



2016

PROCUREMENT MANUAL

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COUNTY OF MARIN



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GUIDING PRINCIPLES*

VISION:

Achieve the highest standard of professional public procurement for the County of Marin.

MISSION:

To promote transparent, fair and open competition in ethically procuring best value in products and services that meet the County's operational needs.

PURPOSE:

The overall purpose of this Procurement Manual is to:

1. Clarify and simplify the legal authority of the procurement function within the organization;
2. Enable uniform procurement policies throughout the organization;
3. Enhance public confidence in public procurement;
4. Ensure the fair and equitable treatment of everyone who interacts with the procurement system;
5. Provide for increased efficiency, economy, and flexibility in public procurement activities and maximize the purchasing power of the County to the fullest extent;
6. Foster effective, broad-based competition from all segments of the supplier community;
7. Safeguard the integrity of the procurement system and protect against corruption, waste, fraud, and abuse;
8. Ensure appropriate public access to contracting information; and
9. Foster equal employment opportunities among suppliers and subcontractors interested in doing business with the County of Marin.

* Inspired by the National Institute for Governmental Purchasing (NIGP) "Principles and Practices of Public Procurement."

EXECUTIVE OVERVIEW

Effective April 9, 1995, the County of Marin Board of Supervisors deleted the separate position of County Purchasing Agent that reported directly to the Board of Supervisors. At the same time, the Public Works Director (also reporting directly to the Board of Supervisors) was designated as the County's Purchasing Agent.

BACKGROUND

The Administrative Technologies of Marin (ATOM) project sponsored by the County Administrator commenced in 2012. ATOM, a multi-year, multi-phased project was inspired by independent studies recommending that the County replace its 2005 SAP Financial System to achieve long-term goals. This has presented tangible opportunities for the County to revisit its overall business processes, update policies and procedures, and transform the County into a more modern, efficient, and effective organization.

The first phase of the ATOM project consisted of documenting current business processes and issues. This work was completed by consultants, Plante Moran. The scope of work included an examination of major strengths and weaknesses of the relevant processes. In addition, recommendations for strategic options were included. A by-product of Plante Moran's work pertaining to procurement revealed the following core issues:

- 1) **Purchasing Policy:** There is a need to establish clear, accountable and enforceable procurement policies and procedures.
- 2) **Training:** Training on purchasing policies, procedures and automated systems is needed to improve compliance with the County's procurement policies and achieve the benefit of technology investments.
- 3) **Vendor Registration:** The process for vendors to get on bid lists and for staff to identify firms interested in doing business with the County is cumbersome and very inefficient. Yet, state mandated contracting laws such as Government Code section 4525-27 and Public Contract Code Section 22034 require the County to maintain respective lists of qualified consultants and contractors.
- 4) **Contract Management:** The County uses numerous "shadow systems" for tracking contracts which may result in costly mistakes in payments and managing contracts.

This manual, and the new Financial System, known as Munis - an Enterprise Resource Planning (ERP) system by Tyler Technologies, Inc., seek to address these core issues. The Director of the Department of Finance, County Administrative Officer, and Director of Public Works jointly commissioned development of this Procurement Manual to assure proper internal controls and effective implementation of procurement laws, rules, and regulations applicable to the County.

PROCUREMENT MANUAL DEVELOPMENT

A small team from the Department of Finance and Department of Public Works partnered to update the County's procurement policies and procedures.

The initial task of identifying procurement best practices included research from California and nationwide public agencies recognized for their excellence in public procurement. The National Institute for Government Purchasing annually awards Certificates of Achievement of Excellence in Procurement to public agencies having demonstrated a comprehensive standard of best practices within their organizations. Public sector purchasing is evolving from focusing solely on goods and

general services to reviewing all non-personnel procurements, including professional and construction services. Construction services are under the oversight of the Public Works Director. This manual seeks to comply with the following specific legal mandates:

Procurement of Goods and General Services: Marin County Code 3.08.020 and Government Code Section 25501 requiring the Purchasing Agent to prepare and disseminate procedural regulations amplifying the provisions of the Marin County Code not including professional services and construction contracting.

Procurement of Professional Services: Government Code Section 25502.5 requires the establishment of rules and regulations applicable to engaging independent contractors to perform services. Further, Government Code Section 4526 requires the selection of professional services vendors to be based upon their demonstrated competence and qualifications with fees negotiated to achieve fair and reasonable prices.

Procurement of Construction Services: Marin County Code 2.18 governs the selection of contractors through bidding procedures specified in Public Contract Code Section 22000 et. seq. conforming the County of Marin to the procedures of the "Uniform Public Construction Cost Accounting Act."

This Procurement Manual is organized by the procurement function using a hybrid of centralized oversight with continued (decentralized) delegated purchasing authority to optimize efficiency in carrying out County business operations.

ACTIONS:

The following material changes are reflected in this manual pending approval by the Board of Supervisors:

Ordinance Amendments

- Chapter 2.18.030 to require all public works projects to be under the oversight of the Public Works Director
- Chapter 3.08.020 - Amend to clarify exemptions in the Purchasing Ordinance
- Chapter 3.08.030 – Amend to clarify policy on Emergency Purchases

CONCLUSION:

The County can maximize the return on its investment in the new ERP system by assuring that procurement policies and procedures are clear, ample resources are allocated for training and centralized management oversight; and the function is evaluated on an on-going basis for continuous process improvement.

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PART 1 PROCUREMENT POLICIES

SECTION 1 - SCOPE

1.1. Scope

This procurement manual is intended to provide clarity and understanding of the legal framework (statutes, Board policies and other applicable rules and regulations) for the procurement procedures that follow:

- 1.1.1. Any elected official, administrator, and/or employee responsible for making purchases using County funds must comply with this Procurement Manual.
- 1.1.2. The policies included herein apply to all departments and agencies that are a part of County government.
- 1.1.3. These policies will be used to establish uniform procedures governing all County non-personnel expenditure of funds.

To effectively manage the business of the County it is necessary to institute centralized procurement oversight with delegated procurement authority to optimize efficiency in County business operations.

The procurement method applicable to a procurement transaction depends upon (but is not limited to) the following factors:

- Legal authority & exemption status;
- Source of funds;
- Expected total cost for goods or services to be procured;
- Dollar thresholds applicable to the procurement;
- Nature of the procurement (goods & general services, professional services, construction, etc.); and
- Sources for the procurement, including availability of potential bidders/proposers, countywide contracts, blanket purchase orders/price agreements, cooperative purchase or piggyback contract, master contracts, term contracts, etc.

1.2. Definitions

Definitions are included in the Glossary of Procurement Related Terms at the back of this manual.

SECTION 2 - LEGAL AUTHORITY

The legal authority cited in this section is captured verbatim to assure accuracy in interpretation.

2.1. Appointment of a Purchasing Agent

Government Code Section 25500. The Board of Supervisors may employ a Purchasing Agent and such assistants as are necessary for him/her to properly fulfill his/her duties.

- 2.1.1. Marin County Code Section 3.08.010. By Ordinance Number 1729, Section 1 (part), in 1969, the County of Marin Board of Supervisors established the position of Purchasing Agent.

2.2. Authority of the Purchasing Agent

- 2.2.1. Pursuant to Government Code Section 25501. The Purchasing Agent may:
- (a) Purchase for the County and its offices all materials, supplies, furnishing, equipment, livestock, and other personal property.
 - (b) Rent for the County and its office furnishings, equipment, and livestock.
 - (c) Contract for services pursuant to this article and contract for public works projects pursuant to Article 3.5 (commencing with Section 20120) of Chapter 1 of Part 3 of Division 2 of the Public Contract Code.
- 2.2.2. Pursuant to Government Code Section 25502.5.
- (a) In counties having a population of 200,000 or more, the Board of Supervisors may authorize the Purchasing Agent to engage independent contractors to perform services for the County or County officers, with or without the furnishing of material, when the annual aggregate cost does not exceed one hundred thousand dollars (\$100,000).
 - (b) The Board of Supervisors may establish rules and regulations to effectuate the purposes of this section, and has done so by delegating the County Administrator authority to approve professional services contracts up to \$50,000 per Marin County Code Section 2.08.051.
- 2.2.3. Authority of the Purchasing Agent per County of Marin Board of Supervisors.
- Pursuant to the Marin County Code Section 3.08.020, the Purchasing Agent shall:
- (a) Procure all supplies, material, equipment, and contractual services required by the agencies of the County government;
 - (b) Store transfers between agencies, or trade in surplus property;
 - (c) Perform the aforementioned services on behalf of school districts, special districts, or other governmental units in the County, when requested to do so, and;
 - (d) Prepare and disseminate procedural regulations amplifying the provisions of this chapter. (Not including real estate purchases and construction contracting).

2.3. Other Delegated Authority by the County of Marin Board of Supervisors

- 2.3.1. Marin County Code Section 2.08.051 designated the County Administrator as Deputy Purchasing Agent for the purpose of entering into and executing professional services contracts up to the amount prescribed under Government Code Section 25502.5. The County Board delegated contract approval authority to the County Administrator for contracts with a value of up to \$50,000.
- 2.3.2. As recommended by Grand Jury Report dated April 17, 2003, and approved through a Board Letter on April 19, 2005, the Board of Supervisors authorized all department heads to make purchases up to \$5,000 (except for office furniture, printing services and computer equipment) per transaction without further authorizations from the Purchasing Agent or the Board of Supervisors, pursuant to the general requirements for making purchases as listed in Section 2.4 or Purchasing Card Policies as outlined in Section 24.

2.4. General Requirements for Making Purchases

- 2.4.1. Use of Requisitions

2.4.1.1. To the extent that a requisition represents a request to make a purchase or spend County funds, the Purchasing Agent shall make purchases, rentals, and contracts only upon proper written requisition. (Government Code Section 25501). The term "written" does not preclude the use of electronic format. Nor does the requisition need to be a separate document, but a function of making a request in the purchase order and/or contract creation.

2.4.2. Executing Purchase Orders

2.4.2.1. To the extent that use of a purchase order is the equivalent of a contract and all contracts require a purchase order, except as otherwise provided by law, no purchase shall be made by a County officer or employee without obtaining a purchase order or other written authority from the Purchasing Agent (Marin County Code 3.08.020). This applies to all procurement transactions requiring a purchase requisition or otherwise determined by the Purchasing Agent or designee.

