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|  | <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>Information Technology Department, Purchasing Division</p> | <p>Effective Date: <u>August 24, 2010</u></p> <p>Revision Date: <u>May 24, 2016</u></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, and unless the context clearly indicates otherwise, 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 Quote.
- **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.
- **Department of Finance**—The Kings County Department of Finance.
- **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.

- **Personal Services**—Services of a non-professional nature, including examples of movers, window washing and carpet cleaning.
- **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 Quote (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

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. Any agreement entered into in violation of section 1090 is void.

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

Acceptance of gifts from vendors, subcontractors and contractors in exchange for or anticipation of or actual purchase of supplies, goods or services by the County or its employees is strictly prohibited. For any other gift situations, this Policy limits the acceptance and requires the disclosure of gifts consistent with each Department's Conflict of Interest Code and the Political Reform Act (Gov. Code Sections 81000-91014) and related regulations (Code of Regulations, Title 2, Sections 18110-18997). Government Code Section 89503 places limitations on local officials and public agency employees accepting gifts from any single source in a calendar year. This figure changes each year consistent with a Consumer Price Index traced by the Fair Political Practices Commission who administers the Act. The Gift rules are extensive and complicated. Please consult the Limitations and Restrictions on Gifts, Honoraria, Travel and Loans fact sheet summarized by the Fair Political Practices Commission and located at fppc.ca.gov/, under "Gift Limits and Honoraria. Should you have any questions regarding the FPPC gift rules, call the FPPC toll-free hotline at 1-866-ASK-FPPC (1-866-275-3772).

3. 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.

4. UNETHICAL USE OF CONFIDENTIAL INFORMATION

It is prohibited 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.

5. SANCTIONS FOR ETHICAL VIOLATIONS

a. Employees. An employee who violates conflicts of interest rules 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 on any vendor who engages in unethical conduct (e.g., by aiding, abetting, encouraging, or otherwise participating in the violation of any law, policy, or rule intended to avoid conflicts of interest by County employees, or the appearances thereof), in the implementation of a contract with the County or otherwise in connection with County procurement activities:

- (1). Written warnings or reprimands;
- (2). Termination of contracts in any instance where the vendor's conduct constitutes a breach of contract, including any breach of the implied covenant of good faith and fair dealing;
- (3). Suspension from bid notifications and/or from doing business with the County of Kings: or
- (4). Removal from bid list for County business and/or being barred from doing business with the County of Kings.

6. 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 Manager as soon as the interested employee knows or reasonably ought to know of the conflict. The Purchasing Manager will take action to have that person abstain from any further involvement in that acquisition.

7. 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. Nothing herein shall be construed to prevent an employee from taking advantage in his or her personal or private life of a discount program for public employees generally or professionals of a particular class, provided that no County resources are expended in seeking the discount without Board of Supervisors approval. Any such discount shall be sought honestly, without any actual or apparent abuse of power, and shall not be sought in connection with any purchase on behalf of the County or under circumstances where a reasonable third party observer might believe that the discount is being offered to influence the employee in his or her official capacity.

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 should 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.

If the dollar amount for goods is not more than \$50,000 per single item and no more than \$100,000 per acquisition, the Purchasing Manager may approve the competitive process and purchase. Board of Supervisors' approval of the competitive process is required for procurement of any single item costing more than \$50,000 and when any single acquisition totals more than \$100,000. Personal or

Professional services are approved by the Purchasing Manager up to \$50,000, over that amount must be approved by the Board of Supervisors.

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.

B. Sole Source Procurement of Goods and Personal Services

If the competitive process cannot be used to procure goods or services, 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 may be submitted to the Purchasing Division for approval.

If the dollar amount is not more than \$50,000 per single item and no more than \$100,000 per acquisition, the Purchasing Manager may approve the sole source justification and purchase. Board of Supervisors' approval is required for sole source procurement of any single item costing more than \$50,000 and when any single acquisition totals more than \$100,000.

