

OFFICE OF PROCUREMENT SERVICES

Purchasing and Acquisition Procedures

Effective xx/xx/xxxx, this purchasing and acquisition procedures supersedes the entirety of the previous purchasing procedure manual under which had been in effect as of April 21, 2004

GENERAL INDEX

1. Introduction and Basic Policy	1
2. Procurement Authority and Organization	2
3. Vendor Registration	5
4. Advance Acquisition Planning	6
5. Market Research	6
6. Requisition	8
7. Specification/ Scope of Work (SOW) Checklist	9
8. Small Purchases (\$2,500 or less)	10
9. Purchases exceeding \$ 2,500 up to and including \$25,000	12
10. Purchases exceeding \$25,000	15
11. Specific Negotiated Acquisition Procedures	21
12. Rejection of Bids/Proposals	25
13. Vendor Pool Agreements/Contracts	26
14. Accessing Contracts from Other Government Agencies	27
15. Limited Competition Acquisitions	28
16. Emergency Purchases	29
17. Unauthorized Purchases	31
18. Contract Modifications / Change Orders	31
19. Monitoring and Reporting Vendor Performance	33
20. Bonds/Insurance	34
21. Right to Audit	35

1. INTRODUCTION AND BASIC POLICY

The purpose of this purchasing and acquisition procedures is to provide:

- a detailed description of the procurement policies of the County
- a guide to the related implementing procedures applicable to County departments in general, and most specifically to the County's Office of Procurement Services (hereafter referred to as OPS)

This purchasing and acquisition procedures is not intended to provide detailed descriptions of each aspect of all department-internal specific procedures utilized by OPS. Such supplemental detail is set forth in written procedures established by OPS on an as-required basis. However, this purchasing and acquisition procedures is intended to provide sufficient procedural detail to enable County departments, other governmental entities, and the vendor community, to:

- be fully aware of, and comply with, County procurement policy
- effectively participate in the County's procurement program

Although additional detail is provided in following sections of this purchasing and acquisition procedures, the basic procurement policies of Luzerne County are as follows:

That procurement actions are conducted on the basis of full and open competition to the greatest degree possible, with award being made to:

- **the low responsive responsible bidder under Invitations to Bid**
- **the best value proposer under Requests for Proposals**
- **the highest ranked technical proposer(s) with which a fair and reasonable price was subsequently negotiated under solicitations that do not involve pricing as an initial competitive selection factor.**

- That all specifications or statements of work included in County procurement actions accurately describe the essential needs of the County, and contain no artificial or arbitrary requirements that limit competition or increase cost.

- That each procurement action is conducted in accordance with the best interests of the County, and with the highest level of integrity and fairness to all involved parties throughout the acquisition cycle.

- That all County procurement operations be conducted in full compliance with ethical standards to be maintained within the purchasing function.

In furtherance of the above policy declaration, and in the absence of disparity

studies that support a need for preferential treatment of any given socio-economic vendor group; the County has not incorporated any vendor preference programs into its purchasing policy and procedure at this point in time.

2. PROCUREMENT AUTHORITY AND ORGANIZATION

Procurement Authority

All procurement authority for Luzerne County government operations derives from the Home Rule Charter. All County procurement policy is either established by, or approved by, the County Council. Certain procurement authorities of the County Council have been delegated to the County Manager. These specific delegations are implemented by this purchasing and acquisition procedures. In addition, this purchasing and acquisition procedures confirms various re-delegations of authority from the County Manager to the OPS and other department directors. The primary delegations and re-delegations of authority relating to initial award of contracts or other agreements are set forth below. Other procurement-related delegations of authority from the County Council, and associated re-delegations from the County Manager, such as those related to contract modifications and emergency, limited competition, or unauthorized purchases, are set forth in corresponding sections of this purchasing and acquisition procedures as detailed in the table of contents. As a matter of clarification, the word “contract” is used in this purchasing and acquisition procedures to denote any of the full range of purchasing arrangements that may be used by the County wherein goods or services are acquired from private sector sources.

The delegations set forth below refer to “one-time” and “indefinite delivery/indefinite quantity” contracts. A “one time” contract is the individual acquisition of single or multiple end product items or services to be delivered within a specified timeframe. The purchase of fixed price scheduled services on a continual annual basis does not fall within the definition of “one time” purchase. A “Indefinite delivery/indefinite quantity” contract is the acquisition of goods or services on a continuous or as-required basis within a specified contract duration period.

Contract award delegations of authority by the County Council to the County Manager, and further re-delegations of these authorities to the Office of Procurement Services, are as follows:

- Award of any “one-time” contract having a total value of \$25,000 or less. This authority is hereby re-delegated in full to the OPS director and all senior contracting officers within OPS when award is being made in accordance with the conditions stated in bold print in Section 1 of this purchasing and acquisition procedures .
- Award of any “Indefinite delivery/indefinite quantity” contract having an estimated annual value of less than \$25,000 in any future calendar year for which no budget has been adopted, or less than \$75,000 in the aggregate in any two or more future calendar years for which no budgets have been

adopted. This authority is hereby re-delegated in full to the OPS director and OPS senior contracting officers when award is being made in accordance with the conditions stated in bold print in Section 1 of this purchasing and acquisition procedures.

- Any exercise of any option to renew under any “Indefinite delivery/indefinite quantity” contract. This authority is hereby re-delegated in full to the OPS director and OPS senior contracting officers. County Council approval is required to exercise any option under a Indefinite delivery/indefinite quantity contract awarded within the County Manager’s authority if any current year annual expenditure under the contract is less than \$25,000 for which budget has been adopted or less than \$75,000 in the aggregate in any two or more future calendar years for which no budgets have been adopted.

- Issuance of any work, task, or purchase order under any “Indefinite delivery/indefinite quantity” contract unless otherwise directed on a case-by-case basis by the County Council. This authority is hereby re-delegated in full to the OPS director and OPS senior contracting officers.

The County Manager hereby re-delegates to the Department Directors:

- Authority to purchase of goods or services having a one time, or an item-specific annual aggregate, cost of \$ 2,500 or less. Department directors may further re-delegate this authority in writing.
- Authority to purchase goods and services in a true emergency situation regardless of dollar value (but subject to ratification requirements in Section 16 of this purchasing and acquisition procedures).

The annual dollar value of “Indefinite delivery/indefinite quantity” contracts can vary from previous or estimated annual values due to a wide range of factors. Therefore, a summary report on such contracts will be provided on a quarterly basis to the County Council. This report will identify all “Indefinite delivery/indefinite quantity” contracts that are anticipated to exceed \$25,000 in annual value. The report will include the actual expenditures for the current fiscal year, and if available, the actual expenditures for the previous fiscal year. Indefinite delivery/indefinite quantity contracts awarded during the current fiscal year will be specifically noted in each new quarterly report.

Any contract award authority not specifically delegated in this purchasing and acquisition procedures, or by other County regulation or statute, remains within the sole authority of the County Council. It is specifically noted that the above delegations do not apply to contracts that involve the lease or purchase of real property. Unless dictated otherwise by County statute or other regulation, all County contracts or agreements for the purchase of goods or services having a value in excess of \$ 2,500 will be signed by the designated OPS contracting officer (or the OPS director) after all required approvals are completed.

Procurement Organization

The Luzerne County Office of Procurement Services (OPS) is the sole purchasing agency of Luzerne County government. Acting under the authority of the County Manager, it is the responsibility of OPS to issue and maintain procurement procedures and guidelines pertaining to the County's procurement operations. It is also an OPS responsibility to issue solicitations and complete the award process (at the threshold levels established within this purchasing and acquisition procedures) on behalf of County departments. The primary OPS goal is to ensure the County receives the goods and services it requires in a timely and cost-effective manner while maintaining full compliance with established procurement policy.

The policies and procedures, set forth in this purchasing and acquisition procedures apply equally to revenue expenditure and revenue producing purchases. These policies and procedures apply equally to OPS, and County departments outside of OPS, that solicit quotations, bids, or proposals from the commercial market.

The primary user department for any specific purchase is ultimately responsible for the preparation and review of any technical specifications, statement of work, or other technical description of the goods or services to be purchased. OPS will provide appropriate assistance in this regard, especially in support of Advance Acquisition Planning as discussed in a following section of this purchasing and acquisition procedures. The primary user department, either independently or in conjunction with other departments, is also responsible for providing technical review and evaluation of vendor responses to solicitations in the manner, time frame, and degree specified for the specific purchase.

