

PROCUREMENT POLICY MANUAL OF THE BOARD OF COUNTY COMMISSIONERS OF WASHINGTON COUNTY, MARYLAND



This Manual contains rules and regulations intended to be consistent with the Code of the Public Local Laws of Washington County, Maryland. In the event of conflicting direction, the provisions of the Code shall prevail.

Board of County Commissioners' Adoption Date: June 25, 2013

Effective Date: July 1, 2013

Revised Effective Date: December 12, 2023

**WASHINGTON COUNTY, MARYLAND
PROCUREMENT POLICY MANUAL**

TABLE OF CONTENTS

<u>Section</u>		<u>Page</u>
1 GENERAL PROVISIONS		
1.1	Purpose of Procurement Policy Manual	1 - 2
1.2	Public Procurement	2
1.3	Purchasing Department Mission	2
1.4	Purchasing Department Functions	2 - 3
1.5	Purchasing Department Relations with Other County Agencies	3 - 4
1.6	Principles	4
1.7	Code of Ethics	4 - 5
1.8	Conduct When Dealing with Vendors	5 - 6
1.9	Procurement Records and Information	6
1.10	Definitions	6
2 ADMINISTRATIVE MATTERS		
2.1	Establishment of the Purchasing Department	7
2.2	Authority	7
2.3	Applicability	7
2.4	Changes to the Manual	7
2.5	Requirement of Good Faith	7
2.6	Supplementary General Principles of Law Applicable	7 - 8
2.7	Purchase Order/Contract Signatory Authorities and Approval Thresholds	8
2.8	Minority Business Enterprises	8 - 9
2.9	Local Business Preferences	9
2.10	Equal Opportunity	9
2.11	English Only Provision	9
2.12	Conflict of Interest (Professional Services)	9
2.13	Conflict of Interest (Employee-Owned Business)	10
2.14	Protests and Claims	10 - 11
2.15	Protest Procedure	11
2.16	Claims	11 - 12
2.17	Reconsiderations	12
2.18	Standardized Procurements	12
2.19	Donations to County	12
2.20	No Free Travel Through Vendors	12 - 13
2.21	Bid/Proposal Document Holders' Lists	13
2.22	Credit Applications	13
2.23	Personal Purchases for Employees	13
2.24	Relations With Other Public Jurisdictions	13
2.25	Avoidance of Verbal Arrangements/Understandings	13
2.26	Relations With Suppliers	13
2.27	Purchases at Public Auction	13 - 14
2.28	Uniform Bidding	14

<u>Section</u>	<u>Page</u>	
2.29	Cancellation or Rejection of Bids or Proposals	14
2.30	Cancellation or Rejection of All Bids or Proposals Prior to Opening	14
2.31	Rejection of Bids or Proposals (In-whole or In-part) After Opening 14 -	15
2.32	Notice of Cancellation	15
2.33	Documentation of Cancellation	15
2.34	Disposition of Documents	15
 3 METHODS OF SOURCE SELECTION 		
3.1	Procurement Methods Not Requiring Formal Solicitation	16
3.2	Small Purchases of Less Than the Formal Bid Limit Set Forth in the Code of the Public Local Laws of Washington County, Section 1-106	16 - 17
3.3	Technology and Fleet Procurements	17
3.4	Sole Source Procurement	17 - 18
3.5	Emergency Purchases	18 - 19
3.6	Equipment Leases	20
3.7	Change Orders	20 - 21
3.8	Use of State or Other Governmental Entity Awards	21
3.9	Use of County-Wide Annual Service Agreements	21
3.10	Procurement Card (P-Card) Program	22
3.11	Professional/Technical Services With Costs Not Exceeding the Formal Bid Limit Set Forth in the Code of the Public Local Laws of Washington County, Section 1-106	22 - 23
3.12	Procurement Methods Requiring Formal Solicitation	23
3.13	Preparation of Specifications	23
3.14	Form of Specifications	23
3.15	Review and Approval	23
3.16	Competitive Sealed Bidding – Invitation to Bid for Equipment, Supplies, Materials, Services and Construction	24
3.17	Adequate Competition	24
3.18	Basic Considerations	24
3.19	Solicitation Time	24
3.20	Public Notice – Advertisement	25
3.21	Invitation to Bid – Content	25
3.22	Multiple or Alternate Bids	25
3.23	Receipt of Bids	25
3.24	Public Bid Opening	25 - 26
3.25	Tabulation of Bids	26
3.26	Confidential Data	27
3.27	One Bid Received	27
3.28	Extension of Time for Bid or Proposal Acceptance	27
3.29	Bid Evaluation	27
3.30	Bid Evaluation – Product Acceptability	27
3.31	Award	28
3.32	Lowest Bid	28
3.33	Lowest Responsive Bid (Best Value)	28
3.34	Award Process	28 - 29

<u>Section</u>	<u>Page</u>
3.35 Low Tie Bids	29 - 30
3.36 Modification or Withdrawal of Bids	30
3.37 Withdrawal of Bid After Opening, But Prior to Award	30
3.38 Records	30
3.39 Minor Informalities/Irregularities In Bids	30
3.40 Mistakes in Bids – Confirmation of Bid	31
3.41 Mistakes Where Intended Correct Bid is Evident	31
3.42 Mistakes Where Intended Correct Bid is Not Evident to the Purchasing Director or Designee	31
3.43 Mistakes Discovered Before Opening	31
3.44 Determination Required	31
3.45 Mistakes After Award of Contract	31 - 32
3.46 Late Bids	32
3.47 Waiver of Public Advertisement Notice	33
3.48 Public Availability	33
3.49 Pre-Bid Conferences	33
3.50 Addenda/Amendments to Invitations to Bid	33
3.51 Public Notice	34
3.52 Waiver of Competition	34
3.53 Written Justification	34
3.54 Purchase of Items Separately From Construction Contract	35
3.55 Requests For Proposals (RFP) – Professional/Technical Services Selection	35
 4 PROCUREMENT OF SERVICES/CONSTRUCTION BY PURCHASE ORDER	
4.1 Procurement of Services/Construction by Purchase Order	36
 5 REQUESTS FOR PROPOSALS (RFP) – PROFESSIONAL/TECHNICAL SERVICES SELECTION	
5.1 Formal Requests For Proposals (RFP) – Professional/Technical Services that Exceed the Formal Bid Limit Set Forth in the Code of the Public Local Laws of Washington, County, Section 1-106	37
5.2 When Requests For Proposals Are Practical	37
5.3 When Requests For Proposals Are Advantageous	38
5.4 Determination – Use of Requests For Proposals Process	38
5.5 Dollar Thresholds for Requests For Proposals	38
5.6 Purpose of Requests For Proposals Process	38
5.7 Requests For Proposals Selection Committee	39
5.8 Requests For Proposals Document and Submittals	39
5.9 Public Notice – Advertisement	39
5.10 Requests For Proposals Solicitation	40
5.11 Proposal Preparation Time	40
5.12 Pre-Proposal Conference	40
5.13 Amendments to Requests For Proposals	41
5.14 Modification or Withdrawal of Proposal	41
5.15 Receipt of Proposals	41

<u>Section</u>	<u>Page</u>	
5.16	Late Proposals	41
5.17	Single Proposal Received	41
5.18	Evaluation of Proposal Responses	41 - 42
5.19	Written Clarifications or Interviews	42 - 43
5.20	Best and Final Offers	43
5.21	Awarding of Request For Proposals Contract	43
5.22	Exceptions to Request For Proposals Process	43
5.23	Request For Proposals – Award Preferences	43 - 44
5.24	Request For Proposals – Special Conditions	44
5.25	Proposal Discussions with Individual Offerors	44
5.26	Mistakes in Proposals	44
5.27	Vendor Debriefing	44
 6 RESPONSIBILITY OF BIDDERS OR OFFERORS 		
6.1	Application	45
6.2	Standards of Responsibility	45
6.3	Information Pertaining to Responsibility	45
6.4	Ability to Meet Standards	45
6.5	Written Determination of Non-responsibility Required	45
6.6	Suspension or Debarment	46
 7 SPECIFICATIONS 		
7.1	General Purpose and Policy	47
7.2	Use of Functional or Performance Descriptions	47
7.3	Preference for Commercially Available Products	47
7.4	Brand Name or Equal Specifications – Conditions for Use	47
7.5	Brand Name Specifications – Conditions for Use	47
7.6	Qualified Products List – Conditions for Use	47
7.7	Specifications Prepared by Other Than County Staff	48
 8 CONTRACTS, BONDS AND INSURANCE 		
8.1	Types of Contracts	49
8.2	Purchase Orders	49
8.3	Contract Administration	49
8.4	Bid Security – General	49 - 50
8.5	Acceptable Bid Security	450
8.6	Contract Bonds	50
8.7	Legal Review of Bonds/Insurance Certificates	50
8.8	Insurance Requirements	51
8.9	Additional Bonding	51
8.10	Exceptions	51
8.11	Legal Review of Contracts	51
 9 DISPOSAL OF SURPLUS, OBSOLETE AND WASTE ARTICLES 		
9.1	Disposal of Surplus, Obsolete and Waste Articles	52 – 53

<u>Section</u>		<u>Page</u>
	10 MERCHANDISE TO BE RECEIVED ON A TRIAL BASIS	
10.1	Purpose	54
10.2	Returned Samples	54
10.3	Retained Samples	54 – 55
10.4	Product Demonstrations	55

	11 CELLULAR TELEPHONES AND SERVICE	
11.1	Purpose	56
11.2	Assignment and Reassignment of Cellular Telephones	56
11.3	Authorized Use of County Cellular Telephones	56
11.4	Request for Cellular Telephone Equipment and Services	56
11.5	Acquisition of Cellular Telephone Equipment and Services 56 -	57
11.6	Usage Review	57
11.7	Prohibitions/Disciplinary Action	57
11.8	Safety	57

APPENDICES

Glossary of Public Procurement Terms	Appendix A
Informal Quotation	Appendix B
Change Order (5-Part)	Appendix C
Change Order (Oracle)	Appendix D
Application for Washington County, Maryland Surplus Property	Appendix E

1 GENERAL PROVISIONS

1.1 Purpose of Procurement Policy Manual

Washington County government (the “County”) was created by its taxpayers and exists to serve its taxpayers. The public must have confidence that public funds are spent prudently, on its behalf, and not for the personal benefit of County employees, officials, or their friends. The deliberate elements of actual or perceived conflict of interest, fraud and abuse can be destructive to the public trust. The policies incorporated within shall:

- Provide a combined centralized and decentralized procurement program encompassing nationally approved principles and practices.
- Be reviewed, thoughtfully and regularly, to ensure the utility of procurement statutes and for periodic modifications for improvements that will enhance the efficiency and effectiveness of the procurement function.
- Promote and encourage ethical management and efficiency in County procurement procedures.

The purpose of this Manual is to establish policies that will be used to:

- Simplify, clarify and modernize the County’s procurement practices.
- Establish consistent procurement procedures within all County agencies.
- Bolster public confidence in public procurement procedures.
- Ensure the fair and equitable treatment of all persons dealing with the County procurement system.
- Foster effective broad-based competition within the free enterprise system.
- Provide increased economy in County procurement activities.
- Maximize the procurement value of County funds.
- Safeguard the high quality and integrity of the procurement system.
- Ensure that expenditure of public funds (including Federal and State funds) complies with the terms and conditions of the funding source. If Federal or State requirements conflict with the provisions of this Manual, nothing in the Manual shall prevent the County from complying with the terms and conditions of the Federal or State requirements.

The Purchasing Department for Washington County, Maryland (the “Purchasing Department”) presents this Manual to promote understanding by employees, vendors, contractors, and the public regarding the procurement of goods and/or services on behalf of the County. This Manual covers the policies of the County only. However, management reserves the right to modify the guidelines below if warranted.

These policies are promulgated and approved by the Board of County Commissioners of Washington County, Maryland (the “Board”).

The County buys diverse services and commodities to support its operation; it uses a combined centralized and decentralized procurement system. These policies set forth the following elements of a centralized/decentralized procurement function:

Centralized: These policies are to be followed by anyone who has the authority to act as an agent of the County in the procurement of all goods and services for purchases exceeding \$7,499.99. The Purchasing Department also has the authority to process bids/proposals resulting in award recommendations to the Mayor and Council for contracts that exceed \$25,000 as requested by and on behalf of the City of Hagerstown, Maryland.

Decentralized: These policies are for the benefit of County personnel responsible for the Procurement of goods and services for their agency in an amount not to exceed \$7,499.99, which amount is set by the Board. The County's Director of Engineering and Construction Management or designee shall have the authority to act on behalf of the Purchasing Director to process bids resulting in contracts that exceed the formal bid limit set forth in the Code of the Local Public Laws of Washington County, Section 1-106, for the purchase of construction services as it relates to that department/division.

1.2 Public Procurement

Procurement in the public sector is the process through which the County acquires goods and services. The terms "Procurement" and "Purchasing" are used interchangeably. However, "Purchasing" is only one of three stages of the procurement cycle.

The three (3) stages of procurement are:

- 1. Planning and scheduling:*** Procurement activities to meet program and budgetary objectives;
- 2. Source selection:*** (Purchasing), the process through which solicitations are issued, advertisements run, vendors selected, and goods or services received; and
- 3. Contract administration:*** Enforcement of the terms of the purchase agreement or contract and payment of invoices.

One of the most important rules of public procurement to remember is that each procurement action results in a legal contract between the County and the supplier. Each procurement action is a legal action. Public procurement activities are governed by common law, by the Uniform Commercial Code (UCC), by government procurement laws and ordinances, and by case law.

1.3 Purchasing Department Mission

The Purchasing Department's mission is to provide the highest quality procurement services to all customers in the most efficient and fiscally responsible manner in accordance with all applicable laws, policies, rules, and regulations. All of these objectives are conducted without favoritism. All purchases by an employee, acting as an agent of the County, must be made in an open, fair and ethical manner to promote competition and best serve the taxpayers.

1.4 Purchasing Department Functions

Because of the significant legal consequences associated with a procurement action, the authority to take such action is tightly controlled. On October 26, 1976, the Board originally

approved policies and procedures for a centralized purchasing system that was effective December 1, 1976.

By Resolution adopted by the Board on December 21, 1999, the Purchasing Director (or his or her designee) was authorized to make and approve purchases on behalf of the Board in amounts up to and including an amount equal to the formal bid limit as set forth in the Code of the Public Local Laws of Washington County, Section 1-106, or such other amount as may be provided in any subsequent amendment of that section, provided that the purchases are made in accordance with County policies. The Resolution was effective upon adoption, was retroactively effective, and ratified all previous purchases made or approved by the Purchasing Director as having been duly approved by the Board.

Within the Purchasing Department, the Purchasing Director, Buyers and Procurement Specialists are granted the authority to act as agents of the County in the procurement of goods and services. The Purchasing Director, Buyers, and Procurement Specialists have the knowledge and ability to handle purchases for any County agency.

The functions to be performed by the Purchasing Department and its personnel are as follows:

- Provide a professional procurement operation comprised of qualified personnel.
- Recommend County-wide procurement policies and procedures for the negotiation and acquisition of materials, equipment, supplies and services.
- Assist and provide advice on matters pertaining to procurement.
- Consolidate purchases of like, when possible, or common items to obtain the maximum economic benefits.
- Purchase all equipment, supplies and services for County use in such a manner that the maximum value will be obtained for the money expended. Purchases shall be made from qualified manufacturers and firms whose reputations, financial positions and price structures are sufficiently adequate for consideration as logical sources of goods and services.
- Assist departments in arranging for the disposal or negotiation of the sale of surplus materials and equipment, including obsolete stock and scrap, via RFQs, ITBs, electronic media, auction, etc.
- Study markets to analyze prices paid for materials and equipment, generally define how to obtain savings through improved specifications and supervision of sources of supply, and recommend changes in quantities to be ordered when conditions warrant.
- Expedite deliveries of needed materials, equipment, and services.
- Provide a timely procurement service to all County agencies.
- Work with departments and agencies of the County to promote better customer and supplier relations.

1.5 Purchasing Department Relations with Other County Agencies

The Purchasing Department shall continuously familiarize itself with the particular requirements of the other County using agencies and be receptive to suggestions or comments. Whenever it is practical to do so, County requirements for supplies and services shall be purchased through price agreements and requirements contracts. The County will benefit from quantity discounts, fewer procurement transactions and minimal paperwork. The County

Purchasing Director and each Purchasing Department Buyer/Procurement Specialist shall work with County using agencies to attempt to estimate future needs so that price agreements and requirements contracts can be accomplished.

1.6 Principles

Purchasing Department personnel shall comply with the following principles:

- In all transactions, to consider first what is in the best interests of the County.
- To believe and carry out the established policies of the County.
- To be receptive to competent counsel from colleagues.
- To be guided by counsel without impairing the dignity and responsibility of the office.
- To strive consistently for knowledge of the materials and process of manufacture.
- To establish practical procedures for the conduct of the office.
- To subscribe to and work for honesty and truth in buying and selling and to denounce all forms and manifestations of commercial bribery.
- To accord a prompt and courteous reception to all who call on a legitimate business mission.
- To counsel and assist fellow employees in the performance of their duties.
- To cooperate with and participate in organizations and with individuals engaged in activities designed to enhance the development and standards of procurement.

1.7 Code of Ethics

Purchasing Department personnel who make purchases for the County are agents of the County and are required to abide by the current County's Ethics Ordinance. The Purchasing Department is a member of the National Institute of Governmental Purchasing, Inc. (NIGP), a national organization of Procurement professionals. As a member, the Purchasing Department believes that the following NIGP ethical principles should also govern the conduct of every person employed by a public sector procurement or materials management organization.

A procurement professional:

- Seeks or accepts a position as head or employee only when fully in accord with the professional principles applicable thereto, and when confident of possessing the qualifications to serve under those principles to the advantage of the employing organization.
- Believes in the dignity and worth of the services rendered by the organization and the social responsibilities assumed as a trusted public servant.
- Is governed by the highest ideals of honor and integrity in all public and personal relationships in order to merit the respect and inspire the confidence of the organization and the public being served.
- Believes that personal aggrandizement or personal profit obtained through misuse of public or personal relationships is dishonest and not tolerable.
- Identifies and eliminates participation of any individual in operational situations where conflict of interest may be involved.

- Believes that an official or employee of a public entity should, at no time or under any circumstances, accept, directly or indirectly, gifts, gratuities or other things of value from suppliers.
- Keeps the governmental organization informed through appropriate channels of problems and progress of applicable operations, but personally remains in the background by emphasizing the importance of the facts.
- Resists encroachment on control of personnel in order to preserve integrity as a professional manager. Handles all personnel matters on a merit basis. Political, religious, racial, gender and age considerations carry no weight in personnel administration in the using agency being directed or served.
- Seeks or dispenses no personal favors. Handles each administrative problem objectively and empathetically on the basis of principles and justice without discrimination.
- Subscribes to and supports the professional aims and objectives of the National Institute of Governmental Purchasing, Inc.

1.8 Conduct When Dealing with Vendors

No officer or employee of the County (excluding employees in the Purchasing Department) shall negotiate contracts exceeding the bid limit contained in the Code of the Local Public Laws of Washington County, Section 1-106 directly or indirectly with a vendor for supplies or services, except where an emergency exists after normal working hours. It is recommended that, unless the officer or employee involved in a negotiation is proficient in the area of contract negotiations, the Purchasing Director or designee is present and actively participates in the negotiation.

In consideration of legal aspects and trade relations with vendors, no supply or service shall be purchased for the private use of an employee.

It is the responsibility of the Purchasing Department and of all vendors to discourage collusion in bidding.

Vendor contact with employees in using agencies should be through or with the knowledge of Purchasing Department personnel. The intent is to prevent vendors from bypassing the Purchasing Department in an attempt to influence employees.

All vendor questions concerning any aspect of a contract, from initial request through final acceptance of the purchase, shall be addressed to the Purchasing Department.

When performing procurement duties on behalf of the County, it is important to:

- Deal with suppliers fairly.
- Do not play the “meet or beat” game with pricing among bidders.
- Offer to give equal assistance to all suppliers and potential vendors.
- Be certain to make procurement records open and available to anyone requesting information. This excludes information received marked “Proprietary Information” or “Confidential” (Access to Public Records Act, State Government Article, Title 10, Sections 10-611 to 10-628, Annotated Code of Maryland).
- Make certain solicitation activities are truly competitive.

- State the award criteria in the terms of the solicitation and do not change those criteria without each bidder's knowledge.
- No preference should be given, goods or services should not be called proprietary or sole source unless it is determined that they are and that determination can be documented.
- No subjective favoritism is permitted.
- Be certain to give the same kind of service to internal customers and external suppliers as you expect to receive from them.

Remember that the ability to make purchases on behalf of the County does not entitle the purchaser to any kind of special personal privileges from the vendor and no professional buying for the County shall be, in any way, tied to any personal purchases at any time.

PERCEPTION IS EVERYTHING. Procurement decisions shall be sound and the method of determination shall be documented and open to public inspection. If a decision is perceived to be less than fair to all competitors, then the perception becomes the reality to unsuccessful bidders. It is important that awards are made based on competition or the best value for the County, that the reason(s) for those awards is documented and defensible, and that the decision is based on fact and is made in the best interest of the County.

1.9 Procurement Records and Information

Public access to procurement information: Procurement information shall be a public record and shall be available to the public, as provided in Access to Public Records Act, State Government Article, Title 10, Sections 10-611 to 10-628, Annotated Code of Maryland.

Copies of procurement information: Copies of procurement information, subject to public access, are available to the public in accordance with County Policy AT-1, Regulations Concerning Public Information Act Requests.