2.4.3. Special Commodities

2.4.3.1. The following items shall have a Purchase Order issued by the Purchasing Agent despite minimum thresholds; Printing or Reprographic services, Radios (MERA), Vehicles, Furniture, Computer and related items (Hardware, Software, License Renewals, etc.) and annual copier agreements.

2.5. Unlawful Purchases

2.5.1. If any agency purchases or contracts for supplies, materials, equipment, or contractual services contrary to the provisions of this chapter, the purchase order or contract may be declared void. The head of the agency which made the purchase or contract may, depending on the circumstances, be personally liable for the purchase amount which may be recovered by the County. (Marin County Code 3.08.060)

2.5.2. It is unlawful for any agency to split its requirements for supplies, materials, equipment, and contractual services to evade the provisions of Marin County Code 3.08.040 or the Public Contract Code, which could constitute a misdemeanor offense.

2.5.3. Gratuities (Marin County Code 3.08.070 applies to all procurement transactions). The acceptance of a gratuity by any employee of the County from a vendor, or prospective vendor, may be cause for removal or other disciplinary action.

2.5.4. The offer of a gratuity to any employee of the County by a vendor, or a prospective vendor, may be cause for barring that vendor from bidding on any future County purchase or contract.

2.5.5. Unlawful purchases identified by the Department of Finance through the accounts payable audit process will be held and rerouted back to the responsible department and appropriate purchasing personnel.

2.5.6. Per MAPE General Unit Contract, Section 7.2. Bargaining Unit Work - Before implementing any decision to contract out bargaining unit work...the County shall notify the Union and, upon request, meet and confer regarding the decision and/or the impacts of such decision on employees' terms and conditions of employment to the extent of the law. Per MCMEA Bargaining Agreement – Any work with the class specifications for any classification currently represented by MCMEA shall not be contracted out during the lifetime of the contract without completion of the parties meet

and confer obligations or until negotiation for a successor agreement have concluded.

2.6. Goods and Related General Services

- 2.6.1. Goods or commodities are products, including materials, equipment, and supplies. General Services are services such as janitorial, security guard, pest control, landscape maintenance, and other maintenance work as defined in Public Contract Code Section 22002(d)(e), but not inclusive of professional services.
- 2.6.2. Goods and related general services determined by the Purchasing Agent to be 'Special Commodities' are exempt from the procurement authority delegated to departments. Special Commodities are as follows: Equipment for lease; Cars, trucks, and other vehicles; Reprographic Services; computer equipment, supplies or software; MERA radios and equipment; Furniture and items otherwise not in compliance with the County's policies and procedures.
- 2.6.3. Goods and related general service procurement transactions are authorized under Marin County Code, Chapter 3.08 (Ordinance No. 3474) and Chapter 2.16.020.

***Threshold for Department Head Approval: <\$5,000**

***Not including Special Commodities**

Board Adopted: 4/19/05

Threshold for Purchasing Agent Approval: <\$100,000

Board Adopted: 9/25/07

Threshold for Board Approval: ≥\$100,000

Board Adopted: 9/25/07

2.7. Professional Services

- 2.7.1. Professional services require extended analysis, the exercise of discretion, and independent judgment in their performance and/or the application of an advanced, specialized type of knowledge, expertise, or training, customarily acquired either by a prolonged course of study or equivalent experience in the field. Examples include licensed professionals such as attorneys, accountants, real estate brokers, concessionaires, and non-licensed professionals such as software developers, financial, and other consultants. Independent contractor is defined in Marin County Administrative Regulation 18.

2.7.2. Purchasing Agent

2.7.2.1. Government Code 25502.5 authorizes the Purchasing Agent to engage independent contractors to perform professional services (with or without the furnishing of material) for the County or County officers up to \$100,000 and, acting on behalf of the Board of Supervisors, establish rules and regulations to effectuate the purposes of the aforementioned section of the Government Code. Furthermore, Government Code 4526 provides for adopting by ordinance, procedures that assure qualifications for certain types of services are performed and at a fair and reasonable price and maximum participation of small business firms.

2.7.2.2. Government Code Section 20131 authorizes the Purchasing Agent to "purchase or contract for medical or surgical equipment or supplies or professional services for a County hospital without competitive bidding, so long as an appropriation for the costs of those purchases or contracts is included in the County budget."

- 2.7.2.3. County Administrator Acting as Deputy Purchasing Agent Marin County Code Chapter 2.08.051 authorizes the County Administrator to act as Deputy Purchasing Agent to enter into and execute on behalf of the Board of Supervisors any contract for professional services up to the amount prescribed under Government Code Section 25502.5, which relate to the purposes previously approved and budgeted by the Board of Supervisors, subject to ratification of such approval and execution by the Board of Supervisors. Section 2.7.2.3 defines this limit not to exceed \$50,000.

The County Administrator may submit contracts executed under this section to the Board of Supervisors for ratification once each quarter of the fiscal year. Marin County Code Chapter 2.08.50 limits the authority of the County Administrator as specified in Marin County Code Chapter 2.08.51 and is not intended to vest in the County Administrator any duty or grant any authority that is vested by general law on any other County officer or employee or the Board of Supervisors.

- 2.7.2.4. By Board Action on August 19, 2014, the Marin County Board of Supervisors authorized the County Administrator, as the Deputy Purchasing Agent, to review and execute professional service contracts of amounts not to exceed \$50,000.

Threshold for County Administrator Approval: \leq \$50,000
Board Adopted: 8/19/14

Threshold for Board Approval: $>$ \$50,000
Board Adopted: 8/19/14

- 2.7.2.5. The County Administrator will report all contracts executed under this section to the Board of Supervisors for ratification once each quarter of the fiscal year.

2.8. Interagency Agreements, MOUs and Non-Professional Services

Interagency agreements and non-professional service procurement transactions are authorized under Marin County Code, Chapter 3.08. Specifically, 3.08.020 allows the procurement of goods and general services by the Purchasing Agent on behalf of school districts, special districts, or other governmental units in the County, when requested to do so.

Threshold for Purchasing Agent Approval: \leq \$100,000
Board Adopted: 9/25/07

Threshold for Board Approval: \geq \$100,000
Board Adopted: 9/25/07

2.9. Construction Services

2.9.1. Construction services are defined in Public Contract Section 22002 as a "Public Project" to mean the construction, reconstruction, erection, alteration, renovation, improvement, demolition, and repair involving any publicly-owned, leased, or operated facility, including painting or repainting of such public facilities.

2.9.2. Marin County Code Chapter 2.16.020 designates the Department of Public Works to be headed by a Director of Public Works and will perform all duties customary for the position, as well as other duties as may be assigned by the Board of Supervisors. Customary duties include, but are not limited to, the oversight of all Public Works

projects as defined in Public Contract Code Section 22000-22003 (Uniform Public Construction Cost Accounting Act).

- 2.9.3. Acting as Road Commissioner, the Director of Public Works directs the construction and/or repairs of all County roads or bridges as prescribed in Public Contract Code Sections 20394-20409 and similar to County Public Works projects, allows use of a force account up to \$45,000 as prescribed in Public Contract Code Section 22032(a). The Purchasing Agent is authorized to award contracts or expenses estimated to exceed \$45,000.
- 2.9.4. The Director of Public Works directs construction for the Marin County Flood Control and Water Conservation District (MCFC&WCD) as prescribed in Public Contract Code Sections 21230-21231. Emergency work is authorized as in the best interest of the County, up to prescribed dollar thresholds.
- 2.9.5. Government Code Section 25501(c) authorizes the Purchasing Agent to contract for Public Works projects pursuant to Article 3.5 (commencing with Section 20120) of Chapter 1 of Part 3 of Division 2 of the Public Contract Code. This applies to certain Public Works, flood control, road, and bridge projects as prescribed by requisite bidding dollar thresholds.
- 2.9.6. Pursuant to Marin County Code Chapter 2.18.010, the Board of Supervisors elected to become subject to the Uniform Public Construction Cost Accounting Act ("Act") as prescribed under Public Contract Code Section 22000. The Act provides an alternative method for bidding of Public Works projects. These projects do not include maintenance work, which in this policy is classified as General Services and is awarded by the Purchasing Agent.

Threshold for Purchasing Agent Approval: <\$45,000
(PCC 22032(a))

Threshold for Director of Public Works Approval: ≥\$45,000 - \$175,000

Board Adopted: 8/14/07

Threshold for Board Approval: ≥\$175,000

Board Adopted: 8/14/07

2.10. SB854: Public Work Reform

- 2.10.1 California law requires private contractors and companies to pay prevailing wages to their workers and requires following public work law when working on a project that is funded by a public entity. Public entities can be the County of Marin, a department or division of a department within the County or Special District.
- 2.10.2 Prevailing wages are due, in most instances, if the project/job costs more than \$1,000 (labor or labor & materials) and involves new construction, demolition, installation, painting, carpet laying, assembly of modular furniture, repair work or maintenance.
- 2.10.3 Increased responsibilities for vendors/contractors and awarding bodies.
- 2.10.4 Contact Purchasing for more information or visit: <http://dir.ca.gov>

SECTION 3 - TRANSACTIONS EXEMPT FROM PROCUREMENT POLICIES AND PROCEDURES

3.1. List of Transactions Generally Exempt

The following transactions generally require preparation of a requisition for tracking purchase

types, but are otherwise exempt from these procurement policies and procedures. A direct voucher or claim for payment will be used as applicable for payment processing:

- Utilities, where there is no reasonable basis for competitive procurement, for example, telephonic communications, electric power, water, solid waste and debris collection (unless in relation to a construction project) and sewage;
- Advertising
- Insurance
- Fees, taxes, etc.
- Board member fees
- Services provided directly to individual citizens, elected officials, and employees including reimbursements and other miscellaneous payments;
- Certain legal services, litigation-related legal expenses, investigators, services, experts, and materials required for confidential employment-related investigations;
- Materials or services required for confidential and secure investigations, apprehensions, and detentions of individuals suspected of or convicted of criminal offenses by law enforcement personnel;
- Grant awards or agreements that require certain firms or individuals to perform the work;
- Marketing of bonds and other forms of debt or debt management products, including, but not limited to, interest rate management agreements;
- Works of art for public places or other creative/artistic endeavors that require a particular and demonstrated skill or talent to include, but not limited to, artists, musicians, and writers;
- Transactions eligible for purchasing card procurement method such as dues, memberships, subscriptions, professional development training, and related expenses, i.e., approved travel, lodging, and meals, as well as books and periodicals;
- Purchases made from, or the disposition to, other federal, state, and local governments, associations, universities/colleges, and non-profit organizations when determined by the Purchasing Agent to be in the best interest of the County;
- Items for resale;
- Title insurance for real property and other related cost of real property acquisition that is not customarily subject to competitive procurement as determined by the Purchasing Agent;
- Pursuant to the State Elections Code, elections materials required to conduct elections;
- Print services that can be provided by the County Print Shop;
- Credit card payments;
- Refunds; and
- Postage costs.