Any department requesting the issuance of a Blanket Purchase Order for the purchase of goods in excess of \$100,000 without the use of a competitive process must first get approval of the Purchase Order from the Board of Supervisors.

For personal services, departments may procure services, either one time or on an annual basis, not to exceed \$50,000 without using a competitive process with the Purchasing Divisions approval. Sole source requests for personal services in excess of \$50,000 must be submitted to the Board of Supervisors for approval.

Prior to seeking Board approval, the sole source request must be completed and forwarded to the Purchasing Division for review. Sole Source Justification forms are available on the County Intranet under "Purchasing".

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, or his/her designee, 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 \$100 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. Subject to Public Contract Code Section 22035 (regarding emergencies), any public project to be undertaken by the County the estimated cost of which exceeds the dollar amount listed in Sections 22032 and 22034 of the Public Contract Code 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: (1) be clear and concise, (2) explain the work to be performed in a detailed fashion, and (3) comport with Public Contract Code Section 3400 and any other relevant law.
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. Subject to the notice requirements described in Public Contract Code Section 22038, Subdivision (a), 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. Prior to recommending award to the Board of Supervisors, County staff must review bids to ensure that contractors are appropriately licensed, insurance requirements are met, references are valid, Department of Industrial Relations registration requirements have been satisfied (if required of contractors and of the

County to verify), etc.

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 the dollar amount listed in Sections 22032 and 22034 of the Public Contract Code and less than the formal bid threshold also detailed in the Sections above, 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 alternative procedures otherwise allowed by law, including as set forth in (1) Section 20390, *et seq.* of the Public Contract Code, or (2) Section 25500, *et seq.* of the Government Code.

F. Contracting for County Roads and Highways

1. Pursuant to the Public Contract Code Section 20395 and subject to the limitations of Public Contract Code Section 22031, 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, following the procedures and dollar limits detailed in Section 20395 of the Public Contract Code.
 - 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 amounts not to exceed the dollar amounts specified in Section 20395 of the Public Contract Code,
 - e. Highway work necessitated by the imminence or occurrence of a landslide, flood, storm damage, or other emergency that exceeds the dollar amounts specified in Section 20395 of the Public Contract Code 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

A change order is a written modification or addendum to an executed contract. In accordance with Public Contract Code Section 20142, the Board of Supervisors may authorize their designee to order changes not to exceed the limits set and updated annually in the code section.

1. The County Public Works Director has the authority to execute contract change orders not to exceed a total of 10 percent of the contract value, and also not exceeding the dollar amount per change order listed in Section 20142 of the Public Contract Code.
2. Additionally, any changes above available funding sources shall require Board approval.

VI. PROCUREMENT PROCESS

A. Appointment of Special Deputies.

Kings County Ordinance Code Section 9-18 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.

Quotes. When submitting a requisition, written quotes 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.

1. If required under federal law, quotes (or bids if an open bidding process is used) should include Disadvantaged Business Enterprises (DBE), Disabled Veterans Business Enterprises (DVBE), Minority Business Enterprises (MBE), Women Business Enterprises (WBE) and local vendors as appropriate. In all cases, reasonable efforts should be made to solicit and encourage quotes from a broad and diverse range of businesses to maximize participation by all types of business enterprises while minimizing County costs for goods and services.

2. The department may recommend the low bidder to the Purchasing Division as the suggested vendor.

3. 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 \$100,000 in total, or \$50,000 for a single item purchase, and the low bid vendor is the suggested vendor. A Purchase Order should be prepared if these conditions are met.

- 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 may be 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 under \$100,000. A lease or rental over \$100,000 (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. More information about leases can be found in Section XII, regarding procurement procedures and persons with disabilities.

- 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, this section and VII and VIII.

