

County of Nevada

ISSUED BY

**Information and General Services – Purchasing Division**



# **PURCHASING POLICY**

**Adopted by the Nevada County Board of Supervisors**

**May 28, 2019**

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## 1.0 DEFINITIONS

1. Reasonable good faith effort- Ideally three (3) or to the best ability the County is able to obtain vendor participation.
2. ePurchasing System- Third party vendor, cloud hosted software, the County utilizes to publish solicitations and interact with the vendors during the solicitation period.
3. Urgent Purchase- When a procurement is required for immediate action at the department level and limits the ability of the County to conduct a competitive solicitation.

## 2.0 PURPOSE

The purpose of this Purchasing Policy is to establish guidelines for authorization, soliciting, and appropriate conduct of purchasing activities relating to the acquisition of approved goods and services for Nevada County Offices and Special Districts. This policy is intended to provide a transparent, competitive, fair, and impartial process for conducting business with Nevada County's vendor community.

All purchases must be made in accordance with this policy, other County Policies and procedures, as well as any and all applicable laws and are subject to audit at any time. Failure to comply with this policy may result in disciplinary action.

## 3.0 RESPONSIBILITIES

### PROCUREMENT SERVICES:

The Nevada County operates a centralized purchasing system and has designated the Purchasing Division of the Department of Information and General Services (Purchasing) to be responsible for the administration of that system. The Director of Information and General Services acting as the ex-officio purchasing agent, has the duties and powers prescribed by law for county purchasing agents. Under that authority, the Purchasing Division is responsible for the following activities:

- Assist departments, officer or agency in matters related to the identification of possible supply sources, alternative product examinations, specification preparation, order follow-up and material expediting, and adherence to all contract terms and conditions.
- Assist departments, officer or agency in determining the appropriate method of acquisition and solicitation.
- Purchase, rent, or lease of supplies, equipment and services for departments, officer or agency.
- Assist departments, officer or agency with lease purchase agreements of personal property including the use of County owned property and facilities.
- Sell, lease, trade, or otherwise dispose of personal property that is no longer needed by departments, officer or agency for County use.
- Prepare, maintain, and amend the purchasing procedures to implement the Purchasing Policy.

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COUNTY DEPARTMENTS:

Departments are responsible for the following activities:

- Ensure that all purchases are made for official county business and make appropriate use of County funds.
- Submit requests for the acquisition of goods and services in accordance with purchasing policy and procedures.
- Assure all requests are properly budgeted in accordance to Government Code Section 29121.
- Provide adequate descriptions, specifications, scopes of work, or other instructions to assure a clear understanding of the requirements, including special conditions required by any grant or alternative funding source to be used for the purchase.
- Provide punctual responses to questions throughout the procurement process.
- Provide adequate inspection, receiving, and quality control practices in accordance to the purchasing procedures for all purchases.
- Assure receipt and payment for good and services are documented and paid in a manner consist with the approved contract and within the applicable prompt payment discount where possible.
- Consult with Purchasing as needed for assistance with resolving problems with product or service delivery and vendor performance.

#### 4.0 COMPETITIVE PROCUREMENT

It is the policy of Nevada County to make appropriate use of County funds and promote transparency through the use of open and full competition to the maximum extent possible. Contracts for the purchase of County personal property or services shall be awarded as the result of a competitive process, except as otherwise provided for in this policy or by law where a competitive process is required.

##### 4.1. THRESHOLDS

The following thresholds apply to procurement activities for the purchase of any goods or services required by Nevada County departments and agencies where a competitive process is required, except for public projects or as defined in the Section 4.5 below.

Nevada County Thresholds		
Equal to or less than	\$4,000	Small Purchases
Between	\$4,000 and \$25,000	Informal Solicitation
More than	\$25,000	Formal Solicitation

Public projects are governed by the California Public Contract Code, have different thresholds, and must be solicited in accordance with the applicable State code and

requirements. The current limits are set forth in the Purchasing Procedures Manual. Public projects include, but are not limited to, construction, improvement, or repairs of County facilities.

#### 4.2. SMALL PURCHASES

Department heads or designees are authorized to make individual purchases of products and services with an estimated total cost of \$4,000 or less, including tax, installation, and freight, if in the opinion of the department head, such direct purchases are in the best interest of the County.

The delegation of authority to make small purchases is not intended to be a substitute for centralized purchasing, or to be used to engage in repetitive purchasing without adequate analysis and competition. The following products and services are not authorized for direct purchase without prior approval from Purchasing:

- Construction, improvements, and maintenance of facilities
- Information technology software & hardware
- Telecommunications equipment
- Road projects, including parking lots & trails
- Vehicles and heavy equipment
- Any products or services available through department or Countywide contracts
- Professional legal services and other experts

#### **Conditions for Use**

Any purchase less than \$25,000.00 may be made in accordance with the procedures outlined in this section, provided, however, that procurement requirements shall not be artificially divided so as to constitute a small purchase under this section.

Request for quotations, which may be oral or written, will be the usual source selection method for purchases with an estimated value less than \$25,000.00 unless the purchase qualifies for processing as an emergency or as a sole source purchase. **The Purchasing Agent or designee may require that the competitive sealed bid or proposal process be used if in the Purchasing Agent or designee's opinion the alternate procedure is in the best interest of the County. Purchases made pursuant to this section are also subject to the requirements of Sections 4.4(h), 4.4.1 (f–i).**

**Delegated Purchases up to and including \$4,000.00.**

Departments are authorized to make individual purchases for materials and services up to and including \$4,000.00, including tax, shipping, installation and all associated costs in accordance to County Administrative Code. Where possible, the department shall seek quotes of reasonable good faith effort and purchase from the best value vendor.

**Purchasing Purchases up to and including \$4,000.00.**

The Purchasing Buyer may forego seeking quotes and process an order in accordance with their expert understanding of the market and sources of supply.

Purchases between \$4,000.01 and \$24,999.99. The Purchasing Buyer shall seek oral or informal written quotations of reasonable good faith effort from probable sources or provide written justification for failing to do so.

**Oral Quotations**

Oral quotes shall be recorded on the Purchasing Division's standard Bid Evaluation and Award Recommendation Form or documented in the Buyer's Quote Memorandum and shall be attached to the Division's central file copy of the award document. The Buyer must record the name of the vendor representative submitting the quote and the date.