Retention of procurement records: All procurement records shall be retained and disposed of in accordance with records retention guidelines and schedules outlined in County Policy GA-1, Records Management.

1.10 Definitions

Refer to Appendix A – Glossary of Public Purchasing Terms. The terms defined therein shall have the indicated meanings whenever they appear in this Manual, unless the context in which they are used clearly requires a different meaning or a different definition is prescribed for a particular section thereof.

2 ADMINISTRATIVE MATTERS

2.1 Establishment of the Purchasing Department

The Washington County Purchasing Department operates under the direction of the Director of Budget and Finance. The Purchasing Department shall be administered by the position of Purchasing Director.

2.2 Authority

The Board established the Purchasing Department in 1976. The Purchasing Department is located in the Washington County Administration Building, 100 West Washington Street, Third Floor, Room 320, Hagerstown, MD 21740-4748 and can be contacted via telephone at 240-313-2330, or through the County's web site at www.washco-md.net.

Washington County, Maryland is a political subdivision of the State of Maryland. The Purchasing Department operates in accordance with the laws of the Code of the Public Local Laws of Washington County, Maryland. Except as otherwise provided in this Manual, the Code of Maryland Regulations, Title 21 - Procurement Regulations shall prevail to bring matters of dispute to a final disposition.

2.3 Applicability

Policies set forth in this Manual shall apply to all publicly funded purchases entered into by the County. Policies set forth in this Manual shall apply to all employees acting as agents of the Board for the purpose of procurement of goods and/or services. Any employee who expends County funds: (a) for personal use; (b) without the written approval of his/her agency head/supervisor; (c) without being authorized to act as an agent of the County; and/or (d) without following the procedures as set forth by the Board and the Purchasing Department shall be subject to disciplinary action(s).

2.4 Changes to the Manual

The Purchasing Director shall have authority to make any grammar, spelling, and/or punctuation changes for clarification or easier interpretation or corrections providing no policy(s) is/are affected by the change(s).

2.5 Requirement of Good Faith

It is the County's policy that County employees involved in the negotiation, performance or administration of any County procurement act in good faith on the County's behalf.

2.6 Supplementary General Principles of Law Applicable

Unless otherwise stated within specific provisions of this Manual, the principles of law and equity, including the Uniform Commercial Code (UCC), and any law relative to a contract,

using agency fraud, misrepresentation, duress, coercion, mistake or bankruptcy shall supplement the provisions as stated.

2.7 Purchase Order/Contract Signatory Authorities and Approval Thresholds

Only the Board has the authority, or may designate the authority, to commit funds. The Board of County Commissioners authorizes spending limits and contract signing authority as follows:

Using Agency: \$.01 to \$7,499.99

Purchasing Department: >\$7,500 to formal bid limit set forth in the Code of the Public Local Laws of Washington County, Section 1-106

Board Approval and Contract Execution: A contract amount that exceeds the formal bid limit set forth in the Code of the Public Local Laws of Washington County, Section 1-106)

The Purchasing Director has authority to execute Purchase Orders of any dollar amount that are in compliance with the above approval thresholds and have received Board approval, if required.

The Board, the County Administrator and other appropriate County officials shall be kept apprised of procurement activities. The Board may approve/reject recommendations made for its consideration at its discretion.

Authority is granted for using agencies to obtain quotes and transact purchases, including contract execution, up to \$7,499.99 for items or services that are funded in the using agency's budget without the Processing of a Purchase Order unless required by the vendor.

Further, the using agencies are granted the authority to obtain quotes for purchases of \$7,500 through \$14,999.99. Once the quotes have been received, a Purchase Order – along with quotation information, must be entered into the financial software system for processing by the Purchasing Department. If the request is in compliance with all policies, a Purchase Order (also considered a contract) and any accompanying contract will be processed by the Purchasing Department authorizing the vendor to provide the goods and/or services requested. Any authorization of a purchase exceeding \$7,500 to a vendor without a Purchase Order is not valid.

Any agency requiring assistance for any purchase, regardless of the estimated cost, should contact the Purchasing Department.

2.8 Minority Business Enterprises

No provision is made in these policies for preferences or set-asides for minority or women owned businesses. However, the Purchasing Department shall solicit and encourage Disadvantaged Business Enterprises including firms that are small business, minority or women-owned business participation for County purchases or contracts by way of public advertisement and by encouraging firms to obtain certification through the Maryland Department of Transportation's MBE Program. Disadvantaged Business Enterprises include

firms which are small business, or which are owned and controlled by minorities or handicapped individuals.

The County shall make positive efforts to utilize Disadvantaged Business Enterprises and Women's Business Enterprises in all purchases made with U.S. Department of Transportation Federal Transit Administration (FTA) funds in accordance with regulations of the U.S. Department of Transportation, Federal Regulations 49 C.F.R. Part 26, as may be amended. The Board, as owner and operator of the Hagerstown Regional Airport – Richard A. Henson Field, has established a Disadvantaged Business Enterprise (DBE) program in accordance with regulations of the U.S. Department of Transportation (USDOT), 49 CFR (Code of Federal Regulations) Part 26. The County receives Federal financial assistance from the U.S. Department of Transportation, and as a condition of receiving this assistance, the County has signed an assurance that it will comply with 49 CFR Part 26.

2.9 Local Business Preferences

Purchasing of goods or services from vendors whose place of business is physically located in Washington County is considered to be in the best local interest providing cost, quality and service are equal. No provision is made in these policies for dollar percentage or other types of preferential considerations for local vendors or contractors. It is, however, the practice of the Purchasing Department to solicit bids from local suppliers whenever and wherever such competitive local sources exist, and where no sacrifice or loss in price or quality would result. In the event of a tie bid between a local vendor and an out of town vendor award will be made to the local vendor if all factors, including price, quality, terms, and delivery are determined to be equal, and if not disallowed to do so by the funding source. If there is no local bidder or more than one local bidder, the Board shall award the contract to one of the bidders by drawing lots in public.

2.10 Equal Opportunity

The Purchasing Department shall be responsible for ensuring the procurement of products, commodities and services are in a manner that affords all responsible businesses a fair and equal opportunity to compete.

2.11 English Only Provision

All documentation must be in English for the submission of a bid or proposal; interviews or presentations that are required as part of the solicitation process; and presentations to the public, unless otherwise requested.

2.12 Conflict of Interest (Professional Services)

Contracts or purchase orders will not be awarded to consultants, engineers, architects, or other professionals, for contract administration services if they were paid for actual design, or specification preparation of the subject project by the County, nor is a contractor or any affiliated firm of that contractor, allowed to bid on contracts in which they are being paid for contract oversight, without written consent or approval from the Purchasing Director. In no event shall the consultant or contractor have full authority for approving Change Orders or obligating the County financially on the contract for which they are providing oversight.

2.13 Conflict of Interest (Employee-Owned Business)

The County ***shall not*** contract for goods or services for any using agency if the contract is with an employee of that agency. County Officials and employees who are subject to the County's Ethics Ordinance shall not participate on behalf of the County in any matter which would, to their knowledge, have a direct financial impact, as distinguished from the public generally, on them, their spouse or dependent child, or a business entity with which they are affiliated.

Furthermore, contracting for goods or services with an employee, administrative officer, member of the employee's immediate family, or a company which is owned in whole or part by an employee, administrative officer, or a member of his/her immediate family, or a company in which an employee, administrative officer, or a member of his/her immediate family has a financial interest (as defined in the County's Ethics Ordinance is permitted providing strict adherence to the following requirements:

- The Purchasing Department shall be notified immediately in writing of such an ownership interest or financial interest.
- No contract for goods or services shall be written to an employee-owned business if it could be construed or there is an appearance that the County employee-owned business has an advantage over other competitors.
- No solicitation of business by the employee shall take place during his/her normal duty hours.
- All purchases or contracts involving employee-owned businesses, regardless of estimated cost, shall be competed.

2.14 Protests and Claims

The Purchasing Department recognizes two (2) types of grievances. These are Protests and Claims. The difference between the two is:

- A **protest** is filed ***prior*** to an award of a bid or proposal.
- A **claim** is filed ***after*** the award (or rejection) of a bid or contract.

When submitting a protest or a claim to the Purchasing Department, the aggrieved party bears the burden of complying with all applicable procedures. An interested party may obtain a copy of the procedure upon request.

A protest or a claim must be received by the Purchasing Department in writing no later than seven (7) County business days from the day when the supplier knew *or should have known*, as determined by the Purchasing Department, of the facts giving rise to the aggrieved issue. Protests or claims received after the seven (7) County business days will not be formally addressed.

Before a protest and/or claim is submitted, it is recommended that the aggrieved party contact the Purchasing Director to discuss the issue and attempt to resolve it in an informal manner. It is the practice of the Purchasing Department to try to resolve all controversies by mutual

agreement between the parties involved. However, if the issue cannot be resolved, the following constitute the applicable procedures to submit a protest or claim.

Purchases using Federal Transit Administration (FTA) funds shall include Protest Procedures and all other federally-mandated clauses.

2.15 Protest Procedure

A protest may be submitted on any phase of the solicitation of an Invitation to Bid (ITB) or Request for Proposals (RFP) up to and including the date/time of bid and/or proposal opening, and through the date/time of award. Protests consist of written objections by an interested party to a solicitation for bids/proposals by the County or cancellation of the solicitation. Matters regarding County policies and procedures are not subject to this policy. Reasons for protest may include, but may not be limited to:

- The preparation of the specifications
- Insufficient time to respond
- Restrictive bonding requirements
- Excessive or restrictive qualification requirements
- Evaluation criteria

When submitting a protest, the party must:

- Identify the ITB or RFP number and title
- Date the protest
- Describe the aggrieved issue
- Submit one (1) original and two (2) copies of the protest
- Deliver it to the Purchasing Director no later than the date/time of bid and/or proposal opening or the date/time of award

The Purchasing Director will send a copy of the protest to the County Attorney and the using agency affected by the protest. The Purchasing Director shall review the issue with the appropriate staff, which shall include the County Attorney. No later than ten (10) calendar days after receipt of a protest, the Purchasing Director shall reply, in writing, to the aggrieved party. The Purchasing Director is the only person authorized to respond to the protests. The reply shall state the reasons for the decision reached. Specific findings of fact are not required, but if made, shall not be binding in any subsequent proceeding. The decision of the Purchasing Director is final.

2.16 Claims

A claim consists of a written objection by an interested party to a bid or contract awarded or rejected by the Board as a result of an Invitation to Bid (ITB) or Request for Proposals (RFP).

When submitting a claim, the party must:

- Identify the ITB or RFP number and title
- Date the claim

- State the specific reason(s) for the claim
- Submit one (1) original and two (2) copies of the protest
- Deliver it to the Purchasing Director no later than seven (7) County business days after bid/proposal award/rejection

The Purchasing Director shall send the original to the County Attorney. The Purchasing Director will retain one (1) copy and one (1) copy will be sent to the using agency affected by the claim. The County Attorney will review the claim with the appropriate staff. Commencement of the bid or contract shall be halted until resolution of the claim. Within ten (10) calendar days, the County Attorney shall reply, in writing, to the aggrieved party. The County Attorney is the only person authorized to respond to the claim. The decision of the County Attorney is final.

2.17 Reconsiderations

When an aggrieved party does not agree with the final decision of the Purchasing Director (*in the case of a protest*) or the County Attorney (*in the case of a claim*), the party must submit, in writing no later than seven (7) calendar days from the date of the final decision, the specific reason(s) for the disagreement. The party must include all related information pertaining to the original protest or claim. An original and five (5) copies must be sent to the Board *in care of the* County Attorney. The County Attorney will present the protest or claim to the Board for reconsideration.

The Board shall have twenty-one (21) calendar days to send its response to the County Attorney.

The County Attorney shall then have ten (10) calendar days to mail the response to the aggrieved party on behalf of the Board. The decision of the Board is final.

2.18 Standardized Procurements

Procurement of Board approved standardized County stationery for all using agencies of the County and also Board approved standardized business cards for county personnel shall be performed through and by the Purchasing Department. Elected officials and agencies with marketing themes are exempt from this provision, as approved by the Purchasing Director.

2.19 Donations to County

Any item given by a vendor for trial use and for keeping or any item donated by a vendor to the County or donated to an employee acting on the County's behalf shall become the property of the County.

2.20 No Free Travel Through Vendors

No employee involved with evaluation, recommendation or approval of county purchases shall accept free transportation or lodging from any person, firm or corporation where such transportation or lodging is for participating in vendor marketing activities. Where such activities require use of the vendor's corporate transportation or lodging facilities, fair value reimbursement by the county is required. Participating in such activities requires advance

approval by the County Administrator. This direction is not meant to limit participating, where appropriate, in vendor sponsored seminars and education, related activities or in product marketing activities where automobile travel or a meal is provided.

2.21 Bid/Proposal Document Holders' Lists

Bid/Proposal document holders' lists shall not be released prior to a bid/proposal opening unless distribution of a list for any bid/proposal process is determined by the Purchasing Director to be in the best interest of the County, as this may adversely affect the bids/proposals received and/or encourage collusion. Any requests received by a county agency for this information are to be directed to the Purchasing Department.

2.22 Credit Applications

All applications to vendors for credit shall be processed by the Purchasing Department. Neither the Purchasing Director nor any employee of the County shall be required to execute a vendor's credit application that requires a "personal guaranty" to the vendor.

2.23 Personal Purchases for Employees

In consideration of legal aspects and trade relations with local retail merchants, the Purchasing Department may not purchase supplies for the private use of employees. No County employee may use his/her position with the County in an effort to obtain a price consideration better than that offered to the general public in any of his/her private purchases.

2.24 Relations with Other Public Jurisdictions

The Purchasing Department may undertake programs involving joint or cooperative purchases with other public jurisdictions such as the municipalities of Washington County and the Washington County Public Schools.

2.25 Avoidance of Verbal Arrangements/Understandings

Insofar as possible or practical, any communications with vendors regarding contracts should be in writing to avoid misunderstandings and to provide a historical file.

2.26 Relations with Suppliers

It is not permissible to favor any particular individual or firm with orders or to give those submitting bids or quotations, information which will give anyone advantage over others seeking County business. Contact with employees in using agencies by supplier's representative should be through, or with the knowledge of the Purchasing Department. The intent is to prevent vendor representatives from bypassing the Purchasing Department and dealing with user agencies directly in an attempt to influence employees.

2.27 Purchases at Public Auction

As authorized in the Code of the Public Local Laws, the Board is permitted to purchase tangible personal property exceeding the formal bid limit set forth in the Code of the Public Local Laws

of Washington County, Section 1-106 at public auction. In these instances, any procurement is to be approved by the Board prior to the public auction. A confirming purchase order is to be prepared and processed after public auction.

2.28 Uniform Bidding

It is the duty of the Purchasing Director to discourage uniform bidding and to endeavor to obtain as much competition as possible on all purchases.

2.29 Cancellation or Rejection of Bids or Proposals

The provisions of this policy shall govern the cancellation of any solicitation issued by the Purchasing Department under competitive sealed bidding, competitive sealed proposals, small purchases, or any other source selection method, and rejection of bids or proposals in whole or in part, whether rejected for being non-responsive or non-responsible.

Solicitations shall only be issued when there is a valid procurement need. Solicitations shall not be issued to obtain estimates or to “test the water”. A solicitation is to be canceled only when there are valid and compelling reasons to believe that the cancellation is in the County’s best interest.

2.30 Cancellation or Rejection of All Bids or Proposals Prior to Opening

Prior to opening of bids or proposals, a solicitation may be canceled in whole or in part when the Purchasing Director and using agency determine, in writing, that such action is in the County’s best interest for reasons including:

- The County no longer requires the supplies, equipment, materials, or services.
- The County can no longer reasonably expect to fund the procurement.
- Proposed amendments to the solicitation would be of such magnitude that a new solicitation is desirable.

2.31 Rejection of Bids or Proposals (In whole or In-part) After Opening

After opening, but prior to award, any or all bids or proposals may be recommended to the Board for rejection in whole or in part when the Purchasing Director and using agency determine in writing that such action is in the County’s best interest for reasons including:

- The supplies, equipment, materials, or services being procured are no longer needed.
- Ambiguous or otherwise inadequate specifications were part of the solicitation.
- The solicitation did not provide for consideration of all factors of significance to the County.
- Prices exceeded funds available and it would not be appropriate to adjust quantities or qualities to come within available funds.
- All otherwise acceptable bids or proposals received are at clearly unreasonable prices or terms.

- There is reason to believe that the bids or proposals may not have been independently arrived at in open competition, may have been collusive or may have been submitted in bad faith.

2.32 Notice of Cancellation

When a solicitation is canceled prior to opening, notice of cancellation shall be sent to all vendors solicited and posted on the County website. The notice of cancellation shall identify the solicitation, explain the reason for the cancellation, and where appropriate, explain that an opportunity will be given to compete on any re-solicitation.

2.33 Documentation of Cancellation

The reasons for cancellation or rejection shall be made a part of the procurement files and shall be available for public inspection.

2.34 Disposition of Documents

When bids or proposals are rejected or a solicitation canceled after bids or proposals are received, the bids or proposals that have been opened shall be retained in the procurement files, or, if unopened, returned to the bidders or offerors upon request or otherwise disposed of.

3 METHODS OF SOURCE SELECTION

3.1 Procurement Methods Not Requiring Formal Solicitation

All purchases and contracts shall be procured competitively with the exception of purchases or contracts made using the following exemptions:

- Procurements of \$7,499.99 or less.
- Services or purchases made from another contract or agreement written by another Federal, State, County, City government agency, or government cooperative for identical goods or services. The agreement or contract must have been formally competed or renewed within the last twelve (12) months by the Federal, State, County, or City Government Agency.
- Purchases directly from federal, state, county or other governmental units.
- Subscriptions for magazines, books, or periodicals.
- Purchases from the County stockroom.
- Dues.
- Advertisements, i.e. newspapers and periodicals.
- Postage.
- Insurance claim repairs/replacements.
- Advances or expenses related to official travel or attendance at conventions, seminars or schools.
- Professional services with an annual cost not to exceed the formal bid limit set forth in the Code of the Public Local Laws of Washington County, Section 1-106 with justification approved by the Purchasing Director.
- Proprietary training consultants or training classes.
- Professional Legal Services to represent the interests of the County in connection with threatened or pending litigation.
- If there is a critical time element in obtaining materials, the County may consider using the last supplier and his/her price without further price checking of the particular item if the elapsed time is no more than twelve (12) months and there is a rush status to a purchase that does not exceed the formal bid limit set forth in the Code of the Public Local Laws of Washington County, Section 1-106.

3.2 Small Purchases of Less Than the Formal Bid Limit Set Forth in the Code of the Public Local Laws of Washington County, Section 1-106

Expenditures for the procurement of supplies, equipment, materials, or services having an estimated value of less than the formal bid limit set forth in the Code of the Public Local Laws of Washington County, Section 1-106 may be made on the open market by informal procurement methods, without public notice and without following formal procurement methods. Procurement requirements shall not be artificially divided so as to constitute a small purchase under this policy.

The types of informal procurement methods are:

Single Quote. A single quote may be obtained to purchase goods or services in the amount of \$7,499.99 or less. The using agency may request that the vendor provides a written quote containing all details of the purchase, i.e., date of delivery, freight costs, discounts, warranty, etc.

It is suggested that, when time allows, agencies may obtain competitive quotes, either written or by telephone, to insure that that using agency is getting the best value for the County.

Informal Quotes. Informal quotes should be used to purchase goods/services greater than \$7,500 and not exceeding \$14,999.99, including those goods whose daily pricing fluctuates under changing market conditions or during a declared emergency. The caller shall make every effort to obtain at least three (3) competitive quotes. A sample Informal Quote form is included herein as Appendix B. The using agency shall then submit an on-line Purchase Order request for approval of the purchase and include all quotation information.

Request for Quotations (RFQ). A Request for Quotations should be used to purchase goods in excess of \$15,000 and up to and including an amount not to exceed the formal bid limit set forth in the Code of the Public Local Laws of Washington County, Section 1-106. The Request for Quotations form shall be issued to at least three (3) qualified vendors by either the using agency or the Purchasing Department. Vendor responses shall then be received and tabulated. Award shall be made by the Purchasing Department to the responsible vendor offering the lowest responsive quotation based upon the best value determination to the County. The Purchasing Department shall retain in its files the original Request for Quotations and all original responses to the Request for Quotations. The using agency shall submit an on-line Purchase Order request for approval of the purchase.

3.3 Technology and Fleet Procurements

All technology purchase requests, except for consumable items, shall be acquired in accordance with the County Information Technologies Department's Software Compliance Policy. The Information Technologies Department will review each request to determine the correctness of all the systems issues, including compatibility, support, architectural standards, implementation, and integration capabilities. The Budget & Finance Department will insure the funds are available and will not allow any expenditures involving technology without the review and system approval of the Information Technologies Department. Once approved by the Budget & Finance and the Information Technologies Department, the request will be processed through the Purchasing Department according to the established purchasing guidelines.

The same process will be followed for all vehicle purchases, including those to be purchased at auction, where requests are submitted during the budgeting process. All vehicle requests shall be acquired in accordance with the Vehicle/Equipment Replacement Policy Guidelines for Washington County, Maryland prior to submitting any request to the Purchasing Department. Consideration shall be given to the overall costs related to the vehicle, including maintenance and insurance. The Sheriff's Office, Transportation Department, and Division of Environmental Management have their own Fleet Divisions and are not subject to the assistance of the Highway Department for vehicle and vehicle accessories purchases.

3.4 Sole Source Procurement

A sole source (non-competitive) procurement is permissible if a requirement is available from only a single supplier. A requirement for a particular proprietary item does not justify sole source procurement if there is more than one potential bidder or offeror for that item or service.