To obtain the best value for the taxpayer and to promote integrity throughout the acquisition cycle, OPS is mandated to utilize a competitive solicitation process, with the award being made to the low responsive responsible bidder, or best value proposer. Procedures intended to implement this mandate are set forth in this purchasing and acquisition procedures, as are exceptions to the use of full and open competition when such action is determined to be in the best interest of the County. All County purchases except those specified in the following paragraph shall be made in compliance with the policies and procedures set forth in this purchasing and acquisition procedures. No person may make any purchase utilizing County funds unless specifically authorized to do so by established County policy, procedure, or other directive from the Board of County Council or the County Manager. Payment for any unauthorized purchase may be the responsibility of the person placing the order (see the "Unauthorized Purchases" section of this purchasing and acquisition procedures for further detail in this regard).

Specific Exclusions from Competitive Procurement Procedures

Certain purchases made by the County are considered appropriate for direct, rather than competitive, purchase. Such actions are therefore excluded from the competitive procurement procedures set forth in this purchasing and acquisition procedures.

Purchases specifically authorized for non-competitive procurement activity are as follows:

- Purchases from Local Piggyback Purchasing Program and purchases and acquisitions involving similar cooperative public sector arrangements
- Contracts for emergency repairs or services involving the health and safety of County employees or the public
- Contracts for the purchase of services, materials, or supplies available from only one vendor
- Contracts relating to the acquisition or use of real property
- Contracts for professional or unique services except insurance coverage

Purchases That Require Contracts Prepared by the Procurement Services Office

Purchases that are processed using informal procurement procedures such as those described in Sections 8 and 9 of this purchasing and acquisition procedures (ie; non-complex purchases below \$25,000 in value) do not require written contracts in support of the purchase. In most of these cases, such actions are completed using a simplified quotation process followed by issuance of a purchase order. This constitutes an “offer and acceptance” structure that does not require a supplemental written contract. Formal procurement actions (ie; those over \$25,000 in value) for purchase of commodity or relatively non-complex services processed by use of the standard OPS bilateral signature Invitations to Bid (ITB) or Requests for Proposal (RFP) also may not require a supplemental written contract. For such purchases, a fully executed ITB, or RFP form with appropriate attachments, may serve as the written contract. A supplemental written contract is required when the bid, proposal, or quotation document for a specific required good or service does not fully define all the terms and conditions that will apply to a vendor’s post-award performance; or when otherwise deemed appropriate to serve the best interests of the County. All supplemental written contracts are to be reviewed by the County Solicitor in coordination with the responsible user department(s) and OPS.

3. VENDOR REGISTRATION

Vendors are strongly encouraged to complete the necessary documentation in order to receive procurement notifications from the County. This registration process can be completed on-line at the County’s procurement website or in writing. Completing this registration process will help ensure that the vendor receives notification of County

solicitations falling within the vendor's selected commodity areas. If the vendor is recommended for award for any particular contract, additional documentation or information may be required at that time and prior to award. In addition to receiving notices of solicitations, a vendor registered with the County can review the County's procurement website (to be developed) for existing contract information and other data useful to participation in the County's procurement program.

The county requires prospective contractors have a satisfactory record of integrity and business ethics including satisfactory compliance with the law including tax laws, labor and employment laws, environmental laws, antitrust laws, and consumer protection laws. The contracting officer should coordinate with the County legal department regarding nonresponsibility determinations.

4. ADVANCE ACQUISITION PLANNING FOR COMPLEX ACTIONS

OPS, in collaboration with the various County departments, procures a wide range of supplies and services for the on-going and future operations of the county. Complicated procurements can often be processed more effectively through the procurement cycle if advance coordination with OPS is initiated by the user department at the time a specific requirement is being identified and defined. Advance acquisition planning is especially valuable in support of high value or high visibility procurements. Advance acquisition planning involves OPS and a user department working together to prepare and review draft specifications or statements of work to ensure that operational requirements are clearly defined and stated. The planning effort also includes coordinated market research and analysis to determine sources of supply and available solutions in the market place.

It is often the case that procurement actions are delayed due to circumstances such as conflicting or unanticipated workloads, repetitive after-the-fact revision of specifications or solicitation provisions, or unforeseen competition or business utilization issues. The best way to minimize the potential for such delays is to identify and resolve such concerns during the initial planning phases for a specific purchase. Advanced acquisition planning usually results in more accurate budgetary projections, timely procurement of goods and services, consideration of multiple products or solutions, and enhanced competition. It is OPS's desire, intent, and goal to work with user departments at the earliest practical point in the acquisition cycle.

5. MARKET RESEARCH

Market research is conducted to ensure that specifications are suitable for fair and open competition, and to identify potential sources for a specific operational requirement. The user department is primarily responsible for conducting market research focused on technical factors and the initial identification of potential sources of supply. OPS is primarily responsible for market research intended to determine market pricing, contractual, and potential restricted sourcing issues. Market research

is a basic contributing factor in the development of an effective solicitation and successful contract.

Purpose of Market Research

The primary purpose of market research in public procurement is to determine the availability of sources of supply, or if limited competition is identified, alternative solutions that will meet essential requirements. Market research should always begin with the intent to satisfy a legitimate County requirement or need. The need should be stated in terms of performance or functionality whenever practical. This of course means that the minimum requirements must be clearly understood and defined before market research can begin. Once the need has been established, market research must be conducted in order to determine the capability of the marketplace to meet the needs of the County.

Market research includes identifying the attributes of existing products, processes or services that meet essential requirements, or identifying the characteristics that a yet to be identified product, process or service must possess. Effective market research should provide adequate information regarding existing products or services, qualified sources, industry trends, pricing, and what other entities are doing to meet the same or similar requirements. Failure to conduct thorough market research may result in requests for sole source or bid waiver purchases that cannot be adequately justified.

It is extremely important that the integrity of the procurement process be sustained at the highest standards and that suppliers are given a fair opportunity to compete for County business. Market research contributes to this goal by helping to ensure that specifications or other work statements are not arbitrarily restrictive in nature, or favor any one vendor.

One of the most important elements of market research is the review of goods and services that may be required by multiple purchasing municipalities or other entities within the County or region. Consolidated purchasing action, generally referred to as “strategic sourcing”, can often result in pricing based on economy of scale, and realization of socio-economic needs such as establishment of sourcing firms within a supported area. It is a goal of OPS to identify potential commodity areas for consideration of use of strategic sourcing processes.

When to Conduct Market Research

Some degree of market research should be completed in support of any purchase of any dollar amount. For routine procurements, market research should be conducted by the user department to the extent necessary to identify a minimum of three different viable sources for the required goods or services. Market research for complex actions may involve more detailed effort to be performed in a coordinated manner by the user department and OPS. The scope of such effort may include determining if existing products or services are available to meet requirements,

determining if existing products or services can be modified to meet requirements, and identifying potential sources for these goods or services.

Market Research Scope

Research should include, whenever practical:

- a. Industry trends and customary terms and conditions
- b. Capable and available sources of supply
- c. General pricing information and availability of product(s)
- d. Competitive factors such as quality, product features, and typical lead time
- e. Commercial practices, other government entity practices, and industry support capabilities and practices
- f. Environmental issues such as use of recycled components or materials, recovery/disposal concerns, and relative energy efficiency
- g. Consideration of all appropriate full life cycle costs

Sources of Research Data

There are a variety of sources for information. Such research sources include:

- a. Subject matter experts within the County, other governments or private industry
 - b. Publications and trade journals from industry
 - c. Marketing organization, professional associations and tradeshow
- NIGP website www.NIGP.org
 - Google www.google.com
 - Yahoo www.yahoo.com
 - Dogpile.com www.dogpile.com
 - Excite www.excite.com

6. REQUISITION

When there is a need for goods and/or services which are not available from any existing County Indefinite delivery/indefinite quantity agreement, and which exceed the established small purchase dollar limitation stated in Section 8 of this purchasing and acquisition procedures; a requisition must be submitted to OPS along with a sufficiently detailed description of the goods or services to be procured. User department personnel should evaluate the need for goods and services, determine expected usage, and plan their purchases to effectively meet program and operational demands. Before submitting a requisition to OPS, the user department/division must ensure that:

1. The stated requirements are valid and essential
2. The estimated total dollar value of procurement is identified
3. Funds are available to cover the purchase
4. Sufficient data is available to determine the best method to secure the purchase
5. Adequate specifications are available

Preparing a Requisition

The County has plans to implement an automated financial system for the requisition preparation and approval process.

