

RESOLUTION NO. 2017-16

A RESOLUTION ESTABLISHING CURRY COUNTY PROCUREMENT PROCEDURES

WHEREAS, Curry County, State of New Mexico, acting by and through its duly elected Board of County Commissioners, hereinafter referred to as County, is authorized pursuant to Section 13-1-97, NMSA, 1978 Compilation, to establish a central purchasing office and establish guidelines for the purchases of materials and services by Curry County, New Mexico; and,

WHEREAS, in accordance therewith, Curry County (hereinafter referred to as "County") is required to designate a Chief Procurement officer; and,

WHEREAS, County hereby designates the Finance Department as the Curry County Procurement Office and the Finance Director as the Curry County Procurement Officer; and,

WHEREAS, it will be the responsibility of the Procurement Officer and his/her designee(s) to perform all duties and responsibilities under this Resolution in accordance with the State of New Mexico Procurement Code, Regulations and the Curry County Purchasing and Per Diem Policy; and,

WHEREAS, in accordance with State Statutes, the County Procurement Officer may delegate authority to subordinates as he/she deems necessary and appropriate; and,

WHEREAS, this policy shall also apply to all Curry County Elected Officials, Department Heads, and employees and is to be interpreted and enforced by the Curry County Manager with the assistance of the Chief Procurement Officer; and,

WHEREAS, Curry County Resolution 2014-60 and all other resolutions, regulations and policies which conflict with this Resolution and/or the County Purchasing and Per Diem Policy which is also adopted on this date, are repealed and from this date forward, all purchases made by, for or on behalf of Curry County shall be made in compliance with this Resolution.

NOW, THEREFORE BE IT RESOLVED THAT the attached document shall be adopted by the Board of County Commissioners of Curry County on this 21st day of February, 2017 as the method and manner for purchasing items for or on behalf of Curry County and/or paying for expenses, debts or obligations that are authorized and shall apply to all purchases made after the date hereof.

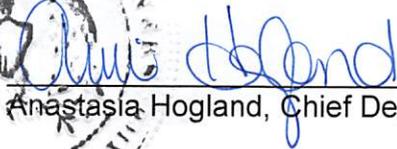
DONE THIS 21st DAY OF FEBRUARY, 2017.

CURRY COUNTY BOARD OF
COMMISSIONERS



Ben McDaniel, Chairman

ATTEST:



Anastasia Hogland, Chief Deputy Clerk/Acting County Clerk

PROCUREMENT PROCEDURES

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I. DEFINITIONS

- a. **Purchase.** For the purpose of this policy, a purchase is to be given a broad definition to include the execution of any expense to be paid out of County funds that have been approved in the budget by the Curry County Commission.
- b. **Purchasing Agent.** The Purchasing Agent shall be a County employee who will be responsible for the control of the procurement of items of tangible personal property, services and construction for Curry County. County's Purchasing Agent shall be certified by the State of New Mexico at the time of appointment and shall be responsible for recertification every two (2) years as required by §13-1-95.2 NMSA 2014. The Curry County Purchasing Agent shall be responsible for implementation of this Policy, as well as ensuring that the rules set forth in Resolution 2017-16 are complied with regarding any and all purchases.
- c. **Unauthorized Purchases.** Any purchase which is not within the County budget, or specifically approved by other County Commission action or which does not substantially comply with the provisions of Curry County Resolution Number 2017-16 establishing a central purchasing office and the provisions of this policy. Curry County is a tax exempt entity and, is not required to pay tax on any purchase of goods. All County purchases of goods should reflect the County's tax exempt status. The amount of taxes on any invoice where a tax exemption has not been taken may be an unauthorized purchase, depending upon the circumstances.

Any purchase which is not legally and appropriately approved shall be considered an unauthorized County purchase and thereby not subject to payment by the County. Any individual initiating or otherwise executing any unauthorized purchase is solely responsible for payment. All questionable purchases shall be submitted to the County Finance Director for review and determination under the provisions of this policy.