Some circumstances that could necessitate sole source procurement are:

- The purchase of technical equipment or maintenance services for which there is no competitive product or service and which is available only from one supplier.
- The purchase of professional services from a vendor who is uniquely qualified to provide such services.
- The purchase of a component or replacement part for which there is no commercially available product and which can be obtained only from the manufacturer.
- The purchase of an item where compatibility is the overriding consideration.
- The purchase of a used item which becomes immediately available and is subject to prior sale.
- The purchase of a particular product for trial or testing.
- The use of other than OEM (original equipment manufacturer) parts would void a still valid warranty.
- The purchase of a product/service from a vendor who has been awarded a contract by another governmental entity and who allows its product/service to be purchased by other governmental agencies from that contract.

Any request by a County using agency that a purchase be restricted to one (1) potential supplier shall be accompanied by a written explanation from the County using agency's head/official as to why no other supplier will be suitable or acceptable to meet the need. This written justification will be placed in the procurement file for audit purposes.

The Purchasing Director, or designee, shall determine whether or not use of a sole source is in the best interest of the County based on documented justification by the using agency head, or designee.

Sole source refers to the supplier, not a product or service. Thus, the ability to meet a delivery date or to provide on-call repairs can create a sole source that is a single supplier condition. Justification for a sole source purchase depends upon a needed item or service being available from only a single supplier under the prevailing conditions. If the item may be obtained from more than one source, price competition shall be solicited.

Sole source procurements that exceed the formal bid limit set forth in the Code of the Public Local Laws of Washington County, Section 1-106 shall be processed in accordance with the provisions contained in the Code of the Public Local Laws of Washington County, Section 1-106.2 – Sole Source Procurement.

3.5 Emergency Purchases

An emergency condition is a situation that creates a threat to public health, welfare, or safety such as may arise by reason of floods, epidemics, riots, equipment failures, or other such reason as proclaimed by a using agency. The existence of such condition creates an immediate and serious need for supplies, equipment, materials, and services that cannot be met through normal procurement methods and the lack of which would threaten the function of County government, or the health, safety or welfare of County residents. County using agencies may make emergency procurements when an emergency condition arises and the need cannot be met through normal procurement methods. An emergency procurement shall be limited only to a quantity of those

supplies, equipment, materials, or services necessary to meet the emergency. There shall be no delay for purposes of purchasing emergency goods and/or services.

- In cases of emergency, the governing body of the local government may authorize the expenditure of funds in excess of the budget by ordinance or resolution duly adopted by a majority vote of such governing body.
- If the expense exceeds \$7,499.99 and the emergency occurs during normal County business hours (7:30 a.m. – 4:30 p.m., Monday through Friday), the Purchasing Department shall be contacted (in person or by telephone) for guidance on the appropriate action needed to handle the purchasing emergency.
- If the emergency occurs outside of normal business hours, the only emergency purchases authorized are those related to the maintenance and repair of County facilities, to the emergency maintenance of County vehicles and emergency conditions related to the operation of the Sheriff's Office, Division of Emergency Services, Division of Environmental Management, and Division of Public Works activity.

The individual authorizing the emergency purchase will inform the Purchasing Department of any such purchase made no later than the first County working day following the purchase.

If the follow-up review of an emergency purchase indicates that the purchase was not an emergency, the purchase may be disallowed for payment and a determination by the using agency's head shall take the appropriate disciplinary action.

Proper Purchase Order procedures and approval limits remain the same for the authorization of the expenditures; however, formal ITB/RFP procedures may not apply.

Emergency procurements shall be limited only to a quantity of those supplies, services or construction items necessary to meet the emergency.

NOTE: IN THE EVENT OF A DISASTER, THE DEPARTMENT OF EMERGENCY SERVICES' (DES) "*COMPREHENSIVE EMERGENCY OPERATIONS PLAN*" PROCEDURES FOR THE EMERGENCY OPERATIONS CENTER SHALL BECOME EFFECTIVE.

The County Administrator or Purchasing Director may authorize any procurement if it is above the formal bid limit set forth in the Code of the Public Local Laws of Washington County, Section 1-106; however, the procurement must be placed on the next scheduled formal agenda for approval by the Board. By relieving the budget constraints, the Board allows the DES the flexibility to obtain goods and services required to react to an emergency or disaster situation.

Man made emergencies through neglect must be avoided. A typical example of this situation is the depletion of stock due to failure to anticipate needs in advance of requirements. All emergency orders exceeding \$7,499.99 will be brought to the attention of the using agency's Division Director and/or the County Administrator. It shall be the responsibility of the respective using agency head and the Purchasing Director to keep the practice of making emergency purchases to an absolute minimum. Emergency purchases are made hurriedly, usually on a noncompetitive basis, and almost always at top prices. The use of an emergency purchase to circumvent normal purchasing procedures will not be permitted.

3.6 Equipment Leases

A lease is a contract under which title to the equipment will not pass to the lessee. A lease with an option to purchase, however, allows title to pass if the purchase option is exercised. It has, or has the effect of, a conditional sales agreement. Leases and purchase options should never be used to circumvent the requirements for competition. The soundest and safest approach is that any leases of equipment be subject to the requirements for competition that apply to outright purchases. Leases with the option to purchase should not be considered unless there is written justification from the using agency head why it is beneficial to pursue the approval and shall also have the approval of the Budget & Finance Director.

All lease agreements for capital equipment shall be reviewed by the County Purchasing Director and reviewed and approved as to form by the County Attorney and signed by the President of the Board after appropriate review and negotiation of terms and conditions. The Purchasing Director may elect to seek additional proposals from third party leasing companies. Lease agreements signed by unauthorized parties may be voided and may result in personal liability. Lease agreements with a value that exceeds the formal bid limit set forth in the Code of the Public Local Laws of Washington County, Section 1-106 must be presented to the Board for approval and for signing by the President of the Board. Purchase Orders are not required for Capital Lease procurements.

3.7 Change Orders

All changes to a purchase order and/or contract shall be processed through the Purchasing Department. Examples of changes that result in a price increase or decrease are:

- description of merchandise
- quantity
- scope of work/services
- delivery/completion date

Documentation for the change must accompany the request to the Purchasing Department with the appropriate using agency/contract authorization.

Change orders shall not be used to circumvent the dollar limits as outlined in this policy Manual. If a requirement for a product/service is estimated to eventually cost more than the formal bid limit set forth in the Code of the Public Local Laws of Washington County, Section 1-106, the solicitation procedure must be followed.

A multi-part Change Order form (Appendix C), available from the Purchasing Department, shall be processed for modifying a Purchase Order/contract associated with the following contract types as awarded by the Board:

- construction projects
- professional/technical services acquired through the RFP process

The County Administrator shall have authority to execute a multi-part Change Order up to an amount equal to the formal bid limit set forth in the Code of the Public Local Laws of Washington County, Section 1-106. A multi-part Change Order for any amount exceeding the

formal bid limit set forth in the Code of the Public Local Laws of Washington County, Section 1-106 shall be submitted to the Board for final disposition after approval by the Vendor/Contractor and/or Consultant, Approving Agency, Budget & Finance, and the Purchasing Department.

For all other types of procurements, a Oracle Change Order Request form (Appendix D), available in the Purchasing Folder on the County's Microsoft Outlook, shall be processed for modifying a Purchase Order/contract.

3.8 Use of State or Other Governmental Entity Awards

The County may purchase from State and other governmental entity contracts awarded for goods and/or services required if the award is extended to the County by the vendor awarded the contract.

The County may not, however, use the prices on a State or other governmental entity contract as a means of negotiation with other vendors. Typically, the prices under these contracts have been contracted/negotiated with the anticipation that the volume will be increased because other government agencies having similar requirements will use them. These contracts are already in place and utilizing them is a timesaving and normally cost-savings measure as they eliminate the requirement for formal solicitation. Also, there are usually tightly negotiated terms and conditions that prove to be beneficial for all governmental agencies.

When a particular commodity/service is available on a State or other governmental contract, a using agency may purchase from the contract at the price contracted/negotiated by the state or other governmental entity via a Purchase Order. A using agency must obtain a copy of the contract information for providing to the Purchasing Department and reference the contract or award number on the Purchase Order for procurements over \$7,499.99. For any inter-governmental contract procurement that exceeds the formal bid limit set forth in the Code of the Public Local Laws of Washington County, Section 1-106, approval must first be granted by the Board in accordance with Section 1-106.3 of the Code of the Public Local Laws of Washington County, Maryland.

3.9 Use of County-Wide Annual Service Agreements

The best use of the taxpayers' money is a key element in the procurement of goods and services for the County. When County using agencies have requirements for similar goods and/or services, and when it is in the best interest of all using agencies involved, cooperative procurement is a viable and useful tool. Quantity and delivery discounts may realize a considerable savings for all using agencies involved.

The Purchasing Department, for the benefit of the County, establishes Annual County-wide Service Agreements for services each year. These agreements are advertised and competed to insure the best overall price for the County. Since these agreements have been competed in an open market, County using agencies may place orders against these agreements without having to obtain additional competitive quotes.

3.10 Procurement Card (P-Card) Program

The County procurement card may be used for small purchases in accordance with the rules and regulations set forth in the County Purchasing Card Policy administered through the County Budget & Finance Department. County using agencies desiring to participate in this program should contact the County Budget & Finance Department to request approval to participate.

3.11 Professional/Technical Services With Costs Not Exceeding the Formal Bid Limit Set Forth in the Code of the Public Local Laws of Washington County, Section 1-106

Professional/technical services means those services which are essentially intellectual in character and which include analysis, evaluation, prediction, planning, or recommendation. A professional/technical service incorporates extended analysis, the exercise of discretion and independent judgment in its performance. In addition, it requires an advanced, specialized type of knowledge, expertise, or training customarily acquired either by a prolonged course of study or equivalent experience in the field. Professional/technical services include, but are not limited to, those specialized services performed by accountants, analysts, consultants, lawyers, pharmacists, physicians, planners, and artists, when the exact scope and content of the services cannot be specified readily with certainty.

Professional/technical services with costs not exceeding the formal bid limit set forth in the Code of the Public Local Laws of Washington County, Section 1-106 shall be procured by soliciting for a minimum of three (3) quotations. The person doing the acquisition shall use professional judgment to ensure that the County is receiving maximum value. The Purchasing Director, or the designee of such person, will make the determination as to whether or not the professional service is appropriate for a non-competitive award.

In all circumstances where professional/technical services are procured, a purchase order and/or contract must be executed. All contracts for professional services must be prepared by either the Purchasing Department or Office of the County Attorney and approved as to form by the Office of the County Attorney.

For professional services to be purchased that do not exceed the formal bid limit set forth in the Code of the Public Local Laws of Washington County, Section 1-106:

- A solicitation of a minimum of three (3) quotations shall be obtained. A documented quote process shall be conducted when appropriate.
- A full documentation of the scope of services, qualifications and experience of key personnel, project approach, references, financial information and fee requirements must be in the file.
- A Purchase Order is required with the information as stated above.
- No formal approval by the Board of County Commissioners is required. Approval shall be required by the head of the using agency or the designee of such person, and the Purchasing Director or the designee of such person.
- Where a contract by the County or by the provider is required, the County Attorney, or the designee of such person, must review the contract and approve as to form.

The Purchasing Director, or the designee of such person, shall have signature authority to enter into an agreement, purchase order and/or contract with the provider of professional services under this provision.

3.12 Procurement Methods Requiring Formal Solicitation

The procurement of goods or services with an annual cost requirement or total multi-year cost that exceeds the formal bid limit set forth in the Code of the Public Local Laws of Washington County, Section 1-106 must be competitively solicited unless otherwise exempted herein or by the Code of the Public Local Laws of Washington County.

3.13 Preparation of Specifications

Using agencies or using agencies and a consultant, if required, shall prepare specifications. The Purchasing Department will work with using agencies so that the specifications will be as accurate and complete as possible.

Assistance by a vendor in writing specifications is not a common practice. It should be avoided whenever possible because it may inhibit competition. If a vendor is asked to write specifications, that vendor should be paid for its services and prohibited from submitting a bid/proposal in response to the solicitation. However, if the vendor assists in writing generic technical specifications that do not favor that vendor's product/service, he/she may be allowed to submit a bid/proposal and this information must be disclosed to the other vendors either in the specifications or at a pre-bid/pre-proposal conference/meeting.

3.14 Form of Specifications

Specifications shall be clear and accurate descriptions with sufficient detail to provide for suitable purchases and shall include:

- Functions and standards characteristics
- Materials and method description(s)
- Preparation for shipment, delivery point
- Quality assurance and acceptance tests (where applicable)
- Warranties and service support requirements

Requesting agencies and the Purchasing Department shall issue product, supply, and service specifications that are not unduly restrictive. This may include the utilization of life cycle costing and/or value analysis in determining the lowest responsive, responsible bidder, provided the specifications indicate the procedure and evaluative factors to be used. Performance specifications may be used provided they include the evaluation criteria to be used in making the recommendation for award.

3.15 Review and Approval

The Purchasing Department will review submitted specifications to ensure that all necessary information is included and that there are not requirements that unnecessarily restrict or limit competition.

3.16 Competitive Sealed Bidding – Invitation To Bid for Equipment, Supplies, Materials, Services and Construction

An Invitation to Bid (ITB) is the formal procedure used by the Purchasing Department in accordance with proper procurement methods to solicit bids from vendors for merchandise and for services. The Purchasing Department will strive to attain economical commitments for Washington County, keeping in mind not to sacrifice quality and service for price, and to consider all factors affecting expenditures. It shall continually seek to foster competition and obtain new sources of supply.

Bid procedures shall be open and unrestricted; however, the County shall not be obligated to solicit bids from every supplier for every requirement.

Upon receipt of using agency authorization to proceed with a formal solicitation, the Purchasing Department prepares the solicitation package.

3.17 Adequate Competition

It is the responsibility of the Purchasing Department to insure that an adequate number of bidders are solicited for every requirement for achieving optimum competition. This responsibility includes selecting other advertising methods or vehicles when sources may be limited.

3.18 Basic Considerations

The statement of work (SOW) or specifications of the ITB is critical for the success of the procurement. Basic considerations include the contractual terms and conditions which must be written to protect the interest of the County; openness of specifications; requirements for transportation and delivery; and instructions as to how the bidder is to submit the bid. A solicitation should seek full and open competition for all purchases and provide fair and equal opportunity for all qualified persons or firms to compete.

Once the solicitation has been opened to the public, all technical questions from vendors must be addressed through the Purchasing Department. The Purchasing Director or designee shall be responsible to assure all questions/issues are brought to the using agency for clarifications and/or answers, and then relayed to vendors in a timely manner. It is important that information is given to all interested vendors to ensure fair and open competition. After proposals are submitted, all vendor contact shall continue to be made through the Purchasing Department.

3.19 Solicitation Time

The minimum time for solicitation of an ITB and an RFP shall be twenty-eight (28) calendar days from the date the advertisement is publicly advertised/posted. When special requirements exist, the Purchasing Director may lengthen or shorten the solicitation time, but in no case shall the time cycle be shortened if it will reduce competition. Complicated procurements may have a time period that is longer than the standard twenty-eight (28) calendar days. The Purchasing Director shall document the reason why a solicitation time of less than twenty-eight (28) calendar was required.

3.20 Public Notice - Advertisement

ITBs and RFPs that exceed the formal bid limit set forth in the Code of the Local Public Laws of Washington County, Section 1-106 shall be advertised in a newspaper that is published in the county or through electronic media at least one (1) week before the deadline for receipt of bids/proposals.

3.21 Invitation To Bid – Content

The ITB shall, at a minimum, include the following:

- Instructions and information to bidders concerning the location where the bid document can be secured; the bid submission requirements (furnished by the Purchasing Department), including the time and closing date; the address of the office to which bids are to be delivered; and place of bid opening;
- The project description, (furnished by the using agency) basis of award, delivery or performance schedule and inspection and acceptance requirements;
- The contract terms and conditions, including warranty and bonding or security requirements as applicable.

3.22 Multiple or Alternate Bids

Bidders are encouraged to submit alternate (or substitute) bids in addition to the primary bid as long as it meets the full form, fit and function of the ITB specifications. The County shall be the sole judge of equivalence. The alternate bid must be clearly identified separate from the primary bid submitted.

If the solicitation prohibits multiple or alternate bids, the multiple or alternate bids shall be rejected, and a clearly indicated base bid will be considered for award as though it were the only bid or offer submitted by the bidder.

3.23 Receipt of Bids

Upon receipt, each bid shall be date/time-stamped by machine or by hand and shall be stored in a secure place until bid opening time. Bids shall not be opened upon receipt, with the exception of bids that must be opened in order to identify those bids that cannot be visibly identified by the information on the envelope. If bids are opened for identification purposes only, they shall be opened and resealed in the presence of a witness and documented as such on the front of the envelope.

3.24 Public Bid Opening

As bids are received in the Purchasing Department, they are date/time stamped and placed in a secure place until bid opening time. The County Engineering and Construction Management Department, located at 747 Northern Avenue, Hagerstown, MD, shall be the designated location for processing and receiving of bids for selected projects. The County Engineering Department, shall act in accordance with the provisions herein on behalf of the Purchasing Department for the bids processed for selected projects.

Bid Opening: The bid opening shall be held on the date and at the time and place announced in the solicitation or at the date, time and place announced in any change. All bids received on or before the date and time specified in the ITB will be opened publicly and read aloud. The bids will be read aloud by the Purchasing Director or designee and results shall be tabulated. A bidder shall not be allowed to complete a bid during a bid opening.

No Late Bids Accepted: Any bid received after the time and date stated in the ITB shall be time/date stamped and returned to the vendor unopened. The County shall not be responsible for late bids received due to problems with the United State Postal Service or other delivery services, adverse weather conditions, parking problems, unforeseen problems of the vendor(s) or any other situation where a bid cannot be delivered by the time and date specified in the ITB. If the ITB identifying information is not on the outside of the envelope/package, the Purchasing Department reserves the right to open the envelope/package, identify the bid, then reseal and return it to the vendor. Bids not received, date and time stamped, at the respective specified location for receipt of bids shall not be opened nor considered for contract award.

If County offices are closed due to inclement weather on a day for the scheduled deadline for bid submittal, the deadline for receipt of and reading of bids shall be at the same scheduled hour on the third working day (excluding County observed holidays) after the scheduled proposal opening date or as directed by any addendum issued by the County.

Type of Bid Formats Accepted/Not Accepted: Telephone, facsimile and electronic bid responses, shall not be accepted in the formal competitive sealed bid process, unless permitted elsewhere in this Manual or in an ITB document.

3.25 Tabulation of Bids

Tabulation of Bids: After the bid opening, the Purchasing Director shall verify all information received on the bid forms for accuracy. If a mathematical error is detected or any other information is not clear, the Purchasing Director shall contact the authorized representative of the vendor to advise him/her of the error and get authorization to make the correction. The Purchasing Director may also ask for clarification on any of the information submitted as part of the bid, including warranty and delivery, manufacturer/make/model or alternate bids. If an error has been made by a bidder that will create a hardship for the bidder, and if it obviously is a mistake, the bidder shall be allowed to withdraw his bid upon receipt of a written request to do so. This written request should give the specifics of the mistake. Under no circumstances shall a vendor be allowed to change the submitted bid. Clarifications will be requested to allow for a fair evaluation of information received. The Purchasing Director shall then tabulate the bid results listing bids from low responsive bid to highest bid, including alternate bids received.

Award Posting: After award, tabulation results shall be made available in either the Purchasing Department or on the County's website. All documents submitted with the bid become public information immediately after the bid opening, except for those items identified as proprietary information, trade secrets or other information protected under the Access to Public Records Act, State Government Article, Title 10, Sections 10-611 to 10-628, Annotated Code of Maryland.

3.26 Confidential Data

The Purchasing Director shall examine all bids to determine the validity of any requests for nondisclosure of trade secrets or other proprietary data identified in writing. If the parties do not agree as to the disclosure of data, the Purchasing Director shall inform the bidder in writing what portions of the bid will be disclosed. The Purchasing Director may confer with the County Attorney's Office for validation of the confidentiality of the documents.

3.27 One Bid Received

If only one (1) responsive bid is received in response to the ITB, an award may be made to the single contractor if the Purchasing Director finds that (1) the price(s) submitted are fair and reasonable, (2) other prospective bidders had access to notice of the ITB and reasonable time to respond, or (3) there is not adequate time for re-solicitation.

Otherwise, the bid may be rejected and new bids may be solicited, the proposed procurement may be canceled; or if the Purchasing Director and using agency head determine that the price of the sole bid is not fair and reasonable, and that re-solicitation would likely-be futile, discussions may be entered into with the sole bidder.

3.28 Extension of Time for Bid or Proposal Acceptance

Evaluation and acceptance of bids/proposals should be done in a timely and efficient manner. Vendors may have a time limit for prices quoted and delivery of the goods/services. If so, it must be stated in the bid/proposal. After opening the bids/proposals, the Purchasing Director may request an extension of time for the evaluation of the bids/proposals provided that no other change is permitted. The reasons for requesting such extensions shall be documented.

3.29 Bid Evaluation

All products or services shall be evaluated against the requirements stated in the County's solicitation. In addition to price, the following factors may be considered in evaluating any bid response: delivery date after receipt of order, cash discounts, warranties (type/length), future availability, results of product testing, local service, cost of maintenance agreements, future trade-in value or availability of re-purchase agreement, availability of training courses, financial terms, space limitations, esthetics, adaptability to environment, cost of operation (if any), or safety and health features relating to regulatory codes or requirements.