SECTION 4 - PROCUREMENT ORGANIZATION

4.1. Establishment of Centralized Procurement Function

Under the direction of the Purchasing Agent, the County of Marin's procurement function is centralized for the purpose of developing policy recommendations for action by the Board of

Supervisors. In addition, this centralized authority establishes rules and regulations for administering procurement policies adopted by the Board of Supervisors and by statute, as well as procurement support services, training, certification, and oversight. Funding for the centralized procurement function shall be provided in the County budget through a departmental cost allocation.

4.2. Departmental Delegated Purchasing Authority

For organizational effectiveness and to ensure appropriate internal controls, the Purchasing Agent may establish a delegated Procurement Authority Training and Certification Program for County departments. This will enable certified department representatives to make purchases within the requirements of the prescribed procurement policies and procedures.

Department Delegated Purchasing Authority gives departments the authority and autonomy to conduct business as needed as long as there is compliance with policies and requirements stated herein. It does not preclude the quality control function of the County Purchasing Agent or their designees. Departmental Delegated Purchasing Authority is a privilege granted by the Purchasing Agent based upon standards set forth in Delegated Purchasing Authority eligibility requirements described under Policy Section 4.5.

Departments may opt out of the Departmental Delegated Purchasing Authority Program. However, all procurement transactions over \$5,000 for those departments will be handled through the Centralized Procurement Program in the Department of Public Works (Section 4.6).

4.3. County Agencies Exempt from Policies

The following agencies are affiliated with the County, but are separate legal entities and, as such, are exempt from these procurement policies:

- Schools;
- Housing Authority;
- LAFCO;
- Superior Court;
- Civil Grand Jury; and
- Community Service Areas/Districts not under the Board of Supervisors.

4.4. County Department Heads with Board of Supervisors' Delegated Authority

The following department heads have been delegated authority by the Board of Supervisors to make purchases on behalf of the County up to the dollar thresholds indicated for the referenced contract types:

- 4.4.1. Purchasing Agent – goods and general services;
- 4.4.2. Director of Public Works - all public projects as customary for the position; informal public project construction; contract award authority up to \$175,000 or subsequent limits as established under the Uniform Construction Cost Accounting Act); and
- 4.4.3. County Administrator: delegated professional service contracting up to \$50,000
- 4.4.4. All County Department heads - up to \$5,000 for goods and general services.

4.5. Delegated Purchasing Authority to Departments through the Purchasing Agent

- 4.5.1. All department heads, or their designee, shall attend an orientation session to become familiar with the Departmental Delegated Purchasing Authority Program and

recommend candidates to serve as their representatives.

4.5.2. Departmental Delegation of Authority Eligibility Requirements

4.5.2.1. Departments demonstrate commitment to adhering to County of Marin Procurement Policies and Procedures by:

- Completing the required Procurement Training Program;
- Signing an agreement form acknowledging receipt of the Procurement Policies and Procedures Manual, Procurement Policies and Procedures training, and commitment to attend periodic trainings as prescribed by the Purchasing Agent.

4.5.2.2. Dedicating staff whose job responsibilities routinely require initiating and completing procurement transactions, including the up-to-\$5,000 purchases that are delegated to Department Heads by the Board of Supervisors.

4.5.2.3. Ensuring Department representatives have completed the CAL-Card training.

4.5.2.4. Committing to not exercise delegated authority for certain types of purchases such as:

- Unbudgeted equipment;
- Goods and services on a master or multi-year contract;
- Goods and services on a blanket purchase order/term contract;
- Equipment for lease purchase;
- Cars, trucks, and vehicles;
- Reprographic Services:
- MERA Radio Equipment
- Computer equipment, supplies, or software; and
- Items otherwise not in compliance with the County's policies and procedures.

4.5.2.5. Financial System – Procurement Module Access

Only those individuals who have completed the required Procurement Training Program and/or maintained current Procurement Certification may be granted access to the financial system for processing procurement related transactions.

4.6. **County Agencies subject to Centralized Procurement**

County agencies not able to designate departmental delegated purchasing agents due to size and infrequent procurement needs shall work directly through the Purchasing Agent's designee and their purchasing staff to procure goods and general services. In addition, County agencies with resources to opt into departmental delegated authority, but choose to opt out may be subject to Centralized Procurement and reallocation of their resources to support opting out.

4.7. **Procurement Standards and Procurement Standards Committee**

4.7.1. A Procurement Standards Committee will be established to assist the Purchasing Agent in developing countywide standards for purchases required for the health, safety, or welfare of the people or employees of the County, or if significant cost

savings can be demonstrated.

- 4.7.2. The Purchasing Agent may establish standardized purchases of certain goods/commodities or services to establish or maintain uniformity in appearance and/or quality and/or achieve cost savings through volume purchasing.
- 4.7.3. Countywide restricted purchases include but are not limited to (as established by the Purchasing Agent) vehicles, copiers, computers, uniforms, moving services, office supplies, reprographic services, etc.
- 4.7.4. The Information Technology Department may review all technology-related procurements, bandwidth impacts, firewall modifications, interaction with other existing systems, security, servers, software development, and support services.

SECTION 5 - ETHICS

5.1. Policy

Public employment is a public trust. Public employees must perform their duties impartially to assure fair, competitive access to government procurement by responsible contractors. Moreover, they shall conduct themselves in such a manner as to foster public confidence in the integrity of the County procurement process. County employees shall not represent themselves to vendors, consultants or contractors as having authority to procure on behalf of the County when such authority has not been granted.

5.2. “Arm’s Length” Principle

All procurements must be “arm’s-length” transactions; meaning that the parties to a transaction have no conflict of interest in the transaction. Arm’s length transactions create an equitable agreement that will stand up to legal scrutiny.

5.3. General Standards of Ethical Conduct

Any attempt to realize personal gain through public employment by conduct inconsistent with the proper discharge of the employee’s duties is a breach of public trust.

To the extent that violations of the ethical standards of conduct constitute violations of the state of California Government Code, they may be punishable as provided therein. Such sanctions may be in addition to any other remedies that the County may pursue in its interest.

5.4. Conflict of Interest

The State of California Government Code addresses conflicts of interest as follows:

5.4.1. Section 87100:

“No public official at any level of state or local government shall make, participate in making, or in any way attempt to use his official position to influence a governmental decision in which he knows or has reason to know he has a financial interest.”

5.4.2. Section 87103:

“A public official has a financial interest in a decision within the meaning of Section 87100 if it is reasonably foreseeable that the decision will have a material financial effect, distinguishable from its effect on the public generally, on the official, a member of his or her immediate family, or on any of the following:

- (a) Any business entity in which the public official has a direct or indirect investment worth two thousand dollars (\$2,000) or more.

(b) Any real property in which the public official has a direct or indirect interest worth two thousand dollars (\$2,000) or more.

(c) Any source of income, except gifts or loans by a commercial lending institution made in the regular course of business on terms available to the public without regard to official status, aggregating five hundred dollars (\$500) or more in value provided or promised to, received by, the public official within 12 months prior to the time when the decision is made.

(d) Any business entity in which the public official is a director, officer, partner, trustee, employee, or holds any position of management.

(e) Any donor of, or any intermediary or agent for a donor of, a gift or gifts aggregating two hundred fifty dollars (\$250) or more in value provided to, received by, or promised to the public official within 12 months prior to the time when the decision is made. The amount of the value of gifts specified by this subdivision shall be adjusted biennially by the commission to equal the same amount determined by the commission pursuant to subdivision (f) of Section 89503.

For purposes of this section, indirect investment or interest means any investment or interest owned by the spouse or dependent child of a public official, by an agent on behalf of a public official, or by a business entity or trust in which the official, the official's agents, spouse, and dependent children own directly, indirectly, or beneficially a 10-percent interest or greater.”

5.4.3. Section 1090:

(a): “Members of the Legislature, state, county, district, judicial district, and city officers or employees shall not be financially interested in any contract made by them in their official capacity, or by any board or body of which they are members. Nor shall state, county, district, judicial district, and city officers or employees be purchasers at any sale or vendors at any purchase made by them in their official capacity.”

5.4.4. As used in this Section, ‘district’ means any agency of the State formed pursuant to general law or special act, for the local performance of governmental or proprietary functions within limited boundaries.

5.4.5. Any employees who, in the course of their employment, make, or participate in the making of, decisions which may potentially have a material effect on a financial interest of the employees are deemed ‘designated employees’ and are required to complete a Statement of Economic Interests (Form 700) on an annual basis, when they assume employment with the County, and when they terminate employment with the County.

5.4.6. Upon discovery of an actual or potential conflict of interest, an employee shall promptly file a written statement of disqualification with the County Purchasing Agent or appropriate Deputy Purchasing Agent and shall withdraw from further participation in the transaction involved. The employee may, at the same time, request through this Department Head an advisory opinion from County Counsel as to what further participation, if any, the employee may have in the transaction.

5.4.7. Upon County Counsel approval, the County may request client lists, disclosure statements, or any other information it may require to determine if the proposer has a conflict of interest which:

5.4.7.1. May be detrimental to the County’s interest and, therefore, would cause the County not to enter into a contract; or

- 5.4.7.2. May arise during the performance of the required services and, therefore, would provide reason for termination with cause.

The County will be the sole judge in determining if such a conflict would preclude the County from entering into a contract or be reason for termination with cause.

By participating in any solicitation, bidders/proposers agree to furnish the required information as requested and accept the County's decision as final.

5.5. Restrictions on Employment of Present and Former Employees

No County official or employee shall engage in any business, transaction or activity, or have a financial interest which is in conflict with the proper discharge of official duties or would tend to impair independence of judgment or action in the performance of official duties.