Unauthorized purchases may include, but are not limited to, the following:

- Splitting invoices to avoid departmental approval/credit limits
- Invoices one year or older
- Invoices that have been held and have accrued late charges/fees
- The amount of taxes on any invoice where a tax exemption has not been taken
- "Standard Purchases" where the invoice date is prior to the requisition date

d. Sole Source Contracts. A contract may be awarded without competitive sealed bids or competitive sealed proposals regardless of the estimated cost when the Curry County Finance Department and County Purchasing Agent determine, in writing, that:

- i. There is only one source for the required service, construction or item of tangible personal property;
- ii. The service, construction or item of tangible of personal property is unique and this uniqueness is substantially related to the intended purpose of the contract; and,
- iii. Other similar services, construction or items of tangible personal property cannot meet the intended purpose of the contract.
- iv. The County Purchasing Agent shall use due diligence in determining the basis for the sole source procurement, including reviewing available sources, and shall include its written determination in the procurement file.
- v. The County Purchasing Agent shall conduct negotiations, as appropriate, as to price, delivery and quantity in order to obtain the price most advantageous to Curry County.
- vi. Curry County shall not circumvent this section by narrowly drafting specifications so that one predetermined source would satisfy these requirements.

No sole source contract shall be approved unless all of the statutory requirements, as well as the requirements of Curry County Purchasing and Per Diem Policy have been followed and complied with.

e. Emergency Purchase. The County Purchasing Office may make emergency procurements when there exists a threat to the public health, welfare, safety or property requiring procurement under emergency conditions; provided that emergency procurements shall be made with competition as is practicable under the circumstances.

An emergency condition is a situation that creates a threat to public health, welfare or safety such as may arise by reason of floods, fires, epidemics, riots, acts of terrorism, equipment failure or similar events, and includes the planning and preparing for an emergency response. The existence of the emergency creates an immediate and serious need for services, construction or items of tangible personal property that cannot be met through normal procurement methods, and the lack of which would seriously threaten:

- i. The functioning of Curry County government;

- ii. The preservation or protection of property; or,
- iii. The health or safety of any person.

Emergency procurements shall not include the purchase or lease purchase of heavy road equipment.

The County Purchasing Office shall use due diligence in determining the basis for the emergency procurement and for the selection of the particular contractor. The determination shall be in writing and shall be included in the procurement file. All funds expended for planning and preparing for emergency response shall be accounted for and reported to the legislative finance committee and the department of finance administration and administration within sixty (60) days after the end of each fiscal year.

No sole source contract shall be approved unless all of the statutory requirements, as well as the requirements of Curry County Purchasing and Per Diem Policy have been followed and complied with.

- f. **Urgent Purchase.** An urgent purchase is a local or non-local purchase during or after normal working hours that justifiably requires immediate purchase and which cannot reasonably or practicably be communicated to the Finance and Purchasing Department to obtain a purchase order number prior to the purchase being made. The purchase, no matter how urgent, must otherwise fully comply with the other terms and conditions set forth in this policy.
- g. **Authorized User.** Those individuals authorized by the Curry County Manager, Elected Officials or Department Heads who can purchase under this policy. An authorized user shall receive and sign for a copy of this policy; and, such purchasers shall be responsible for the knowledge and compliance of this policy's provisions. All authorizations shall be in writing and submitted to the Purchasing Agent. Any authorization shall include the signature of the authorized users.
- h. **Standard Purchase.** Standard purchases are defined as systematic, planned and necessary purchases for the administration and operation of a project and/or department.
- i. **P-Card Purchase.** Curry County has authorized the use of a Visa purchasing card to streamline and simplify the purchasing and payment process for small dollar transactions. These purchases are referred to as P-Card Purchases and the policy pertinent thereto is set forth herein Section II of Resolution 2017-17 A Resolution Adopting Curry County Purchasing and Per Diem Policy.
- j. **Invoices.** An invoice is an itemized statement submitted by the vendor to

Curry County for the payment of goods and/or services that have been delivered to the County.

- k. **Vendor.** Any person, business or other entity that sells or provides goods or services to Curry County.