**Written Quotations**

Written quotations shall be on the Purchasing Division's standard Request for Quotation Form and shall include the name and signature of the vendor representative and the date of the quote or conducted using the ePurchasing system.

4.3. **INFORMAL SOLICITATIONS**

Purchases of goods or services with an estimated total cost of \$25,000 or less may be conducted through informal solicitation. The Purchasing Agent or designee may require that a formal solicitation process be used if, in the Purchasing Agent or designee's judgment, a formal solicitation is in the best interest of the County.

Informal solicitations may be handled either by the department or Purchasing Division. A reasonable good faith effort of quotes for the goods or services will be sought and evaluated to determine the lowest responsive and responsible bidder or the best value to the County. Any award based on an informal solicitation shall be documented with the applicable reason and justification for the award.

4.4. FORMAL SOLICITATIONS

Purchases of goods or services with an estimated total cost of more than \$25,000 shall be made in accordance with the applicable procedures for Formal Solicitations and this section, which sets forth the requirements for competitive sealed solicitations, including but not limited to Invitations for Bids, Requests for Proposals, Requests for Qualifications, Requests for Information, Public Projects and any other formal solicitation method.

A. Public Notice and Solicitation Period

Public notice of formal solicitations shall be posted in a public forum. The public notice must specify the place where solicitation documents may be obtained, if a fee applies, and the time and place for submission of solicitation.

Solicitation periods are as follows:

- Competitive Sealed Bids- not less than ten (10) County working days prior to the opening.
- Competitive Sealed Proposal- not less than thirty (30) County working days prior to opening.
- Public Projects- Not less than fourteen (14) County working days and in accordance with Public Contract Code 10140 and 10141.

B. Specifications/Scopes of Work

Specifications and scopes of work shall permit free and full competition to the maximum extent possible under the attendant circumstances. Specifications shall not be prepared to exclude all but one type or kind, except where permitted by law and shall be crafted with the following in consideration:

- (1) Shall be clear, definite and concise to enable prospective bidders a basis on which to submit proposals.
- (2) Shall describe the minimum features or for a minimum level of quality needed for the intended use, except in cases where additional or enhanced features or the level of quality are essential for some future consideration or result in an overall economic advantage to the County.
- (3) Shall describe performance requirements if possible, rather than formulation, description or design.
- (4) Should address lifecycle costs in order to minimize the County's overall investment.
- (5) Shall be framed to permit free and full competition to the maximum extent possible under the attendant circumstances.

Direct vendor involvement in the specification development process at the department level is prohibited however, a firm or vendor may be utilized as a professional consultant to assist the County with the development of the specifications. Such firms or vendors who participate in this capacity are

prohibited from responding to the resulting solicitation. Departments are encouraged to consult with Purchasing for assistance in developing specifications.

**Restrictive Specifications**

Specifications should enable open competition from many bidders. While it may not be practical to prepare specifications in a manner that every conceivable manufacturer or service provider could competitively bid, the Department must be able to demonstrate a sound reason for any restrictive specifications.

**Other Considerations**

Specifications must state whether aspects other than cost will be considered in awarding the contract, e.g., results of product testing, length and terms of any warranty provisions, reliability and maintenance costs, repurchase value, or residual value of the equipment after a specified number of years where the residual value can be objectively ascertained.

Purchasing shall make the final determination of the acceptability of specifications and scope of work requirements to be included in any solicitation.

C. Bidding Documents

Bidders may obtain complete sets of bidding documents from the ePurchasing system free of charge or other source designated in the bid announcement for the non-refundable price, if any, as set forth in the Invitation for Bids.

1. Interpretation or Correction of Bidding Documents

- a. Bidders shall promptly notify the Purchasing Division of any inconsistency or error which they may discover upon examination of the bidding documents or of the site and local conditions.
- b. Bidders requiring clarification or interpretation of the bidding documents shall contact the Purchasing Division in writing or by e-mail not less than five working days prior to the date for receipt of bids, or as specified in the Invitation for Bids. Bidders shall not contact other County departments for clarification or interpretation of bidding documents unless directed by Purchasing or by the bidding documents.
- c. Any interpretation, correction or change to the bidding documents shall be made by written addendum issued by Purchasing. Interpretations, corrections or changes of the bidding documents made in any other manner will not be binding, and bidders shall not rely upon such interpretations, corrections and changes.



2. Alternate Bids

- a. The materials, products and equipment described in the bidding documents establish a minimum standard of required function, dimension, appearance and quality to be met. Materials offered as "equal" to the materials specified must meet the minimum specifications. It shall be the bidder's responsibility to demonstrate the merit of the proposed "equal".
- b. Proposed "equals" may be awarded based on the sole judgment of the County.

D. Addenda to Solicitations

Addenda shall be distributed to all firms known to have received solicitation documents. Addenda which are issued within four (4) County working days of the solicitation due date shall also include an extension of the due date. The extension shall be not less than four (4) County working days from the date the addendum is issued. Addenda which cancel a solicitation in its entirety may be issued at any time prior to the solicitation's posted due date.

E. Receipt of Responses/Opening

Vendors shall respond in the manner set forth in the solicitation.

Late responses to the County's solicitations shall not be accepted.

Formal solicitations shall be received via a secure method which prevents anyone from viewing the responses until after the deadline specified in the solicitation.

All responses shall be opened in the presence of one or more witnesses and if required, in a public forum, at the time and place designated in the solicitation, and shall be administered by the Purchasing Agent or designee.

F. Public and Confidential Records

Responses to Requests for Proposals and Requests for Qualifications shall be considered confidential records upon receipt and throughout the evaluation process, and until such time as a contract has been awarded by the Board of Supervisors or Purchasing Agent.

Responses to Invitations for Bids shall be considered public records immediately upon opening of the responses. Copies of the bid responses and other associated documents shall be made available upon request.

Records maintained by Purchasing to document processing and award of any solicitation shall be kept in accordance with the County's document retention policy.

G. Solicitation Clarifications

A firm may be permitted the opportunity to furnish other information called for by the solicitation and not supplied in the original response, provided it does not affect the price of the contract and does not give the responding firm an advantage or benefit not enjoyed by other respondents, in accordance with the criteria established in the solicitation.

A firm shall not be permitted to correct a response for errors of judgment.