5.6. Use of Confidential Information

Confidential information is defined as that information which is available only because of one's status as a County employee. It shall be a breach of ethical standards for any employee or former employee to use confidential information for actual or anticipated personal gain or for the actual or anticipated personal gain of another person.

5.7. Purchase of Surplus Materials and Equipment

For any employee who participates in the decision to put materials or equipment in surplus status, it may be a breach of ethical standards for that employee or any members of that employee's immediate family to offer to purchase the same through sealed bid, auction, or any other manner, or request that acquisition be made on his or her behalf by another person or persons.

5.8. Auction Techniques

It shall be a breach of ethical standards for any employee to engage in the practice of bid auctioneering, a technique whereby one vendor is given the price offered by another vendor and asked to submit a lower bid. Bids offered by vendors will not be revealed to anyone until such time as all bids become public information.

5.9. Purchases for Personal Use

It shall be a breach of ethical standards for County employees to use the County's procurement personnel or facilities for personal transactions unless such transactions can be shown to be in the County's best economic interest.

5.10. Equal Opportunity

County employees shall ensure that all vendors receive an equal opportunity to do business with the County. This opportunity will be provided without regard to race, color, religion, sex, sexual orientation, gender identity, age, national origin, marital status or physical disability.

5.11. Fraud

Fraud is defined as the intentional, false representation or concealment of a material fact for the purpose of inducing another to act upon it to his or her injury. Each member of the procurement team should be alert for any indication of irregularity in procurement activities obligating County funds or resources.

Any suspicion of purchasing fraud should be reported to the Purchasing Agent for a determination of merit and investigation if deemed necessary. If the Purchasing Agent or any of his/her designees is involved in the allegations of fraud, it should be reported to County Counsel.

SECTION 6 - SINGLE AND SOLE SOURCE PURCHASES and CONTRACTING

It is the policy of the County of Marin to solicit competitive bids and proposals for its procurement requirements to maximize the best value in expenditure of County funds. All single and sole source purchases may be subject to review and approval by the County Purchasing Agent. Single source procurement is one in which there is more than one source, but only one source is willing or due to County requirements, can meet the required need as specified. Sole source procurement may not be used unless there is clear and convincing evidence that only one source exists to fulfill the County's requirements, as deemed as such by the County Purchasing Agent.

6.1. Single Source

There may be more than one possible source, yet there is a strong compelling reason to only use one specific vendor. Examples of acceptable rationale for single sourcing could be: departmental standardization or vendor able to meet time constraints. (Note: Repeat business with a vendor is not justification for a single source.)

A contract type otherwise subject to competitive procurement may be awarded without competition (within the Purchasing Agent's approval limits). The Purchasing Agent is in agreement to the written justification, provided by the purchasing department, for single source procurement. This final determination may be communicated to the requesting department head.

6.2. Sole Source

Purchases are directed to one source because there is only one particular vendor able to fulfill the procurement need. This may be based upon a lack of competition, copyright or proprietary issues, or a supplier's unique capability.

The Purchasing Agent or his/her designee may conduct negotiations, as appropriate, as to price, delivery, and terms. The sole source designation may be tracked and remain effective for five (5) years unless the Purchasing Agent determines the classification is no longer warranted.

6.3. Single and Sole Source Monitoring

The Purchasing Agent may produce a countywide report of all single and sole source purchases on an annual basis.

SECTION 7 - EMERGENCY PURCHASES

7.1. Definition

Emergencies are defined as unforeseen circumstances in which an immediate purchase is necessary in order to avoid a substantial hazard to life, health or property, or a serious interruption of the operation of a County department or the operation of a County facility. Departments are encouraged to consult with Procurement Services prior to making an emergency purchase whenever possible. An Emergency Purchase Requisition must be submitted to Procurement Services as soon after the emergency as reasonably possible. Last minute or perceived urgent purchases resulting from a lack of planning and organization are NOT considered emergencies.

7.2. Authorization for Emergency Purchases

Pursuant to Marin County Code Section 3.08.030, emergency purchasing consists of a breakdown in machinery or services necessary to alleviate the emergency and may be made directly if the Purchasing Agent is not readily accessible. Such purchases and the facts

constituting the emergency shall be reported to the Purchasing Agent at the earliest opportunity.

SECTION 8 - GRANT FUNDED PURCHASES

8.1. Use of Grant Funds for Procurement of Goods and Services

The County of Marin is the recipient of various grant funds. Grant sources include private donations, and/or local, State, and federal funding streams. In some instances, the source of funds will dictate the procurement method. It is important to identify any special procurement requirements, including any County matching requirements or other commitments, with the County Administrator, before the grant application process, but not later than upon notification of grant award, consistent with Administrative Regulation No. 1.23.

8.2. Compliance with Grant Source Procurement Requirements

If special procurement requirements are prescribed by the grantor, notify the Purchasing Agent immediately to assure compliance with the grant requirements. The Board resolution accepting the grant must be forwarded to the Purchasing Agent as a part of the Board packet review and approval process.

8.2.1. California State grant requirements do not supersede Federal grant requirements. Procurement requirements from both the state grants and federal grants must be complied with.

8.2.2. Federal Grants

Office of Management and Budget (OMB) Circular A-133 Audits of States, Local Governments and Non-Profit Organizations, requires that all non-Federal entities shall follow Federal laws and implement regulations applicable to procurements, as noted in Federal agency implementation of the OMB Circular A-102 Grants and Cooperative Agreements With State and Local Governments - Common Rule and OMB Circular A-110 Uniform Administrative Requirements for Grants and Other Agreements with Institutions of Higher Education, Hospitals and Other Non-Profit Organizations. OMB Circular A-133 compliance supplement is issued annually by the OMB.

OMB Circular A-102:

<https://www.whitehouse.gov/sites/default/files/omb/assets/omb/circulars/a102/a102.pdf>

OMB Circular A-110. Please see No. 44:

https://www.whitehouse.gov/omb/circulars_a110/

SECTION 9 - COOPERATIVE PURCHASING

9.1. Authorization to Use Cooperative Purchasing

The Purchasing Agent may purchase supplies and general services without convening a competitive procurement process if such purchases are based upon an agreement or cooperative purchasing program entered into by any public or similar such agencies, regardless of whether the County is a named party to the agreement or an actual participant in such a program.

9.2. Requirements for Use of Cooperative Purchasing

If the underlying purchase was made using competitive negotiation or bidding procedures at least as restrictive as the County's, including the State contracts such as California Multiple Award Schedules (CMAS) and Department of General Services (DGS), the U.S. Communities Government Purchasing Alliance, National Joint Powers Alliance (NJPA), Western States

Contracting Alliance (WSCA), or any California County contract, as well as Federal General Service Agency Agreements (Schedules). This is providing that the Purchasing Agent determines that a “piggyback” purchase is in the County’s best interests.

In all such cases, the supplies or services purchased must be the same and be offered at the same price as the supplies and services subject to the agreement or program.

SECTION 10 - “PIGGYBACK CONTRACTING”

10.1. Authorization to Use “Piggyback Contracting”

The Purchasing Agent may arrange for the County to enter into purchase contracts with a vendor for the purchase of supplies or services, the pricing and terms of which have been previously established by another public agency, provided that the Purchasing Agent determines that a “piggyback” purchase is in the County’s best interests.

10.2. Requirements to Use “Piggyback Contracting”

The Purchasing Agent is required to determine and apply all of the following, prior to entering into the purchase:

- There are no local suppliers or contractors who could provide the product or services at competitive rates;
- A copy of the solicitation has been obtained from the originating agency and reviewed for compliance with the County’s Purchasing Ordinance;
- The specifications of the item or service required by the County are not materially different from those specified in the originating agency’s solicitation;
- The price of the purchase is lower than that estimated for the purchase if made directly by the County pursuant to its procurement requirements;
- The contract resulting from the original solicitation is current or the solicitation is within two (2) years from the date of the County’s purchase, or written justification is provided to support use of an older solicitation;
- No more than a ten percent (10%) variation is allowed for customizing the purchase or for desirable options. In addition, a cost of living adjustment (using San Francisco-Oakland-San Jose Consumer Price Index—All Urban Consumers) can be added for up to two (2) years; and
- The County enters into a separate contract with the vendor selected by the originating agency and incorporates by reference the original solicitation, terms, conditions, and prices.

SECTION 11 - PROCUREMENT METHODS AND DOLLAR THRESHOLDS

The procurement methods described below will result in the award of a contract either as a purchase order with or without a separate contract applicable for the type of contract as described under Section 11.3.

11.1. Determination of Procurement Methods and Dollar Thresholds

Unless otherwise defined by applicable laws, rules, regulations, or Board policy, the Purchasing Agent determines the procurement methods. Dollar thresholds for purchases are established by ordinance at the recommendation of the County Purchasing Agent or by statute.

11.2. Standard Procurement Methods

11.2.1. Purchasing Card (CAL-Card)

CAL-Cards are used to purchase low dollar value expenditures that otherwise do not warrant issuing purchase orders or contracts. The list of permitted purchases and prohibited purchases is further described under Policy Section 24.

Cal-Card purchases must be properly coded using National Institute for Governmental Purchasing (NIGP) codes in the financial system.

11.2.2. Informal Quotes

Small purchases under \$2,500 (total including taxes) only require proper use of the County Cal-Card or a requisition for issuance of a purchase order. However, application of prudent buying practices would include contacting at least two suppliers for a comparison of competitive prices.

11.2.3. Request for Quote

A Request for Quote is an informal tool used primarily by the Purchasing Agent to solicit quotations.

11.2.4. Invitation for Bid (IFB)

Pursuant to Marin County Code Chapter 3.08 the dollar thresholds for sealed competitive bids are established. Invitations for Bids are sealed competitive bidding documents used for procuring supplies, equipment, materials, and services for which clear specifications can be written and contract award generally is made to the lowest responsive and responsible bidder.

11.2.5. Request for Qualifications (RFQ)

Pursuant to Government Code Section 4525-27, a guide for selection of Construction-related professional service providers is provided. An RFQ is a process used to solicit qualified consultants for services requiring a qualifications standard such as architects. Fees are negotiated based upon market rates and reasonable for the required work.