3.30 Bid Evaluation - Product Acceptability

The ITB may require the submission of bid samples, descriptive literature, technical data, or other material necessary to determine product acceptability. The acceptability evaluation is not conducted for the purpose of determining whether a bidder's item is superior to another, but only to determine whether a bidder's offering will meet the County's needs as set forth in the ITB. Any bidder's offering which does not meet acceptability requirements shall be rejected as non-responsive.

3.31 Award

The Purchasing Director, or designee, shall make any recommendation for award/rejection to the Board. The resulting contract of purchase or other expenditure shall be in the form of a purchase order/contract to the lowest responsive and responsible bidder and a contract of sale shall be awarded to the highest responsible bidder whose bid meets the requirements and the criterion set forth in the ITB and is determined to be in the best interest of the County. A recommendation for award is a collaborative effort between the using agency and the Purchasing Director assisting with the ITB. Evaluation of all the information submitted by the vendor must be documented.

The Purchasing Director in collaboration with the using agency may determine to recommend to the Board whole or partial awards, or to reject all bids if prices are determined to be unreasonably high or unrealistically low. If insufficient funds are available to award a contract, the solicitation may be canceled or the using agency may choose to re-scope the project and re-solicit bids, as may be determined to be in the best interest of the County.

3.32 Lowest Bid

A recommendation for award based on the lowest bid must be made if that bid meets all the specifications as outlined in the ITB, with no exceptions. If the lowest bidder takes exception(s) to the specifications, but is within tolerance and meets the form, fit and function of the merchandise required as well as delivery date required, warranty and all other ITB requirements, it is considered the low bid and should be recommended for award.

However, the lowest dollar bidder is not required to be recommended for award if it:

- Does not meet all the specifications as outlined in the ITB.
- Takes exception to any of the specifications that are not acceptable (as defined above).
- Cannot meet acceptable delivery requirements.
- Has shipping costs that make the overall total cost higher than the next low bid.
- Has an unacceptable warranty limitation(s).
- Has past documented history by the using agency, by reference(s) or in the Purchasing Department file of poor quality, delivery or other information that would affect the operation of the using agency.

3.33 Lowest Responsive Bid (Best Value)

Evaluation of all the bids received must indicate that upon award the County shall realize the best value. When the low dollar bid has been eliminated due to one of the above referenced factors, the next low dollar bid will be evaluated in accordance with the same procedures. The bidder who submits a bid that, when all factors have been evaluated, may meet all the requirements, but is not the lowest dollar bid, may be recommended for award of the bid as the low responsive, responsible bidder.

3.34 Award Process

A using agency shall collaborate on a recommendation for award with the Purchasing Department for recommending the lowest responsive, responsible bidder.

The Purchasing Department issues an award notification to the successful bidder, may publicize the award on the County's website, and may notify unsuccessful bidders.

The Purchasing Department retains bid deposits of the three (3) lowest bidders until a contract is executed; the bid deposits of other bidders shall be returned within ten (10) calendar days of the bid opening. Upon execution of a Contract, the bonds of the two remaining unsuccessful Bidders shall be returned. The Bid Bond of the successful Bidder shall be retained until the Payment Bond and Performance Bond have been executed and approved, after which it will be returned. All bid deposits shall be returned within sixty (60) calendar days of the bid opening should a contract not be executed.

If the bid is not recommended for award to the lowest responsive, responsible bidder for purchases or to the highest responsive, responsible bidder for contracts of sale, or as stated in the ITB document, the Purchasing Department secures well-documented and fully substantiated written reasons for this decision from the using agency.

The Purchasing Director shall work with the successful bidder and the Office of the County Attorney to get all contract or agreement documents in place before services or merchandise are provided to the County.

If the successful bidder fails to execute a contract within ten (10) calendar days of receiving the notification of award, the Purchasing Director may take any bid deposit and consider it as liquidated damages for failure to execute the contract, not as a penalty.

The using agency shall enter a Purchase Order into the Oracle Financial Software System for processing within ten (10) calendar days of either (1) notice of award, (2) receipt of a fully executed contract, if required, or issuance of the Notice to Proceed whichever is the latter. The Purchasing Department shall process and issue the Purchase Order. The Purchase Order may be issued with or subsequent to written award notification to the successful bidder if a performance bond or insurance certificate is not required of the bidder. The Purchase Order shall be held from processing until any required performance bond, executed contract, or insurance certificate is received from the bidder.

The County reserves the right to cancel the award of any contract at any time before all parties execute the contract, without any liability against the County.

3.35 Low Tie Bids

Tie bids are low responsive bids from responsible bidders that are identical in price and which meet all the requirements and criteria set forth in the ITB. In the event of a tie bid between a local vendor and an out of town vendor, award shall be made to the local vendor if all factors, including price, quality, terms, and delivery are determined to be equal, if not disallowed to do so by the funding source. If there is no local bidder or more than one local bidder, at the discretion of the using agency, award shall be made if possible by methods including split orders, rotations, or if not possible to make split or rotational awards, then drawing of lots will be used to determine the award.

However, if an award for a procurement is being made using Federal Transit Administration (FTA) funds, no preference shall be given to firms based on geographical location.

3.36 Modification or Withdrawal of Bids

Bids may be modified or withdrawn by written correspondence from an authorized representative of the bidder, delivered to the Purchasing Department prior to the date/time set for bid opening. The correspondence shall be on the bidder's stationery delivered in a sealed envelope indicating "modification" or "withdrawal" and including the bid number/name thereon.

3.37 Withdrawal of Bid After Opening, But Prior to Award

No bid may be withdrawn or contract negated unless the bidder or contractor can establish that the bid or contract contains mistakes, despite the exercise by the bidder or contractor of reasonable care. The test of reasonable care shall be that:

- the mistake relates to a material feature of the contract;
- the mistake occurred despite the exercise of reasonable care; and
- withdrawal is deemed by the Purchasing Director to be in the best interest of the County and approved by the Board.

3.38 Records

All documents relating to the modification or withdrawal of bids shall be made part of the appropriate procurement file.

3.39 Minor Informalities/Irregularities In Bids

A minor informality or irregularity is one that is merely a matter of form and not of substance. It also pertains to some immaterial defect in a bid or variation of a bid from the exact requirements of the invitation that can be corrected or waived without being prejudicial to other bidders. The defect or variation is considered immaterial when the effect on price, quantity, quality, or delivery is negligible when contrasted with the total cost or scope of the services being acquired.

If the Purchasing Director determines that the bid submitted contains a minor informality or irregularity, then he/she either shall give the bidder an opportunity to cure any deficiency resulting from a minor informality or irregularity in a bid, or waive the deficiency, whichever is to the advantage of the County. In no event will the bidder be allowed to change the bid amount. Examples of minor informalities or irregularities include, but are not limited to, the following:

- Bidder fails to return the number of copies of signed bids required by the ITB.
- Bidder fails to sign the bid, but only if the unsigned bid is accompanied by other material evidence that indicates the bidder's intention to be bound by the unsigned bid (such as bid bond or signed cover letter which references the bid number or title and amount of bid).
- Bidder fails to acknowledge an addendum/amendment - this may be considered a minor informality only if the amendment, which was not acknowledged, is insignificant and involves only a matter of form or has either no effect or merely a negligible effect on price, quantity, quality or delivery of the item or services bid upon.

3.40 Mistakes in Bids - Confirmation of Bid

When it appears from a review of the bid that a mistake has been made, the Purchasing Director shall be responsible for requesting the bidder to confirm the bid in writing. Situations in which the confirmation should be requested include obvious, apparent errors on the face of the bid or a bid unreasonably lower than the other bids submitted. If the bidder alleges mistake, the bidder may request that the bid be withdrawn.

Bidders may request in writing to the Purchasing Director that they be allowed to correct a mistake in their bid; however, the mistake has to be apparent and substantiated by evidence provided by the bidder that the mistake was valid. The Purchasing Director shall evaluate the request and make a determination in writing as to whether the correction of the mistake is allowed.

Further, bidders shall not be allowed to make a correction(s) other than apparent typographical errors if the correction(s) would displace another bidder.

3.41 Mistakes Where Intended Correct Bid is Evident

If the mistake and the intended correct bid are clearly evident to the Purchasing Director on the face of the bid document, the bid shall be corrected by the bidder to the intended correct bid and may not be withdrawn. Examples include typographical errors, errors in extending unit prices, or transposition errors.

3.42 Mistakes Where Intended Correct Bid is Not Evident to the Purchasing Director or Designee

A bidder may be permitted to withdraw a bid if the bidder submits proof of evidentiary value in accordance with provisions above.

3.43 Mistakes Discovered Before Opening

A bidder may correct mistakes discovered before bid opening by withdrawing or correcting the bid as outlined above.

3.44 Determination Required

Any decision to permit or deny correction or withdrawal of a bid under this section shall be supported by a written determination by the Purchasing Director.

3.45 Mistakes After Award of Contract

When a mistake in a contractor's bid is not discovered until after award of a contract, the mistake may be corrected by contract change order if correcting the mistake would be favorable to the County without changing the specifications. If the mistake is not in the favor of the County, the Purchasing Director will have the following options:

- To rescind the contract via termination.

- Deny the Contractor's request to correct the mistake, or to reform the contract by the following actions:
 - Delete the item (s) involved in the mistake.
 - To increase the price of the contract by allowing the correction of the mistake, as long as the correction or increase in price does not exceed the price of the next lowest bidder. Partial corrections will not be allowed in order to stay below the next lowest bidder's price.

In all cases, the burden of proof rests with the vendor. The alleged mistake must be proven by clear and convincing evidence that a mistake was indeed made. The Purchasing Director shall request the contractor to support the alleged mistake by submission of written statements and pertinent evidence such as, but not limited to:

- Vendor's file copy of bid.
- Vendor's original worksheets, including supporting data used to prepare bid.
- Subcontractor or supplier quotes.
- Any other evidence that will serve to establish the mistake, the manner in which the mistake occurred and the bid actually intended.

If there is not clear and convincing evidence to support the alleged mistake, then no action will be taken.

3.46 Late Bids

Any bid withdrawal or modification to bids received after the date/time set for opening shall be considered late and shall be rejected and returned unopened to the bidder, except as provided herein.

All sealed competitive bids shall be opened as soon as possible after the time designated by the ITB. Bids received after the bid opening time shall not be opened, but shall be date/time stamped, rejected as a late bid, and returned unopened. The responsibility to insure that bid solicitations are obtained and that bids are received prior to the opening date and time rests with the vendor. Situations such as “flat tires, accidents, or parking problems” shall not be cause for acceptance of late bids.

The Purchasing Director may permit the following exceptions:

- In the event of a public labor unrest (strike, work slowdown, etc.), which may affect mail delivery, the Purchasing Director may develop and issue emergency procedures.
- There is conclusive evidence that the bid was submitted to the office designated in the ITB or RFP on time and was mishandled by the Purchasing Department personnel responsible for handling/receiving bids (i.e. lost or misplaced). Mishandling by other units or offices of the County does not constitute Purchasing Department personnel.

The Purchasing Director and/or Board shall rule on any other situation, which is beyond the control of both the County and the vendor, as to the acceptability of the bid.

3.47 Waiver of Public Advertisement Notice

The Purchasing Director may authorize the waiver of public notice for contracts that exceed the formal bid limit set forth in the Code of the Local Public Laws of Washington County, Section 1-106, and as permitted by that section of the Code upon written determination that circumstances call for quick procurement action. The Purchasing Director shall advise the Board of such waiver at its first regularly scheduled meeting immediately following such action.

3.48 Public Availability

A copy of the ITB shall be made available for public inspection at the Purchasing Department or via the County's website.

3.49 Pre-Bid Conferences

Pre-bid conferences shall be conducted at the discretion of the Purchasing Director for the purpose of explaining the procurement requirements. Notice of a pre-bid conference shall be stated in the ITB. The conference shall be held with a suitable time allotted based on the individual procurement after the ITB has been issued and advertised to allow bidders to become familiar with the contents of the bid document, but with adequate time before bid opening to allow consideration of the conference results in preparing the bid. Nothing stated at such conference shall change the ITB unless the change is made by written addendum/amendment.

3.50 Addenda/Amendments to Invitations to Bid

Amendments to an ITB shall be identified as such and may require that the bidder acknowledge receipt of all amendments issued. The amendment shall reference the portions of the ITB it amends.

At any time after the initial issuance of the ITB, addenda to the original ITB may be required for clarifications and/or changes to the original ITB.

Addenda shall be sent to the vendors who received the ITB and/or shall be made available on the County's website.

The Purchasing Director, or designee, shall sign any addenda. The bidder shall acknowledge receipt of any addenda to the ITB and shall be responsible for obtaining and verifying the issuance of any addenda to the ITB, as well as acknowledging receipt of any addenda in its response to the ITB. Acknowledgement shall be by signature by the authorized representative of the bidder and will be made a part of the bid.

If the addendum alters the information required on the bid form, a revised bid form may be provided as a part of the addendum and will be required as the bidder's bid submission.

Failure to acknowledge the addendum with a bid may be a reason to reject the bid.

3.51 Public Notice

Public notice includes a general description of the supplies or services to be purchased or sold, the source of bid forms and specifications, any bid deposit, if required, and the date, time and place of bid opening. The Purchasing Department shall also post a notice on the bulletin board outside of its offices of each bid solicitation for purchase or supplies or services or sale of surplus supplies. Each bid solicitation is advertised at least one (1) week before the bid by publication in at least one (1) newspaper that is published in the County or through electronic media.

If it becomes necessary to correct an inadequate, deficient or ambiguous ITB, then the invitation shall be canceled and a new invitation shall be issued.

When an ITB is canceled, bids that have been received shall be returned unopened to the bidders with a notice of cancellation.

Notice of cancellation shall be posted on either the County's website or bulletin board.

3.52 Waiver of Competition

The Purchasing Director may elect to waive the competitive bidding process under certain conditions including:

- Only one source exists that meets the County's requirements;
- The compatibility of equipment, accessories, or replacement parts is the paramount consideration;
- A sole vendor's item is needed for trial use or testing;
- A sole vendor's item is to be procured for resale;
- Certain public utility services are to be procured and only one source exists;
- As authorized under Section 1-106.2(c) of the Code of the Public Local Laws;
- Additional products are required to complete an ongoing task;
- A purchase is made from another unit of government; or
- The purchase of a used item is advantageous and the item is available only on short notice and subject to prior sale.

The Purchasing Director requires competition wherever practicable and, except for small purchases, the basis and reasons for each waiver shall be documented as public record.

3.53 Written Justification

A written justification by the using agency head, or designee, shall be included for all procurements that exceed the competition threshold of \$7,500 that were awarded as "Sole Source". This justification shall completely explain the rationale used in determining "sole source", as well as the determination that the awarded price is "fair and reasonable", using an element of price analysis justifying the total cost.

3.54 Purchase of Items Separately From Construction Contract

The Purchasing Director and using agency are authorized to determine whether a supply item or group of supply items shall be included as a part of, or procured separately from, any contract for construction.

3.55 Requests For Proposals (RFP) – Professional/Technical Services Selection

Refer to Section 5 herein

4 PROCUREMENT OF SERVICES/CONSTRUCTION BY PURCHASE ORDER

4.1 Procurement of Services/Construction by Purchase Order

If the Purchasing Director deems it to be in the best interest of the County, services or construction which are simple and which typically involve no more than one or two trades may be procured through the use of a Purchase Order approved by the Purchasing Department. The using agency shall be required to obtain a minimum of two (2) price quotations from contractors considered qualified to handle that particular work. If two (2) price quotations cannot be obtained after a reasonable effort, the using agency shall be authorized to award the work to a specific contractor under the following conditions:

- The County Administrator must grant approval of such an award.
- The using agency head shall be required to submit to the County Administrator the name of the contractor to be used; the reasons for that choice; and any other project information or data required by the County Administrator.
- Upon completion of the work, the using agency head shall be required to submit a final progress report to the County Administrator. This report shall include, but may not be limited to the final cost of the work, an evaluation of the contractor's performance, and overall results obtained.
- In cases of emergency, the using agency head shall be authorized to award work to a specific contractor with the verbal approval of the County Administrator. However, upon completion of the work, a written report of actions taken, results achieved, and costs incurred must be submitted to the County Administrator.

The normal rule for allowing such services to be ordered under a Purchase Order is as follows:

- Less than sixty (60) days performance with a defined completion date
- Services or construction costs are not to exceed the formal bid limit set forth in the Code of the Public Local Laws of Washington County, Section 1-106, unless otherwise approved by the County Administrator
- Vendor or contractor signs the Purchase Order acknowledging full acceptance of the terms
- Certificate of Insurance is obtained from vendor verifying coverage is in compliance with the County's Policy of Insurance Requirements for Independent Contractors.

5 REQUESTS FOR PROPOSALS (RFP) - PROFESSIONAL/TECHNICAL SERVICES SELECTION

5.1 Formal Requests For Proposals (RFP) - Professional/Technical Services that Exceed the Formal Bid Limit Set Forth in the Code of the Public Local Laws of Washington County, Section 1-106

The Request For Proposals (RFP) is an objective method of contracting for goods or services whereby proposals are solicited from qualified contractors. The RFP primarily solicits an outcome; that is, the specifications describe the outcome that is desired and the vendors/consultants must propose how they will achieve it. Following submission of offers, changes in proposals and prices may be allowed and the offer deemed by the County to be most advantageous in terms of criteria as designated in the RFP as determined to be in the best interest of the County may then be accepted. An RFP should not be used when the service or equipment to be contracted is standard, routine or common “off the shelf” type items or if there is an industry standard associated with the service or commodity to be contracted. The RFP is a time consuming and costly method of procurement that should only be used when sealed bidding is not appropriate.

Professional/Technical Services means those services which are essentially intellectual in character and which include analysis, evaluation, prediction, planning, or recommendation. A professional/technical service incorporates extended analysis, the exercise of discretion and independent judgment in its performance. In addition, it requires an advanced, specialized type of knowledge, expertise, or training customarily acquired either by a prolonged course of study or equivalent experience in the field. Professional/Technical Services include, but are not limited to, those specialized services performed by accountants, analysts, consultants, lawyers, pharmacists, physicians, planners, and artists, when the exact scope and content of the services cannot be specified readily with certainty.

5.2 When Requests For Proposals Are Practical

Factors to be considered in determining whether the RFP method is practical include:

- Estimated contract value exceeds the formal bid limit set forth in the Code of the Public Local Laws of Washington County, Section 1-106.
- Requirement is highly technical, unusual, is not a standard “off the shelf” item, or there are little or no clear standards or specifications available to use in the solicitation.
- If the contract needs to be other than fixed-price type.
- If it may be necessary to conduct oral or written discussions with offerors concerning technical and price aspects of their proposals.
- If it may be necessary to afford offerors the opportunity to revise their proposals.
- If it may be necessary to base an award on a comparative evaluation as stated in the RFP of differing price, quality and contractual factors in order to determine the most advantageous offering to the County.
- If the primary consideration(s) in determining award may be factors other than price(s).

5.3 When Requests For Proposals Are Advantageous

A determination will be made to use the RFP method if it is determined to be advantageous to the County. Factors to be considered in determining whether the RFP method is advantageous include:

- If prior procurements indicate that competitive sealed proposals may result in more beneficial contracts for the County.
- The requirement is highly technical or complex in nature and would be more advantageous to the County to use the RFP method of source selection.
- If the factors listed in this section are more desirable than necessary in conducting the procurement, if they are, then such factors may be used to support a determination that Requests for Proposals are advantageous.

5.4 Determination – Use of Requests For Proposals Process

The Purchasing Director may make determinations by category of supply, service, or construction item(s) that it is either not practical or not advantageous to the County to procure specified types of supplies, services or construction by competitive sealed bidding. Procurements of the specified types may then be made by competitive sealed proposals based on this determination. The Purchasing Director may revoke such determination at any time, and all such determinations shall be reviewed from time to time for current applicability.

5.5 Dollar Thresholds for Requests For Proposals

Formal Requests for Proposals shall be issued by the Purchasing Department for requirements that are estimated to exceed the formal bid limit set forth in the Code of the Local Public Laws of Washington County, Section 1-106. Informal solicitations in the form of Request for Quotations (RFQs) may be issued for any requirement estimated to be equal to or less than the formal bid limit set forth in the Code of the Local Public Laws of Washington County, Section 1-106 if more than one vendor is known to exist that has the capabilities of providing the product or service.

5.6 Purpose of Requests For Proposals Process

To provide a complete and objective evaluation for subsequent recommendation to the Board of County Commissioners, Commission, or agency having the legal responsibility to award a contract, based on information provided by each firm in its proposal and information available from County records or other appropriate sources.

- Obtain Quality Professional/Technical Services.
- Promote competition and opportunity.
- Consider costs and benefits of professional/technical service proposals.
- Provide documentation of the selection proceedings for future reference purposes.

This procedure is to be utilized in securing professional/technical services.

5.7 Requests For Proposals Selection Committee

A selection committee shall be known as the Coordinating Committee. The Coordinating Committee shall consist of the County Administrator or his/her designee, the County Purchasing Director or his/her designee, representative(s) of the using agency, and other members with applicable knowledge and expertise on the subject matter of the procurement as recommended by the appropriate Division Director/Using Agency Head and County Purchasing Director and approved by the County Administrator. The total number of members selected for each evaluation/review committee shall never be less than five (5). The County Administrator, or his/her designee in his/her absence, shall serve as Chairperson of the Committee. A majority of the Committee shall be in attendance at all meetings. A member that is unable to attend a meeting shall also be permitted to submit their evaluation comments in writing prior to any meeting.

All actions of the County Coordinating Committee with regard to this policy shall be performed in a meeting scheduled by the Committee Chairperson with the proper minutes of each meeting kept in accordance with standard procedures.