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 Division, 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 \$50,000 for services and \$100,000 for goods, the contracts should be submitted to the Purchasing Division and County Counsel for review. This should be done at least thirty working days prior to the anticipated starting date of the services. Contracts over \$100,000 for goods, or \$50,000 for services, 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. Updated versions of standard forms for independent contractor agreements are

available from the County Counsel's office. It is recommended that the Purchasing Division or department head request the most recently updated standard form in all instances before commencing negotiations, as standard forms are updated regularly. The Purchasing Division and department head 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* lies only with the Board of Supervisors, County Administrative Officer, and the Purchasing Manager, except as otherwise provided for specifically herein.

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 \$50,000 per item, or \$100,000 per acquisition. 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 \$100,000 per acquisition. 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 \$50,000 per annual aggregate with the service provider. Board of Supervisors approval shall be required for agreements over this dollar amount.

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

Contracts/Agreements in excess of \$100,000 for procuring goods or \$50,000 for personal or professional services must be approved by the Board of Supervisors following a competitive Request for Proposal (RFP) process.

For goods and personal or professional services not exceeding \$100,000 or \$50,000 respectively, the RFP process should 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.

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 department, and at least one department representative. The evaluation committee selects a proposer, and an agreement for goods or services is negotiated.

3. As soon as the consultant is selected, the agreement is forwarded to County Counsel for approval as to form, and to the County Administrative Office for comment. Any changes to the form of the agreement subsequently negotiated with the consultant require County Counsel approval as to form, and if County Counsel is not included directly in the negotiations, the consultant should be notified of this requirement during negotiations. Board approval is required for any contract over \$50,000.

B. General RFP Requirements.

1. It is recommended that one person be assigned to interact with potential proposers. To the extent allowed under the Public Records Act, 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.

2. 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 absent extraordinary circumstances, which shall be reviewed in advance by County Counsel.

3. 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 appropriate. 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

Departments that determine they are eligible for an exemption to all or part of this procedure shall send a memorandum to the 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 Quote

The issuance of a Request for Quote (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.

IX. PROTEST PROCEDURES

Any bidder, proposer, or contractor who is allegedly aggrieved in connection with the solicitation or award of a contract 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 and proposers may not protest the contents of the specifications of the bid/RFP 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.

X. LOCAL VENDOR PREFERENCE

Kings County Ordinance Code 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.

XI. 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. 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.

XII. AMERICANS WITH DISABILITIES ACT (“ADA”) COMPLIANCE

- A. Use of public funds to purchase goods or services in violation of state or federal disability laws is prohibited.
- B. Purchasing personnel are encouraged to use funds budgeted for professional development to receive training relevant to ADA requirements, and in particular regarding the impact of goods purchased by the County on persons with mobility and dexterity impairments and other disabilities.
- C. Before leasing County property or entering into a lease with another party, it is advisable to have the premises surveyed by a CAsp. Every effort should be made to require the other party to the lease to remove access barriers as lease condition.
- D. Contracts with vendors providing programs and services on behalf of the County shall be required by contract to comply with the ADA and other state and federal disability laws, and to make the County’s ADA grievance procedures available to program participants.
- E. To the extent practicable, all purchases of large office equipment shall be made from a vendor with knowledge of disability access requirements so that furniture placement and layout will not result in access barriers or a violation of state or federal disability laws, including the U.S Access Board’s ADA Accessibility Guidelines.
- F. All audio-visual materials purchased by the County shall be captioned unless: (1) a particular audio-visual product is not available in a captioned format, (2) the department head requesting or purchasing the product deems it reasonably necessary to department operations, and (3) no reasonable alternative exists. Where a product is available in a captioned

format, but at a cost that is exorbitant relative to any uncaptioned format in which the product is also available, an exception to this policy may be made by the Purchasing Manager in consultation with County Counsel and the ADA Coordinator.

XIII. MISCELLANEOUS PROVISIONS

- A. This Policy exists for the benefit of the County as an entity, and nothing contained herein shall be construed to create an independent cause of action against the County.
- B. Should any part of this Policy be rendered or declared invalid by the decision of a court of competent jurisdiction, such invalidation of such part or portion of this ordinance should not invalidate the remaining portions thereof, and they shall remain in full force and effect.

END OF POLICY