11.2.6. Request for Proposal (RFP)

A document used to solicit general or professional services through a formal, competitive selection process. Fees or prices can be a factor in the evaluation process when using this procurement method for services other than construction-related professional services. For specific projects such as a clearly defined construction related project, a two-step procurement method can be used that consists of establishing a list of qualified firms and negotiating fees.

11.2.7. Request for Information (RFI)

Information requested from potential vendors to determine what products and services are potentially available in the marketplace to meet needed requirements. An RFI is not an invitation to bid, is not binding on either party and may or may not lead to an RFP or RFQ.

11.3. Procurement Dollar Thresholds

The Purchasing Agent shall recommend to the Board of Supervisors, the dollar thresholds for competitive procurement. The following table summarizes the dollar thresholds and approval authority for the various contract types that are effective as of the date of this Policy Manual. *Approval Level 2 in the table below represents the quality control function of Centralized Procurement for transactions requiring Board of Supervisors approval and may include purchase order approval to encumber funds on all transactions over \$5,000.

GENERAL SUMMARY OF DOLLAR THRESHOLDS AND APPROVAL AUTHORITY

CONTRACT TYPE	APPROVAL LEVEL 1	APPROVAL LEVEL 2*	APPROVAL LEVEL 3	THRESHOLD
Goods/ Commodities (including equipment, materials and supplies)	Department	n/a	n/a	<\$5,000
	Department	Purchasing Agent	n/a	>\$5,000- <100,000
	Department	Purchasing Agent	Board of Supervisors	≥\$100,000
General Services (trade services)	Department	n/a	n/a	<\$5,000
	Department	Purchasing Agent	n/a	>\$5,000- ≤100,000
	Department	Purchasing Agent	Board of Supervisors	>\$100,000

GENERAL SUMMARY OF DOLLAR THRESHOLDS AND APPROVAL AUTHORITY

CONTRACT TYPE	APPROVAL LEVEL 1	APPROVAL LEVEL 2*	APPROVAL LEVEL 3	THRESHOLD
Professional Services Contracts	Department	County Administrator/ Deputy Purchasing Agent	n/a	≤\$50,000
	Department	County Administrator/ Deputy Purchasing Agent	Board of Supervisors	>\$50,000
Other Services (MOUs, grant sub-recipients, and Community Services Contracts)	Department	Purchasing Agent	n/a	<\$50,000
	Department	Purchasing Agent or Deputy Purchasing Agent	Board of Supervisors	>\$50,000
Construction Uniform Public Construction Cost Accounting Act	Department	Purchasing	n/a	<\$45,000
	Department	Director of Public Works		≥\$45,000; <\$175,000
	Department	Director of Public Works	Board of Supervisors	≥\$175,000
Lease Purchases (Debt Financed)	Department	Director of Finance	Purchasing Agent/ Board of Supervisors	Pursuant to Contract Approval Thresholds
Lease Purchases (Operating)	Department	Purchasing Agent	Board of Supervisors	Pursuant to Contract Approval Thresholds

SECTION 12 - TERM LIMITS FOR CONTRACTS

12.1. Maximum Contract Term

Based upon the best practices prescribed by the Federal Acquisition Regulation (FAR) (Subpart 17.1), the Purchasing Agent will award Purchase Orders and Contracts for contract terms of up to three (3) years, with the option to extend two (2) one-year periods for a total maximum contract term of five (5) years. Contracts and lease agreements with longer terms must be approved by the Board of Supervisors.

Any purchase order or contract awarded under sole or single source policies shall be evaluated at least every five (5) years to justify continued classification of sole or single source status. The Purchasing Agent may terminate such contracts without disrupting operations prior to the end of their terms if the sole or single source contract has been in place for more than five (5) years and other sources are known to be available.

The duration of a service contract will depend upon the County's total anticipated need for the services, prevailing market conditions, contract start-up costs, and the County's best economic interest as determined by the Purchasing Agent. Contracts requiring a term greater than three years shall require Board of Supervisors approval for the initial contract term and each subsequent year in conjunction with or addition to budget appropriation. When processing contracts (including leases) in which the total contract value meets Board approval dollar threshold, the request for approval must identify whether or not the contract is a one-time only, single-year contract or a multi-year contract with the projected term.

12.2. Multi-Year Contracts

Projects requiring contracts of longer terms shall be classified as multi-year contracts and may be approved once by the Board of Supervisors, unless an amendment is necessary to change compensation and/or the scope of services.

12.3. Contract Amendments

Any amendment of contract initially processed as not requiring Board approval, but with the amendment meets the threshold amount for Board approval shall be subject to review and approval of the Purchasing Agent for further processing before seeking Board approval.

SECTION 13 - E-COMMERCE/E-PROCUREMENT

The Purchasing Agent or his/her designee shall be authorized to develop, implement, and facilitate procedures for the use of electronic records, electronic signatures, and security procedures for all other purposes and is to authorize methods, means, and standards for secure electronic procurement transactions for non-personnel expenditures of County funds.

SECTION 14 - PROCUREMENT PROTEST POLICY

All formal solicitation procurement transactions shall include the standard County language governing the protest process as further defined in the County Procurement Procedures. The determination of the Purchasing Agent shall be the final administrative authority available to firms seeking to do business with the County.

SECTION 15 - RIGHT TO INSPECT PUBLIC RECORDS

15.1. Inspection of Public Records Act

By law, under the Inspection of Public Records Act, every person has the right to inspect public records of the County of Marin. The Act also makes compliance with requests to inspect public records an integral part of the routine duties of the officers and employees of the County of Marin.

15.2. Requests to Inspect Public Records

Requests to inspect public records should be submitted in writing to Marin County Counsel. The written request must contain the name, address and telephone number of the person making the request. The request must describe the records sought in sufficient detail to enable the Purchasing Agent to identify and locate the requested records.

15.2.1. The Purchasing Agent must permit inspection immediately or as soon as practicable, but no later than fifteen (15) calendar days after the Purchasing Agent receives the inspection request. If inspection is not permitted within three (3) business days, the person making the request will receive a written response explaining when the records will be available for inspection or when the public body will respond to the request. If any of the records sought are not available for public inspection, the person making the request is entitled to a written response from the Purchasing Agent explaining the reasons inspection has been denied. The written denial shall be delivered or mailed within fifteen (15) calendar days after the Purchasing Agent received the request for inspection.

15.2.2. If a person requesting inspection would like a copy of a public record, a reasonable fee may be charged.

SECTION 16 - RISK MANAGEMENT POLICY

All procurement transactions shall be evaluated for risk in accordance with the standards set forth and distributed by the County's Risk Manager. All County staff routinely engaged in procurement may receive contract risk management training from the County's Risk Manager as part of the County's Delegated Authority Program. Exceptions to the County's standard risk management elements list below must be approved by the County's Risk Manager

16.1. Indemnification

The agreement of one party to assume financial responsibility for the liability of another party. The County's standard indemnification provisions transfer the risk associated with the contract to the Contractor. Therefore, all agreements must be reviewed by County Counsel to determine appropriate safeguards against loss arising from patent violations, copyright violations, unauthorized use of materials, wrongful acts, injuries to person or property, and other loss which may result from contractor performance.

16.2. Insurance

A contractual relationship where an insurance company agrees, for a premium paid, to reimburse the insured or other party for a loss to a specified subject caused by designated hazards or risks. Typical insurance coverage types include: general liability, business auto liability, workers' compensation, professional liability and other specialized coverage type such as Longshoreman, Builder's Risk, etc. The amount of the insurance will be based upon the insurance levels of coverage established by the County's Risk Manager and work being done with associated risks.

Insurance will be required where the County is at risk of a loss due to the nature of the work being performed on the County's behalf. All service contractors performing work on County property will provide evidence of insurance in the form of a certificate of insurance and required additional insured policy endorsements.

It is the responsibility of each department to review the County's Risk Management standards and apply the appropriate insurance provisions in each applicable contract and assure receipt of requisite evidence of insurance. If there are any questions as to the type or amount of coverage that should be required, departments are to seek advice from the County Risk Manager. If the risk associated with the nature of the work being performed warrants special insurance or an adjustment in coverage or amounts, then the County's Risk Manager may recommend appropriate insurance requirements.

16.3. Bid, Payment and Performance Bond

16.3.1. Bid Bond: Used in conjunction with the bidding process. The bond acts as a guarantee that, if awarded the contract based on the bid submitted, the Contractor will enter into a contract to perform the work at the price quoted. If the Contractor declines to enter into a contract to perform the work at the agreed-upon price, the bid bond will reimburse the County the difference between the defaulting Contractor's bid and the next lowest bid, up to the maximum amount covered under the bond.

16.3.2. Payment (Labor and Materials) Bond: Labor and materials payment bond is an agreement in which security is provided by a surety company to the County on behalf of a Contractor. Such bond guarantees the County that all bills for labor and materials contracted for and used by the Contractor will be paid by the surety if the Contractor defaults on such payments to its suppliers and subcontractors.

16.3.3. Performance Bond: A performance bond guarantees that the Contractor will perform the work in accordance with the contract and related documents, thus protecting the County from financial loss up to the maximum amount covered under the bond in the event the Contractor fails to fulfill its contractual obligations.

16.3.4. Bid, payment and performance bonds shall be required from vendors/contractors in those situations where they are required by statute or ordinance or when less than faithful performance of the contract would create considerable loss to the County. If not required by statute or ordinance, consideration shall be given to the impact of these requirements on local, small and disadvantaged businesses seeking to do business with the County.

It is the responsibility of each department to review the County's Risk Management standards and apply the appropriate bonding provisions in each applicable contract and assure receipt of requisite bonding documents. If there are any questions as to whether or not bonding should be required, departments are to seek advice from the County Risk Manager. If the risk associated with the nature of the work being performed warrants bonding for projects being bid, then the County's Risk Manager may require such bonding.

16.4. Liquidated Damages

Liquidated damage clauses may be included in service contracts when the County could suffer financial loss due to delays in performance. Consistent with legal requirements, the amount of damages listed in the contract must be "reasonable forecast" of the County's actual damages.

If the risk associated with the nature of the work being performed warrants liquidated damages, then the County's Risk Manager or County Counsel should be advised. If it is uncertain whether or not a liquidated damages clause should be required, departments are to seek advice from the County Risk Manager and or County Counsel.