5.8 Requests For Proposals Document and Submittals

The agency having jurisdiction over the particular project will be required to prepare a detailed scope of work description. This scope of work will include such contract considerations as: County's goals and objectives; description of project; design criteria and standards to be used; completion dates; method of compensation to firm; responsibilities of firm; responsibilities of County, and any other pertinent data applicable to that particular project.

The firm's price proposal shall include the total of the professional/technical costs and fees involved and any other information deemed appropriate by the County as set forth in the Request For Proposal (RFP). (Any proposal not containing the requested costs and fees will not be considered.)

At the discretion of the firm, its proposal may also include any departure from the original scope of work (as prepared by the County) as it may feel necessary in order to better achieve the County's goals and objectives. However, failure to include the requested information/methodology may be cause for the Committee to reject the proposal. If this option is used, the firm shall qualify its proposal by including the fee for its recommendations as well as the fee sought by the County.

Each firm may be required to provide a justification of its fees in terms of staff assignment and corresponding hourly rates if the Committee deems it necessary to complete the evaluation.

5.9 Public Notice - Advertisement

An advertisement requesting submittals from interested parties for providing a specified professional/technical service must appear in one (1) or more newspapers published in the County or through electronic media. The publication of such advertisement must appear at least one (1) week prior to the date on which submittals are to be filed. This advertisement is required only for contracting for services that exceed the formal bid limit set forth in the Code of the Local Public Laws of Washington County, Section 1-106.

5.10 Requests For Proposals Solicitation

Requests for Proposals and Expressions of Interest may solicit responses in different formats based on the size and scope of the project, technical expertise required, and as determined to be in the best interest of the County. Typical submittals are Qualifications and Experience Submittals, Technical Proposals and Price Proposals. They may be submitted individually or together depending upon the direction of the Committee as stated in the RFP. Price Proposals will only be requested and/or opened from those firms considered qualified (short listed) based on the Qualifications and Experience Submittal and/or Technical Proposal submitted. All other Price Proposals will be returned unopened.

The Purchasing Director shall retain all price proposals until the Coordinating Committee has completed its evaluation of the technical proposals and developed a short list. Only the price proposals of the short-listed firms will be released to the Coordinating Committee for opening and evaluation. All other price proposals will be returned unopened.

No information may be disclosed to any person other than a person responsible for evaluating or reviewing the proposal before a contract award is made by the Board of County Commissioners, Commission, or agency having the legal responsibility to award. However, if concurrence of an agency's appointed board or commission is required prior to Board approval of the Coordinating Committees' recommendation, the Coordinating Committee's recommendation may be reviewed in closed session with only members of the appropriate appointed board or commission to obtain its concurrence.

Complete confidentiality is an ethical and legal requirement, and is vital to fair and equitable evaluation. During the entire RFP process, the Purchasing Director serves as the sole contact for vendors and provides all RFP procedures and communication. Technical issues will be addressed by the appropriate staff and relayed to vendors by the Purchasing Director. After proposals are submitted, all vendor contact shall be made through the Purchasing Department. Vendor information, number of proposals received, results and other evaluation proceedings shall be kept confidential at all times. Requests for this information shall be made in writing and its release will be in accordance with the Access to Public Records Act, State Government Article, Title 10, Sections 10-611 to 10-628, Annotated Code of Maryland for access to Public Records and County administrative policy.

5.11 Proposal Preparation Time

Proposal preparation time should be set to provide thirty (30) calendar days under normal circumstances for offerors to prepare and submit their proposals. The Purchasing Director may modify this requirement to require less time on less complicated requirements, but in no event will the period be less than twenty-one (21) calendar days.

5.12 Pre-Proposal Conference

Pre-proposal conferences shall be held. Any such conference shall be held after the final advertisement date, and a minimum of ten (10) calendar days prior to the submission of initial proposals.

5.13 Amendments to Requests For Proposals

Amendments to RFPs may be made in accordance with amendments to ITBs prior to submission of proposals.

5.14 Modification or Withdrawal of Proposal

Proposals may be modified or withdrawn by any offeror prior to the established due date and time.

5.15 Receipt of Proposals

The time and date for receipt of proposals shall be included in the RFP and must state a specific date and time. Proposals must be received by the specified date and time or they are considered late and will not be accepted. **Proposals shall not be opened publicly.** The list of the names of proposers or the number of proposals received shall not be released publicly until such time as the evaluation process is completed and an award recommendation is made to the Board of County Commissioners, Commission, or agency having the legal responsibility to award a contract, or with the written authorization of the Purchasing Director.

5.16 Late Proposals

Late proposals shall be handled in the same manner as “Late Bids” as described in Section 3.46 of this Manual with regard to late bids for Competitive Sealed Bidding.

5.17 Single Proposal Received

If only one (1) proposal is received in response to a RFP, the Purchasing Director has the following options:

- Determine if there was sufficient time allotted for offerors to submit a proposal (if not, the solicitation may be amended to extend the receipt of proposal date and the only proposal received shall be returned unopened to the only offeror.
- Proceed with the evaluation of the proposal from the single offeror; if the offer meets the requirements of the County as stated in the RFP, and the cost is determined to be fair and reasonable through negotiations, an award may be made.
- If the evaluation determines that the only offeror does not meet County needs, or negotiations of the cost do not result in a fair and reasonable price, then the solicitation may be canceled and re-solicited at a later date.
- If the solicitation is canceled, the proposal shall be returned to the offeror and the canceled solicitation file shall be documented as to why it was canceled.

5.18 Evaluation of Proposal Responses

The Coordinating Committee shall evaluate the submittals of each firm desiring to provide the requested services. The RFP evaluation process shall be conducted as a fair and objective process that requires the Coordinating Committee to evaluate all proposals on the specific criteria in the RFP.

Each firm shall be evaluated on information provided in its proposal. The Request for Submittals shall state the selection criteria; i.e., specific discipline; the firm's record of performance; the firm's financial responsibility; the firm's experience in relevant projects; adequacy of the personnel of the firm; composition of project manager and team assigned to the project; reference checks; prior County experience; and the firm's location of practice. Group committee discussions are encouraged to discuss technical views to arrive at a better understanding of technical proposals during the evaluation process.

Each firm shall be determined by the Coordinating Committee to be/not be a responsive, responsible firm.

The Coordinating Committee reserves the right to request interviews with and/or a presentation by the firms whose proposals are considered to have merit if such interviews are considered by the Coordinating Committee to be necessary to the selection process and in the best interest of the County. If interviews are part of the evaluation criteria, the RFP shall contain language that allows for them.

Best and final offers may be requested at the conclusion of discussions if discussions are determined necessary.

The Coordinating Committee shall make a recommendation to the Board of County Commissioners, Commission or agency having the legal responsibility to award. As a part of the recommendation, the Coordinating Committee shall state their choice of firm(s) and will include the justification for the selection.

When the professional/technical services contract is considered by the Coordinating Committee to be a "standard" project that could normally be handled by a number of qualified firms, the fee quoted in the proposal shall be a prime consideration in the selection of a firm by the Coordinating Committee.

5.19 Written Clarifications or Interviews

If a contract award cannot be made on initial offers as submitted, the Coordinating Committee, through the Purchasing Director, may request written clarifications or interviews with all responsive, responsible offerors. The following guidelines may be used:

- Advise the offeror of deficiencies in its proposal so the offeror is given an opportunity to satisfy the County's requirements.
- Attempt to resolve or clarify any uncertainties concerning their proposal.
- Resolve any suspected mistakes.
- Provide each offeror a reasonable opportunity to submit revisions to both their technical proposals and price proposals as discussed by requiring submission of best and final offers by each offeror at the conclusion of discussions.
- Offerors should be reminded that Best and Final Offers are not mandatory. They are only an opportunity to revise if necessary.
- Provide the offeror a reasonable opportunity to discuss past performance information obtained from references. Names of individuals providing references information shall not be disclosed.

The purpose of discussions is not to engage in technical leveling (helping an offeror bring proposal up to the level of others) of proposals.

Do not use auction techniques such as indicating a cost or price an offeror must meet to be considered, nor advise an offeror of its price standing relative to the other offerors, nor furnish information about other offeror's prices. It is permissible to inform an offeror that the proposed prices are unrealistic or too high.

5.20 Best and Final Offers

Upon completion of discussions, the evaluation selection committee may issue to all offerors a request for best and final offers. Oral requests for best and final offers shall be confirmed in writing. The request shall include:

- Notice that discussions are concluded.
- Notice that this is an opportunity to submit a best and final offer.
- A due date for submission of the best and final offer.

Note that this is only an opportunity to revise their proposals. If they chose not to submit a best and final offer then their original proposal as submitted will be considered.

After receipt of best and final offers, the Coordinating Committee shall evaluate them accordingly and recommend award be made to the offeror whose best and final offer is most advantageous to Washington County, considering price and the other factors included in the RFP.

5.21 Awarding of Request For Proposals Contract

A recommendation by the Coordinating Committee shall be made to the Board for award to the responsible offeror whose proposal is determined to be most advantageous to the County, and in the best interest of the County, based on the evaluation factors set forth in the RFP. No other factors or criteria shall be used in the evaluation. The final selection of the firm shall be the responsibility of the Board of County Commissioners or the particular Board, Commission, or agency having the legal responsibility to do so. The awarding body reserves the right to reject any and/or all proposals and to waive any informalities or irregularities in the proposal process.

5.22 Exceptions to Request For Proposals Process

The above procedure shall not be required for those contracts that will involve a firm's fees and/or projects having a total construction cost of less than the formal bid limit set forth in the Code of the Public Local Laws of Washington County, Section 1-106. Written price quotations from no less than three (3) firms shall be submitted if this exception is used. The use of this exception shall be at the discretion of the using agency/agency having jurisdiction over the particular project under consideration.

5.23 Request For Proposals - Award Preferences

Preference shall be given to firms in the following order: County-based firms; State-based firms; and Out-of-State based firms. The above preference would only apply in those instances where,

in the opinion of the Committee, the qualifications and experience of the firms under consideration and the fees are deemed to be equal.

5.24 Request For Proposals - Special Conditions

When determined to be in the best interest of the County, portions of the RFP process procedures may be waived by the Board of County Commissioners, or Board, Commission or agency having legal responsibility to do so.

5.25 Proposal Discussions with Individual Offerors

Discussions are held to promote understanding of the County's requirements and the offeror's proposal, to facilitate arriving at a contract that will be most advantageous to the County taking into consideration price and the other evaluation factors set forth in the RFP. Offerors shall be accorded fair and equal treatment with respect to any opportunity for discussion and revisions of proposals, and prior to award, for the purpose of obtaining best and final offers. Auction techniques or disclosure of any information derived from competing proposals are prohibited. Any substantial oral clarification of a proposal shall be reduced to writing by the offeror.

5.26 Mistakes in Proposals

When it appears from a review of the proposal before award that a mistake has been made, the offeror should be asked to confirm the proposal. If the offeror alleges mistake, the proposal may be corrected or withdrawn in accordance with rules governing mistakes in bids contained herein.

5.27 Vendor Debriefing

The County reserves the right to not hold discussions after award of contracts. Coordinating Committee Meeting Minutes with respect to RFP evaluations are available upon request following contract awards.

6 RESPONSIBILITY OF BIDDERS OR OFFERORS

6.1 Application

A determination of responsibility or non-responsibility shall be governed by this policy.

6.2 Standards of Responsibility

Factors to be considered in determining whether the standard of responsibility has been met include whether a prospective contractor or vendor has:

- Available the appropriate financial, material, equipment, facility, and personnel resources and expertise, or the ability to obtain them necessary to indicate capability to meet all contractual requirements.
- A satisfactory record of past performance, including conduct, and cooperation.
- A satisfactory record of integrity.

6.3 Information Pertaining to Responsibility

The prospective contractor shall supply information requested by the Purchasing Director or using agency concerning the responsibility of such contractor. If the contractor fails to supply the requested information, the Purchasing Director and using agency shall base the determination of responsibility upon any available information or may find the prospective contractor non-responsible if such failure is unreasonable.

6.4 Ability to Meet Standards

The prospective contractor or vendor may demonstrate the availability of necessary financing, equipment, facilities, expertise and personnel by submitting upon request:

- Evidence that such contractor or vendor possesses such necessary items.
- Acceptable plans to subcontract for such necessary items.
- A documented commitment from, or explicit arrangement with, a satisfactory source to provide the necessary items.

6.5 Written Determination of Non-responsibility Required

If a bidder or offeror who otherwise would have been awarded a contract is found non-responsible, a written determination of non-responsibility setting forth the basis of the finding shall be prepared by the Purchasing Director and using agency. A copy of the determination shall be sent promptly to the non-responsible bidder or offeror. The final determination shall be made part of the procurement files.

6.6 Suspension or Debarment

Suspension or debarment of a vendor is a consequence that should be addressed with serious consideration. The Board shall have the authority to suspend or debar any vendors or contractors for the following:

- Default on awarded contract (debarment).
- Routinely perform unsatisfactory work (suspension or debarment).
- Violated contract terms and conditions without cure or remedy (suspension or debarment depending on severity).
- Have pending litigation against the County (may only be suspended pending results of litigation).
- Default on the payment of any taxes, license fees or other monies due to the County (suspension).
- Convicted of fraud or criminal acts while performing as a contractor on any contracts, even those not associated or written by the County (debarment).
- If documentation substantiates a consistent past performance record of habitually or continuous unsatisfactory performance, safety violations, repeated violations of contract provisions, or delinquent performance by a contractor (suspension).

The Board may debar vendors from bidding, or performing as a subcontractor, on any County contracts for a minimum period of one (1) year up to a maximum of three (3) years. Vendors may be suspended from doing any business with the County for a minimum period of three (3) months, up to a maximum period of twelve (12) months. However, if a vendor under suspension fails to correct or cure the deficiency in which they have been suspended during the suspension period, the Board may convert the suspension into a debarment. Prior to formally suspending or debarring any vendor, the Board shall review and investigate all reasons and evidence supporting such a decision with the County Attorney's Office and shall inform the suspended or debarred vendor in writing of such decision.

The suspended or debarred vendor may, at the conclusion of the suspension or debarment period, submit a formal request to be removed from such status. Upon receipt of this request, the Board shall be required to investigate current and past performance since the suspension or debarment of the suspended contractor to determine responsibility.

7 SPECIFICATIONS

7.1 General Purpose and Policy

The purpose of a specification is to serve as a basis for obtaining a supply item or service adequate and suitable for the County's needs in a cost effective manner, taking into account, to the extent practicable, the costs of ownership and operation as well as initial acquisition costs. It is the policy of the Board that specifications permit maximum practicable competition consistent with this purpose.

7.2 Use of Functional or Performance Descriptions

Specifications shall, to the extent practicable, emphasize functional or performance criteria while limiting design or other detailed physical descriptions to those necessary to meet the need of the requesting agency.

7.3 Preference for Commercially Available Products

To the extent practicable, preference shall be given to the procurement of standard commercial products. In developing specifications, accepted commercial standards should be used and unique requirements should be avoided.

7.4 Brand Name or Equal Specifications - Conditions for Use

Brand name or equal specifications may be prepared when it is in the best interest of the County and when the item to be procured is best described by the use of such a specification. Brand name or equal specifications shall seek to designate as many different brands as are practicable as "or equal" references, and shall further state those substantially equivalent products which will be considered for award.

7.5 Brand Name Specifications - Conditions for Use

Since use of a brand name specification is restrictive, it may be used only when the brand name or items will satisfy the using agency's needs or the item is to be used for resale purposes. The Purchasing Director shall seek to identify sources from which the designated brand name or item can be obtained and shall solicit such sources to achieve whatever degree of competition is practicable. If only one source can supply the requirement, the procurement shall be made under provisions of the Sole Source policy.

7.6 Qualified Products List - Conditions for Use

A qualified products list may be developed when testing or examination of the materials or equipment is required prior to the issuance of the solicitation.

7.7 Specifications Prepared by Other Than County Staff

All specifications prepared by other than County staff, including consultants, architects, engineers, and designers, shall not be restrictive, and shall, to the extent practicable, allow for maximum competition.

8 CONTRACTS, BONDS & INSURANCE

8.1 Types of Contracts

The preferred type contract to use for all procurements is firm fixed price. It requires minimum administration and provides maximum incentive to the supplier. However, any type of contract that will promote the best interest of the County may be used.

8.2 Purchase Orders

A Purchase Order (also a contract) shall be processed for all procurements related to contracts and for all purchases exceeding \$7,500. The following types of purchases are exempt from requiring a Purchase Order:

- Petty Cash – refer to the County’s Petty Cash Policy administered through the County’s Budget & Finance Department.
- Subscriptions for magazines, books, or periodicals.
- Purchases from the County stockroom; these costs are charged to individual budgets or billed to using agencies on a monthly basis.
- Professional/Educational Membership Dues.
- Advertisements.
- Postage.
- Utilities – electricity, natural gas, telephone, cell phone.
- Advances or expenses related to official travel or attendance at conventions, seminars or schools.
- Real estate settlement disbursements.
- Right-of-way acquisition disbursements.
- Recoverable expenses.
- Insurance Claim Repairs/Replacements.

8.3 Contract Administration

A County Representative(s) shall be identified for all contracts presented to the Board for award. The County Representative is responsible for ensuring that all the scope of work/services and the terms and conditions of the contract are met prior to making payment. Changes in and/or issues with the contract must be directed to the County Representative who will notify the Purchasing Department. When necessary, more than one (1) County Representative may be named from different using agencies (as agreed to by the using agency) in a cooperative effort to manage a project.

8.4 Bid Security – General

Solicitations for construction, labor, and public improvement contracts in excess of \$100,000 shall require the submission of bid security in an amount equal to at least five percent (5%) of the bid or proposal cost at the time of the submission. The Purchasing Director may set bid security requirements, in an amount of not more than five (5%) percent of the contract amount, for other types of contracts if the dollar amount exceeds \$50,000 and it is deemed necessary. If a

bidder fails to accompany the offer with the required bid security, the offer may be rejected as non-responsive by the Board.

When a successful bidder fails to execute a contract after the stipulated time, his/her bid deposit may be taken and considered as liquidated damages, and not as a penalty, for failure to execute the contract. Upon the proper execution of the contract by the successful bidder, his/her bid deposit shall be returned to him/her.

8.5 Acceptable Bid Security

Acceptable bid security shall be limited to:

- A one-time bid bond in a form satisfactory to the County underwritten by a surety company authorized to do business and issue bonds in the State of Maryland.
- A bank cashier's check, bank certified check, bank treasurer's check, cash, or trust account, made payable to the Board.
- An irrevocable letter of credit in a form satisfactory to the County Attorney and issued by a financial institution approved by the Budget & Finance Director.

The bid security is submitted as a guaranty that the offer will be maintained in full force and effect for a period of not less than sixty (60) calendar days after opening of the offers or as specified in the solicitation.

8.6 Contract Bonds

For contracts in excess of the formal bid limit set forth in the Code of the Public Local Laws of Washington County, Section 1-106, a separate Performance Bond, and a Labor and Materials Payment Bond or other legally acceptable surety may be required for all construction, labor, and public improvement contracts each in the amount of 100% of the contract price. The contractor shall deliver these bond(s) to the County within ten (10) calendar days after receipt of the Notice of Award, or at the same time the contract is executed. If the contractor fails to deliver the required bond(s), the contractor's bid or contract may be rejected or terminated for default. The bond(s) must be submitted on bond form(s) executed by a surety company authorized to do business in the State of Maryland. Performance and Payment and Materials Bonds may be required on contracts if the contract exceeds \$25,000 but does not exceed \$100,000 and the Purchasing Director determines it to be in the best interest of Washington County, and the amount of the security does not exceed 50% of the contract amount.

Performance bonds may be waived and cash accepted, deposited to an escrow account with the County, for a designated period of time if the terms of the surety alternative are acceptable to both parties of the contract. A percentage of the total amount of the contract defined to cover all costs associated with a performance breach may be an acceptable condition of an alternate surety.

8.7 Legal Review of Bonds/Insurance Certificates

All contract bonds or other sureties shall be reviewed with the contract for legal sufficiency. Deletions or additions to the bond terms by contractors or sureties shall not be permitted.

8.8 Insurance Requirements

The Purchasing Director shall require such insurance as may be deemed necessary for the protection of the County or as may be required by the County's Policy: Insurance Requirements for Independent Contractors. When a contract requires contractor insurance, the insurance certificates shall be provided with the contract or prior to issuance of a Purchase Order if it is acting as the contract, including all exceptions and riders attached to the certificate. Workers and contractors who are not protected by Workers' Compensation insurance shall not participate in a County contract.

8.9 Additional Bonding

If at any time during the continuance of a contract, a surety on the contractor's bond or bonds becomes irresponsible, the County shall have the right to require additional and sufficient sureties. The contractor shall furnish within ten (10) calendar days after written notice to do so. Such surety bond shall cover the entire contract amount regardless of changes in total contract amount.

8.10 Exceptions

If it is deemed to be in the County's best interest, the Purchasing Director may waive or reduce the dollar amounts of any Bonds or the County's Risk Manager may reduce the amount of any insurance, except Worker's Compensation Insurance, if the actual contract price is less than \$50,000.00. However, in the event that the price of any construction, labor, or public improvement contract for which the Purchasing Director has reduced or waived bonds should reach a value of \$50,000.00 or more, through Change Orders or otherwise, then the contractor may be required to provide separate bonds each in the amount of 100% of the new contract price, and additional insurance, as determined by the Purchasing Director.

8.11 Legal Review of Contracts

All County contracts shall be reviewed as to legal form by the County Attorney's Office except as may otherwise be provided in these rules or by written agreement between the County Attorney and the Purchasing Director. County contracts shall utilize only those contract terms and standard forms, including Purchase Orders, which have been approved for use by the Purchasing Director, unless the County Attorney determines that an alternative term or form should be used.