I. **GENERAL PROVISIONS**

These provisions shall pertain to, regulate and govern all purchases and expenditures made by, for and on behalf of Curry County beginning the effective date of this policy and continuing thereafter said policy is amended, modified and/or rescinded. The provisions of this policy are mandatory for any Elected Officials, Department Heads and employees. The failure of any Department Heads or employees to follow these procedures can result in a disciplinary action, up to and including termination. It shall be the County employees' obligation to familiarize themselves with the terms of this policy. Any difficulties, problems or concerns regarding this policy should be brought to the attention of the Finance Department, which has been designated by the Curry County Commission as the Purchasing Office.

- a. **Applicability.** This policy shall apply to all purchases made with County funds. All Elected Officials, Department Heads and employees shall receive and sign for a copy of this policy and, as such, shall be responsible for the knowledge and compliance of this policy's provisions.
- b. **Approved Vendors.** The Purchasing Office shall maintain a current list of vendors with whom the County does business.
- c. **Administration.** The responsibility for the administration of the provisions of this policy shall be under the Curry County Manager. The County Manager shall have the responsibility and authority to insure that all provisions of the law and this policy are followed and shall be authorized to issue any supplement consistent with this policy that is deemed necessary to administer, manage or clarify this policy. All supplements shall be attached to and made a part of this policy. Upon the absence of the County Manager, the Finance Director will be responsible for the approval of the provisions set forth in this policy.
- d. **Authority and Responsibility.** Only authorized users are allowed to make purchases with County funds. User authorizations shall be submitted to the Purchasing Office and shall include the name(s) and written signatures of all authorized users and shall be signed by the Elected Official or Department Head. User authorization shall be reviewed/updated at least annually.

Any and all expenditures, regardless of how made, by P-Card or otherwise, must be charged to the correct budget line item.

- e. **Solicitation.** Solicitations by private companies or their agents of County employees on County time that are not welcomed or approved by the Elected Officials or Department Heads are prohibited, except upon the written approval by the County Manager or the County Commission. Regardless of whether the solicitation is requested or approved, no County employee shall receive any gratuity or item from a potential vendor, pursuant to the New Mexico Procurement Code and Regulations.

II. COMPETITIVE PURCHASES

General purchasing guidelines for professional services, construction or items of tangible personal property as follows:

- a. **\$0 to \$20,000.** Purchases that fall within this dollar limit may be processed without quotes. An award can be made without securing competition if the purchaser determines that the purchase is the best obtainable price for the County.

Any tangible equipment or other item, not supplies, that are purchased at a price of \$5,000.00 or more, will be tagged and inventoried separately and will be the responsibility of the individual departments. Each department shall assign a custodian who will be responsible for the inventory system for that department.

- b. **\$20,001 to \$60,000.** Written Offers Required. Except for the services of landscape architects or surveyors, State Public Works projects, or Curry County Public Work projects without a formal bid. Prior to obtaining said contract, the County Purchasing Office shall examine its current list of potential offerors, if any, and make a legitimate good faith effort to contact at least three (3) businesses and obtain written offers, before selecting a contractor. If more than one (1) business is contacted, the contents of any written or oral offer of one (1) business shall not be disclosed to another business until after the award is made. For any contract, the County Purchasing Office shall negotiate for the required services at a fair and reasonable price.
- c. **Above \$60,000.** All purchases exceeding \$60,000 require formal bid procedures as specified by the State Procurement Code and shall be processed and executed by the Chief Procurement Officer through formal procedures. Such purchases must be approved in the current budget. Purchases not approved in the current budget require approval by the County Manager in the event that they are in excess of budgetary limits.

d. **Exceptions to Professional Services.** For each public works project, architectural, landscape architectural, construction management, engineering and surveying services will be procured in accordance with Sections 13-1-120 through 13-1-123, NMSA, 1978.

i. Professional services, not exceeding \$60,000, may be procured utilizing an approach that would be in the best interest of the citizens of Curry County. Otherwise, the following professional service procurement process shall be adhered to:

ii. **\$60,001 and above:** Any Professional Service (excluding architectural, landscape architectural, construction management, engineering and surveying services) exceeding \$60,000 requires a formal Request for Proposal, as specified by the State of New Mexico Procurement Code and Regulations; and, shall be processed and executed by the County Purchasing Office through formal procedures.