7. SPECIFICATION/ SCOPE OF WORK (SOW) CHECKLIST

Preparation of work descriptions such as specifications or scopes of work is primarily the responsibility of user departments. OPS will assist in this function upon request. Specifications and/or Scope of Work documentation should state the specific requirements in terms of function, performance or design. The use of product specifications or a detailed scope of work to describe the good or service to be provided is to be based on the user department's requirements. The use of performance-based specifications or work statements is considered preferable to the use of design-based specifications and/or scopes of work as they generally increase the potential for full and open competition. As an example, a design specification for a lawn tractor may state that a 5 gallon gas tank must be installed. Under an Invitation to Bid, that design requirement could result in rejection of a mower that has a 4.9 gallon tank when there may in fact be no practical need for the rejection. A performance specification would avoid that type of situation by stating a mowing requirement in terms of performance rather than gas tank capacity. The following checklist can be used to determine the adequacy of a proposed specification or statement of work:

1. Does the specification/ scope of work describe the needs of the County in terms of essential function or performance required?
2. Does the specification/ scope of work indicate the end usage or expected results?
3. Is the specification/ scope of work clear and understandable?
4. Does it encourage competition by considering more than one source of supply?
5. Are standard specifications available?
6. Do the specifications support participation by multiple vendors?
7. If a specific brand and model is referenced, does the scope of work include the term "or approved equal"? If not, is there sufficient documented rationale supporting why an equal is not acceptable?
8. Are there any unusual conditions to be considered?

A clear, concise, and accurate statement of work that is devoid of elements proprietary or unique to a single vendor is the most important single contributor to an effective competitive procurement action. User departments are encouraged to exert their best efforts in this regard.

8. SMALL PURCHASES (\$ 2,500 OR LESS)

Purchases within this dollar value are completed by the user departments. It is the responsibility of department directors to ensure that all small purchase actions (the purchase of identical goods or services having a one-time or total annual dollar value of \$ 2,500 or less) completed by their department comply with the procedures set forth in this purchasing and acquisition procedures, and all other relevant County legislation and policy. Competition is strongly encouraged but not absolutely required for all small purchases whether completed by Purchase card or direct purchase procedures.

Purchasing Cards

The purchasing card program is the County's primary method of purchasing and paying for essential goods and services falling within the small purchase definition. The purchasing card program allows for such purchases to be processed without utilizing the County's purchase order or direct purchase procedures. This procedure should be used whenever the purchase falls within the financial and procedural limits expressed in the Purchasing Card purchasing and acquisition procedures, and a vendor has the capability to accept the County purchasing card as a form of payment. Purchasing cards shall be used for acquisitions by duly authorized County personnel in strict accordance with the detailed directions set forth in the Purchase Card section (yet to be developed) of the County's purchasing and acquisition procedures.

Direct Purchase

Direct purchases within the small purchase limitation are initiated by County user departments when there is a need for goods or services that are not available from any other County source.

Direct Purchase Process

Direct purchases up to \$ 2,500 may be initiated by the County user department. As with any purchase within the small purchase limitation, competition is encouraged for such purchases. For any individual direct purchase in excess of \$2,500 the user department is encouraged to solicit quotes from no less than three (3) business entities and document the firms that were solicited and the quotes that were received. Any incumbent contractor successfully performing for the product or service to be procured should be solicited.

Appeal and Protest Procedures

There is no formal appeal or protest process for procurement actions falling within the dollar thresholds of this section.

Authority to Award Small Purchases

The user department director or designee shall have the authority to award small purchases on a direct purchase or Debit card process as specified above.

Accessing an Existing County Indefinite delivery/indefinite quantity agreement

Unless circumstances dictate otherwise, a user department shall access an existing County Indefinite delivery/indefinite quantity agreement that provides for a needed good or service rather than generate a separate small purchase for the needed good or service. Allocated funds, blanket purchase order (BPO), or other access to an existing County Indefinite delivery/indefinite quantity agreement may be used for such purchase of goods and/or services.

Purchase from a Sole Source of Supply under Small Purchase Procedures

As competition is encouraged but not mandated for purchases within the small purchase limitation, the procedures set forth within the “Limited Competition Acquisition” section of this purchasing and acquisition procedures do not apply to such purchases.

Emergency Purchases Under \$ 2,500

As competition is encouraged but not mandated for purchases within the small purchase limitation, the procedures set forth within the “Emergency Purchases” section of this purchasing and acquisition procedures do not apply to such purchases.

Direct Purchase Records for Small Purchases to be maintained by User Department

The user department shall maintain its direct purchase records (preferably in a centralized location for the department as a whole) in an orderly manner and readily available for auditing purposes at all times. A file that includes all pertinent information supporting each direct small purchase shall be maintained for each transaction for a period of three years.

Monitoring Small Purchases

Department directors, or designees, shall monitor small purchases to ensure County compliance with established procedures and vendor compliance with the specific requirements of the order. OPS may monitor small purchases to consolidate commonly used products/services into annual County contracts, and to evaluate general compliance with these guidelines. In cases where it is determined that the small purchase process is abused, the user department’s authority to process small purchases may be revoked by the County Manager until such time evidence of corrective action is established.

9. PURCHASES EXCEEDING \$ 2,500 UP TO AND INCLUDING \$25,000

Each “one-time” purchase, or Indefinite delivery/indefinite quantity agreement, exceeding \$ 2,500 up to and including \$25,000 shall be procured in accordance with the procedures detailed in this section. These procedures as a whole comprise the

County's "Informal Purchase Procedures." A "one time purchase" is the individual acquisition of single or multiple end product items or services to be delivered within a specified timeframe. A "Indefinite delivery/indefinite quantity" purchase is the acquisition of goods or services on a continuous or as-required basis within a specified contract duration period, generally utilizing funds approved during the budget cycle by the County Council. The purchase of fixed price scheduled services on a continual annual basis falls within the definition of a "Indefinite delivery/indefinite quantity" purchase.

User departments shall submit a requisition to OPS as detailed in Section 6 of this purchasing and acquisition procedures. The department shall also provide specifications and/or a scope of work, and any other supporting documentation.

Upon receipt of the requisition, unless determined earlier in conjunction with Advance Acquisition Planning proceedings, OPS (in coordination with the user department) will determine whether the requisition will be satisfied through:

- Issuance of a purchase order by OPS based on written quotations or electronic price quotes obtained by the user department. This procedure may be used when relatively non-complex goods or services are to be procured in a total value not to exceed \$25,000, and there is evidence that multiple quotations were obtained by the user department in a full and open competitive manner using specifications, terms, and conditions that were complete and appropriate. User departments are urged to coordinate in advance with OPS if there is any question regarding specific quotation methodology or content. If the user department elects not to solicit quotations, or if the value of the acquisition exceeds \$25,000, OPS will utilize the procedures discussed below to secure adequate competition.

- Issuance of a Request for Quotation (RFQ). An RFQ procedure is an expedited solicitation process where simplified documents and processes are used in comparison to the formal contracting process. This procedure may be used when the required goods and services are not complex in nature and can be clearly described, and few or no special terms and conditions are required by the transaction. Posting of the RFQ on the OPS web-site with notification provided to all registered vendors for the specific commodity is mandated.

- Use of Invitation to Bid (ITB), Request for Proposal (RFP) or Request for Statement of Qualification (RSQ) procedures. These procedures are to be used for purchases within the dollar range specified in this section when complex goods or services are to be procured, or when special terms and conditions such as performance reporting and monitoring, bonding, first article testing, or multi-year performance periods apply to the acquisition. As an example, most Indefinite delivery/indefinite quantity contracts regardless of dollar value should be processed using the formal contracting procedures described in the following section of this purchasing and acquisition procedures. This is because a Indefinite delivery/indefinite quantity contract generally involves special clauses and provisions that govern the duration of contract, the availability and exercise of any options to renew, estimated quantities, and price adjustment procedures. Indefinite delivery/indefinite quantity contracts will generally

have an initial term of one or more years, and will include options to renew to extend the contract for a total term of up to five years.

- Use of existing agreements or contracts. The requirement may be satisfied by utilization of an existing County Indefinite delivery/indefinite quantity agreement or other governmental agency contract. The “Accessing Contracts from Government Agencies” section of this purchasing and acquisition procedures provides further direction in this regard.

There may be situations where a user department may believe that a given purchase falling within the dollar value of this guideline section would be better satisfied using a best value or qualitative, rather than lowest price, award criteria. In such cases, the user department will coordinate with OPS. Should OPS concur that a best value or other qualitative method of acquisition is appropriate, then OPS will conduct a competitive action consistent with the requirements of this purchasing and acquisition procedures, and responsive to the specific requirements of the individual purchase.

Fax/Written Process

OPS shall solicit written, facsimile or electronic quotations for product or service requirements falling within the dollar limitation of this section in accordance with its internal procedures and policies, and all related County directives. Any incumbent contractor successfully performing for the product or service to be procured should be solicited.