The Purchasing Agent or designee shall maintain complete and sufficient records of evidence used to identify the oversight and the clarified response.

H. Option to Reject, Waive, and/or Re-Solicit

The Purchasing Agent or designee shall maintain complete and sufficient records of evidence used to justify any action taken under this section.

1. The County reserves the right to reject a response which is in any way incomplete, irregular, amplified, unqualified, conditional, or otherwise not in compliance with the solicitation documents in all material respects.
2. The County may waive any informality, irregularity, immaterial defects, or technicalities in any response.
3. The Purchasing Agent may reject or cancel a solicitation, prior to or after receipt of responses, if it is determined that an award would not be in the best interest of the County. If the responses are rejected or the solicitation is cancelled, the County may re-advertise the product or service or negotiate, whichever is in the best interest of the County.

**4.4.1. COMPETITIVE SEALED BIDDING**

Competitive sealed bids typically consist of Goods or routine services required to conduct normal County day to day business.

1. To receive consideration, bids shall be made on the forms provided by the County and in the manner set forth in the Invitation for Bids.
2. Bidders shall use complete sets of bidding documents in preparing bids. The County will not assume any responsibility for errors or misinterpretations resulting from the use of incomplete sets of bidding documents.
3. Late bids shall not be accepted.

4. Each bid must be signed by an authorized representative of the vendor and include the legal name of the bidder and the signer's title. Electronic Bids that are submitted through the County's ePurchasing system are considered signed by virtue of the Bidder's use of their unique login and password which enables their use of the system.
5. Bidders shall not change the bid form nor make additional stipulations on the bid form which are not consistent with the provisions of the bid documents

**a) Bid Security**

A bid guarantee in the form of a bid bond or bid deposit (certified or cashier's check) made payable to the Nevada County Treasurer may be required to protect the County in the event the awarded bidder does not execute the contract or furnish the required performance or payment bonds. A required bid bond or bid deposit must be submitted with the bid, and be in the amount as specified in the Invitation for Bids. In the event an otherwise low bidder is allowed to withdraw a bid due to claim of error, the County may retain the bid guarantee to offset its costs of administrative handling of the bid. The bid guarantee of the lowest bidder shall be retained until the contract has been executed and approved and any performance or payment bonds and required proof of insurance provided, at which time the bid guarantee will be released, except where forfeited. The bid guarantees of the second and third lowest responsible bidders may also be held by the County until the contract has been fully executed and required proof of insurance is obtained from the low bidder. The bid guarantees submitted by all other unsuccessful bidders shall be returned to them as soon as practical following the evaluation of bid responses and their bid bonds shall be of no further effect.

**b) Receipt of Bid**

Formal Bids may be received electronically, via a secure ePurchasing system which prevents Purchasing staff from viewing the responses until the deadline specified in the Invitation for Bids. Bids may also be received in hard-copy form, and must be sealed in an envelope by the bidder and submitted prior to the date and time specified in the Invitation for Bids. Bids which are received in hard-copy form must not be left unattended and must be promptly time-stamped and deposited unopened in a locked bid drawer. Late bids shall not be opened and shall not be considered under any circumstances. A late bid envelope shall be date-stamped, copied and promptly returned unopened to the bidder accompanied by a letter from Purchasing notifying the bidder that the bid was received late and was not considered. A copy of the rejected bid envelope and the letter shall be retained in the bid file.

**c) Bid Opening**

All bid openings shall be administered by the Purchasing staff and all bids shall be opened publicly in the presence of one or more witnesses at the time and place designated in the Invitation for Bids. Each bid, together with the name of the bidder, shall be recorded and a summary shall be posted on the ePurchasing system after opening. After bid opening, the County assumes no responsibility over the confidentiality of bid information unless specifically stated otherwise in the Invitation for Bids.

**d) Correction or Withdrawal of Bids**

1. In any request or decision involving a bid mistake, correction or withdrawal, Purchasing staff shall consult with County Counsel. Except as otherwise specified in Section 5100 of the Public Contract Code, correction or withdrawal of inadvertently erroneous bids before or after bid opening may be permitted only if such correction or withdrawal is not prejudicial to the interest of the County or fair competition.
2. Hardcopy bids or proposals may be modified or withdrawn by written notice signed by a person who is authorized to sign contracts on behalf of the bidder and received by the Purchasing Division prior to the date and time set for the submittal deadline. Oral, facsimile or e-mail corrections or withdrawals shall not be permitted.
3. Bids or proposals submitted through the County's ePurchasing system may be modified or withdrawn through the ePurchasing system until the submittal deadline.
4. Mistakes in bids detected during or after bid opening may not be corrected by the bidder except:
5. A bidder may be permitted to correct a material mistake that, if not corrected, would cause such bidder to have the low bid. The mistake must be clearly evident from examining the bid document; for example, arithmetical errors. However. A bidder shall not be permitted to correct a bid for errors of judgment.
6. An otherwise low bidder may be permitted the opportunity to furnish other information called for by the Invitation for Bids and not supplied due to oversight, so long as it does not affect the price of the contract and does not give a bidder an advantage or benefit not enjoyed by other bidders.

The Purchasing staff shall maintain complete and sufficient records of evidence used to establish an error and intended price. Records of bid withdrawals shall also be maintained to ensure there is no abuse of the competitive bidding process. All decisions to permit the correction of bid mistakes and the withdrawal of bids shall be made in writing by the Purchasing Agent or designee and retained in the bid file.

**e) Bid Evaluation**

Bids shall be evaluated based on the requirements set forth in the Invitation for Bids, which may include criteria to determine acceptability such as inspection, testing, quality, workmanship, delivery, and suitability for a particular purpose. Those criteria affecting price shall be objectively measurable, such as discounts, transportation costs and life cycle or total ownership costs. The Invitation for Bids shall set forth the evaluation criteria to be used. No criteria may be used in a bid evaluation that are not set forth in the Invitation for Bids.