III. **SOLE SOURCE AND EMERGENCY PROCUREMENTS – PUBLICATION OF AWARD – CONTENT AND SUBMISSION OF RECORD**

a. At least thirty (30) days before a sole source contract is awarded, the Chief Procurement Officer shall either post notice of the intent to award a sole source contract on the Curry County website. The notice shall identify:

- i. The parties to the proposed contract;
- ii. The nature and quantity of the service, construction or item of tangible personal property being contracted for;
- iii. The contract amount;
- iv. The contractor's name and address;
- v. The amount and terms of the contract;
- vi. A listing of the services, construction or items of tangible personal property procured under the contract;
- vii. Whether the contract was a sole source or emergency procurement contract; and,
- viii. The written justification for the procurement method.

b. Sole source procurement is not favored and Curry County shall only use sole source and emergency procurement(s) as necessary and only upon complete disclosure and full compliance with this Policy **and** state law.

c. Prior to the award of a sole source procurement contract, the Chief Procurement Officer shall post the information described in Subsection a. of this Section IV on the Curry County public website.

d. The Chief Procurement Officer may make an emergency procurement when there exists a threat to public health, welfare, safety or property requiring

procurement under emergency conditions; provided that emergency procurements shall be made with competition as is practicable under the circumstances.

An emergency condition for purposes of this Policy is defined as a situation that creates a threat to public health, welfare or safety such as may arise by reason of floods, fires, epidemics, riots, acts of terrorism, equipment failures or similar events and includes the planning and preparing for an emergency response. The existence of the emergency condition creates an immediate and serious need for services, construction or items of tangible personal property that cannot be met through normal procurement methods and the lack of which would seriously threaten:

- 1) The functioning of government;
- 2) The preservation or protection of properties;
- 3) The health or safety of any person.

Emergency procurements shall not include the purchase or lease purchase of heavy road equipment.

The Chief Procurement Officer shall use due diligence in determining the basis for the emergency procurement and for the selection of a particular contractor. The determination shall be in writing and included in the procurement file.

All money expended for planning and preparing for an emergency response shall be accounted for and reported to the Legislative Finance Committee and the Department of Finance and Administration within sixty (60) days after the end of each fiscal year.

- e. Curry County Purchasing Office shall maintain, for a minimum of three (3) years, records of sole source and emergency procurements. The record of each such procurement shall be public record and shall contain:
 - i. The contractor's name and address;
 - ii. The amount and terms of the contract;
 - iii. A listing of the services, construction or items of tangible personal property procured under the contract;
 - iv. Whether the contract was a sole source or emergency procurement contract; and,
 - v. The written justification for the procurement method.

IV. EXEMPTIONS

All purchases made by Curry County, by Curry County personnel and/or for and on behalf of Curry County shall comply with the provisions in this Policy unless,

one of the exemptions set forth and identified in §3-1-98, NMSA 2016 applies. Unless specifically innumerate in §3-1-98, NMSA 2016, as amended, all other procurements shall comply with the New Mexico Procurement Code and this Resolution. If there is a difference or variance in the New Mexico Procurement Code, as amended, and this Procurement Resolution, the New Mexico Procurement Code, as amended shall prevail.

V. STATE OR FEDERAL PURCHASING CONTRACTS AND COOPERATIVE BID EXCEPTIONS

Quotations or bids are not required for purchases under this section. Purchases may be made providing that the vendor has a State of New Mexico or Federal purchasing contract or a qualified, documented procurement done by another State. Any such purchase must include appropriate written authorization for Curry County's use, either in the original solicitation or in writing by both the original procuring agency and the vendor. The Purchasing Office shall keep copies of all Federal, State or other such contracts for a period of seven years. Federal and/or State contracts must be attached to the permanent copy of the purchase order. The County may purchase items cooperatively through another public body's bid process consistent with State regulations.

VI. FORMS

All applicable forms to be used to follow and comply with the provisions of this Resolution are attached hereto together with Table of Index. These forms shall be used for all purchases and procurements and cannot be changed, altered or amended without the prior written approval of the Board of County Commissioners of Curry County.

DONE THIS 21st DAY OF FEBRUARY, 2017.

CURRY COUNTY BOARD OF COMMISSIONERS



Ben McDaniel, Chairman



Anastasia Hogland, Chief Deputy Clerk/Acting County Clerk