All vendor responses must be received by the time and date stated in the solicitation document to be considered timely and eligible for award. Vendors shall be contacted if their response is not submitted in a timely manner, and given the choice of return of their response at their expense, or destruction of the response by OPS. OPS will retain evidence of the late submission of the response, and the time and manner of disposition of the late response, within the solicitation files. Any vendor appeal in writing in this regard shall be addressed to designated OPS representative for the purchase, and coordinated by OPS with the County Solicitor. It may be assumed that acceptance of a late response will be an extremely exceptional event based on current case law precedent.

Specific Direction Regarding Purchases of Professional Services

See the next section of this purchasing and acquisition procedures under the paragraph title used above.

Restricted Discussions

Discussion of any aspect of any solicitation from the date of issuance until the time of award between any vendor with any potential interest in the solicitation and any employee or consultant employed by the County Manager is prohibited except as expressly authorized by the designated procurement representative. The only communications that shall be considered pertinent to a solicitation are appropriately

signed written documents from the vendor to the designated procurement representative and any relevant written document promulgated by the designated procurement representative.

Recommendation for Award

Recommendation for award within the dollar range of this section may be made to the lowest priced responsive and responsible vendor(s), except when a qualitative evaluation process has been selected and processed. In that event, award may be made to the vendor that submitted the proposal considered to provide the best value to the County.

In the event that any competitive process results in a tie situation, all vendors involved in the tie will be requested to submit a best and final offer that will be subject to the conditions set forth above for receipt of bid or proposal responses. If a tie still exists after this process is completed, the tie will be resolved by award to the vendor resident in the County. If that does not resolve the tie, a publicly announced coin toss or drawing will be conducted. This process shall be performed by the designated procurement representative for the specific procurement action observed by the OPS Director, a representative from the user department, the County Solicitors office, and any other interested party.

Appeal and Protest Procedures

There is no formal protest process for procurement actions falling within the dollar thresholds of this section.

Authority to Award Purchases exceeding \$ 2,500 up to and including \$25,000

1. Except as otherwise noted for professional services and acquisition of real property, the OPS Director has the authority to make awards within the dollar limitation stated in this section. This authority is hereby re-delegated in full to OPS contracting officers when award is being made in accordance with the conditions expressed in bold print in Section 1 of this purchasing and acquisition procedures.
2. OPS shall notify the successful vendor(s) of the effective date of the award through the issuance of a purchase order or contract. A copy of this notice shall be provided to any party that submitted a formal bid or proposal.

10. PURCHASES EXCEEDING \$25,000

Each “one-time” purchase, or Indefinite delivery/indefinite quantity contract, exceeding \$25,000 shall be procured in accordance with the procedures detailed in this section. These procedures as a whole comprise the County’s “Formal Purchase Procedures”. A “one time purchase” is the individual acquisition of single or multiple end product items or services to be delivered within a specified timeframe. A “Indefinite delivery/indefinite quantity” purchase is the acquisition of goods or services on a continuous or as-required basis within a specified contract duration

period, generally utilizing funds approved during the budget cycle by the County Council. The purchase of fixed price scheduled services on a continual annual basis falls within the definition of a “Indefinite delivery/indefinite quantity” purchase.

User departments shall submit a requisition to OPS as detailed in Section 6 of this purchasing and acquisition procedures. The department shall also provide specifications/scope of work and any other supporting documentation that may be required.

Upon receipt of the requisition, unless determined earlier in conjunction with Advance Acquisition Planning proceedings, OPS will determine whether the requisition will be satisfied through use of:

- Invitation to Bid (ITB) procedures. The ITB procedure involves full and open competition based on clear and complete specifications contained within the ITB, with award to be made to the lowest priced responsive responsible bidder. This process requires full compliance of vendors to the requirements of the solicitation, with no exception to, or deviation from, the technical or contractual requirements set forth in the Invitation to Bid.

- Request for Proposal (RFP) procedures. The RFP procedure involves descriptive technical proposals being provided by vendors in response to a general work description included in the RFP. Award under an RFP is generally based on qualifications, experience, or quality of the required goods or services in addition to relative price. In some cases, price will be a determining award factor (ie, a RFP involving a pass/fail technical evaluation with price then determining the awardee). In other cases, price will be one of several award factors, but not the determining award factor (ie, a RFP where price is weighted below other award factors either singularly or in the aggregate). When the purchase of highly specialized technical services is required, RFPs can exclude pricing as an initial award consideration. In such cases, final award is contingent upon negotiation of a fair and reasonable price with the vendor assigned the highest technical rank. The specific evaluation factors applicable to a given purchase must be clearly described within the RFP document (a listing of evaluation factors in descending order of importance is commonly used for this purpose), and adhered to during the evaluation process. Evaluation comments and recommendations for award will be rendered in the form of qualitative statements recorded in the form of a written summary prepared by the designated procurement representative. Other procedures may be used on a case-by-case basis as allowed by statute, ordinance, or other regulation. The RFP procedure allows for vendor input and/or negotiation during the evaluation phase of the acquisition cycle, provision of best and final offers addressing any technical or financial concerns identified during the evaluation process, and award based on “best value” evaluation considerations.

- Request for Statements of Qualifications (RSQ) procedures. The RSQ procedure is used for the purchase of highly specialized technical or professional services. The RSQ process involves descriptive technical proposals being provided by vendors in response to a general work description included in the RSQ. Award is to be based on qualifications, experience, or perceived quality of the services to be provided. Price is not considered in the initial award evaluation. For that reason, formal Selection

Committees as described in Section 11 of this purchasing and acquisition procedures will be formed to evaluate vendor responses to RSQs. Selection Committee comments and recommendations for award will generally be rendered in the form of qualitative statements recorded in the form of a written summary.

- Use of existing agreements or contracts. The requirement may be satisfied by utilization of an existing County Indefinite delivery/indefinite quantity agreements or other governmental agency contract. Section 14 of this purchasing and acquisition procedures (Accessing Contracts from Government Agencies) provides further direction in this regard.

Note: Additional information and direction specific to the RFP and RSQ processes are contained in the following section of this purchasing and acquisition procedures. The RFQ process may be used as described in Section 9 for purchases in excess of \$25,000 under documented exceptional conditions with the prior approval of the County Manager.

Solicitation Process

OPS shall solicit sealed written bids (for the ITB process), proposals (for the RFP and RSQ process), or quotations (for the RFQ) process from vendors for the good(s) and/or service(s) to be purchased. Any incumbent contractor successfully performing for the product or service to be procured should be solicited. Solicitations prepared by OPS personnel shall use the current standard forms, terms, and conditions established by OPS. The solicitation issuance process shall be conducted in accordance with OPS internal policies and procedures, and all related County ordinances and directives. Unless exempted as discussed in the next subsection, all formal solicitations will be posted on the OPS website with appropriate notices (either electronic or via mail) provided to all vendors registered for the commodity being procured. All addenda to solicitations will also be posted on the OPS website. Additional sources identified through market research may be directly notified of the procurement action.

User departments will be involved in the preparation of solicitations to ensure that project or product specific requirements are adequately addressed in the solicitation document. User departments will also be involved after solicitation issuance in the conducting of pre-bid (or pre-proposal) conferences, and the preparation of any requisite solicitation addenda.

Solicitation Advertisement

OPS shall publish all announcements and advertisements for solicitations falling within the dollar limitations of this section in accordance with its internal policies and procedures, and all related County directives and ordinances. Posting of all written solicitations on the County's procurement web-page is mandatory unless specifically exempted on a class or individual basis by the OPS Director. Such exemption shall be applied on an exceptional basis as required to support the best interest of the County.

Pre-Bid/ Pre-Proposal Conferences

A pre-bid or pre-proposal conference may be scheduled under any solicitation when it is deemed advisable to allow vendors to consult with OPS staff and user department(s) to abet full mutual understanding of the terms, conditions, and requirements of the solicitation, and, if applicable, to view the site where the work is to be completed. This conference shall be scheduled roughly in the middle of the solicitation period to allow enough time for vendors to prepare for the conference, and to consider the information provided during the course of the conference.

Attendance of these conferences by vendors is generally stated to be optional. However, vendor attendance at such conferences may be made mandatory on an exceptional basis dependent upon the specific requirements of the procurement. OPS is authorized, in consultation with the user department, to determine if vendor attendance of a pre-bid or pre-proposal conference is mandatory or optional. The general policy regarding restricted discussions between County and vendor personnel during the solicitation process is waived during pre-bid/ pre-proposal conferences.