Examples of evaluation criteria that may be used include:

1. Total bid price, including any trade discounts, prompt pay discount often (10) days or more, unit price, and other cost factors specified in the Invitation for Bids;
2. Local vendor preference (reference Section 6.0)
3. General reputation, knowledge, and experience of bidders based on references or prior performance;
4. Hourly rates for specified personnel;
5. Evaluation of the bidder's ability to service the County;
6. Financial responsibility of the bidder;
7. Needs and requirements of the County as stated in the Invitation for Bids;
8. Experience with the products involved;
9. Nature and extent of company data furnished upon request of the County;
10. Quality of merchandise offered;
11. Product appearance, workmanship, finish, taste, feel and results of product testing;
12. Overall completeness of product line offered;
13. Bidder's ability to meet delivery and stocking requirements;
14. Delivery or completion date;
15. Maintenance costs and warranty provisions;
16. Repurchase value or residual value of equipment after a specified number of years where the residual value can be objectively ascertained;
17. Availability of product or service required;
18. Compatibility with County's current equipment/products;
19. Availability of sales representatives and/or service representatives;
20. Maintainability and reliability.

The Purchasing Agent shall maintain complete and sufficient records of bid evaluations to ensure there is no abuse of the competitive bidding process. All reasons for making the award recommendation shall be made in writing by the Purchasing Agent or designee and retained in the bid file.

**f) Bid Evaluation of Blanket Purchase Orders**

Since it is sometimes difficult to competitively bid blanket purchase orders based on costs because of the breadth of the commodity line or the unavailability of firm quantities, other criteria may be used, such as:

1. Geographic location or distance of the vendor from the requesting department;
2. Size of inventory as an indicator of the breadth of the commodity line (availability);
3. Delivery capacity;
4. Acceptance of phone orders;
5. Time it takes to fill an order;
6. Consolidated invoices;
7. Discounts or margins;
8. Representative labor, job or parts costs;
9. Maintenance of accounting/billing information.

Award of blanket purchase orders shall always be to the most responsive and responsible vendors based on the most verifiable and pertinent evaluation criteria.

**g) Reservation to Reject Bid and Re-Bid**

Every bid must be carefully examined to determine whether it contains a material variance. Any bid which contains a material variance must be rejected. A test of material variance is a variance which gives the bidder a substantial benefit or advantage not enjoyed by the other bidders. When necessary, Purchasing shall consult with County Counsel.

The County may:

1. Reject an otherwise lowest bid when it is determined that another bid is more advantageous to the County;
2. Reject a bid not accompanied by any required bid security or by other data required by the bidding documents;
3. Reject a bid which is in any way incomplete, irregular, amplified, unqualified, conditional or otherwise not in compliance with the bid documents in all material respects;
4. Waive any informality, irregularity, immaterial defects or technicalities in any bids received; and/or
5. Cancel an Invitation for Bids or reject all bids because of the following reasons:
  - a. Inadequate or ambiguous specifications;

- b. Specifications must be revised;
- c. Supplies or services are no longer needed;
- d. Change in County requirements;
- e. All bids are deemed unreasonable;
- f. Bids were not independently arrived at or were submitted in bad faith;
- g. A determination is made that all the necessary requirements of the bid process have not been met;
- h. Insufficient competition;
- i. For other reasons which indicate the cancellation or rejection of all bids is clearly in the best interest of the County.

The Purchasing Agent shall maintain complete and sufficient written records of bid rejections and cancellations to ensure that there is no abuse of the bidding process. All reasons for rejecting a bid shall be retained in the bid file.

**h) Bid Award**

If the County decides to award a contract, the County generally must award the contract to the lowest responsible and responsive bidder whose bid best meets the requirements and criteria set forth in the Invitation for Bids. The County may award a contract based on bid evaluation criteria other than lowest bid price if the Invitation for Bids stated the evaluation criteria that would be applied and such award is in the best interest of the County. In the event the awarded bidder fails to perform or such bidder's bid is authorized to be withdrawn, the County may award a contract to the next lowest responsible and responsive bidder that will best meet the needs of the County.

**i) Cancellation of Bid Award**

Failure on the part of the successful bidder within the time allowed to execute the contract, furnish an acceptable performance bond, or comply with any other requirement imposed prior to execution of the contract shall be considered just cause for cancellation of the award and forfeiture of the bid security, not as a penalty, but in liquidation of certain damages sustained. Contract award may then be made to the next lowest responsible and responsive bidder, the call for bids re-advertised, or such other action taken as deemed appropriate by the County.

**4.4.2. COMPETITIVE SEALED PROPOSALS**

The Competitive Sealed Proposals process is a method of procurement which involves but is not limited to:

- (a) Solicitation of proposals through a Request for Proposals;
- (b) A private opening of proposals which will avoid disclosure of proposers or contents to competing proposers before and during the process of

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- negotiation;
- (c) Submission of cost or pricing data from the offeror where required;
  - (d) Discussions with responsible offerors whose proposals have been determined to be reasonably susceptible of being selected for award, unless such discussions are not required by the Request for Proposals, this manual or as determined by the Request for Proposals Evaluation Panel;
  - (e) An award or recommendation to the Board of Supervisors that an award be made to the responsible proposer whose proposal is determined to be the most advantageous, considering evaluation factors set forth in the Request for Proposals.

**Conditions for Use**

Unless otherwise directed by law, this manual or by direction of the Board of Supervisors, contracts for consultant services estimated to cost \$25,000.00 or more must be awarded by the use of competitive sealed proposals. Contracts for consultant services estimated to be less than \$25,000.00 may be awarded upon conclusion of informal interviews by representatives of the initiating department and others, including Purchasing, as may be appropriate.

In accordance with Sections 4.5(A) and 7.4(A), expert and professional services may be exempted from the competitive proposal process. The requesting department shall submit the justification for exempting a consultant or professional services agreement from the competitive process concurrent with the request for contract approval.

**1. Form of Proposal**

- a) The Request for Proposals will specify the format for proposals. Proposals should be organized in accordance with the requested format. Proposals so organized are more likely to respond accurately and clearly to the requirements of the Request for Proposals.
- b) Late proposals shall not be accepted.
- c) Each proposal must be signed by an authorized representative of the vendor and include the legal name of the proposing organization and the signer's title.
- d) Requests for Proposals are scored based on the criteria presented in the Request for Proposals. Proposers may propose any method or process to satisfy the scope of work of the Request for Proposals that maximizes responsiveness to the criteria stated in the Request for Proposals.