9 DISPOSAL OF SURPLUS, OBSOLETE AND WASTE ARTICLES

9.1 Disposal of Surplus, Obsolete and Waste Articles

With the approval of either the County Administrator or the Board, the Purchasing Director shall have the authority to sell, exchange, trade in or otherwise dispose of County supplies which are no longer used by the County or which have become unsuitable for County use. Supplies shall be disposed of through a competitive sealed quotation or bidding process, auction, donation to another governmental or quasi-governmental unit, a nonprofit organization of the County, or the County's school system.

No using agency shall permit any such materials to be loaned, destroyed or otherwise removed from the County's custody without prior approval of the Purchasing Director. Failure to do so will make the head of the using agency responsible for the cost of the disposed item.

The Purchasing Director may donate/transfer materials and equipment, including computer equipment, that are of no further use by an agency, if usable, to another agency of the County, a nonprofit organization of the County, or the County's school system if a need for said material or equipment has been established by that agency. If no agency demonstrates a need for this material or equipment, the Purchasing Director shall, after proper approval, proceed to dispose of said items as soon as practicable.

If an agency is a non-profit organization, interested parties must complete an application request form that will address the following information:

1. Brief history of the organization.
2. The organization's efforts in the community.
3. Type of items being requested (description, number of items).
4. Explanation of who and how the equipment will be used.
5. Proof of organization's charitable or nonprofit status.

Applications (Appendix E) from nonprofit agencies and /or school districts will be accepted by the Purchasing Director either in hardcopy form or by e-mail. Items will be donated on a first come/first serve basis. The needs of the agency(s)/organization(s) will be assessed by the Purchasing Director and forwarded with recommendations to the County Administrator. The Purchasing Director will present the recommendations and application data to the County Administrator for approval. If approved, the Purchasing Department will contact the agency(s)/organization(s) with instructions to pick up the items.

As surplus items become available, the item may be offered for sale by sealed quotations/bids including selling by electronic means. If no other County agency or non-profit organization has similar requirements, items not donated/transferred/or sold will then be sent to auction or disposed of by means deemed appropriate by the Purchasing Director.

The condition of the surplus equipment may range from "good" to "poor" and may be in need of reconditioning and/or repair. The Board and the Purchasing Director cannot predict what types of items or amounts will be labeled as surplus over the course of any time period. Further, the County using agencies have priority in obtaining the surplus equipment.

The County is responsible for the removal of all County-related electronic information stored in any computer equipment.

The County is not responsible for equipment that may be either malfunctioning or inoperative. No warranty, either expressed or implied, will be associated with the donation of any surplus items.

An agency/organization shall not obtain the surplus items from the County with the intent to sell or barter.

Notwithstanding any other provision in this Manual, the Purchasing Director may authorize the abandonment or destruction of County property which has no commercial value or of which the estimated cost of continued care, handling, repair, maintenance or storage would exceed the estimated proceeds of sale or the administrative costs of processing for sale.

10 MERCHANDISE TO BE RECEIVED ON A TRIAL BASIS

10.1 Purpose

To establish a procedure for requesting, testing, returning and/or purchasing sample merchandise which is provided to the County on a trial basis. Sample merchandise or merchandise brought in for demonstration purposes may be retained by the County or returned to the vendor as defined below.

10.2 Returned Samples

All arrangements for accepting sample merchandise that will be returned to the vendor will be coordinated through the Purchasing Department.

The County department wishing to obtain sample merchandise on a trial basis must advise the Purchasing Department in writing. If there are to be charges for rental, freight, installation, training, supplies, accessories, return of merchandise or other charges, a Purchase Order must be entered into the County's financial software system for its approval/issuance prior to delivery of the trial merchandise if the expenditure exceeds the minimum monetary threshold at which a Purchase Order is required.

Prior to accepting sample merchandise on a trial basis, where no charges are to be incurred, the Purchasing Department will request and receive a signed statement from the vendor indicating the following:

- a. The beginning and ending dates of the trial period.
- b. The vendor's agreement that the County cannot be held liable for loss or damage to the trial materials including but not limited to loss or damage while in transit to or from the County or while at the County's location.
- c. The vendor's agreement that the County is under no obligation to purchase the item(s) on trial.
- d. The vendor's understanding that since the County records are open to public inspection, suppliers are not guaranteed that proprietary information will be protected.
- e. The vendor's agreement to make the necessary arrangements at the end of the trial period to remove the merchandise from the County at the vendor's expense.

Trial use will not preclude competitive bidding.

10.3. Retained Samples

The examination of sample products may provide benefits to the procurement process. The Purchasing Department will be responsible for coordinating all samples to be evaluated by the County, as follows:

- a. Product samples may be requested as part of any bid evaluation and may become the property of the County at no cost to the County.
- b. A department that wishes to purchase sample merchandise or equipment must enter a Purchase Order into the County's financial software system for its approval/issuance and indicate in the description that this item was already received on a sample basis and should not be delivered if the expenditure exceeds the minimum monetary threshold at which a Purchase Order is required. The Purchasing Department will issue a Purchase Order accordingly.

10.4 Product Demonstrations

The display or demonstration of supplier products is often an important part of the specification development and source selection process. The Purchasing Department will manage this process to support County needs. The display and demonstration of suppliers' products on County property will be presented as follows:

- a. Departments requesting demonstrations should contact the Purchasing Department. All requests to vendors for demonstrations must be initiated by the Purchasing Department.
- b. Suppliers wishing to provide display products or demonstrate services on County property shall submit a written request to the Purchasing Department for approval.
- c. The Purchasing Department will approve of and coordinate the demonstration if it is deemed to be in the mutual interest of both the County and supplier.

11 CELLULAR TELEPHONES AND SERVICE

11.1 Purpose

The purpose of this policy is to provide guidance concerning the acquisition and use of cellular telephone equipment and services. Cellular telephones have proven to be valuable tools for enhancing the efficiency and productivity of County employees. Accordingly, acquisition and use of cellular telephones shall be controlled and limited as set forth in this policy.

11.2 Assignment and Reassignment of Cellular Telephones

Assignment of cellular telephones shall be restricted to the business use (1) of department/agency employees who, while away from their assigned work site, must be able to communicate at all times, and (2) by departments having regulatory requirements that require them to have 24-hour accessibility.

The determination of need shall be justified to and approved by the Department Head or Division Director.

The Department Head or Division Director shall determine the requirements for possession of a County-owned cellular phone by an employee. Department Heads/Division Directors shall use discretionary judgment when considering cellular phone distribution.

11.3 Authorized Use of County Cellular Telephones

County-owned cellular phones shall be used to conduct official business for the County.

County-owned cellular phones and services shall be used for County business and may be used for personal calls in accordance with Internal Revenue Service regulations regarding cell phones.

11.4 Request For Cellular Telephone Equipment and Services

All requests for cellular telephones and services shall be authorized by the Department Head/Division Director in accordance with the criteria set forth by the Department.

Department Heads/Division Directors shall include requests for cellular telephone funding in their annual budget submission.

11.5 Acquisition of Cellular Telephone Equipment and Services:

To closely monitor the fiduciary responsibilities of budgeted funds, to expedite repair/new equipment, and to permit the department to purchase cellular phone services that best meets the needs of the specific Department; each Department shall establish their own contract with a cellular phone provider.

The Department shall report problems with equipment and service directly to the cellular phone provider.

Upon issuance of a cellular phone, the Department shall advise the Purchasing Department of the number(s) for placement on the cell phone directory used by County personnel.

When a piece of equipment is broken or lost, the employee shall be responsible for the cost of replacing the equipment. Department Heads/Division Directors shall have the authority to waive this cost if deemed appropriate.

Upon termination or transfer of employment, all cellular phone equipment shall be returned to the Department. Payroll deductions, at the current retail rate, shall be taken when equipment is not returned.

11.6 Usage Review

The Department Head/Division Director or his/her designee shall monthly review cellular telephone usage and charges for compliance with this policy. Under-utilized cellular phones and abusive use of service shall be justification for discontinuation of use as determined by the Department Head and/or Division Director.

As part of the monthly review, the Department Head/Division Director or his/her designee shall be responsible for identifying unauthorized calls on the invoice and shall take appropriate action as deemed necessary. The reimbursement of funds shall be deposited by the Department Head/Division Director with the County Treasurer's Office.

The monthly cellular phone invoice, including all summary pages/ details shall be forwarded to Budget & Finance Department for payment. Budget & Finance shall not process any invoice for payment without all summary pages/details of the invoice. Invoice summary pages/details regarding covert operations shall be retained by the using department and shall remain confidential until the conclusion of the covert operation, at which time the records shall be made public.

11.7 Prohibitions/Disciplinary Action

Installation of cellular telephones in personal vehicles is prohibited.

Any conduct by any employee that violates this policy may result in disciplinary action in accordance with the County's Progressive Disciplinary System Policy (Policy Number PR-2). The County Administrator, Division Director, or Department Head shall retain the right to suspend or discontinue the use of any or all cellular or wireless telephones or communication devices if determined to be in the best interest of the County.

11.8 Safety

Authorized cell phone users shall follow the provisions of Washington County Policy PR-25. Use of Official Cars and Equipment, Section II.D.1 with regard to the use of cell phones when operating County vehicles/equipment.

Appendix A

GLOSSARY OF PUBLIC PROCUREMENT TERMS

Act of God - A contingency or occurrence that cannot be avoided by human power; a cause of damage that is irresistible (e.g., hurricane, flood, lightning) and not attributable to negligence.

Addendum – An addition or supplement to a document; e.g. items or information added to a procurement document. See Amendment.

Agency or Using Agency - Any of the using agencies, boards, commissions and other organization units that has expressed a need for which a procurement process is required through the Purchasing Department, except the Washington County Public Schools and Hagerstown Community College; a unit of government.

Agent - A person authorized by another, called a principal, to act for him.

Agreement - see “Contract”, “Purchase Order”.

All-or-None Bid - A bid submitted for a number of different items, services, etc., in which the bidder states he will not accept a partial award, but will accept only an award for all the items, services, etc., included in the Invitation to Bid. Such bids are acceptable only if provided for in the Invitation, or if the bidder quoted an individual price for each of the items, services, etc., as listed, and is the low bidder on each item.

Alternate Bid - (1) A response to a call for alternative bids. See “Alternative Bid, Call For”. (2) A bid submitted in knowing variance from the specifications, terms, conditions, or provisions of the solicitation. Such a bid is acceptable only when the variance is deemed to be immaterial.

Alternative Bid, Call For - An Invitation to Bid for a need that can be filled by items of varying materials, dimensions, styles, or other characteristics; bidders are invited to submit one or more bids as specified, but only one award will be made based on an assessment of what is most advantageous for the County, taking price and other factors into consideration.

Amendment – A revision or change to improve or correct a document; often used to correct RFQs, ITBs, or RFPs. See Addendum.

Authorized Price List - A price list of the products and/or services covered in a contract that contains minimum essential information needed by users for placing orders.

Appropriation - Board authorization to expend public funds for a specific purpose. Money set apart for a specific use.

Approved Brands List - See “Qualified Products List”.

Arbitration - A process in which a dispute between two contending parties is presented to one or more disinterested parties for a decision; the resolution of a disagreement by such a process.

Architect/Engineer and Land Surveying Services - Those professional services within the scope of the practice of architecture, professional engineering, or land surveying, as defined by law.

As Is - A term indicating that goods offered for sale are without warranty or guarantee, and that the purchaser takes the goods at his own risk without recourse against the seller for the condition or performance of the goods.

Award - The acceptance of a quotation, bid or proposal; the presentation of a purchase agreement or contract to a bidder.

Back Order - That portion of an order that a vendor does not deliver at the scheduled time and re-entered for shipment at a later date.

Best Interest of the County - A term frequently used in granting a purchasing official authority to use discretion to take action he/she feels is most advantageous to the County. The term is used when it is impossible to anticipate adequately the circumstances that may arise so that more specific directions could be delineated by the law of regulation. Case law affirms discretion for purchasing officials in these actions.

Best Value Award – Purchase based on service and technical elements of a bid or proposal along with the cost/price element.

Bid - An offer submitted in response to an ITB issued by a governmental agency; can become a contract upon acceptance by the County. A tender given specifically to a prospective purchaser upon request usually in competition with other bidders. At an auction, an offer by a buyer to a seller.

Bid Bond - An insurance agreement in which a third party agrees to be liable to pay a certain amount of money in the event that a specific bidder, if his bid is accepted, fails to accept the contract as bid. See “Bid Deposit”, “Bid Security”.

Bid Deposit - A sum of money or check, deposited with and as instructed by the prospective purchaser to guarantee the bidder (depositor) will, if selected, accept the contract in accordance with the bid. If the bidder does not accept the contract, he forfeits the amount of the deposit. See “Bid Bond”, “Bid Security”.

Bid File - A file listing those solicited for individual bids, what each response was, and other information. The bid file is used to compare past bids for award patterns that might reveal collusive agreements or to make other comparisons of data.

Bid Opening - The process through which the contents of bids are revealed for the first time to the government, to other bidders, and usually to the public. See “Public Bid Opening”.

Bid Sample - A sample required of a bidder for examination, comparison, testing, and evaluation by the prospective purchaser.

Bid Security - A guarantee, in the form of a bond or deposit, that the bidder, if awarded a contract, will accept the contract as bid, otherwise the bidder (in the case of a deposit) or the bidder or his guarantor (in the case of a bond) will be liable for the amount of the bond or deposit. See “Bid Bond”, “Bid Deposit”.

Bidder - Any person submitting a competitive bid in response to a solicitation. See “Bid”, “Proposal”, “Proposer”.

Bidders’ List - A list setting out the names and addresses of suppliers of various goods and services from who bids, proposals, and quotations can be solicited.

Bill - A list of charges or costs presented by a vendor to a purchaser, usually enumerating the items furnished, their unit and total costs, and a statement of the terms of sale; an invoice.

Bill of Materials - A list specifying the quantity and character of materials and parts required to produce or assemble to stated quantity of a particular product.

Boiler Plate – A purchasing designation for standard terms and conditions, usually preprinted and incorporated in an Invitation to Bid.

Board of County Commissioners of Washington County, Maryland (the “Board”) – Board of five (5) elected officials representing Washington County.

Bona Fide - in good faith.

Brand Name - A product name that serves to identify a product of a particular manufacturer; a trade name.

Brand Name Specification - A specification that cites the brand names, model numbers, or other identifications as representing quality and performance called for, and inviting bids on comparable items or products of any manufacturer.

Breach of Contract - A failure without legal excuse to perform any promise that forms a whole or part of a contract.

Breach of Warranty - Infraction of an express or implied agreement as to the title, quality, content, or condition of a thing sold.

Bulk Purchasing - Purchasing in large quantities to seek lower prices per unit; volume purchasing.

Business - Any corporation, limited liability company, partnership, individual, sole proprietorship, joint stock company, joint venture, or other private legal entity.

Buyer – A Purchasing Department employee who is delegated authority by the Purchasing Director to perform purchasing duties on behalf of the County as outlined in each position’s job description. An administrator whose job may include reviewing appropriateness of purchase requests, preparing solicitations, obtaining quotations, bid or proposals for purchases, and evaluating responses of bidders and offerors for award of contracts.

Buyer's Market - Market conditions in which goods can easily be secured and economic forces of business tend to cause goods to be priced at the purchaser's estimate of value.

Cash Discount - A discount from the purchase price allowed by the seller to the purchaser when payment is made within a designated period.

Cash on Delivery (COD) - Payment due and payable upon delivery of goods.

Catalog - A listing of item identifications arranged systematically.

Caveat Emptor - “Let the buyer beware”. A maxim stating the buyer should be careful in making a purchase because the burden of defective goods rests with him. In contravention, the seller can be held responsible for certain defects by means of suitable specifications, warranties, and contractual terms and conditions.

Central Purchasing Authority - The administrative unit (Purchasing Department) with the authority, responsibility, and control of purchasing activities.

Centralized Purchasing - A system of purchasing in which the authority, responsibility, and control of purchasing activities is concentrated in one administrative unit (Purchasing Department).

Certificate of Compliance - A supplier's certification that the supplies or services in question meet certain specified requirements.

Change Order: A one-page written short form order (Oracle Change Order Request) or a multi-part written order for construction or consultant services contracts, signed by the Purchasing Director, directing the vendor to make changes to the original Purchase Order and/or contract. A Change Order shall be prepared before the requested change is made and the change is not to be performed by the vendor until the Change Order is properly approved and the Purchase Order or Contract amended to reflect the requested change.

Claim - The aggregate of the operative facts that serve as a basis for a demand for payment, reimbursement, or compensation for injury or damage under law or contract; the assertion of such demand.

Code of Ethics - A written set of guidelines within which judgments and considerations of professional ethics and behavior should be made. See “Section 1.7 – Code of Ethics” and “Purchasing Ethics”.

Collusive Bidding - The response to bid invitations by two (2) or more vendors who have secretly agreed to circumvent laws and rules regarding independent and competitive bidding.

Commercial Law - The branch of law that designates the rules that determine the rights and duties of persons engaged in trade and commerce; business law.

Commodity - An article of trade; movable article of value; something that is bought or sold; any movable or tangible thing that is produced or used as the subject of barter or sale.

Competition - The process by which two (2) or more vendors vie to secure the business of a purchaser by offering the most favorable terms as to price, quality, delivery and or service.

Competitive Negotiation - A method for contracting for goods and services, whereby proposals are solicited from qualified suppliers, following submission of which changes in proposals and prices be allowed, and the offer deemed by the awarding authority to be most advantageous in terms of criteria as designated in the Request for Proposals is accepted; a negotiated procurement.

Competitive Quotations - The customary, and usually prescribed, method for making purchases involving dollar amounts less than that for which formal competitive sealed bidding is required. Such competition is often called for by law, with the transactions designated as “informal bidding” or “small purchases.”

Confidential or Proprietary Information - (1) Any information which is available to an employee only because of the employee's status as a public employee and is not a matter of public knowledge or available to the public on request. (2) Information, such as trade secrets and test data, which may be kept confidential in the purchasing process.

Confirming Order - A purchase order issued to a vendor, listing goods or services and terms of an order placed verbally, or otherwise, in advance of the issuance of the usual purchase document.

Conflict of Interest - A situation wherein an individual as part of his duties must make a decision or take action that will affect his personal interests. See “Code of Ethics” and “Purchasing Ethics”.

Consideration - Acts, promises, or things of value exchanged by two parties that validates a contract between them.

Construction Work - The process of building, altering or repairing a public structure or building, or other improvements to any public real property. It does not include routing operation, routine repair or routine maintenance of existing structures, buildings or real property; a project for which professional services of an architect or engineer are usually required.

Consultants and Experts - Those persons who are exceptionally qualified, by education or by experience, in a particular field to perform some specialized service. See “Professional Services”.

Contingency - A possible future event or condition arising from presently known or unknown causes, the outcome of which is indeterminate at the present time.

Contract – A legally binding promise, enforceable by law; and agreement between parties, usually exchanging goods or services for money or other consideration; agreements for the procurement or disposal of supplies, services or construction; an “Agreement”.

Contract Administration - The management of various facets of contracts to assure that the contractor's total performance is in accordance with the contractual commitments and obligations to the purchaser are fulfilled. In government, this management may include responsibility, delegated to requesting agencies.

Contract Amendment or Modification - A written alteration in specifications, delivery point, rate of delivery, period of performance, price quantity, or other provision of a contract accomplished pursuant to contractual conditions and leaving the general purpose and effect of the contract intact. See “Change Order”.

Contractor – Any person having a contract with the County.

Contractual Services - Services furnished under a contract in which the nature and basis for charges and other pertinent contractual terms and conditions are defined. See “Services”, “Professional Services”, and “Proprietary Services”.

Convenience Termination Clause - A contract clause which permits the government to terminate at its own discretion, the performance of work in whole or in part, and to make settlement of the vendor's claims in accordance with appropriate regulations and applicable contractual conditions.

Cooperative Purchasing - The combining of requirements of two or more political entities to obtain the advantages of volume purchases, reduction in administrative expenses, or other public benefits.

County - Washington County Government

Damages - Compensation, usually in money for injury to goods, persons, or property.

Debarment - A shutting out or exclusion for cause, as a bidder from a list of qualified prospective bidders.

Debt - Any obligation to pay money. Ordinarily the term debt means a sum of money due by reason of a contract expressed or implied. Broadly, the work may include obligations other than to pay money, such as the duty to render services or deliver goods.

Default - Failure by a party to a contract to comply with contractual requirements; contractor failure to perform.

Defect - A non-conformance of an item with specified requirements.

Delivery Schedule - The required or agreed time, or rate of delivery of goods or services.

Delivery Terms - Conditions in a contract relating to freight charges, place of delivery, time of delivery, or method of transportation.

Descriptive Literature - Information, such as illustrations, charts, drawings, and technical data which shows the characteristics or construction of a particular product or explains its operations, furnished by a bidder as part of his bid to describe the item he offers. The term refers only to information required to evaluate a product, and need not include other information such as that related to the qualifications of a bidder or operating or maintaining equipment.

Designee - A duly authorized representative of a person holding a superior position. See "Purchasing Director".

Disadvantaged Business - A small business owned or controlled by a majority of persons, not limited to members of minority groups, who have lacked opportunity to develop and maintain a competitive position in the economy because of social disadvantages.

Discount - An allowance or deduction from a normal or list price extended by a seller to a buyer to make the net price more competitive. See "Cash Discount", "Quantity Discount", "Trade Discount".

Discount Schedule - A list of discounts applying to varying quantities of goods, or applicable to differing classifications of purchasers.