Addenda to Solicitation Documents

There may be occasions when it will be necessary to change the specifications, terms, or conditions of a given solicitation during the course of the solicitation period. Such changes may be in response to user department changes or clarifications, written vendor inquiries, or other reasons. Such changes shall be formalized by the issuance of a solicitation addenda to all potential vendors who have obtained the solicitation document. The addenda becomes part of, and supersedes, the solicitation document. No change to the terms, conditions, or other requirements stated in a solicitation is official unless the change is expressed in a formal addenda to the solicitation. Vendor bids or proposals may be rejected by the County if the vendor fails to acknowledge receipt of all addenda. Addendas should be issued at least five working days in advance of the due date for responses to ensure adequate time for vendor receipt and consideration of the information contained within the addenda.

Opening of Bids/ Closing of Proposals

Sealed bids under the ITB process shall be publicly opened by OPS personnel at the place, date and time specified in the bid solicitation or any subsequent addenda(s). No submission of a bid, and no change to a submitted bid, will be accepted after that time unless otherwise authorized by the terms and conditions of the relevant solicitation, or such response is specifically requested by the designated procurement representative during the balance of the acquisition proceedings. Unless precluded by the quantity of line items, the pricing shall be publicly announced at the time of bid opening.

Proposals submitted under the RFP or RSQ process shall be publicly opened by OPS personnel at the time and place specified in the solicitation or any subsequent addenda(s). No submission of a proposal, and no change to a submitted proposal, will be accepted after that time unless otherwise authorized by the terms and conditions of the relevant solicitation, or such response is specifically requested by the designated procurement representative during the balance of the acquisition proceedings. Only

the identity of vendors that submitted proposals will be identified at the time of the proposal closing date.

All vendor responses must be received by the time and date stated in the solicitation document to be considered timely and eligible for award. Vendors shall be contacted if their response is not submitted in a timely manner, and given the choice of return of their response at their expense, or destruction of the response by OPS. OPS will retain evidence of the late submission of the response, and the time and manner of disposition of the late response, within the solicitation files. Any vendor appeal in writing in this regard shall be addressed to designated OPS representative for the purchase, and coordinated by OPS with the County Solicitor. It may be assumed that acceptance of a late response will be an extremely exceptional event based on current case law precedent.

Documents identifying the vendors responding to a solicitation, and the pricing submitted by those vendors, will be available for public review within ten (10) working days of the bid opening or proposal closing date or as otherwise dictated by statet statute. These documents are provided for information only, and do not necessarily represent any formal award recommendation as the evaluation process may still be in process at the time the pricing abstract forms are prepared.

Offer (Bid or Proposal) Requirements

For Invitations to Bid (ITBs), each offer shall comply with all terms, conditions, and other requirements of the specific solicitation without exception or variation, unless such exception or variation is waived as a non-material irregularity or informality by the OPS Director in coordination with the user department. At the discretion of the County, clarifying information that does not impact the scope, specifications, or pricing of the intended purchase may be requested of responding bidders by the designated procurement representative during the evaluation phase of the acquisition cycle.

For Request For Proposals (RFP) and Request For Statement of Qualifications (RSQ), vendor responses should comply with the proposal preparation directions included in the solicitation. At the discretion of the County, supplemental or clarifying information that does not impact on the general scope of the intended purchase may be requested of responding vendors by the designated procurement representative during the evaluation phase of the acquisition cycle. The use of best and final offer procedures should be considered when such clarifications impact on the technical scope of the purchase or the pricing originally proposed.

Restricted Discussions

Discussion of any aspect of any solicitation from the date of issuance until the time of award between any vendor with any potential interest in the solicitation and any employee or consultant employed by the County Manager is prohibited except as

expressly authorized by the designated procurement representative. The only communications that shall be considered pertinent to a solicitation are appropriately signed written documents from the vendor to the designated procurement representative and any relevant written document issued by a procurement representative.

Negotiations

The RFP and RFQ processes may include formal negotiations with the responding vendors as required to complete technical evaluations or to ensure receipt of fair and reasonable pricing. All formal negotiation discussions shall be managed by the designated procurement representative for the specific procurement action. If there is a need to hold discussions beyond the scope of minor clarifications with a vendor that responded to a solicitation, formal negotiations will be conducted with that vendor and all other vendors within the competitive range for award. Once formal negotiations have been concluded, all vendors that participated in the formal negotiations may be invited to submit a best and final offer to confirm any technical or pricing changes resultant from the negotiations. A firm date and time for receipt of best and final offers shall be established. Any best and final offer that is received late shall be treated in the manner previously described in this section for untimely receipt of offers.

Minor clarifications that involve no significant change to an initial vendor response may be informally discussed and resolved by the designated procurement representative in coordination with the user department with any vendor responding to a solicitation without employment of the formal negotiation procedures discussed above.

Negotiations may be conducted with the low responsive and responsible bidder under an Invitation to Bid action when the low bid is in excess of the budgeted amount. This is an exceptional procedure to be used when the low bid is within a reasonable range of the budgeted amount. When multiple bidders are involved, such discussions shall not involve any change to the requirements stated in the Invitation to Bid. When a single bidder is involved, such discussions may, with the approval of the OPS Director and the County Solicitor, involve technical or administrative changes that do not impact on the general scope or purpose of the intended purchase.

Recommendation for Award

Recommendation for award(s) within the dollar range of this section shall be made in accordance with the evaluation criteria and method stated in the specific solicitation. Upon determination of an award recommendation, the OPS contracting officer shall issue a letter to all responding vendors identifying the vendor(s) to which the County intends award. The letter shall concisely state the rationale for the award recommendation. Award recommendations are then to be processed by the designated OPS contracting officer to the appropriate approval authority as stated in Section 2 of

this purchasing and acquisition procedures. All such awards shall be completed in accordance with OPS internal policies and procedures. Any change in an award recommendation that occurs after issuance of an initial award recommendation letter will require issuance of a revised award recommendation letter. In the event that any competitive process results in a tie situation, all vendors involved in the tie will be requested to submit a best and final offer that will be subject to the conditions set forth above for receipt of bid or proposal responses. If a tie still exists after this process is completed, the tie will be resolved by award to the vendor resident in the County. If that does not resolve the tie, a publicly announced coin toss or drawing will be conducted. This process shall be performed by the designated procurement representative for the specific procurement action observed by the OPS Director, a representative from the user department, the County Solicitor office, and any other interested party.

Appeal and Protest Procedures

A vendor wishing to protest an award decision regarding any contract within the dollar limitation of this section shall do so via written notice to the OPS Director. To be considered eligible for consideration, the initial protest notice must be received within ten (10) calendar days from the date of the award recommendation letter, or posting of any other award notice, and clearly state the grounds for the protest. For purchases having an annual or one-time value of \$50,000 or less, the OPS Director, in coordination with the County Solicitor, will review any timely protest, and make the initial County recommendation regarding the protest. For purchases having a annual or one-time value in excess of \$50,000, or purchases below that amount wherein it is determined appropriate by the County Manager, the County reserves the right to assign the initial recommendation regarding a protest to a competent third party. The initial recommendation will be based strictly on the written record. The initial recommendation by the OPS Director or designated third-party shall be in writing and clearly state the rationale for sustainment or denial of the protest. The recommendation shall be forwarded to the County Manager for any further comment or recommendation. The County Manager's final recommendation regarding the protest shall be forwarded to the County Council for consideration and final resolution.

Authority to Award Purchases Exceeding \$25,000

Detailed direction regarding initial award authority for contracts and other agreements within the dollar value of this section is set forth in Section 2 of this purchasing and acquisition procedures.

OPS contracting officers or the OPS Director shall be the official signatory for all County contracts, agreements, and purchase orders other than those regarding the acquisition of real property or other actions wherein a differing signatory authority is mandated. OPS personnel shall advise awarded vendor(s) of the effective date of the award through the issuance of a purchase order or contract.

11. SPECIFIC NEGOTIATED ACQUISITION PROCEDURES

There are a number of procedural variances between acquisitions that are processed on a strict bidding basis (Invitation to Bid, Request for Quote), and acquisitions that are processed using negotiated (Request for Information, Request for Proposal, Request for Statement of Qualification) procedures. Many of these procedural variances have been addressed in other sections of this purchasing and acquisition procedures. However, the negotiated acquisition process involves a wide range of procedures that are unique to that process. This section of the purchasing and acquisition procedures describes those unique processes, and is intended to provide sufficient detail on these processes to enable user departments and the general vendor community to be fully aware of their respective roles in the negotiated acquisition process.