SECTION 17 - DEBARMENT

17.1. Debarment by County of Marin

Any firm engaged in or prospective firm pursuing business with the County of Marin may be subject to debarment for violating the policies set forth in these policies and procedures. Specific acts that could lead to debarment include:

- Any business which falsely claims a preference under the Local Preference Policy shall be ineligible to bid on County purchases or contracts for a period of one year from the date of discovery of false certification.
- The offer of a gratuity to any employee of the County by a vendor or prospective vendor shall be cause for barring that vendor from bidding on any future County purchase or contract.

17.2. Debarment by the Federal Government or Other Agencies

Firms listed on the Federal Debarment List or that of other public agencies may be prohibited from doing business with the County of Marin. No firm on the Federal Debarment List is authorized to work on any project that is funded by the federal government.

SECTION 18 - LOCAL BUSINESS PREFERENCE

18.1. Definition

A local business is defined as a business that:

- Has its principal place of business in Marin; or
- Has a business license issued in Marin County for a period of six months prior to any claim of preference; or
- Maintains an office or other facility in Marin County in which not less than five persons are employed substantially full time.

In no case shall the total of all preferences for which a bid is eligible exceed fifteen percent.

18.2. Bidding Preference Percentage

Except when otherwise prohibited by State or federal statutes or regulations, whenever the County acquires services and/or supplies by purchase or contract, the Purchasing Agent shall evaluate the price or bid and award a five percent preference on the price submitted by a local business. (Marin County Code Chapter 3.10)

SECTION 19 - WORKFORCE DEVELOPMENT PREFERENCE

19.1. Bidding Preference Percentage

Pursuant to Marin County Code Section 2.50, there shall be a five percent bidding preference to contractors who certify that at least fifty percent of the workforce under the service contract will be Marin County residents.

In no case shall the total of all preferences for which a bid is eligible exceed fifteen percent.

SECTION 20 - RECYCLED PRODUCT PREFERENCE/ENVIRONMENTAL PURCHASING POLICY

20.1. Recycled Product Preference Percentage

Except when otherwise prohibited by State or federal statutes or regulations, whenever the County acquires services and/or supplies by purchase or contract, the Purchasing Agent, in evaluating the price or bid of recycled products shall award a fifteen percent preference on the price submitted involving recycled products. (Marin County Code Chapter 3.08)

20.2. Environmental Purchasing Content Requirement

Recycled product includes all materials, goods, and supplies for which no less than fifty percent of the total weight consists of secondary and post-consumer waste and not less than ten percent of its total weight consisting of post-consumer waste. A recycled product shall include any product which could have been disposed of as solid waste at the completion of its life cycle as a consumer item, but which otherwise is refurbished for reuse without substantial alteration of its form.

In no case shall the total of all preferences for which a bid is eligible exceed fifteen percent.

SECTION 21 - LIVING WAGE ORDINANCE

21.1. Compliance Requirements

Marin County Code Section 2.50 defines the County's Living Wage Ordinance, including applicability to employees, contracting for service with the County and any exceptions to the Living Wage Ordinance.

During the term of a service contract, the contractor and any subcontractor shall certify to the County and maintain documentation demonstrating that each employee employed any percentage of time on County-financed activities is:

- Being compensated at the living wage rate while working in connection with services provided pursuant to a service contracts exceeding \$25,000 in cumulative annual business with county department(s).
- For those employees being compensated at the lower rate with health benefits as specified in Section 2.50.050, documentation must be maintained demonstrating that each such employee was provided health benefits. Such documentation must be retained for at least two years following completion or termination of the contract. County representatives shall be permitted to review and make copies of such documentation at all reasonable times during performance or following completion or termination of the service contract.

21.2. Documentation of Compliance

Contractors shall furnish to the County for services rendered a certification(s), under penalty of perjury, that the contractor and any subcontractor is in full compliance with this County provision. The certification shall be substantially the following language: "I hereby certify, under penalty of perjury, under the laws of the State of California, that the services invoiced have been rendered and that the contractor and any subcontractor(s) are in full compliance with the provisions of the County of Marin "Living Wage Ordinance"."

Contractors and subcontractors must provide written notice to each covered employee who is engaged in work pursuant to a service contract. The notice shall specify the living wage rate, minimum health benefit, if applicable, and that an employee has grievance rights if

he/she believes his/her rights under this chapter are being violated. A copy of the notice must be made available to all covered employees, must be posted prominently in languages spoken by a large percentage of the workforce, and a copy must be submitted to the awarding agency.

SECTION 22 - NUCLEAR WEAPONS ORDINANCE

22.1. Legal Authority

The Marin County Nuclear Free Zone law, the provisions of which are carried out by the County Government's Peace Conversion Commission (The Commission), prohibits the County from making investments in, purchasing from, or in any way contracting with nuclear weapons contractors or their subsidiaries.

22.2. Definition

The Commission, using the procedures outlined in Marin County Code Sections 23.13.010 to 23.13.080, has determined corporations which are associated nuclear weapons contractors. The County, therefore, will only make investments in, purchase from, or in any way contract with such listed companies under circumstances where no reasonable alternative is available. If the County must do business with any of the listed companies (as may be updated from time to time), contact the Purchasing Agent for procedures to do so. For the current listing of Commission determined nuclear weapons contractors visit <http://www.marincounty.org/depts/bs/boards-and-commissions/commissions/PeaceConversion>.

22.3. Bid Document Language

All bid documents and contracts for services, as defined in Section 2.50.030(F), are to contain the following paragraph or substantially similar language: The contractor shall comply with any and all federal, state, and local laws (including, but not limited to, the County of Marin Nuclear Free Zone and Living Wage Ordinance) affecting the services provided by this contract.

SECTION 23 - SURPLUS PROPERTY DISPOSITION

23.1. Authority of the Purchasing Agent

Pursuant to Marin County Code Chapter 3.08.050, the Purchasing Agent may sell directly, lease, donate, or otherwise dispose of any fixed asset property belonging to the County determined to be no longer required for public use.

23.2. County Property Surplus

County property is deemed no longer required for public use when such property is transferred to the Purchasing Agent as surplus property and is not claimed by any other County department for use. Such property may be dedicated for reuse, sale, or lease.

23.3. County Property Disposition

23.3.1. In the event said County property is determined by the Purchasing Agent to be worth less than (\$10,000) ten thousand dollars and there is not market for it, the Purchasing Agent may direct donation

23.3.2. In the event said County property is determined by the Purchasing Agent to be worth equal or greater than (\$10,000) ten thousand dollars and there is not market for it, the Board of Supervisors may authorize the Purchasing Agent to donated said property.

23.3.3. Under no circumstances will the County sell any surplus items directly to an employee or relation to employee by blood, domestic partnership, or marriage.

23.3.4. Donations of property may be made in the following order of preference:

- To the State, another County, or to any city, school district, irrigation district, flood control district, County board of education or other special district within the County; and
- To nonprofit corporations that have been certified as such by the Commissioner or Internal Revenue and that have filed requests with the Purchasing Agent for surplus personal property.

23.4. Proceeds from the Sale or Lease of Surplus Property

Any proceeds from the sale or lease of surplus property shall be paid into the County treasury and deposited into the appropriate fund.

SECTION 24 - CAL-CARD (p-card) POLICIES

24.1. Purchasing Card Definition

The County participates in a credit card program for use by County departments and all special districts governed by the Marin County Board of Supervisors. A separate Policies and Procedures Manual has been developed by the Department of Finance and Department of Public Works to guide users of the CAL-Card program:

http://mine/mine/AC/Main/Docs/CAL_CardPPv50.pdf.

- The purpose of the CAL-Card procurement (P-Card) card program is to:
- Significantly reduce the costs associated with low dollar purchases;
- Significantly reduce the time involved in making low dollar purchases; and
- Significantly reduce the amount of paperwork needed to make low dollar purchases, requisitions and purchase orders processed.

24.2. County Staff Roles and Responsibilities

24.2.1. Purchasing Agent or Designee

The Purchasing Agent shall review policies and procedures for implementing the Cal-Card or successor credit card program of the County. The Purchasing Agent shall cause transactions to be reviewed for compliance with the County's Procurement Policies and Procedures and assist in determining spending limits for cardholders. In the event of a declared emergency by the Board of Supervisors, the Cal-Card transaction limits for all cardholders participating in the emergency may be increased up to \$25,000 per transaction with a \$100,000 total limit. Restrictions may be lifted to allow these cardholders the ability to make necessary purchases as required to continue operations under the oversight of the Emergency Operations Chief.

24.2.2. Cardholders

Cardholders may use the CAL-Card to purchase goods in person, by telephone, by Fax, by mail, or electronically over the internet. The CAL-Card may be used at any business establishment that accepts VISA credit card as a form of payment. The CAL-Card may be used to make low dollar purchases of items when no other advantage in price, terms, or delivery time can be gained by the Purchasing Agent's staff involvement.

Prohibited CAL-Card purchases include, but not limited to, the following transactions:

- Reprographic services
- Capital assets;
- Professional services;
- Wire transfer, money order;
- Direct marketing insurance services;
- Financial institutions: annual cash advance, automatic cash advance;
- Non-Financial institutions: foreign currency, money orders, traveler's check;
- Security brokers/dealers;
- Overpayments;
- Savings bonds;
- Timeshares;
- Betting, casino gaming chips, off-track betting;
- Political organizations;
- Religious organizations;
- Court costs, alimony, child support;
- Fines;
- Bail and bond payments;
- Tax payments;
- Government loan payments; and
- Other restrictions as defined in the procedures or determined by the Purchasing Agent.

24.2.3. Department Heads

Department heads are ultimately responsible for the proper use of CAL-Cards issued to employees and for ensuring compliance with the policies and procedures governing their use. Department heads will assume all financial responsibility for misuse of the CAL-Card.

PROCUREMENT MANUAL

Glossary of Procurement Related Terms

A/E (Architectural or Engineering) Professional Services: Services that require performance by a registered architect or engineer. Professional services of an architectural or engineering nature that are associated with research, planning, development, design construction, alteration or improvement of a public project as defined in the California Public Contract Code.

Advertise: To make a public announcement or legal notice of a forthcoming solicitation with the aim of increasing the response and enlarging the field of competition; often required by law or policy.

Agreement: An understanding, usually in writing, between two or more competent parties, under which one party agrees to certain performance as defined in the agreement and the second party agrees to compensation for the performance rendered in accordance with the conditions of the agreement. *Agreements* and *contracts* are sometimes used synonymously.