Dispatched Purchase Order – A Purchase Order that has been processed through to printing by the Purchasing Department staff and submitted to the Purchasing Director, or designee, for approval and signing.

Economic Order Quantity (EOQ) - The stock level reorder point based on costs or acquisition, storage, handling, and inventory investment to determine the most cost effective time and quantity to reorder. See “Stock Control”, “Reordering Level”.

Emergency Purchase - A purchase made without following the normal purchasing procedures in order to obtain goods or services quickly to meet an urgent and unexpected requirement.

Equal, Or Equal – Used to indicate that an item may be substituted for a required item if it is matched with no advantage on either side.

Equipment - Personal property of a durable nature that retains its identity throughout its useful life.

Escalation Clause -See “Price Adjustment Provision”

Established Catalog Price - The price included in a catalogue, price list, price schedule or other form that:

- (a) is regularly maintained by a manufacturer or contractor.
- (b) is either published or otherwise available for inspection by customers; and
- (c) states prices at which sales are currently or were last made to a significant number or any category of buyers, or to the general buying public, for the supplies or services involved.

Ethics - See “Section 1.7 - Code of Ethics”, “Purchasing Ethics”.

Evaluation of Bid - The process of examining a bid after opening to determine the bidder's responsibility, responsiveness to requirements, and to ascertain other characteristics of the bid that relate to determination of the successful bidder.

Excess Property - Inventory not required by the County, but of potential utility to one or more agencies of the County or to others eligible to receive it by transfer.

Exhaustion of Administrative Remedies - A legal doctrine to the effect that where an administrative remedy is provided by statute or governing rule or regulation, relief must be first sought from the administrative body, and all attempts to obtain such administrative relief must be expended before the complaining party may look to the courts for relief.

Expedite - Effort to assure delivery of goods purchased in accordance with a time schedule, or to accelerate delivery, usually by contact of the purchaser with the vendor.

Express Warranty - Any affirmation of fact or promise made by a seller to a buyer that relates to the goods and becomes part of the basis of the bargain.

Fair Market Value - A price that would induce a willing purchaser to purchase or a willing seller to sell in an open market transaction; the price a property would bring at a fair sale between parties dealing on equal terms.

Faxed / E-mailed Purchase Order – A Dispatched Purchase Order that has been approved/signed by the Purchasing Director, or designee, and issued to the appropriate Vendor; the final step of the Purchase Order process.

Fidelity Bond - A bond that secures an employer up to an amount stated in the bond for losses caused by dishonesty or infidelity on the part of the employee.

Firm Bid - A bid that binds the bidder until a stipulated time of expiration.

Fiscal Year - A period of twelve (12) consecutive months selected as a basis of annual financial reporting, planning, or budgeting. The County's fiscal year period is July 1 – June 30.

Fixed Price Contract - A contract that provides for a firm price, subject to any contractual conditions allowing price adjustment, under which the contractor bears the full responsibility for profit or loss.

Fixed Price Sale - An offering at a price established by the seller and not subject to negotiation.

Formal Advertising - The placement of a notice in a newspaper, other publication, or by electronic media according to legal requirements to inform the public that the government is requesting bids on a specific purchase or specific sale it intends to make.

Formal Bid Limit – The County's limit for advertised bidding as set forth in the Code of the Public Local Laws of Washington County, Section 1-106, and as modified from time to time by the State legislature.

Formal Bid or Offer - A bid that must be submitted in a sealed envelope and in conformance with a prescribed format, to be opened at a specified time. See "Sealed Bids".

Fraud - A positive act resulting from a willful intent to deceive another with the purpose of depriving that person of their rights or property.

General Provisions - Governing clauses for all contracts by type of purchase or contract. Clauses devised especially for a given purchase are called special provisions. See "Boiler Plate".

Generic Name - Related to or characteristic of a whole group or class; not protected by trademark registration.

Goods - Anything purchased other than services or real property.

Governmental Body - Any using agency, commission, council, board, bureau, committee, institution, legislative body, agency, government corporation, or other establishment of executive, legislative, or judicial branch of government jurisdiction.

Grant - The furnishing by a grantor of financial assistance or otherwise to a person or unit of government to support a program authorized by law.

Gratuity - A payment, loan, subscription, advance, deposit of money, services, or anything of more than nominal value, present or promised, unless consideration of substantially equal or greater value is received. See "Code of Ethics", "Procurement Ethics".

Gratuities Offer - An uninvited condition or provision submitted by a bidder or offeror; an unnecessary or unwarranted submission.

Gross Negligence - The degree of lack of care that shows a reckless disregard of life or safety, or that indicates a conscious indifference to the rights of others.

Guarantee - To warrant, stand behind, or insure performance or quality, as a supplier in relation to his product; a warranty.

Identical Bid - A bid that is the same in all salient respects with another bid.

Ineligible Bidder - A supplier or prospective supplier who, by reason of financial instability, unsatisfactory reputation, poor history of performance, or other deficiency, does not meet the qualifications for placement on the bidders list or for award; also non-responsible bidder.

Informal Bid - An unsealed competitive offer conveyed by letter, telephone, telegram, or other means and under conditions different from those required from formal bidding.

Informality - A minor or immaterial defect in a bid that is a matter of form rather than of substance; a variation of a bid or proposal from the exact requirements of the ITB or RFP, which can be corrected or waived without being prejudicial to other bidders, and has no material effect on the price, quality, quantity or delivery schedule of the goods, services or construction being procured.

Initial Price - Outlay of money necessary to buy something. Initial price is a proper determinate for award only when the products or services offered, and to be furnished, are essentially identical irrespective of which bidder or offeror receives the award.

Inspection - Critical examination and/or testing of items to determine whether they have been received in the proper quantity and condition and conform to the applicable specifications.

Inspection Report - A report to inform the purchasing authority of the quality or condition of the items delivered.

Invitation to Bid (ITB) - All documents including the specifications or scope of work and all contractual terms and conditions, whether attached or incorporated by reference, utilized in soliciting bids.

Item - A product, material or service.

Late Bid or Proposal - A bid or proposal received at the place specified in the solicitation after the time designated for all bids or proposals to be received.

Latent Defect - A defect not apparent by ordinary and reasonable inspection at time of receipt or beginning use of a product.

Lead Time - The period of time from date of ordering to date of delivery during which the buyer must reasonably allow the vendor to prepare goods for shipment; period of time needed by central purchasing to process agency purchase requests for bidding and award of a contract.

Lease - A contract conveying from one person or firm (lessor) to another (lessee) for use of real estate or personal property for a designated period of time in return for rental payment or other compensation.

Lease Purchase Agreement - A lease contract containing a purchase option in which the lessee's periodic payments or parts thereof may be applied to serve both as the rental obligation and as installments for acquiring ownership of the property upon lessee exercising the purchase option; a conditional sales contract.

Legal Notice - Notice of a proposed purchase as required by law. Depending upon the legal requirement, notice may be satisfied by posting an announcement of the purchase in a public place, notification of the appropriate bidders, from the bidders list, formal advertisement in a newspaper or newspapers, or electronic media, or a combination of these methods. See "Formal Advertising".

License - A non-transferable permission granted by a government or other authority to perform an act or to engage in an enterprise that is restricted or regulated by law.

Life-Cycle Costing - (L.C.C.) - A procurement technique which takes into account operating, maintenance, and money costs, other costs of ownership and usage, and determining the award of contracts on the basis of lowest total cost over the period the item will be used.

Liquidated Damages - An amount of money, designated in a solicitation and as part of a contract, to be calculated on a per diem or other basis and paid upon default of a contract.

List Price - The published price at which a seller offers an item for sale.

Local Preference - See "Preference".

Lowest and Best Bid - See "Lowest Responsible Bidder".

Lowest Responsible Bidder - Originally, the bidder submitting the lowest initial price and capable of performing the proposed contract. Under modern purchasing concepts, often construed as generally the same as the lowest responsive and responsible bidder" or the bidder who submits the "lowest and best bid" or the "most advantageous bid, price and other factors considered. "For clarity and accuracy, the recommended provision for determining award is the "responsive and responsible bidder whose bid is most economical for the purpose intended, according to criteria set forth in the solicitation." See also "Responsive Bidder".

Lump Sum - A single price as requested or offered on a solicitation for a group of items, without or in addition to individual item prices; a lot price.

Manual - See "Procurement Manual".

Manufacturer - One who (1) controls the design and production of an item, or (2) produces an item from crude or fabricated materials, or (3) assembles materials or components, with or without modification, into more complex items.

Market (noun) - The aggregate of forces that determine the availability prices, and amount of trade in the exchange of goods.

Market (verb) - To carry out all activities intended to sell a product or service. Includes advertising, packaging, surveying the potential market, etc.

Material(s) - Items required to perform a function or used in a manufacturing process, particularly those incorporated into an end product or consumed in its manufacture.

May - Denotes the permissive.

Misrepresentation - A manifestation by words or other conduct that, under the circumstances, amounts to an assertion not in accordance with the facts.

Mistake in Bid - A miscalculation in composing a bid resulting in an incorrect price or other term, especially in affecting the bidder's eligibility to be awarded a contract.

Mock Up - A model, usually full size and constructed of inexpensive material, made for the purpose of studying the construction and use of an article or mechanical device. See "Pilot Model", "Prototype".

Modification - Any formal revision of the terms of contract.

Monopoly - (1) An exclusive right or power to carry on a particular activity; (2) Ownership or control of the supply of or market for a product or service sufficient to allow stifling competition, controlling prices; or otherwise restricting trade.

Multiple Award - The award of contracts to two or more bidders for the same essentially similar items. Appropriate only in situations where the award of a single contract would be impossible or impractical and awards are limited to the least number of suppliers necessary for a workable contract.

Negligence - The failure to do that which an ordinary reasonable, prudent person would do, or the doing of some act that an ordinary, prudent person would not do. Reference must always be made to the situation, the circumstances, and the knowledge of the parties.

Negotiated Award - See "Competitive Negotiation".

Net Price - Price after all discounts, rebates, etc., have been computed or allowed.

Net Terms - See "Discount".

No Bid - A response to an Invitation to Bid stating that the respondent does not wish to submit a bid. In addition to serving as the courtesy of a reply, it can operate to prevent removal from the bidders list for failure to show active interest.

Non-Collusion Affidavit - A statement signed by a bidder and submitted with his bid affirming that his bid is made freely, independently and without consultation with any other bidder.

Non-responsive Bid - A bid that does not conform to the essential requirements of the Invitation to Bid; nonconforming bid; unresponsive bid.

Obsolete - Out of date; no longer in use or effectively usable.

Obsolete Property - Inventory without utility, due usually to technological development and/or normal wear-and-tear. Obsolete property may be “scrap” with no value except for its basic material content, or “salvage” with some value because parts can be recovered and reused.

Offer - The act of one person that gives another person the legal power to create a contract to which both of them are parties; to perform such an act.

Open-End Contract - A contract in which quantity, duration, or both are not specified.

Open Market Purchase - A purchase made other than under a schedule or term contract, or made by negotiation following rejection of all bids when satisfactory bids cannot be obtained.

Option - The right, acquired for consideration, to buy or sell something at a fixed price within a specified time.

Option to Extend - To a provision, or exercise of a provision of a contract that allows a continuance of the contract for an additional time according to permissible contractual conditions.

Option to Renew - A contract clause that allows a party to elect to re-institute the contract for an additional term; in public contracting, where competitive bidding is a required exercise the option must rest solely with the purchaser.

Order - A request or command issued to a supplier for goods or services at a specified price or agreed basis for payment. See “Uniform Commercial Code”.

Order Form - A form by which a supplier is issued or informed of an order. See “Purchase Order”.

Order Level - The level of stock of any item at which an order is initiated for more supplies of that item. See “Economic Order Quantity”.

Packing List - A document that itemizes in detail the contents of a particular package or shipment.

Partnership - An agreement under which two or more persons agree to carry on a business, sharing in the profits and losses by an agreed to proportion, but each being liable for losses to the extent of all of his personal assets.

Patent - A grant made by a government to an inventor, which gives the inventor the exclusive right to make, use, license, and sell the invention for a period of time.

Performance Bond - A contract of guaranty executed subsequent to award by a successful bidder to protect the government from loss due to contractor inability to complete the contract as agreed.

Performance Purchasing - A results-directed approach characterized by writing purchase descriptions or specifications with emphasis on what an item is to do rather than how it is to be made, and by evaluating bids in terms of how well an item serves the intended purpose and the costs involved; developing bid evaluation criteria which result in greater economy and value.

Performance Specifications - A specification describing the performance characteristics sought in a product or service; a purchase description accenting performance over design; a functional rather than a generic or physical specification.

Perishable Goods - Goods that are subject to spoilage within a relatively short time.

Personal Services - Infrequent, technical, or unique functions performed by an independent entrepreneur. Personal services contracts almost always run to individuals rather than partnerships, firms or corporations, and the services performed frequently are not the full time occupation of the contractor. Examples of personal services contracts include translation, technical editing, and technical appraisal.

Petty Cash - Funds defined as money set aside for the purpose of paying small obligations for which the issuance of a payment would not be cost effective.

Pilot Model - A model, perhaps handmade, used in production planning or to submit for approval of the purchaser as representative of the product that will be supplied against a contract. See "Prototype".

Preference - An advantage in consideration for award of a contract granted to a bidder by reason of the bidder's precedence, business location, origin of product offered, business classification (e.g., small business), or other reasons; generally inconsistent with impartiality in awarding public contracts.

Pre-paid - A term denoting that transportation charges have been or are to be paid at the point of shipment.

Pre-qualification of Bidders - The screening of potential suppliers in which a purchaser considers such factors as financial capability, reputation, management, etc., in order to develop a list of prospective bidders qualified to be sent an Invitation to Bid. See "Bidders List", "Qualified Bidder".

Price - The amount of money that will purchase a definite quantity, weight, or other measure of a commodity or service.

Price Adjustment Provision - A condition in a solicitation and resultant contract that allows the price under the contract to decrease or increase under defined conditions; the condition should provide for the purchaser to cancel any individual item affected, or the contract, if a request for increase is not acceptable.

Price Agreement - An agreement in which a purchaser negotiates with a vendor to furnish items at a predetermined price. Usually it is an informal arrangement involving a minimum number of units, orders placed directly with the vendor by the purchaser, and a limited duration of time.

Price at Time of Delivery - A term used in sales contracts when a seller will not give a firm price or agree to an escalator clause, but will only agree to invoice at the price charged to like customers on the day the goods in question are shipped or delivered.

Price Competition - The basis for awarding a contract solely on the consideration of price as submitted on competitive bids or as negotiated under competitive proposals.

Price Control - The fixing or restricting of prices, especially by a governmental agency.

Price Escalation Clause - See “Price Adjustment Provision”.

Price Fixing - Agreements among competitors to sell at the same prices, to adopt formulas for the computation of selling prices, to maintain specified discounts, to maintain predetermined price differentials between different quantities, types, or sizes of products, or other means of setting prices charged to purchasers. See “Collusive Bidding”.

Price List - See “Price Schedule”.

Price Maintenance - The establishment by a manufacturer or secondary seller of a price for an item below which he will not sell or permit the product to be sold.

Price Protection - An understanding or agreement between a purchaser and seller, or extended by a seller to a purchaser, to maintain a price against increase, or to grant the purchaser any reduction in price the vendor may establish on the goods in question, prior to shipment of the purchaser's order.

Price Rebate - A refund or allowance on price, given usually after the completion of a contract and frequently based on some relationship with the business volume.

Price Schedule - A list of prices applying to varying quantities or kinds of goods.

Principal - One who employs an agent; a person who has authorized another to act on his account and subject to his control. See “Agent”, “Purchasing Director”.

Priority - A degree of precedence given to a procurement request, order or contract to obtain completion, delivery, or performance on a particular date at the expense if necessary, of competing demands upon the same supplier or production facility.

Procurement – Buying, purchasing, renting, leasing, or otherwise acquiring any supplies, services or construction. Procurement includes all functions that pertain to the obtaining of any supply, service or construction, including description of requirements, selection and solicitation of sources, preparation and award of contracts and all phases of contract administration.

Procurement Manual - A formal collection of information and instructions relative to policies of the procurement authority and requesting agencies.

Procurement Specialist - A Purchasing Department employee who is delegated authority by the Purchasing Director to perform purchasing duties on behalf of the County as outlined in his/her position’s job description. See “Agent”.

Professional Services - Services which are essentially intellectual in character and which include analysis, evaluation, prediction, planning, or recommendation. Professional services involve extended analysis, the exercise of discretion and independent judgment in their performance, and an advanced, specialized type of knowledge, expertise, or training customarily acquired either by a prolonged course of study or equivalent experience in the field. Professional services include, but are not limited to, services performed by accountants, auditors, analysts, consultants, lawyers, physicians, planners, artists, engineers, and architects. The preferred method of procurement of professional services is using a Request for Proposals (RFP).

Proprietary Article - An item made and marketed by a person or persons having exclusive right to manufacture or sell it.

Proprietary Information – Subject to the Access to Public Records Act, State Government Article, Title 10, Sections 10-611 to 10-628, Annotated Code of Maryland, information or data describing technical processes, mechanisms, or operational factors that a business wishes to keep from general public view in order to maintain competitive capabilities in the market. See “Trade Secret”.

Proprietary Services - Work by independent contractors where the process is more important than the product, if any. Proprietary service contracts usually run to partnerships, firms, or corporations rather than individuals and are usually awarded through competition.

Proposal - An offer made by one party to another as a basis for negotiations for entering into a contract. See “Competitive Negotiation”.

Proposal Evaluation Criteria - Factors relating to management capability, technical capability, manner of meeting performance requirements, price and other important considerations used to evaluate which proposer in a competitive negotiation has made the most advantageous offer.

Proposer - A person submitting a proposal in response to a Request for Proposal (RFP).

Protest - A complaint about a governmental action or decision brought by a prospective bidder, a bidder, a contractor, or other interested party to the appropriate administrative section with the intention of achieving a remedial result.

Prototype - A model suitable for evaluation as to design, construction, workmanship, performance, and compliance with specifications. See “Pilot Model”.

Public Bid Opening - The process of opening and reading bids. Conducted at the time and place specified in the Invitation to Bid and or the advertisement, and in the presence of anyone who wishes to attend. See “Bid Opening”.

Public Employee – An individual drawing a salary from a governmental body or a non-compensated individual performing personal services for a governmental body.

Public Policy - That which is deemed by administrators to represent the public interest, or by courts to be general and well settled public opinion relating to the duties of men and government.

Public Record - Information about government activities that is available for public inspection.

Purchase Description - The words used in a solicitation to describe the supplies, services, or construction to be purchased, including any performance, physical, or technical requirements. Unless the context requires otherwise, the terms “purchase description,” “purchase specification”, and “specification” may be used interchangeably.

Purchase Order - A purchaser's document to formalize a purchase transaction with a vendor. An on-line request from a using agency that a contract be entered into for a specific need. The purchase order should contain statements as to the quantity, description, and price of the goods or services ordered; applicable terms as to payment, discounts, date of performances, and transportation; and other factors or

suitable references pertinent to the purchase and its execution by the vendor. Acceptance of a purchase order by the vendor constitutes a contract.

Purchase Request - Information transmitted by a requesting agency requesting the central purchasing office to effect a contract for a particular need or group of needs. The request may include, but is not limited to, a performance or technical description of the requested item, delivery schedule, transportation mode, criteria for evaluation, suggested sources of supply, and information related to the making of any written determination required by policy or procedure.

Purchasing Cycle - The full cycle of activities carried out by a purchasing using agency in the acquisition of goods and services.

Purchasing Department – The Washington County Purchasing Department

Purchasing Director – The Purchasing Department Head (or designee) who directly oversees the activities of the Washington County Purchasing Department and is duly authorized to enter into contracts not exceeding the bid limit contained in the Code of the Local Public Laws of Washington County, Section 1-106, and to administer all contracts, and make written determinations with respect thereto. See “Agent” and “Principal”.

Purchasing Ethics - Moral concepts and practices based on the principle that the public interest is paramount, applicable to the personnel of the purchasing using agency and all other persons involved in the purchasing process; particularly with respect to the expenditure of government funds and relationships between public employees and sellers. See “Code of Ethics”.

Purchasing, Public - The process of obtaining goods and services for public purposes in accordance with law and procedures intended to provide for the economical expenditure of public funds.

Qualified Bidder - A bidder determined by the government to meet standards of business competence, reputation, financial ability, and product quality for placement on a list of prospective bidders. See “Bidders’ List”, “Pre-qualification of Bidders”.

Qualified Products List - A specification developed by evaluating brands and models of various manufacturers of an item and listing those determined to be acceptable as eligible to be offered on the next Invitation to Bid; an approved brands list.

Quality Assurance - A planned and systematic series of actions designed to provide adequate confidence that a product purchased or to be purchased will perform satisfactorily in service.

Quality Control - Practices and procedures necessary to ensure appropriate quality and performance of goods produced or received.

Quantity Discount - An allowance determined by the quantity or value of a purchase. See “Discount”.

Quotation - A statement of price, terms of sale, and description of goods or services offered by a prospective seller to a prospective purchaser, usually for purchases below the amount requiring formal bidding; stating of the current price of a commodity, or the price so stated.

Reordering Level - The stock level at which a requisition for the replenishment of the stock should be initiated. See “Economic Order Quantity (EOQ)”.

Request for Information (RFI) – All documents, whether attached or incorporated by reference, utilized for soliciting technical or specific information (without pricing) based on a product/service requirement.

Request for Proposals (RFP) - All documents, whether attached or incorporated by reference, utilized for a formal solicitation for technical and pricing proposals for a product/service requirement that includes the evaluation of the proposals received and recommendation of an award by an evaluation committee (Coordinating Committee). The RFP procedure permits negotiation of proposals and prices as distinguished from competitive bidding and an Invitation to Bid.