Consideration of Environmental Resource Conservation Factors

Negotiated acquisition procedures allow for award decisions to be made based on a “best value” basis by consideration of factors other than price. Full consideration of the environmental factors in the award of all County purchases is strongly encouraged. In addition, user departments and OPS personnel should jointly review purchases that will be awarded on a “best value” basis to determine if the purchase is susceptible to establishment of additional evaluation factors that could have a positive environmental impact. If such impact can be identified and measured in a sustainable manner, the solicitation should be structured to provide for consideration of such additional factors. The following examples are provided:

- Vehicle purchases could be evaluated on a full life cycle cost basis with fuel usage over the life of the vehicle considered as an initial award factor.
- Appliance purchases could be evaluated on a full life cycle cost basis with electricity costs over the life of the appliance considered as an initial award factor.
- For any purchase of items composed of recyclable materials, include recovery of costs at the end of the item’s life cycle as part of the initial cost evaluation.

If such factors can be identified and effectively utilized, the solicitation document must clearly state the factor being considered and the manner in which it will be considered.

Request for Information (RFI)

A RFI is an informal written document prepared and issued for the purpose of seeking information, comments, or reactions from industry regarding a specific or general issue or concern. Although the RFI procedure is informal in nature, responses may be requested to be submitted by a specified date and time. A RFI may be used during the market research phase of an acquisition to assist the County in identifying potential proposers, approaches, general pricing estimates, or other relevant

information. The RFI itself will generally not contain the full range of administrative, pricing, and technical terms and conditions required to form a contract.

Request for Statement of Qualifications (RSQ)

A RSQ may be used to obtain statements of qualifications from proposers for professional services. These actions require identification of specific qualifications in order to evaluate responding proposers. A RSQ should include an explanation of the purpose of the RSQ, a description of the service to be purchased, required qualifications, instructions for response, and evaluation and selection criteria. These solicitations result in an initial award recommendation based solely on the relative technical qualifications of the responding vendors. RSQs involve an extensive evaluation process which may include criteria such as qualifications and experience of principals and staff, evidence of technical superiority, financial stability, experience and history of the firm, and references. RSQs will generally involve the use of formal Selection Committee procedures to assure such evaluations are conducted in an appropriate and accurate manner. Procedures may be dictated by the nature of the services to be performed, submittal of pricing and associated negotiations will occur after the initial evaluation has been completed, and with the firm that submitted the highest ranked technical proposal. The intent of these negotiations is to finalize a formal contract with the vendor recommended for award. If these negotiations do not result in an agreement on price using an independent government estimate for comparison or other contractual terms and conditions, the County may then repeat the award recommendation and negotiation process with the next highest ranked technical proposer. As a matter of note, either the specialized RSQ procedure discussed above, or the general RFP procedure discussed below may be used for the purchase of professional services.

Request for Proposals (RFP)

As previously stated in these guidelines, a RFP is a solicitation wherein the associated award evaluation and vendor selection process is predicated on a best value evaluation, rather than strictly upon award to the lowest competitively priced responsive and responsible vendor. As discussed in the previous section, award recommendations under a RFP may or may not involve price as an award determining factor. The evaluation and award of an RFP that involves competitive pricing as a determining award factor does not require the use of a formal Selection Committee. Technical evaluation of proposals received in response to such an RFP shall generally be accomplished by use of an informal review process completed by the responsible user department. However, an RFP can involve an evaluation process wherein price is either not a factor, or not the determining factor, in the resultant award recommendation. This type of evaluation is a sensitive and demanding process involving a high degree of subjective judgement. In these cases, formal Selection Committee procedures may be used to assure such evaluations are conducted in an appropriate and accurate manner. The initial decision whether or not to use the formal Selection Committee process under a specific RFP acquisition shall reside with the OPS Director, but is always subject to coordination with the County Solicitor and reconsideration by the County Manager. The balance of this guideline section provides an overview of formal Selection Committee procedures to enable user

departments to prepare for, and participate in, such processes in conjunction with OPS.

Formation and Performance of Selection Committees

As stated above, formal Selection Committees may be formed for the evaluation and negotiation of responses to RSQ and RFP actions where price is not the determining factor for award, or not considered as an initial award factor. These Committees shall be comprised of senior personnel from multiple departments with an emphasis on utilization of personnel knowledgeable of the work to be performed. These Committees are subject to all provisions of the "Sunshine Act". Potential Selection Committee members shall be recommended in coordination with user departments by the OPS contracting officer, and approved by the OPS Director.

1. Formation of Selection Committees

- A. Selection Committees shall generally consist of three or five voting members. The actual number of personnel involved will be based upon the specific nature of the RSQ or RFP (i.e., dollar value, single or multiple user departments, complexity of the good or service being purchased).
- B. An alternate voting member shall be included at the time the committee is appointed, and will become a voting member in the event that a member substitution is required.
- C. The designated procurement representative for the specific acquisition shall manage all committee meetings, prepare written minutes of all such meetings, and provide general support to the committee throughout its deliberations.

2. Performance of Personnel Designated for Selection Committees

Each individual appointed to a Selection Committee shall assure that his/her service on such committee shall be in compliance with the Conflict of Interest and Code of Ethics requirements of the County. Individuals appointed to serve as Selection Committee members must attend all meetings and related negotiation sessions, and be prepared to complete all attendant actions. Any request by County staff to be excused from Selection Committee service must be in writing, and be signed by the Department Director of the committee member seeking excuse from participation.

Audiotaping of Evaluation/Selection and Negotiation Proceedings

Selection Committee proceedings and negotiations will be completed in accordance with all applicable provisions of the "Sunshine Act", and may be audiotaped. OPS will be responsible for audiotaping evaluation/selection and negotiation meetings when such action is required or desired.

Evaluation of Proposals

Each proposal shall be evaluated independently by each member of the committee based on the criteria and process established in the RFP or RSQ document. The committee may hold a “kick-off” meeting to review the solicitation and discuss their role in the evaluation process. Subsequent meetings will be scheduled to discuss the technical proposals, hold oral presentations (if applicable), conduct reference checks, conduct other related activities, and to review and evaluate price proposals after, or concurrent with, the review and evaluation of the technical proposals. The committee may also perform any negotiations associated with the evaluation process such as discussions regarding technical clarifications or pricing considerations. The designated procurement representative shall prepare a written summary of each meeting.

Award Recommendation

Upon completion of the Selection Committee proceedings, the committee will complete a voting process regarding an award recommendation. The designated procurement representative managing the evaluation process will then prepare an award recommendation memo. This memo shall provide detail regarding the evaluation of each proposal received, and a clear and comprehensive description of the basis of the award recommendation. The designated procurement representative shall issue an initial award recommendation letter to the responding vendors. Once that letter is issued, OPS will initiate higher level reviews and approvals as required by the specific procurement action.

12. REJECTION OF BIDS OR PROPOSALS

The OPS Director may reject any and all bid(s) or proposal(s) received in response to a solicitation intended to result in a contract or other agreement of any dollar value when such rejection is in the best interest of the County. A bid or proposal may be rejected if any of the following conditions exist:

1. The vendor’s bid or proposal does not conform, or has taken exception, to the specifications and/or solicitation documents.
2. There is compelling evidence of insufficient financial resources and/or lack of technical ability of the vendor to provide the required goods or services within the time specified without delays or interference.
3. There is compelling evidence of previous or existing non-compliance by the vendor with laws and ordinances relating to the specific purchase.
4. There is compelling evidence of inadequate quality or performance by the vendor on previous purchases.
5. Vendor has been declared to be in default on any County or public entity contract or agreement, or debarred or suspended by any public entity.

6. Vendor has not complied with any insurance, bonding, or administrative requirements associated with qualification for award.
7. When pricing cannot be determined to be fair and reasonable.
8. Insufficient competition.
9. Any other cause in the best interest of the County.

The protest procedures set forth in Section 10 of this purchasing and acquisition procedures do not apply to any determination made by the OPS Director to reject all bids or proposals received in response to an acquisition.

13. VENDOR POOL AGREEMENTS/ CONTRACTS

Vendor pool contracts (multi-award) are binding agreements awarded to multiple vendors who have met the basic qualifying requirements established within the solicitation, but generally do not establish firm pricing for a specific product or specific service to be provided. Examples of these agreements/contracts include (but are not limited to):

1. Pre-qualification agreements or contracts awarded by the County or other governmental entities that simply specify a pool of contractors authorized to provide the required product(s) or service(s) to the County.
2. Agreements or contracts awarded by the County or other governmental entities to multiple vendors that include pricing information relating to cost elements such as hourly or discount rates, but not an actual firm fixed price for a given good or service. Agreements or contracts structured in this manner generally do not include all the information necessary to determine the firm price for a given product or service from the information contained in the agreement or contract.
3. Agreements or contracts awarded by the County or other governmental entities to multiple vendors that include firm fixed unit prices for specifically described goods or services. In such contracts, the vendor offering the lowest unit price for a given good or service is generally given the first opportunity to provide that good or service.

