purpose of the RFP, a complete description of the project or the goods or services to be obtained, a due date for return of the RFP which should include a specific time of day and a location, the specific criteria to be used in evaluating each proposal, and protest procedures. The scope of work or type of goods or services to be provided must be clearly defined. A sample agreement should be included whenever possible.

The RFP should request that the proposer indicate its understanding of the problem and work to be accomplished, outline the approach to obtain the result, detail the number of personnel and hours required for each major task, provide a cost and fee structure, and list related experience and references for like projects only. Verifiable milestone and time line charts should also be required. The Purchasing Division shall maintain an updated and standardized RFP template.

C. RFP Review

The RFP must be reviewed for legal form, relevant insurance requirements, and other items deemed necessary by County Counsel and Risk Management. The Purchasing Division shall review the RFP for general compliance with County procedures relevant to the acquisition of goods and services. The County Administrative Office may review the RFP for policy and procedural issues, and to ensure the service/product is budgeted and authorized. This process is to help assure that County policies and procedures are appropriately addressed in the RFP and the resultant agreement for services, and does not diminish the department's responsibility for issuance, adequacy, and compliance with policies and legal requirements.

D. Evaluation of Responses

The responses are evaluated against the established criteria in the RFP documents, and the top responders interviewed by the evaluation committee, if necessary. The evaluation should include a review of the general quality of the response, responsiveness to the RFP, quality of the firm, experience of the personnel, timeliness, price, past work and/or other criteria specific to the service requirements. Evaluations shall be scored as stated in the RFP documents. A summary of scores shall be kept on file in the Purchasing Division until such time as a contract has been executed.

E. Exemptions to RFP Procedure for Personal Service Contracts

Departments that determine they are eligible for an exemption to all or part of this procedure shall send a memorandum to the County Administrative Office and Purchasing Division justifying the reasons for the exemption along with supporting documentation. The exemption may be for a single RFP or a group of like RFPs (i.e. physician contracts, proprietary software, etc.).

F. Request for Quotation

The issuance of a Request for Quotation (RFQ) shall follow the same procedure as for a RFP. An RFQ shall not be used in place of an RFP in order to save time or shortcut the normal RFP process.

G. Personal/Professional Services and Speaker/Training Agreements

1. The Purchasing Manager is authorized to contract for personal or professional services in an amount not to exceed \$25,000 annually per contract and \$5,000 for agreements with speakers and trainers using the County of Kings pre-approved agreements. Any service in excess of these dollar amounts shall be brought before the Board for approval. Departments shall not break a project into segments in an attempt to circumvent the bid process. If evidence of such activity is present, the Purchasing Manager cannot sign the agreement and the department will be required to seek Board of Supervisors' approval.

2. If the personal or professional services agreement is in excess of \$25,000, the department must advise the Purchasing Division of the competitive process used in selecting the contractor, such as an RFP or similar process. This shall be done prior to seeking Board approval of the agreement.

3. If the competitive process cannot be used, or the department feels that such a process would not be appropriate or in the County's best interest, then a Sole Source justification memorandum shall be submitted to the Purchasing Division for approval at or under \$25,000, and over \$25,000 to the Board of Supervisors.

IX. PROCUREMENT AND APPLICABLE DOLLAR LIMITATIONS

A. The following is a brief guideline for the procurement of goods and services. This guideline identifies certain dollar limitations relative to the acquisition of specific types of goods and services.

1. *Construction Projects.* Any public project to be undertaken by the County the estimated cost of which is less than \$30,000 may be performed by Kings County employees by force account, by negotiated contract, or by purchase order. Any public project to be undertaken by the County the estimated cost of which is greater than \$30,000, but less than one hundred twenty five thousand dollars (\$125,000) may be let to contract by Informal Bidding requirements pursuant to Section VIII D. (See Section VIII E. above for Contracting for Roads and Highways)

It is a misdemeanor to split a project into two or more smaller projects to avoid the dollar limitations.

2. *Personal/Professional Services (\$25,000).* The Purchasing Manager is authorized to execute contracts for Personal/Professional Services when the total compensation to the vendor is not more than \$25,000. Personal/Professional Services exceeding that amount should go through the Request For Proposal process (Section VII), and should culminate with a Board approved contract.