**2. Evaluation Factors**

Award of a Request for Proposals shall be made to the responsible proposer whose proposal is determined, through a formal evaluation panel process to be the most advantageous to the County taking into



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consideration the evaluation factors set forth in the Request for Proposals. Proposals shall be scored according to the criteria stated in the Request for Proposals. No other factors or criteria shall be used in the evaluation.

Competitive sealed proposals shall be prepared and conducted in the same manner as provided in the above Section 4.4 except as otherwise authorized by provisions of this section. Upon requesting a Request for Proposals, the requesting department shall provide a background section, scope of work section and recommended criteria to be used in the Request for Proposals. The scope of work shall comply with the requirements for competitive specifications stated in Section 4.4 (B).

The Request for Proposals may indicate the relative importance of evaluation factors. Following are representative evaluation criteria that may be considered by the department when preparing a Request for Proposal:

- (a) Reputation and Experience - Does the consultant have a reputation of being reliable, delivering on schedule, and performing tasks to the satisfaction of his / her clients? - Does the consultant have sufficient experience in the kind of work required?
- (b) Capability and Availability of Staff - Does the firm have the qualified and experienced staff needed to perform this job?
- (c) Understanding of the Problem - Does the firm demonstrate a thorough understanding of the issues and has it developed a relevant and effective approach?
- (d) Proximity of the Firm. - Firm's office and/or staff proximity to Nevada County offices or work location as it relates to the firm's ability to be responsive to the contract requirements.
- (e) Cost. - Whenever possible and appropriate, a firm fee or hourly rate should be secured as part of the proposal however, not considered in the evaluation process. Whenever possible, Requests for Proposals should specify methods of submitting proposed costs that can be compared with competing proposals.
- (f) In accordance with Section 4526 of the California Government Code, award of Requests for Proposals for professional services of private architectural, landscape, landscape architectural, engineering, environmental, land surveying or construction project management firms shall be on the basis of demonstrated competence and on the professional qualifications necessary for the satisfactory performance of the services required. Thus cost proposals for these services must be received in a separate sealed envelope. The cost proposals may be unsealed after the

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recommended consultant has been selected and may serve as information for County negotiators, not to be revealed to the firm negotiating with the County. In accordance with Section 4528 of the California Government Code, the Department Head shall negotiate a contract with the best qualified firm for these services at compensation which the Department Head determines to be fair and reasonable. Should the Department Head be unable to negotiate a satisfactory contract with the firm considered to be the most qualified, at a price the Department Head determines to be fair and reasonable, negotiations with that firm shall be formally terminated and the Department Head shall then undertake negotiations with the second most qualified firm, and so on.

- (g) In addition, examples of evaluation criteria listed in Sections 4.4.1 (e & f) may be used.

**3. Discussions with Proposer**

- (a) As provided in the Request for Proposals, discussions may be conducted with responsible proposers who submit proposals determined to be reasonably susceptible of being selected for award for the purpose of clarification to assure full understanding of, and responsiveness to the solicitation requirements. These proposers shall be accorded fair and equal treatment with respect to any opportunity for discussion and revision of proposals, and such revisions may be permitted prior to the Evaluation Panel's determination of the award recommendation for the purpose of obtaining best and final offers. In conducting discussions, there shall be no disclosure of any information derived from proposals submitted by competing proposers.
- (b) After the Evaluation Panel has determined the firm to be recommended for award, the department head of the initiating department may enter negotiations with the recommended firm to finalize proposed services and price before the Evaluation Panel's recommendation is submitted to the Board of Supervisors for approval.

**4. Award Process**

Contract awards for professional or consultant services for \$50,000.00 or less may be approved by the Purchasing Agent or designee. Pursuant to Section 7.4 (A), the County Executive may approve professional or consultant services contracts that are \$50,000.00 or less. Although proposals that are \$50,000.00 or less do not require Board approval, the County Executive Office may be consulted to determine whether the specific consultant services or other circumstances warrant Board consideration.

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Recommendations for contract award for professional or consultant services for more than \$50,000.00 shall normally be submitted by the department head of the initiating department to the Board of Supervisors along with pertinent contract documents. The recommendation should include the following:

- (a) The services to be provided by the consultant or professional service contract.
- (b) The method of compensating the consultant or the actual cost if appropriate.
- (c) The reasons for recommending a particular consultant, particularly if that proposal was more costly than others. Positive reasons for the consultant recommended should be stressed rather than deficiencies of those not recommended.
- (d) In addition to the recommendation, a ranking of the three most qualified firms should be listed. The Board of Supervisors may accept the recommendation or select any of the three most qualified firms or order a new Request for Proposals.
- (e) To the maximum extent possible, details of the evaluation panel's recommendations are to remain confidential until the award has been approved by the Board. At that time, all proposers shall be notified of the Board's decision and the period for protest shall be considered opened. Any protest shall be considered in accordance with Section 6.0. Contracts may be awarded immediately after the time allowed for protests has expired or after the last protest has been resolved.
- (f) The requesting department shall forward a copy of the executed contract promptly to Purchasing.

**5. Request for Qualifications**

Some departments require lists of competitively selected consultants from which the department can rapidly and efficiently select the most qualified consultant to perform required consultant services. Examples include architectural consulting, construction management, environmental impact reports, civil engineering services, etc.

Requests for Qualifications are a call for competitive sealed proposals intended to produce a competitively determined list of highly qualified consultants from which the requesting County department(s) can draw. Requests for Qualifications shall be conducted in the same manner as Requests for Proposals, except that the evaluation panel will select a predetermined or logical

number of top rated firms which will be recommended to be placed on a Qualified List. The Qualified List is typically effective for three years and may typically be extended for two additional one year periods. The effective periods shall be specified in each Request for Qualifications. Since the total dollar amount to be awarded from the Request for Qualifications is unknown, Purchasing will obtain Board of Supervisors approval of the recommended Qualified List or extensions thereof.

While the Qualified List is in effect, the requesting department(s) may select consultants in the following manner:

- (a) For contracts up to \$25,000.00, the department may simply select the apparent most qualified consultant from the list.
- (b) For contracts between \$25,000.00 and \$250,000.00, the department should request informal competitive proposals from three or more of the consultants on the qualified list.
- (c) For contracts exceeding \$250,000.00, a separate Request for Proposals is required.
- (d) Contract awards exceeding \$50,000.00 require Board of Supervisors approval, normally carried forward by the responsible department.