Vendor pool contracts that do not include specific unit pricing require additional competitive action prior to award of a specific task to a specific vendor.

Specific procedures for use of each such vendor pool contract will be developed on a case-by-case basis by OPS in coordination with the appropriate user departments. These procedures shall be structured to provide the competitive structure and documentation necessary to clearly support the award of a specific task to a specific vendor. These procedures will be included in the solicitation and resulting contract.

Upon written determination by the OPS Director, vendor pool contracts for non-complex goods or services may be awarded without the use of a formal evaluation/selection committee. This is due to the fact that these types of agreements/contracts generally involve clear qualification standards and subsequent competitive spot market purchases. Such contracts should generally allow for the addition of vendors to the pre-qualified pool during the duration of the contract.

Vendor pool contracts that do not involve an initial unit price competition should include a provision that provides for the inclusion of additional qualifying vendors, and the release of vendors no longer meeting the qualifying conditions, over the full life of the contract.

14. ACCESSING CONTRACTS FROM OTHER GOVERNMENTAL AGENCIES

OPS may access items or services from any State of Pennsylvania or other governmental agency contract when the required good or service is not included on an existing County contract and when the other entity contract:

- allows for its use by entities such as Luzerne County
- was processed on a competitive basis
- includes the specific good or service to be procured
- is not otherwise ineligible for use by Luzerne County

Accessing Contracts from other Government Agencies

Before any purchase controlled by this section can be made, vendors should comply with all County requirements. A copy of the contract or award documents shall be obtained from the government agency. At a minimum, a copy of specific information including the contract number, expiration date, terms and conditions, the description of the goods and/or services, price, warranty period, payment terms, FOB terms, and other pertinent information shall be secured.

Contracts awarded by other government agencies can be used on a direct award basis when those contracts were awarded on the basis of full and open price competition. Such direct awards are considered competitive in nature as the other entity contract was itself a competitive award. Use of pool-type contracts awarded by other governmental agencies may also be considered subject to OPS review and approval of the competitive procedures to be used under such contracts. When using any contract falling within the scope of this section, specific County rules may be applied at the discretion of the County.

When determining whether or not to access another entity's contract, staff is to carefully review the terms and conditions of that contract, noting any terms and conditions that vary from the County's normal practices, and confirming that vendors included in that contract are in fact authorized and able to provide to other entities the goods and services which they were awarded on the competitively awarded contract.

Fourth Draft

Purchase Request from User Department/Division

The user department shall submit a requisition and any other supporting documentation as may be applicable to support purchases being made in accordance with this section.

Authority to Award Purchases Accessing Contracts from other Government Agencies

A purchase order will be issued by OPS upon receipt of acceptable supporting documentation from the user department, and appropriate reviews and approvals are obtained. Award approvals of such actions shall follow the approval levels set forth in Section 2 of this purchasing and acquisition procedures.

15. LIMITED COMPETITION ACQUISITIONS

Policy:

It is the policy of Luzerne County to purchase its goods and services through a full open and competitive process. However, when competition is not available or when it is determined in the best interest of the county to utilize other than full and open competition, execution of purchases on a sole source, restricted source, or emergency basis may be authorized. Specific guidance on emergency actions is contained in a separate section of this purchasing and acquisition procedures. This section pertains specifically to sole and restricted source procurement activity.

One of OPS's primary goals is to foster full and open competition in the acquisition of goods and services for the County departments. The County Manager (or designee) will serve as the County's Competition Advocate in this regard. The Competition Advocate will review all sole or restricted source recommendations to determine the appropriate acquisition approach after researching the availability of alternative sources of supply. The Competition Advocate will work closely with user departments to ensure that work requirements are expressed in terms of performance or functionality whenever practical.

Definitions:

A sole source purchase is the acquisition of a good or service for which there is only one source that can provide the good or service, and an equal product or service is not available from any other source.

OPS may negotiate to obtain the best possible contractual arrangements for the County. A contract document shall be used to formalize the procurement.

Review Process (purchases of \$2,500)

When the user department believes that full and open competition is either not possible, or not in the County's best interest, an appropriate written justification

signed by the department director must be submitted to the OPS Competition Advocate. The user department should as a minimum indicate the purpose of the acquisition, the uniqueness of the item or service, why waiving the competitive process is in the County's best interests, any market research performed by the user department to support their decision, and any proposed actions that can promote competition in future similar purchases.

For such (non-emergency) purchases in excess of \$25,000 in value, OPS shall electronically post a description of the potential purchase for a period of at least seven (7) working days, and appropriately consider all responses to that notice. For such purchases in excess of \$100,000 in value, OPS shall issue a written Request for Information (RFI) to all vendors registered with Luzerne County for the specific commodity being purchased, and any other known potential supplier(s). The RFI shall remain open for response for a period of not less than ten (10) working days. OPS will ensure that an appropriate review of all responses to the RFI is conducted.

Approval Process:

When all review and evaluation requirements are completed, and the Competition Advocate is satisfied that a sole or restricted source procurement is required, a waiver of full and open competition may be requested via an appropriate recommendation to the County Manager. The County Manager has the authority to approve any proposed sole or restricted source procurement having a dollar value of \$25,000 or less. Such actions having a value in excess of \$25,000 must be forwarded to the Board of County Council for prior approval. All vendors should comply with all county requirements prior to award. Additional funds and/or extensions of time that may be requested during the resultant contract period are subject to the current authority limits for all contract modifications.

16. EMERGENCY PURCHASES

An emergency purchase shall be defined as an unforeseen or unanticipated urgent and immediate need for equipment, supplies, or services where the protection of life, health, safety or welfare of the community or the preservation of public properties would not be possible using normal purchasing procedures.

Emergency purchases

Preferably before, but in any event as soon as possible after, any user department emergency purchase is made, the user department shall provide a written certification of the emergency to OPS. This certification shall be signed by the department director or specific designee for confirmation of emergency conditions. Unless precluded by the nature of the emergency situation, vendors are to comply with all County requirements prior to formal award approval. If notified in advance of the actual emergency purchase, and there is no obvious cause for re-consideration, OPS will immediately provide a purchase order number to the user department verbally, with written confirmation within twenty-four (24) hours.

If the item or service cannot be obtained from a vendor with an existing County contract, the user department is encouraged to obtain at least two (2) quotations from registered County vendors whenever possible. All necessary affidavits, insurance certificates, proof of proper licenses, trade certificates, permits, and additional documentation as the emergency work may require should be acquired from the vendor.

Submittal to OPS

The user department shall submit the following documentation to OPS within five (5) working days after initiating action in response to an emergency situation:

1. Requisition
2. Written quotation(s) from the vendor(s)
3. The user department's justification and/or explanation of circumstances for emergency purchase, to include a clear definition of the products and/or services sought and how and where it will be used. This is to be signed by the Department Director or specific designee.
4. Any other supporting documentation as may be applicable

Authority to award emergency purchases

In the event a Department Director, or an authorized designee, determines that a true emergency situation exists which requires an immediate response, required goods or services may be ordered by the cognizant user department regardless of the amount of expenditure. A confirming purchase order will be issued by OPS upon receipt of acceptable supporting documentation from the user department. If the expenditure is in excess of \$25,000, the award must be presented to the County Council for retroactive approval.

Monitoring emergency purchase requests

The OPS Director shall monitor the use of emergency procedures by user departments, and will report to the County Manager any departmental procurement

practices which indicate abuse of emergency purchase authority.

17. UNAUTHORIZED PURCHASES

Unauthorized purchases are purchases that have been completed outside of the authority and procedures set forth in this purchasing and acquisition procedures. All Department Directors shall take all appropriate measures to ensure that such incidents do not occur. Any unauthorized purchase, regardless of dollar value, will be reviewed by the County Manager (or designee) on a case-by-case basis. This review will require the preparation of a memo to the County Manager from the Department Director responsible for the unauthorized purchase. This memo shall state why and how the purchase was made, and describe actions that will prevent a recurrence of the unauthorized purchase. The memo will be routed through the OPS Director who is responsible for making a recommendation for disposition of the unauthorized purchase based on the specific issues involved.

The employee responsible for an unauthorized purchase may be subject to disciplinary action as defined in the personnel code, table of offenses and penalties.