3. *Fixed Assets (\$1,000).* Any single item (as determined by Finance to be a fixed asset) costing \$1,000 or more (this must include tax and shipping) must have a fixed asset account established and be approved by action of the Board of Supervisors either during the budget process or as Board agenda item. Fixed assets, upon approval in budget process or by the board, are subject to the bid process.

4. *Sole Source Purchase (\$25,000).* Any single item costing more than \$25,000 that is purchased without using the competitive bid process shall be authorized by the Purchasing Manager and/or Board of Supervisors. (Section VIII A)

5. *Personal Property* (not fixed assets) over \$1,000 shall have multiple (3 or more) competitive quotes, forwarded to Purchasing with the requisition. Purchases over \$5,000 and up to \$25,000 shall go through the informal bidding process (see RFQ VII G). Purchases over \$25,000 shall go through the formal bidding process and request approval to award from the Board of Supervisors.

X. PROTEST PROCEDURES

Any bidder, proposer, or contractor who is allegedly aggrieved in connection with the solicitation or award of a contract or purchase order may protest. Bidders are to be advised that protests of the process, terms, conditions or any other aspect of the solicitation, must be made prior to the bid or proposal due date. Bidders may not protest the contents of the specifications of the bid nor the award based on the use of the Local Vendor Preference. Protests must be transmitted by facsimile, email or by mail to the attention of the Purchasing Manager.

a. Protest of the award must be made immediately, and in no event later than five working days after the close of bids. All protests must include the following information: 1) the name, address, telephone number and email address of the protestor; 2) the signature of the protestor or protestor's representative; 3) the solicitation or contract number; 4) a detailed statement of the legal and/or factual grounds of the protest and all documentation supporting the vendor's position at the time of the initial protest; 5) the form of relief requested.

b. The Purchasing Manager or designee shall respond in writing within five working days to the protestor. If the protestant wishes to appeal the decision rendered by the Purchasing Manager, such appeal must be made in writing to the Board of Supervisors within five working days of the Purchasing Manager's response. Protestants must contact the Clerk of the Board to be scheduled on the Board's agenda for the very next available meeting. All information submitted to the Board must be presented to the Purchasing Division three working days prior to the Board meeting.

XI. LOCAL VENDOR PREFERENCE

County of Kings Ordinance #648, Article II of Chapter 9, Section 9-31 establishes local vendor preference. Whenever the Purchasing Division purchases supplies, materials and/or equipment for the County through the use of competitive bids or proposals, they will, in evaluating the price, bid or proposal for such supplies, materials and/or equipment, determine if the lowest responsible bidder is a local vendor as defined in this section, and if so, the contract shall be awarded to such local vendor. If the low bidder is not a local vendor, any local vendor who submitted a bid which was within five percent of the low bid or proposal announced by the Purchasing Manager shall have the option of submitting a new bid or proposal within forty-eight hours (not including weekends and holidays) of the time indicated in the bid documents for the bid opening. Such new bids or proposals must be in an amount less than or equal to the low bid or proposal announced by the Purchasing Manager. If the Purchasing Manager receives any new bids from local vendors who have the option of submitting new bids or proposals within said forty-eight hour period,

he/she shall award the contract to the local vendor submitting the lowest responsible bid. If no new bids or proposals are received, the contract shall be awarded to the original low bidder as announced by the Purchasing Manager.

XII. RECYCLED PRODUCTS

The County of Kings recognizes the importance of maximizing natural resources, and therefore shall adhere to the State of California Public Contract Code Section 12201, requiring state and local governments to procure and use recycled resources and products when the fitness and quality of the recycled products are equal to those products made from virgin materials.

a. When feasibly possible, all Kings County Departments shall purchase recycled products instead of non-recycled products whenever available at no more than the total cost of non-recycled products. All County users may give preference to the suppliers of recycled products. All local public agencies may determine the amount of this preference. The County of Kings standard preference for recycled content product shall be 5%.

b. County departments shall use recycled products and recyclable products whenever practical. Special emphasis shall be placed on the purchase of products manufactured with post-consumer recycled material. The County shall require its contractors and consultants to use and specify recycled products in fulfilling contractual obligations whenever practical.

END OF POLICY