#### **4.4.3. PUBLIC PROJECTS**

In accordance with the Public Contract Code, Part 3, Chapter 1, the following procedures apply to all Public Projects except projects under the direction of the Road Commissioner (Section 20395 of the Public Contract Code):

- A. Definition of a Public Project (Section 20150.2)
  1. A project for the erection, improvement, and repair of public buildings and works.
  2. Work in or about streams, bays, waterfronts, embankments, or other work for protection against overflow, except maintenance, repair or reconstruction work.
  3. Supplies and materials used in maintenance, repair, or reconstruction work in or about streams, bays, waterfronts, embankments; or other maintenance, repair, or reconstruction work for protection against overflow.
- B. Excluded expenditures from Public Projects (Section 20150.3)
  1. Equipment, supplies and materials acquired by a public agency to enable the timely completion of a public project as defined in Section 20150.2 (c) let to a contractor.

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2. Plans, specifications, engineering and advertising required for public projects.
- C. Public Project Bid Level (Section 20150.4)
1. Under \$4,000.00 for total project may be done by Force Account (County employee labor).
  2. Between \$4,000.00 and \$9,999.99 shall be let to contract by informal or formal bid procedures.
  3. \$10,000.00 and more shall, in all instances, be let to contract by formal bid procedures.
- D. Advertising (Sections 20150.7 and 20150.8)
1. Notice inviting informal bids - One publication of notice in local newspaper at least twenty-four hours prior to opening of bids.
  2. Notice inviting formal bids - Two publications of notice, not less than five days apart with first publication at least ten days prior to opening of bids.
- E. Plans, specification and Working Details (Section 20150.12) For all public projects which exceed \$10,000:
1. The Board of Supervisors shall adopt plans, specifications and working details.
  2. All bidders shall have the opportunity to examine plans, specifications and working details.
- F. Public Contract Code Definition of Informal and Formal Bid Procedures
1. Informal Bid Procedures - The Purchasing Buyer shall seek informal written quotations from at least three probable sources with the advertising requirement from Section 5.4(a).
  2. Formal Bid procedures - Refer to the guidelines outlined in Section 3.0 of this manual with the advertising requirement from Section 5.4(b).

Public projects under the direction of the Road Commissioner shall be performed in accordance with the Public Contract Code, Part 3, Chapter 1, Article 25. In addition, the Public Contract Code prescribes a broad range of requirements for contracting by local agencies. Examples of these other requirements include Sewer Maintenance Districts (Section 20790), Water Districts (Section 20930), and Community Services Districts (Section 20680). County departments and Purchasing share the responsibility for complying with all requirements of the Public Contract Code.

4.5. EXCEPTIONS TO COMPETITIVE SOLICITATION

County employees must always strive to purchase competitively and wisely. The use of a competitive solicitation process is required unless there is an authorized basis for an exception, as defined below or as permitted for by law. Exceptions must not be exercised indiscriminately as a method of circumventing the competitive process and related County policies. Competitive bidding is not required for the following purchases

- A. Wherever State law expressly authorizes execution of professional services contracts without competitive bidding or for expert and professional services which 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 such as but not limited to: accountants, physicians, social service consultants, labor consultants, investigators, attorneys, architects, surveyors and engineers
- B. Purchases made from other public agencies competitive solicitations, or by use of Joint Powers Agreements, Cooperative Purchasing programs, Pooling Agreements, and other recognized types of agreements used by government agencies to combine agency requirements for purchases in order to obtain volume discounts. Purchasing staff must conduct an evaluation to determine low price value
- C. Legal brief printing, stenographic services, and transcripts
- D. Expert and professional services which 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.
- E. Books, publications, subscriptions, recordings, motion picture films, and annual book and periodical contracts
- F. Purchases of commodities and services from public and private non-profit corporations operating work centers for persons with disabilities as defined by the Welfare and Institutions Code 19403 and 19404.
- G. Property or services the price of which is fixed by law
- H. Although Elections materials are exempt from competitive bidding pursuant the State of California Election Code Section 13001. Elections Department will keep records that show price comparisons and may, at the option of the Registrar of Voters or without placing the security or conduct of the election at risk, attempt to secure the best prices for election items. The Registrar of Voters is encouraged to use the Purchasing Division for items that are non-election sensitive when possible. No provision of the Purchasing Policy is to be interpreted to direct the purchase of election materials, commodities or services must be processed through the Purchasing Division and be subject to normal competitive bidding process, as specified by current State law.

- I. Construction equipment rental;
- J. Proprietary drugs and pharmaceuticals, medical supplies and equipment
- K. Training, seminars, or classes
- L. The Purchasing Agent or designee determines that it is in the best interest of the County to extend or renew a contract, provided the extension or renewal does not adversely affect the integrity of the original award. Such extensions or renewals shall not be excessively utilized without Board approval.
- M. The Purchasing Agent or designee determines that competitive proposals do not produce any advantage, or it is impractical to obtain what is required and to observe a competitive process.

#### 4.6. SOLE SOURCE/SINGLE SOURCE

A contract or purchase may be awarded without a competitive process if it meets either of the following criteria:

- A. Sole Source – a product or service which is the only product or service that satisfies the department’s operational requirements, usually because of a technological, specialized, or unique character, or proprietary nature.
- B. Single Source – a product or service that can only be obtained from a sole provider.

#### 4.7. EMERGENCY PURCHASES

An Emergency is defined as an unexpected and pressing situation which requires swift and immediate procurement action precluding regular purchasing policy and is essential to public life, health, safety, or improved property of the County.

- A. Local Emergency – In the event of a local emergency proclamation, procurement actions necessary to acquire the goods and services required to address an immediate threat to life, public health, or safety, or to eliminate/reduce an immediate threat of significant damage to improved public and private property through cost-effective measures may be performed outside of the existing policy requirements. The existing policy may be modified, waived or suspended, where deemed necessary, subject to the approval of the Board of Supervisors, as prescribed in Public Contract Code Section 22050.
- B. State & Federal Emergency – In the event of an emergency declared at either a State or Federal level, all procurement actions necessary to acquire the goods and services required to address an immediate threat to life, public health, or safety, or to eliminate/reduce an immediate threat of significant damage to improved public and private property through cost-effective measures shall be pursuant to applicable State and/or Federal policies and procedures in compliance with the Federal Uniform Guidelines (2 CFR part 200).