Amendment:

1. An agreed addition to, deletion from, correction or modification of a document or contract.
 2. To revise or change an existing document; a formal revision, improvement or correction.
- An amendment also refers to a change order or modification for construction contracts.

Appropriation: Legislative authorization to expend public funds for a designated purpose that is often generally defined. Funds that have been set aside for a specific purpose as contained in the budget adopted and approved by the Board of Supervisors. (Note: An appropriation is not an exemption from procurement policies and procedures.)

Auction: A public sale in which property or items of merchandise are sold to the highest bidder. Many governments will auction off government property and may contract with a private auctioneering firm to handle the complete transaction including advertising, the sale and collection of funds, etc.

Award: The acceptance of a bid or proposal; the presentation of a purchase agreement or contract to a bidder or offer or.

Best Interest: A term which grants the chief procurement officer the discretion to take the most advantageous action on behalf of the entity they represent usually in the absence of law or regulation. (County Code 3.08.040 provides “at the discretion of the purchasing agent” to determine the best interest.)

Best Practice: A business process, activity or operation that is considered outstanding, innovative or exceptionally creative by a recognized peer group. It may be considered as a leading-edge activity that has been successfully adopted or implemented and has brought efficiency and effectiveness to an organization. It may result in improved productivity, quality, reduced costs and increased customer service.

Bid: A solicitation made to potential vendors/contractors requesting costs to provide supplies, equipment, materials and services. A bid may be classified as “formal” or “informal”. A bid is also a response submitted by a bidder to an invitation for bids (IFB) or to a multi-step bid. Sometimes the complete bid document may be referred to as “the bid”. See IFB definition. (Note: The response to a request for proposal (RFP) is called a proposal or offer. The response to an RFQ for professional services is a Statement of Qualifications.)

Bid Bond: An insurance agreement, accompanied by a monetary commitment, by which a third party (the surety) accepts liability and guarantees that the bidder will not withdraw the bid. The bidder will furnish bonds in the required amount and if the contract is awarded to the bonded bidder, the bidder will accept the contract as bid, or else the surety will pay a specific amount.

Bidders' List: A listing of names and addresses of vendors from whom bids, proposals or quotations can be solicited. The list is generally retained in a retrievable data base. Also known as a *Source List*.

Bid Opening: The official process in which sealed bids are opened, usually in the presence of one or more witnesses, at the time and place specified in the invitation for bid. The amount of each bid is recorded and bids are made available for public inspection. It may be open to the public. Note: Electronically submitted bids are automatically sealed until the bid date. A bid tabulation or bid summary is provided to all respondents within a reasonable time frame.

Bid Tabulation: A summary of all bids received based upon bid evaluation criteria such as price and other terms applicable to determining the best value or lowest responsive and responsible bid. It lists each bidder and their applicable bid information.

Bid Preference: Procurement laws mandating that bid prices for a preferred class of bidders be given special consideration when comparing their bid prices with those of other bidders not in the preferred class, i.e., local vendors may be given a bid preference over out-of-state vendors. See *Local and Local Preference; Recycled Procurement Preference and Workforce Development Preference*.

Bid Protest: A formal complaint made against the methods employed or decisions made by a procurement authority in the process leading to the award of a contract.

Blanket Purchase Order:

1. An agreement to purchase a given quantity of specific goods over a specified period of time, usually one year. This type of agreement will include an encumbrance of funds when established.
2. The contract generally establishes prices, terms, conditions, and the period covered, although no quantities are specified; shipments are to be. This type of agreement will not include an encumbrance of funds when established.

Blanket Purchase Agreement (BPA): A simplified procurement method of filling the anticipated repetitive needs for supplies or services through the award of competitive line item contracts or discounts off of a suppliers catalog usually through competition. BPA's are used to reduce administrative expenses resulting from small, repetitive requirements. A purchase order is issued when the user requires supplies or services included in the BPA or BPO.

Capital Asset: An asset with a life cycle of more than one year with a value of more than a certain prescribed limit set by accounting standards or by governmental policy.

Centralized Procurement: Centralized procurement is an expansion of the traditional role of purchasing to facilitate a more strategic management of all county-wide non-personnel expenditures for supplies and services; to assure that the County complies with statutes and policies that regulate the procurement function. The procurement function includes all aspects from sourcing to the surplus of commodities and services necessary to maintain the Marin County government.

Chief Procurement Officer: The County Purchasing Agent is appointed by the Board of Supervisors and represents the designated centralized procurement official for goods, general and professional (non-construction related) services.

The County Public Works Director represents the designated procurement official providing centralized oversight for construction services (public works) and construction related professional services.

The County Purchasing Agent or Director of Public Works, as authorized by the Board of Supervisors may appoint a Chief Procurement Officer as his/her designee to carry out centralized oversight responsibilities in developing and implementing County procurement policies and procedures; to establish a Centralized Procurement program with Delegated Purchasing Authority for decentralized transactions.

Code of Ethics: Written policies or guidelines which apply to the ethical behavior of members of an organization, business or public entity.

Commodity: Goods consisting of supplies, materials, and equipment.

Competitive Bidding: The process of inviting and obtaining bids from competing sources in response to advertised competitive specifications, by which an award is made to the lowest and best bidder meeting the specifications. The process contemplates giving potential bidders a reasonable opportunity to bid, and requires that all bidders be placed on the same plane of equality. Each bidder must bid on the same advertised specifications, terms, and conditions in all the items and parts of a contract. The purpose of competitive bidding is to stimulate competition, prevent favoritism, and secure the best goods and services at the lowest practicable price, for the benefit of the agency. Competitive bidding cannot occur where contract specifications, terms, or conditions prevent or unduly restrict competition, favor a particular supplier, or increase the cost of goods or services without providing a corresponding benefit to the agency.

Competitive Sealed Bidding/Proposals: Preferred method for acquiring goods, services, and construction for public use in which award is made to the lowest responsive and responsible bidder, based solely on the response to the criteria set forth in the IFB; does not include discussions or negotiations with bidders. Proposals are solicited through an RFP process that will set forth proposal evaluation criteria and selection process. The selection processes for proposals may include discussions/interviews and fee negotiation.

Confirming Purchase Order: A Confirming Purchase Order is a document issued after the purchase is made to restate the terms originally placed orally or by some other informal means.

Conflict of Interest: A clash between the public interest and the private pecuniary interest of the individual concerned. The term identifies those situations where contractors or public officials may obtain a benefit from a public contract. Conflicts of Interest may result in a breach of ethics or an ethical code. Actual or Perceived Conflict of Interest: Any action, decision or recommendation by an agent or public official acting in an official capacity, the effect of which could be to the private pecuniary benefit or detriment of the person or person's relative.

Construction: The process of utilizing labor to build, alter, repair, improve, or demolish any structure, building or public improvement; generally does not apply to routine maintenance, repair, or operation (MRO) of existing real property.

Consulting Services: Services of an advisory nature required to support policy development, decision-making, administration, or management of a business or public entity; generally

provided by individuals or organizations who possess specific knowledge, technical skills or unique abilities not usually available in-house or from within the entity.

Contract: A legally binding promise, enforceable by law; an agreement between parties with binding legal and moral force, usually exchanging goods or services for money or other considerations. The terms “contract” and “agreement” are synonymous. The term “contract” includes, but is not limited to, a purchase order, a contract for services, an addendum or change order, a letter agreement, or a memorandum of understanding. A contract may also include leases, revenue generating contracts and other forms of agreements as applicable to the County.

Contract Administrator: The staff person responsible for contract administration activities to assure full compliance with all of the terms and conditions contained within the contract document, including price. Term may include project manager, program manager and other designated staff.

Contract Award: A Contract Award is the final agreement on the terms and conditions of a contract between the County and Vendor/Contractor as authorized by the Board of Supervisors or its designee(s).

Contract Extension: A Contract Extension is an action to change and extend a contract termination date pursuant to a provision in the scope of work and upon written mutual agreement by both parties. Reasons for a contract extension include: an excusable delay, a contractor’s acceptable performance record, unused allocated funding, or agency need for continued service until a new contract is in place. Extension should be based on sound legal advice so as to avoid challenges by other interested vendors. A contract extension is not the same as a contract renewal.

Contract Renewal: A renewal clause allows an agreement to continue for a defined period if the existing agreement isn't renegotiated within a specified time measured from the expiration of the current contract. The term of renewal depends on the specific contract language, but such clauses generally provide that the contract shall be automatically renewed for the same period (or some lesser term) unless either party, at some stipulated and predetermined time (i.e., 60 days before expiration), gives notice to the other of its desire to end the agreement.

Cooperative Procurement (Purchasing):

1. The action taken when two or more entities combine their requirements to obtain advantages of volume purchases including administrative savings and other benefits.
2. A variety of arrangements whereby two or more public procurement units purchase from the same supplier or multiple suppliers using a single IFB or RFP.
3. Cooperative procurement efforts may result in contracts that other entities may “piggyback.”

Debarment: Vendors/contractors/consultants or other entities may be debarred from doing business with the County based upon direct debarment by the County (such as provided in Marin County Code 3.08.070 -offer of gratuities and Section 3.10.040 – false certification claim for bid preferences) or any other public agency and expressly the federal government and the State of California.

1. To prohibit a seller/contractor from bidding on future requirements for cause for a certain period of time.
2. A sanction brought against a seller whereby they may not engage in future procurement actions.

3. To exclude or shut out of future solicitations and contracting opportunities.

Delegated Purchaser: Authorized or appointed individuals, outside the purchasing department, are delegated authority under the entity's rules and procedures that allow them to make small dollar purchases on behalf of the agency.

Delegation of Authority: The conferring of actual authority by someone who has actual authority, to another person, in order to accomplish a task.

Departmental Delegated Purchasing Authority: Departmental Delegated Purchasing Authority (DDPA) is a privilege granted by the Purchasing Agent based upon standards set forth in Delegated Purchasing Authority eligibility requirements described under Policy Section 4.5.

Deputy Purchasing Agent: Marin County Code Chapter 2.08.051 authorizes the County Administrator to act as Deputy Purchasing Agent to enter into and execute on behalf of the County any contract for professional services up the amount prescribed under Government Code Section 25502.5, which relate to the purposes previously approved and budgeted by the Board of Supervisors, subject to ratification of such approval and execution by the Board of Supervisors. The County Administrator shall submit contracts executed under this section to the Board of Supervisors for ratification once each quarter of the fiscal year. This authority is limited to authority otherwise not legally required to be performed by the Board of Supervisors or any other County officer or employee.