18. CONTRACT MODIFICATIONS / CHANGE ORDERS

When a user department requires a modification to an existing contract, or a change to an existing purchase order, having an original value in excess of the small purchase limitation, a written request for the change must be submitted to OPS. Before submitting such a request the user department should ensure that:

1. The additional or otherwise changed requirements are valid and essential.
2. Funds are available to cover the purchase.
3. Appropriate justification for the change is included with the request package.

Submittal to OPS

The user department shall submit its request to OPS with all required supporting documentation to include, but not be limited to:

1. A completed contract modification request properly completed and signed.
2. The user department's justification and/or explanation for request to modify the purchase order or contract.
3. Any other supporting documentation as may be applicable.

Authority to Approve Contract Modifications

The various delegations of authority applicable to modifications of contracts (excluding those for acquisition of real property for which approval authority always resides with the County Council) are set forth below. Any modification action not specifically stated below as falling within the authority of the County Manager (or designee) must be approved by the County Council. County Council approval is required for any modification that significantly changes the scope or structure of a contract initially approved by the County Council. The OPS Director will coordinate with the County Solicitor on such modifications. See Section 2 of this purchasing and acquisition procedures for definitions of “one time” and “term and supply” contracts.

1. The County Manager may modify any “one time” contract awarded within the County Manager’s award authority to a total contract amount of \$25,000 without acquiring prior County Council approval. This authority is hereby re-delegated in full by the County Manager to the OPS director and by the OPS director to OPS senior contracting officers. Any modification that causes the dollar value of a “one time” contract to exceed \$25,000 shall be approved in advance by the County Council. All subsequent modifications to that contract must be approved by the County Council unless a different procedure is specified in a contract-specific agenda item.
2. Except as noted in item 4 below, the County Manager may modify any “one time” contract that required initial award approval by the County Council up to a total modification value of \$25,000 without acquiring prior County Council approval. This authority is hereby re-delegated in full by the County Manager to the OPS director and by the OPS director to OPS senior contracting officers. Any modification that causes the total modification value to exceed \$25,000 will require the prior approval of the County Council. All subsequent modifications to the dollar value of that contract must be approved by the County Council unless a different procedure is specified in a contract-specific agenda item.
3. The County Manager may modify the annual dollar value of any Indefinite delivery/indefinite quantity line item without prior County Council approval regardless of dollar value. This authority is re-delegated by the County Manager to the OPS director in full, and by the OPS director to OPS senior contracting officers in full.
4. The County Manager may modify any “one-time” contract having an original value in excess of \$1 million for road, park, and/or facilities construction to a total modification value of either \$25,000. Contingency funding approved by the County Council in the initial award approval is excluded from the total modification value, and may be transferred from the contingency fund to the contract price without further County Council approval. The County Manager may delegate, with or without power of re-delegation, all or a portion of this authority to the OPS director or user department director on a case-by-case basis. Any such delegation shall be stated in the award agenda item for the specific contract or agreement, or by separate memo. Any modification that causes the

total modification value to exceed the stated limitation will require the prior approval of the County Council. All subsequent contract modifications must be approved by the County Council unless a different procedure is specified in a contract-specific agenda item.

5. Any modification which reduces, or does not impact, the original or modified value of a “one time” contract or other agreement may be approved by the County Manager. This authority is hereby re-delegated by the County Manager to the OPS director, and after provision of notice, by the OPS director to OPS senior contracting officers for contract price reductions having an aggregate value of \$25,000 or less.

19. MONITORING AND REPORTING VENDOR PERFORMANCE

Vendor performance is any action or inaction by a vendor under a contract, purchase order or other binding agreement with the County. Any action or inaction by a vendor which does not comply with the stipulated terms and conditions will be considered non-performance and is to be documented and reported to OPS by the user department. Non-performance includes, but is not limited to, failure to deliver, late delivery, sub-standard or unacceptable goods and/or service levels, habitual incorrect shipments, unauthorized subcontracting, or assignments of responsibilities not coordinated in advance with the designated procurement representative.

Under most contracts and/or purchase orders, the user department serves as the primary administrator and monitor of the vendor’s performance. The user department shall appoint project managers or a quality assurance evaluator who shall be responsible for monitoring vendor performance as it relates to the terms and conditions of the contract(s) and/or purchase order(s) issued. Vendor non-performance actions are to be documented and reported to OPS for appropriate action aimed at correcting vendor performance. Should performance not improve, OPS will then consider more extreme measures such as placing the vendor on probation for a period of time, contract termination, temporary suspension of the vendor from bidding on County contracts, or vendor debarment.

Action by User Department in Regards to Non-Performance Proceedings

The vendor should be contacted by telephone to discuss the problems being experienced. A mutual understanding should be reached, if possible, and a time frame for corrective action established. A meeting should be held with the vendor to help resolve problems whenever possible. Should the vendor continue to not meet the requirements, the user department/division should complete the vendor non-performance form, or prepare a memo to OPS and attach any available documentation to substantiate the report, including a copy of any letters sent to the vendor or records of meetings.

Submittal to OPS

A copy of the vendor's non-performance form, or a memo from the user department, together with supporting documents, should be sent to OPS. The user department should retain a complete copy for its records.

Action by OPS

After receiving the vendor non-performance documentation, OPS will review the documentation, and meet with the user department, to determine the appropriate course of action. This action may include calling the vendor for an informal resolution of a specific issue, sending the vendor a notice to cure or correct performance, or scheduling a meeting with the vendor. Where progressive steps aimed at correcting vendor performance have proven futile, OPS may schedule a meeting to determine the next course of action. The vendor and the user department will be present at this meeting. The meeting will be chaired by the designated procurement representative for the contract. After listening to all parties, the designated procurement representative may:

1. require the vendor to submit and implement a corrective plan within a specified period
2. establish a probational period for the vendor to correct all noncompliance problems
3. terminate the contract for default with consideration of suspension or debarment, or
4. find no further action necessary

In particularly clear non-performance circumstances, and evidence of an immediate need for continuity of services, termination of a contract for default may be effected without completion of the formal proceedings expressed above.

A copy of all written actions or documents are sent to the user department. The final decision and formal action will be filed in the contract folder for future use in determining vendor responsibility in future award recommendations.

20. BONDS AND INSURANCE

Bid/Proposal Bond or Guarantee

A deposit to guarantee the vendor's intention to enter into an agreement with the County based on either a stated dollar value or a percentage of the bid or proposal dollar value may be required by the County. If a bid/proposal deposit or bond is required, it shall be in the form and amount specified in the solicitation.

Performance and Payment Bond

The County may require a performance and payment bond from the vendor selected for contract award in such an amount as may be deemed reasonably necessary to protect the best interest of the County. The bond shall be in the form supplied by the County and in the amount required by the solicitation. Unless otherwise specified, the

vendor shall provide a conforming bond within five (5) working days of such request from the cognizant procurement representative. Award will be withheld pending receipt of a conforming bond.

Other Bonding Requirements

Specific agreements may contain other types of bonding requirements. Specific guidance in this regard is to be included in the solicitation, and complied with by the vendor.

Insurance

The County may require insurance coverage from the vendor selected for award as may be deemed reasonably necessary to protect the best interest of the County. The insurance coverage shall be in the form and amount(s) as required by the bid solicitation. The vendor shall provide evidence of insurability during the solicitation phase of the procurement and, unless otherwise specified, shall provide a conforming certificate of insurance within five (5) working days of such request from the designated procurement representative. Award will be withheld pending receipt of a conforming certificate of insurance.

Submittal to OPS

Awards may be contingent upon submission of required insurance coverage and performance and payment bonds. If the vendor selected for award fails to fulfill these requirements within the required time frames, the award recommendation to that vendor may be rescinded, and a revised recommendation may be issued to the next vendor eligible for award. The County may consider a vendor's failure to provide the required documentation in the required timeframe as an indicator of non-responsibility under any future procurement action.

20. RIGHT TO AUDIT

Luzerne County Government, in accordance with general accounting practices, reserves the right to perform an audit of all books and records of vendors as they may relate to the performance of their contract with the government. All contracts with public or private vendors, outside contractors, subcontractors, or other entities receiving County funds to provide goods or services to the County shall contain a "right-to-audit" clause.

The "right-to-audit" clause shall require the vendor to maintain accurate records at all times and retain all documentation supporting claims/invoices under their contract for a period of seven years after receipt of the final payment under their contract. Luzerne County Government shall have the right to copy, at its own expense, any record related to the services performed pursuant to the agreement.

I briefly addressed the purchase card program in this procedural document; however I did not develop the companion purchase card manual. I highly recommend one be

developed ASAP. This program is an essential feature for any effective and efficient government purchasing program. However, sufficient checks and balances must be included.

Fourth Draft