4.8. PROHIBITION AGAINST PROJECT LABOR AGREEMENTS

Except and unless as otherwise required by State or federal law as a contracting or procurement obligation or as a condition of the receipt of State or federal funds, the County shall not require a contractor on a County public project to execute or otherwise become a party to a project labor agreement as a condition of bidding, negotiating, award or performance of the public project.

Nothing in this subsection shall be construed as prohibiting private parties that may perform work on County public projects from voluntarily entering into project labor agreements or engaging in activity protected by law.

4.9. UNAUTHORIZED PURCHASES

All purchases must be made in accordance with this policy, other County Policies, as well as any and all applicable laws and are subject to audit at any time. Departments are responsible for ensuring that all purchases are made for official county business and make appropriate use of County funds.

5.0 NEVADA COUNTY PREFERENCE

5.1. LOCAL PREFERENCE

In recognition of the economic benefits provided by business located within Nevada County, , a local preference credit of 5%, but not cumulatively greater than five thousand dollars (\$5,000), for Nevada County businesses shall be permitted when evaluating competitive solicitations for supplies, equipment and materials that are not part of a public project. Purchasing's determination regarding a business' local preference credit shall be final.

A business qualifying for a local preference credit shall meet the following criteria:

- Establish a place of business within Nevada County at least six (6) months prior to publication of applicable competitive solicitation.
- Possess a valid resale license from the State Franchise Tax Board evidencing the business' local address within Nevada County and that payment of the local share of the applicable sales tax goes to either a city within Nevada County or to Nevada County.
- Payment of applicable business and/or real property tax to Nevada County for the most recent tax year.
- Maintain proper certification on file with Purchasing that demonstrates compliance with the provisions of this section.
- All Federally funded and some grant funded procurements do not qualify for Local Vendor Preference



## 5.2. RECYCLED PRODUCTS

The County will actively encourage suppliers to offer recycled products that meet the County's Green Procurement and Sustainable Practices Policy a preference of up to 10%, but not cumulatively greater than five thousand dollars (\$5,000) may be given to solicitations for products meeting the definition of recycled product cited in California Public Contract Code. Discretion is given to the purchasing manager to make a determination as to whether to apply the discount and to what extent at the time of the development of the solicitation. Such discount will have measurable standards and shall be applied when required by statute or grant requirements.

## 6.0 PROTESTS

Any bidder or offeror who is aggrieved in connection with a solicitation or award of a solicitation, shall have the right to protest to the Director of Information and General Services. The aggrieved party shall submit a formal written protest to the Director of Information and General Services within five (5) County business days after such aggrieved party should have known the facts giving rise thereto. The alleged grounds for protest shall be limited to the following: (1) the County failed to follow the procedures or requirements specified in the bid document, Request for Proposal, or other solicitation; (2) County employees or evaluation committee members engaged in misconduct or impropriety, or; (3) the County's designation of the protesting bidder as non-responsive was incorrect due to an issue of fact or law not apparent on the face of the bid document or proposal. A formal written protest shall state all grounds claimed for the protest and include supporting documentation. Failure to file a formal written protest within the time prescribed shall constitute a waiver of all protest rights.

The Director of Information and General Services shall issue a decision within seven (7) County business days after receipt of the protest. The Director of Information and General Services' investigation shall respond to the protest on the grounds stated within the protest. The Director of Information and General Services' decision shall be final.

In the event of a timely and properly filed protest, the County shall not proceed further with the recommended award until the protest is addressed by the County unless the Director of Information and General Services, in consultation with the head of the requesting department and County Counsel, makes a determination that the protest is without merit, and the award of a contract without delay is necessary to protect substantial interest of the County.

## 7.0 CONTRACT APPROVAL AUTHORITY

The Board of Supervisors, the County Executive Officer, the Purchasing Agent (or his/her designee), or a Department Head are responsible for the approval of County-issued contracts within the limits contained in this Policy, unless otherwise permitted by ordinance or as expressly authorized by the Board. The following policies set forth the requirements for execution of purchasing related matters.

7.1. BOARD OF SUPERVISORS APPROVAL REQUIRED

- A. All contracts required by law to be approved by the Board of Supervisors.
- B. All contracts with a total annual cost of more than \$50,000 in accordance with County Administrative Code.
- C. All contract awards for goods/ commodities with a total aggregate amount exceeding \$250,000
- D. All multi-year contracts with an aggregate amount in excess of \$50,000 for the contract term in accordance with County Administrative Code.
- E. Approval of recommended Qualified Lists and extensions thereof.
- F. Change orders, alterations, or addenda to a Board of Supervisors' approved contract for a public project which exceeds the limits prescribed in California Public Contract Code Section 20142.
- G. Change orders, alterations, or addenda to a Board of Supervisors' approved contract that changes or amends the contract in an amount that is greater than ten percent (10%) of the Board-approved amount or \$50,000 whichever is less.
- H. Any amendment to a contract that increases the contract in excess of \$50,000.
- I. Sale, transfer, or disposal of surplus personal property, having an original acquisition value of more than \$5,000 as identified in the Nevada County Capital Asset Inventory, unless otherwise prohibited by law.
- J. Emergency purchases of goods or services which require Board action in accordance with Section 4.7 of this Policy.
- K. Rejection of all responses to a solicitation, or cancellation of a solicitation, with a value of more than \$50,000. Board approval may be requested concurrently with approval to award the new solicitation.

7.2. BOARD OF SUPERVISORS RATIFICATION REQUIRED

Any authorized urgent purchases of \$5,000 or more must be submitted by the responsible department at the next regularly scheduled consolidated budget meeting or as directed by the CEO.

7.3. PURCHASING AGENT OR DESIGNEE APPROVAL AUTHORITY

- A. All contracts with a total annual cost of less than \$50,000 in accordance with County Administrative Code.
- B. All contract awards for goods/ commodities with a total aggregate amount \$250,000 or less.
- C. All multi-year contracts with an aggregate amount less than \$50,000 for the contract term.
- D. Change orders, alterations, or addenda to a Board of Supervisors' approved contract that changes or amends the contract in an amount that is not more than ten percent (10%) of the Board-approved amount, not to exceed \$50,000,
- E. Extension of term not to exceed three months or amends the contract in an amount that is not more than ten percent (10%) of the Board-approved amount, not to exceed \$50,000, provided the change does not adversely affect the

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integrity of the original award, and authority for such changes was included with the original Board approval.