Request for Quotation (RFQ) - All documents, whether attached or incorporated by reference, utilized to solicit price quotes for a product/service requirement in a less formal procedure than the Invitation to Bid (ITB) or Request for Proposals (RFQ).

Requirements Contract - An indefinite quantity contract in which a purchaser is obligated to order and a contractor is obligated to supply all of the purchaser's normal requirements that arise for an item or items within the specified period of the contract. See “Term Contracting”.

Responsible Bidder or Offeror - A person who has the capability in all respects to perform in full the contract requirements, and the integrity and reliability that will assure good faith performance.

Responsive Bidder - A person whose bid conforms in all material respects to and terms set out by the government in the Invitation to Bid or Request for Proposals.

Restraint of Trade - The effect of an act, contract, combination or conspiracy which eliminates or stifles competition, effects a monopoly, artificially maintains prices, or otherwise hampers or obstructs the course of trade and commerce as it would be carried on if left to the flow of natural and economic forces.

Restrictive Specifications - A specification or purchase description that unnecessarily limits competition by precluding items that would be capable of satisfying the intended need.

Rule - A regulation, standard, statement of policy or order of general application having the effect of law, issued by a government agency to implement, interpret or make statute law specific.

Rules and Regulations - Governing precepts and procedures made by an administrative body or agency under legislative authority that usually have the force and effect of law.

Salvage - Property that is no longer useful as a unit in its present condition but has some value in addition to its value as scrap, usually because parts from it may be recovered and reused.

Sample – One or more units of product selected from the material or process represented as a specimen of quality. See “Bid Sample”.

Scrap - Property that has no value except for its basic material content.

Sealed Bids - A bid which has been submitted in a sealed envelope to prevent its contents being revealed or known before the deadline for the submission of all bids; usually required by law or rule on major procurements, to enhance fair competition.

Seasonal - Depends upon the seasons, either climatic or economic, and usually cyclical on an annual basis.

Seasonal Rate - Price or price basis applicable to some articles or commodities and effective only during certain periods of the year.

Service Contract - A contract that calls for a contractor's time and effort rather than for a concrete end product. The term as defined here does not include employment agreements or collective bargaining agreements.

Services – Any and all telephone, gas, water, electric light and power, window washing and cleaning service, insurance and fidelity bonds, leases for all grounds, buildings, offices or other space required by the using agencies, the rental, repair or maintenance of equipment, machinery and other County-owned or operated personal property and all other types of contractual services, including contracts for labor required by the County government, but not furnished by its own employees. Work performed to meet a demand, especially work that is not connected with a manufacturing process. See “Personal Services”, Professional Services”, and Proprietary Services”.

Shall - Denotes the imperative.

Shipping List - A memorandum listing all items included in one shipment or shipped at one time.

Single Source Procurement - See “Sole Source Procurement”.

Small Business - A designation for certain statutory purposes referring to a firm, corporation, or establishment that has a small number of employees, low volume of sales, small amount of assets, or limited impact on the market, and is independent, i.e., is not an affiliate or subsidiary of a business dominant in its field of operations.

Sole Source Procurement - An award for a commodity or service to the only known capable supplier, occasioned by the unique nature of the requirement, the supplier, or market conditions.

Solicitation - The process of notifying prospective bidders or offerors that the jurisdiction wishes to receive bids for furnishing goods or services. The process may consist of public advertising, mailing Invitations to Bid, posting notices, telephone or telegraph messages to prospective bidders, or all of these.

Specifications - A description of what the purchaser seeks to buy and consequently, what a bidder must be responsive to in order to be considered for award of a contract. A specification may be a description of the physical or functional characteristics, or the nature of supplies or services to be purchased. It may include a description of any requirements for inspecting, testing, or preparing as supply or service item for delivery; a purchase description. Specifications are created to fulfill the requirements of a using agency, to assure maximum practicable competition and to obtain the best performance at the lowest possible cost, consistent with the best quality.

Spot Purchase - A one-time purchase occasioned by a small requirement, an unusual circumstance, or to take advantage of a favorable market condition.

Standard - A characteristic or set of characteristics for an item that, for reasons of performance level, compatibility or inter-changeability with other products, etc., is generally accepted by producers and by users of the item as a required characteristic of all items for the designated purpose.

Standard Specification - A specification established through a prescribed process and used for all or most purchases of the item involved.

Standardization (of Specifications) - The process of examining characteristics and needs for items of similar end usage and developing a single specification that will satisfy the need for most or all purchases for that purpose.

Standards Committee - A committee usually composed of policy level officials whose purpose is to advise and assist the central purchasing authority in establishing product and use standards and, in some cases, standard specifications.

Stock - A supply of goods maintained on hand in a supply system to meet anticipated demands.

Stock Control - Control of the level of stock by control over the movement of goods into and out of stores. See "Economic Order Quantity (EOQ)".

Stock Record - A record kept of items or materials in stock, usually located at a central point and showing stock level position.

Storage - The holding of goods in a designated place for safekeeping; a space or a place for the safekeeping of goods.

Supplier - An actual or potential contractor; a vendor.

Supplies - Customarily, items that are consumed or expended in the course of being used, as distinguished from equipment and materials.

Surplus Property - Inventory not needed by the owning agency or by other agencies at the present time or in the foreseeable future.

Tabulation of Bids - A recording of bidders and abstract of their bids listing items offered, prices, deliveries, etc., the response to a specific solicitation, made for purposes of comparison and record keeping; an abstract.

Term Contracting - A technique by which a source of supply is established for a specific period of time. Term contracts characteristically are established through competitive sealed bidding and usually are based on indefinite quantities to be ordered "as needed", although such contracts can specify definite quantities with deliveries extended over the contract period. See "Open-end Contract", "Price Agreement", "Requirements Contract".

Terms and Conditions - A general reference applied to the provisions under which bids must be submitted and which are applicable to most purchase contracts. See "Boiler Plate".

Terms of Payment – The methods of payment under a sales contract.

Testing - Determination of the physical, chemical or performance standards. Testing may be conducted in connection with developing specification and standards, make comparative evaluations of product offered on bids, and ascertaining compliance with specification before or after a contract award.

Title - The means whereby a person's ownership of property is established.

Token Bid - A perfunctory offer by a bidder with no serious intent of being the successful bidder; usually submitted to maintain eligibility for the bidders list or as an act of collusion.

Total Supply - A concept of purchasing with the objective of advanced planning which provides for the broadest scope of purchasing and purchasing related activities to reduce cost, improve effectiveness, and increase operational efficiency. Total supply is concerned not only with acquisition, but also with requirements planning, logistics, and property management.

Trade Discount - A deduction from an established price for items or services that is offered or allowed by the seller and not conditioned upon prompt payment. See “Discount”.

Trade Name - See “Brand Name”.

Trade Secret - Any aspect of the business or its operation not made available to competitors. See “Proprietary Information”.

Trademark - A distinguishing sign, symbol, mark work, or arrangement of words in the form of a label or other indication that is adopted and used by a manufacturer or distributor to designate his particular goods, and which no other person has the legal right to use.

Uniform Commercial Code - Uniform statute law adopted by states for consistency and modernity in law governing commercial transactions (sales of goods, commercial paper, bank deposits and collections, letters of credit, bulk transfers, warehouse receipts, bills of lading, investment securities, and secured transactions).

Unit Price - The price for a given unit of a good or service, e.g., price per ton, labor hour, foot.

Unit Price Extension - The calculation of the total price of an item by multiplying the price per unit by the number of units requested or purchased.

Unsuccessful Bidder or Offeror - One whose bid or proposal is not accepted and award is made to another.

Value Analysis - An organized effort to analyze the function(s) of products, system specifications and standards, and practices and procedures, intended to satisfy the required function(s) in the most economical manner.

Vendor - One who sells good or services; a supplier.

Void - Without legal effect, unenforceable.

Volume Purchasing - See “Bulk Purchasing”.

Waiver of Bid(s) - A process authorized by law or rule whereby a government purchasing office may procure items without competitive bidding procedures because of unique circumstances related to a particular need or procurement; also “Waiver of Competition”.

Waiver of Mistake or Informality - The act of disregarding errors or technical nonconformities in the bid which do not go to the substance of the bid and will not adversely affect the competition between bidders.

Warranty – The representation, either expressed or implied, that a certain fact regarding the subject matter of a contract is presently true or will be true. Not to be confused with “guarantee” which means a contract or promise by one person to answer for the performance of another person.

Washington County (the “County”) – A political subdivision of the State of Maryland.

Appendix B – Informal Quotation

Informal Quotation

Date: _____

Item: _____

Vendor Quoting: _____

Person Quoting: _____

Cost of Item: \$ _____

Shipping/Handling: \$ _____

Delivery: _____

Written Confirmation Requested:

Special Instructions / Comments:

Department: _____

Employee: _____

Note: When requesting quotations, inform vendors you are obtaining pricing information from multiple vendors for County Government. Also, provide a deadline (date/time) for receipt of quotations.

Informal Quotation

Date: _____

Item: _____

Vendor Quoting: _____

Person Quoting: _____

Cost of Item: \$ _____

Shipping/Handling: \$ _____

Delivery: _____

Written Confirmation Requested:

Special Instructions / Comments:

Department: _____

Employee: _____

Note: When requesting quotations, inform vendors you are obtaining pricing information from multiple vendors for County Government. Also, provide a deadline (date/time) for receipt of quotations.

Informal Quotation

Date: _____

Item: _____

Vendor Quoting: _____

Person Quoting: _____

Cost of Item: \$ _____

Shipping/Handling: \$ _____

Delivery: _____

Written Confirmation Requested:

Special Instructions / Comments:

Department: _____

Employee: _____

Note: When requesting quotations, inform vendors you are obtaining pricing information from multiple vendors for County Government. Also, provide a deadline (date/time) for receipt of quotations.

Appendix C – Change Order (5-Part)



BOARD OF COUNTY COMMISSIONERS OF
WASHINGTON COUNTY MARYLAND
100 WEST WASHINGTON STREET, HAGERSTOWN, MARYLAND 21740-4735
CHANGE ORDER

TO: Consultant/Contractor/Vendor

CHANGE ORDER NO.: _____
PURCHASE ORDER NO.: _____
CONTRACT NO.: _____
P.S. ACCOUNT NO.: _____

Project Title: _____ Date: _____

Description of Change:

Reason for Change:

The contract time will: *[increase]* *[decrease]* *[remain the same]* by _____ calendar/working days
The completion date, incorporating the changes included in this Change Order, is: _____
The original contract sum was = \$ _____
Net changes by previous change orders = \$ _____
Contract sum prior to this change order was = \$ _____
By this change order, the contract sum will be *[increased]* *[decreased]* *[unchanged]* by = \$ _____
The new contract sum including this change order will be = \$ _____


The Consultant/Contractor/Vendor shall not commence with the work described hereon until this form is executed by all agents.

Consultant (green) Date Contractor/Vendor (gold) Date Approving Agency (white) Date

Finance (pink) Date Purchasing (canary) Date County Administrator Date

Return fully executed Change Order (with attachments) to Purchasing Department for final distribution of copies.

Appendix D – Change Order (Oracle)

	<p>WASHINGTON COUNTY PURCHASING DEPARTMENT Washington County Administration Complex 100 West Washington Street, Suite 3200 Hagerstown, Maryland 21740-4748 240-313-2330</p>
---	--

ORACLE CHANGE ORDER REQUEST

User Name / Department Requesting Change: _____ **Date:** _____

Purchase Order Number: _____

Category Code: _____

Vendor Name / Number: _____

Line No.	Schedule No.	Qty./ Amt.	UOM	Unit Price	Location	Account Number(s)	Project	Line Description

Total Cost of Change Order: _____

Change Order Description	
---------------------------------	--

Directions: “Approver” shall send via email to “Purchasing Change Order” in the Microsoft Outlook Purchasing mailbox.

Sections Below for Purchasing Use Only:

PSCO# _____

Purchasing Director / Buyer: _____ Buyer / Procurement Specialist: _____ Procurement Specialist/ Procurement Technician: _____

Appendix E

APPLICATION FOR WASHINGTON COUNTY, MARYLAND SURPLUS PROPERTY

Proof of your organization's nonprofit status must be made available to the County upon request.

Request Date: _____ Submit To: Washington County Purchasing Department
100 W. Washington Street, Suite 3200
Hagerstown, MD 21740-4748
240-313-2330 240-313-2331 (fax)
purchasingservice@washco-md.net

Name of Non-Profit Organization: _____

Address: _____

Telephone: _____ Fax: _____

E-Mail Address: _____

Requestor's Name and Title: _____

Contact Person (if different from Requestor): _____

Brief History of Organization (attach any documentation):	
---	--

What are your organization's efforts in the community?	
--	--

List items you are requesting:	
--------------------------------	--

Explain how and by whom the items will be used:	
---	--

Approval: _____
County Purchasing Director Date County Administrator Date

**WASHINGTON COUNTY, MARYLAND
PROCUREMENT POLICY MANUAL**

ALPHABETICAL INDEX

<u>Section</u>	<u>Page</u>
6.4 Ability to Meet Standards	45
8.5 Acceptable Bid Security	50
11.5 Acquisition of Cellular Telephone Equipment and Services	56 - 57
3.50 Addenda/Amendments to Invitation to Bid	33
8.9 Additional Bonding	51
3.17 Adequate Competition	24
5.13 Amendments to Requests For Proposals	40 - 41
2.3 Applicability	7
6.1 Application	44 - 45
11.2 Assignment and Reassignment of Cellular Telephones	56
2.2 Authority	7
11.3 Authorized Use of County Cellular Telephones	56
2.25 Avoidance of Verbal Arrangements/Understandings	13
3.31 Award	28
3.34 Award Process	28 - 29
5.21 Awarding of Request For Proposals Contract	43
3.18 Basic Considerations	24
5.20 Best and Final Offers	43
3.29 Bid Evaluation	27
3.30 Bid Evaluation – Product Acceptability	27
8.4 Bid Security – General	49
2.21 Bid/Proposal Document Holders’ Lists	13
7.4 Brand Name or Equal Specifications – Conditions for Use	47
7.5 Brand Name Specifications – Conditions for Use	47
2.31 Cancellation or Rejection of All Bids or Proposals Prior to Opening	14 - 15
2.30 Cancellation or Rejection of All Bids or Proposals Prior to Opening	14
2.29 Cancellation or Rejection of Bids or Proposals	14
3.7 Change Orders	20 - 21
2.4 Changes to the Manual	7
2.16 Claims	11 - 12
2.22 Clothing Procurements	13
1.7 Code of Ethics	4 – 5
3.16 Competitive Sealed Bidding – Invitation to Bid for Equipment, Supplies, Materials, Services and Construction	24
1.8 Conduct When Dealing with Vendors	5 – 6
3.26 Confidential Data	27
2.13 Conflict of Interest (Employee-Owned Business)	10
2.12 Conflict of Interest (Professional Services)	9
8.3 Contract Administration	49
8.6 Contract Bonds	50
2.22 Credit Applications	13
1.10 Definitions	6
5.4 Determination – Use of Requests For Proposals Process	38

<u>Section</u>	<u>Page</u>	
3.44	Determination Required	31
9.1	Disposal of Surplus, Obsolete and Waste Articles	52 - 53
2.34	Disposition of Documents	15
2.33	Documentation of Cancellation	15
5.5	Dollar Thresholds for Requests For Proposals	38
2.19	Donations to County	12
3.5	Emergency Purchases	18 - 19
2.11	English Only Provision	9
2.10	Equal Opportunity	9
3.6	Equipment Leases	20
2.1	Establishment of the Purchasing Department	7
5.18	Evaluation of Proposal Responses	41 - 42
8.10	Exceptions	51
5.22	Exceptions to Request For Proposals Process	43
3.28	Extension of Time for Bid or Proposal Acceptance	27
3.14	Form of Specifications	23
5.1	Formal Requests For Proposals (RFP) – Professional/Technical Services that Exceed the Formal Bid Limit Set Forth in the Code of the Public Local Laws of Washington, County, Section 1-106	37
7.1	General Purpose and Policy	47
6.3	Information Pertaining to Responsibility	45
8.8	Insurance Requirements	51
3.21	Invitation To Bid – Content	25
3.46	Late Bids	32
5.16	Late Proposals	41
8.7	Legal Review of Bonds/Insurance Certificates	50
8.11	Legal Review of Contracts	51
2.9	Local Business Preferences	9
3.35	Low Tie Bids	29 - 30
3.32	Lowest Bid	28
3.33	Lowest Responsive Bid (Best Value)	28
3.39	Minor Informalities/Irregularities In Bids	30
2.8	Minority Business Enterprises	8 – 9
3.45	Mistakes After Award of Contract	31 - 32
3.43	Mistakes Discovered Before Opening	31
3.40	Mistakes in Bids – Confirmation of Bid	31
5.26	Mistakes in Proposals	44
3.41	Mistakes Where Intended Correct Bid is Evident	31
3.42	Mistakes Where Intended Correct Bid is Not Evident to the Purchasing Director or Designee	31
3.36	Modification or Withdrawal of Bids	30
5.14	Modification or Withdrawal of Proposal	41
3.22	Multiple or Alternate Bids	25
2.20	No Free Travel Through Vendors	12 – 13
2.32	Notice of Cancellation	15
3.27	One Bid Received	27
2.23	Personal Purchases for Employees	13
3.49	Pre-Bid Conferences	33

<u>Section</u>	<u>Page</u>
7.3 Preference for Commercially Available Products	47
3.13 Preparation of Specifications	23
5.12 Pre-Proposal Conference	39 - 40
1.6 Principles	4
3.10 Procurement Card (P-Card) Program	22
3.1 Procurement Methods Not Requiring Formal Solicitation	16
3.12 Procurement Methods Requiring Formal Solicitation	23
4.1 Procurement of Services/Construction by Purchase Order	36
1.9 Procurement Records and Information	6
10.4 Product Demonstrations	55
3.11 Professional/Technical Services With Costs Not Exceeding the Formal Bid Limit Set Forth in the Code of the Public Local Laws of Washington County, Section 1-106	22 - 23
11.7 Prohibitions/Disciplinary Action	57
5.25 Proposal Discussions with Individual Offerors	44
5.11 Proposal Preparation Time	40
2.15 Protest Procedure	11
2.14 Protests and Claims	10 - 11
3.48 Public Availability	33
3.24 Public Bid Opening	25 - 26
3.51 Public Notice	34
3.20 Public Notice (Invitation to Bids & Request for Proposals) - Advertisement	25
5.9 Public Notice (Request For Proposals) - Advertisement	39
1.2 Public Procurement	2
3.54 Purchase of Items Separately From Construction Contract	35
2.7 Purchase Order/Contract Signatory Authorities and Approval Thresholds	8
8.2 Purchase Orders	49
2.27 Purchases at Public Auction	13 - 14
1.4 Purchasing Department Functions	2 - 3
1.3 Purchasing Department Mission	2
1.5 Purchasing Department Relations with Other County Agencies	3 - 4
10.1 Purpose (Merchandise to be Received on a Trial Basis)	54
11.1 Purpose (Cellular Telephone Service)	56
1.1 Purpose of Procurement Policy Manual	1 - 2
5.6 Purpose of Requests For Proposals Process	38
7.6 Qualified Products List – Conditions for Use	48
3.23 Receipt of Bids	25
5.15 Receipt of Proposals	41
2.17 Reconsiderations	12
3.38 Records	30
2.24 Relations With Other Public Jurisdictions	13
2.26 Relations With Suppliers	13
11.4 Request for Cellular Telephone Equipment and Services	56
5.23 Request For Proposals – Award Preferences	43 - 44
5.24 Request For Proposals – Special Conditions	44
3.55 Requests For Proposals (RFP) – Professional/Technical Services Selection	35
5.8 Requests For Proposals Document and Submittals	39
5.7 Requests For Proposals Selection Committee	39

<u>Section</u>	<u>Page</u>
5.10 Requests For Proposals Solicitation	40
2.5 Requirement of Good Faith	7
10.3 Retained Samples	54 - 55
10.2 Returned Samples	54
3.15 Review and Approval	23
11.8 Safety	57
5.17 Single Proposal Received	41
3.2 Small Purchases of Less Than the Formal Bid Limit Set Forth in the Code of the Public Local Laws of Washington County, Section 1-106	16 - 17
3.4 Sole Source Procurement	17 - 18
3.19 Solicitation Time	24
7.7 Specifications Prepared by Other Than County Staff	48
2.18 Standardized Procurements	12
6.2 Standards of Responsibility	45
2.6 Supplementary General Principles of Law Applicable	7 - 8
6.6 Suspension or Debarment	46
3.25 Tabulation of Bids	26
3.3 Technology and Fleet Procurements	17
8.1 Types of Contracts	49
2.28 Uniform Bidding	14
11.6 Usage Review	57
3.9 Use of County-Wide Annual Service Agreements	21
7.2 Use of Functional or Performance Descriptions	47
3.8 Use of State or Other Governmental Entity Awards	21
5.27 Vendor Debriefing	44
3.52 Waiver of Competition	34
3.47 Waiver of Public Advertisement Notice	33
5.3 When Requests For Proposals Are Advantageous	38
5.2 When Requests For Proposals Are Practical	37
3.37 Withdrawal of Bid After Opening, But Prior to Award	30
5.19 Written Clarifications or Interviews	42
6.5 Written Determination of Non-responsibility Required	45
3.53 Written Justification	34

APPENDICES

Glossary of Public Procurement Terms	Appendix A
Informal Quotation	Appendix B
Change Order (5-Part)	Appendix C
Change Order (Oracle)	Appendix D
Application for Washington County, Maryland Surplus Property	Appendix E