- F. Purchases involving a trade-in of surplus property less than \$10,000, per California Government Code Section 25503, provided the total contract amount before trade-in does not exceed \$50,000 and trade-in item has been approved for disposal by Board of Supervisors and Auditor's Office.
- G. Rejection or cancellation of solicitations with an apparent contract award amount of \$50,000 or less.
- H. Ratification of Department Level Urgent purchases between \$4,000 and \$5,000.

7.4. COUNTY EXECUTIVE OFFICER (OR ACTING CEO) APPROVAL AUTHORITY

- A. The County Executive Officer is authorized to enter into and to execute all contracts or agreements which are \$25,000 or under and which are not contracts that fall within Public Contract Code Section 20131 relating to the authority granted to purchasing agents, contracts for construction of public improvements, and contracts which must be awarded after public notice and competitive bidding.
- B. The County Executive Officer is authorized to enter into and to execute all grant or revenue contracts or agreements which are \$25,000 or less.
- C. The County Executive Officer of the County of Nevada shall be the ex officio District Administrator for the Nevada County Sanitation District No. 1. The County Executive Officer is authorized to enter into and to execute all contracts or agreements on behalf of the Nevada County Sanitation District No. 1 that are \$25,000 or under and which are not contracts that fall within Public Contract Code Section 20131 relating to the authority granted to purchasing agents, contracts for construction of public improvements, and contracts which must be awarded after public notice and competitive bidding.
- D. Pursuant to the provisions of Government Code Section 25350.60 and subject to the procedures specified in Administrative Code Section A-II 17.10, the County Executive Officer is hereby authorized to perform all acts necessary to approve and accept for the County the acquisition of any interest in real property where the purchase price for such interest does not exceed twenty-five thousand dollars (\$25,000).
- E. Ratification of Department Urgent purchases between \$4,000 and \$5,000.

7.5. DEPARTMENT HEADS AUTHORITY

- A. Department Heads may authorize Small Purchases of goods or services in accordance with Section 4.2 of this policy.
- B. Department Urgent Purchase – In the event of an urgency which requires immediate action at the department level and limits the ability of the County to conduct a competitive solicitation, the department director or authorized designee may authorize an exception to the standard Purchasing Policy and related procedures to address an immediate need. Urgent purchases between \$4,000 and \$5,000 are subject to ratification by the Purchasing Agent, CEO, or

their designee. Urgent purchases of \$5,000 or more are subject to ratification by the Board of Supervisors as required by Section 7.2B.

## 8.0 RENTALS and LEASES

In accordance with Government Code Section 25350.51 Negotiate and execute in the name of the County as lessee all rentals of real property for a term not to exceed five years and for a rental not to exceed seven thousand five hundred dollars (\$7,500) per month which the County may require. Notice of intention to consummate the lease or license shall be posted in a public place for five (5) working days prior to consummation of the lease or license. The notice shall describe the property proposed to be leased or licensed, the terms of the lease or license, and any county officer authorized to execute the lease or license.

Amendments may be made for real property leases or licenses for improvements or alterations, or both, with a total cost not to exceed seven thousand five hundred dollars (\$7,500), provided that the amendment does not extend the term of the lease or license and that no more than two amendments, not to exceed seven thousand five hundred dollars (\$7,500) each, are made within a 12-month period

## 9.0 SURPLUS PROPERTY

In accordance with Nevada County Administrative Code Section A-1V 1.4(B) and Government Code Section 25504, County departments shall transfer excess property to the Purchasing Division. Purchasing shall sell, transfer, donate, dispose of, or exchange surplus property as provided by Nevada County Code, Government Code, and Board of Supervisors' direction. Surplus auctions shall be advertised in a public forum for a minimum of 14 calendar days unless expressly authorized by the Purchasing Agent. The proceeds of surplus property dispositions shall be deposited into the County treasury.

County employees shall not either directly or indirectly participate in the purchase of surplus property if the employee is responsible for surplus declarations, the acceptance of an offer, or assigned to the surplus program within the Purchasing Division.

## 10.0 ETHICS

Purchasing employees shall adhere to the [National Institute of Government Procurement Code of Ethics](#) and shall perform their duties impartially so as to assure fair competitive access to the County's procurement process by all responsible suppliers, contractors, and providers of services and to foster public confidence in the integrity of the County's procurement process.

County employees shall not solicit or accept any fee, compensation, gift, payment of expenses, or promise of compensation in connection with any decision, approval, disapproval, recommendation, or preparation of any part of a requirement, specification,

standard, or contract. Employees shall discourage any inappropriate contact or encroachment on one's official duties by anyone who seeks to influence a procurement decision, and shall conduct their dealings with all suppliers of goods or services in a fair and impartial manner that guards against even the appearance of impropriety.

**CONFLICT OF INTEREST:**

County employees shall not participate directly or indirectly in a procurement when the employee knows that: (1) the employee or any member of the employee's immediate family has a personal financial interest pertaining to the procurement; (2) a business or organization in which the employee, or any member of the employee's immediate family, has a personal financial interest pertaining to the procurement; or (3) any other person, business or organization with whom the employee or any member of the employee's immediate family is negotiating or has an arrangement concerning prospective employment is involved in the procurement.

Upon discovery of an actual or potential conflict of interest, an employee shall promptly withdraw from further participation in the transaction involved and notify his/her immediate supervisor and Purchasing of the conflict.

**VENDOR ETHICS:**

No supplier, provider of services, bidder, offeror, contractor, or subcontractor shall offer any County employee any gift, gratuity, offer of employment, or anything of value in consideration for a preference, waiver, or any manner of influence in a current or future procurement action. Violation of this policy may result in debarment at the discretion of the Board of Supervisors.

## 11.0 DEBARMENT

The Board of Supervisors shall have the authority to debar a person or firm from consideration for award of contracts. This action shall not be construed as to limit or prejudice any administrative or legal action available to the Board of Supervisors.

The causes for debarment include, but are not limited to the following:

- Conviction of a crime or civil judgment against the person or firm which directly affects the present responsibility of a contractor or subcontractor.
- Violation of the terms of a public agency contract or subcontract.
- Violation of the vendor ethical standards.