Designee: A duly authorized representative.

Digital Signature: The ability to execute a signature via the Internet.

Disposition: Transferring, trading-in, selling, or destroying goods that are excess property, surplus property, or scrap.

Electronic Commerce (eCommerce): The integration of electronic data interchange, electronic funds transfer, and similar techniques into a comprehensive electronic-based system of procurement functions; could include the posting of IFB's and RFP's on electronic bulletin boards, the receipt of bids via electronic data interchange, notification of award by email, and payment via electronic funds transfer.

Emergency Purchase: A purchase made due to a sudden, unforeseen occurrence that poses a clear and imminent danger requiring immediate action to prevent or mitigate the loss or impairment of life, health, property or essential public services. Usually, formal competitive bidding procedures are waived, but certain emergency services may employ use of pre-established pricing agreements.

Environmentally Preferable Purchasing: Environmentally Preferable Purchasing (EPP) is an attempt to address environmental challenges by taking advantage of government's vast purchasing power to create strong markets for environmentally friendly products and services. EPP is also known as *Green Purchasing*. Marin County Code Chapter 3.10 allows for preferences as factor in the award of contracts where duly defined recycled products are offered by a vendor.

eProcurement (Electronic Procurement): Conducting all or some of the procurement function over the Internet; i.e. buying from Staples or Grainger.

Equipment: Major items such as tools, equipment, furnishings and fixtures that are not expendable except through depreciation or wear and tear and which, although they may be fixed or positioned in prescribed places, do not lose their identity or become integral parts of other items or installations.

Ethics:

1. A principle of right or good conduct or a body of such principles.
2. A system of moral principles or values.
3. A code of conduct.
4. Prohibits breach of the public trust by any attempt to realize personal gain by a public employee through conduct inconsistent with the proper discharge of the employee's duties.

Fixed Asset: A Fixed Asset is a physical asset such as property, plant and/or equipment. Generally Fixed Asset purchases are items with a useful life expectancy of greater than one year and a cost \$5,000 and greater.

Force Account: Work performed on public projects using internal resources, including but not limited to labor, equipment, materials, supplies, and subcontracts of the public agency. Project costs for force account work include direct, indirect and overhead costs. A Project Cost Estimate must be completed at the start of the project and a Project Cost Summary must be completed to close-out the project and verify compliance with the Public Contract Code.

Formal Procurement: A formal procedure to solicit bids, proposals or statement of qualifications requiring a written document officially noticed to the public and distributed as widely as possible with specific instructions regarding due date and format for written responses; may include an evaluation and selection process.

General Services: Services ancillary to purchase of goods such as furniture and equipment installation; maintenance services for the upkeep of publicly owned or occupied property.

Goods: Same definition as commodity. Any and all consumable supplies, materials and tangible property acquired by the County other than services or real property.

Grant:

1. A transfer of Federal Government funds to state or local governments to support or stimulate programs authorized by federal or state laws, to accomplish objectives that are locally defined and managed under a broad federal or state program.
2. The furnishing of assistance by a jurisdiction whether financial or otherwise, to any person to support a program authorized by law; does not include an award whose primary purpose is to procure supplies, services or construction.

Gratuity: Something given voluntarily or beyond obligation usually for some service. Marin County Code Chapter 3.08.070 prohibits acceptance of a gratuity by any employee of the County from a vendor, or prospective vendor and shall be cause for removal or other disciplinary action.

Informal Bid/Proposal: A competitive bid, price quotation or proposal for supplies or services that is conveyed verbally, by a letter, fax, e-mail or other manner that does not require a formal sealed bid or proposal, public opening or other formalities.

Information Technology (IT): An all-encompassing term that refers to the devices used for creating, storing, using, or exchanging information, and to the design and practical application of the devices themselves. May refer to a group within the organization that is responsible for managing, evaluating and upgrading the various forms of technology the organization is using.

Invitation for Bid (IFB): All documents used to solicit competitive or multi-step sealed bids. A formal solicitation method where price is the determining factor after it has been determined the bidder offer meets the minimum specifications of the solicitation and the bid is both responsive and responsible.

Lease: A contract by which one party (lessee) enters into a contract with a second party (lessor) for possession and use of property (equipment) for a specified period of time at a predetermined cost. There are two primary lease categories: Operating and Financial. Major benefits of a lease are: Obsolescence can be minimized or eliminated; Avoidance of large capital outlays; Maintenance problems may be reduced; The Lessee's working capital is not consumed and may be utilized for other projects.

Lease-Purchase Agreement: A lease in which the lease payments are applied, in whole or in part, as installment payments for equity or ownership upon completion of the agreement.

Legal Notice: A public notice required by law, ordinance or executive order. Generally placed in a newspaper of general circulation or may be posted on a web-site, magazine or other media, depending on the specific legal requirements.

Lowest Responsive and Responsible Bidder: The bidder who fully complied with all of the bid requirements and whose past performance, reputation and financial capability is deemed acceptable and has offered the most advantageous pricing or cost benefit, based on the criteria stipulated in the bid documents.

Maintenance: The upkeep of property that neither adds to its permanent value nor prolongs its intended life appreciably, but instead keeps it in an efficient operating condition.

Material: A substance from which something is made or can be made such as building materials, paper, plastic, or other materials.

Memorandum of Understanding (MOU): A quasi-contract generally entered into between government agencies and private sector contractors who may be providing services to the government. It may also be entered into between inter/intra government agencies and details the essence of the agreement between the parties but lacks the enforceability of a contract.

Multiple Award Contracts: Contracts awarded to more than one supplier for comparable supplies and services. Awards are made for the same generic types of items at various prices. Usually the result of aggregated line item bids of similar product categories.

Multi-Year Contract: A procurement contract that extends for longer than one year.

Option to Renew: A contract provision that allows a party to reinstate the contract for an additional term, beyond that stated in the original contract, in accordance with contract terms.

Payment Bond: A financial or contractual instrument, issued by a surety that guarantees that subcontractors will be paid for labor and materials expended on the contract. Acceptable forms of payment bonds may include: cashier's check, certified check, or irrevocable letter of credit issued by a financial institution; a surety or blanket bond; United States Treasury bond; or certificate of deposit. Payment bonds are also known as Labor and Materials Bonds.

Performance Bond: An instrument executed, subsequent to award, by a successful bidder that protects the public entity from loss due to the bidder's inability to complete the contract as agreed.

Piggyback (Piggyback Cooperatives): A form of intergovernmental cooperative purchasing in which an entity will be extended the pricing and terms of a contract entered into by a larger entity. Generally a larger entity will competitively award a contract that will include language allowing for other entities to utilize the contract which may be to their advantage in terms of

pricing, thereby gaining economies of scale that they normally would not receive if they competed on their own. Example: A smaller government agency has the ability to use its state issued contract to obtain goods and services which is also known as Riding a Contract.

Policy: A governing principle or plan which establishes the general parameters for the organization to follow in carrying out its long term goals.

Prevailing Wage Rate: The rate of wages, including fringe benefits, paid to a majority of the workers in a geographic area for the same type of work on similar projects as established by the California Department of Industrial Relations.

Procurement: Purchasing, renting, leasing, or otherwise acquiring any supplies, services, or construction; includes all functions that pertain to the acquisition, including description of requirements, selection and solicitation of sources, preparation and award of contract, and all phases of contract administration. The combined functions of purchasing, inventory control, traffic and transportation, receiving, inspection, storekeeping, salvage and disposal operations.

Procurement Card (pCard): A payment method whereby internal customers (requisitioners) are empowered to deal directly with suppliers for purchases using a credit card issued by a bank or major credit card provider. Generally a pre-established credit limit is established for each card issued. The County of Marin uses Cal-Card, issued by US Bank.

Procurement Methods: Methods by which goods, services, or material may be acquired by public purchasers. The methods may include blanket orders, emergency purchases, standing offers, purchase orders, transfers, competitive bidding, competitive negotiation, intergovernmental cooperative agreements, small purchase contracts, purchases via a credit card, etc.

Professional Services: Services rendered by members of a recognized profession or possessing a special skill. Such services are generally acquired to obtain information, advice, training, or direct assistance.

Protest: An oral or written objection by a potential interested party to a solicitation or award of a contract, with the intention of receiving a remedial result. Protests may be filed in accordance with agency policy and procedure within predetermined time lines.

Public Bid Opening: The process of opening and reading bids at the time and place specified in the solicitation and in the presence of anyone who wishes to attend. Electronic bid submittals are sealed until the deadline for submitting bids. In lieu of a public opening, bids are tabulated into a summary and electronically distributed to bidders and publicly made available on the County's website for transparency.

Public Notice: An announcement made by a public agency concerning a solicitation or other information of general public interest. Public notices are usually placed in a newspaper of general circulation, a web-site, circular, magazine or other vehicle of general publication.

Public Work: Construction, reconstruction, erection, alteration, renovation, demolition, and repair work paid for in whole or in part out of public funds. Construction may include pre-construction activities including, but not limited to, inspection and land surveying. (For comprehensive definition see Labor Code Section 1720-1743)

Public Works Contract: An agreement to perform a Public Work.

Purchase Order: A purchaser's written document to a vendor formalizing all the terms and conditions of a proposed transaction. It is a legal and binding contract. Marin County Code 3.08.20 requires a purchase order for all purchases, except where otherwise provided by law.

Purchase Requisition (PR): A document created by a requestor authorizing the commencement of a purchasing transaction. PRs typically will include a description of the need and other information that is relative to the transaction.

Purchasing Agent: The official appointed by the Board of Supervisors pursuant to statute to be in charge of procurement, is authorized to enter into contracts and is responsible for oversight of all associated procurement programs.

Purchasing Audit: A comprehensive, systematic, independent, and periodic examination of an organization's purchasing environment, objectives, strategies, and activities with a view toward identifying strengths and weaknesses, including a plan of action to improve purchasing performance.

Regulation: A statement by a governmental body to implement, interpret, or prescribe law or policy, or to describe organization, procedure, or practice, often promulgated in accordance with an administrative procedures act.

Request for Information (RFI): A non-binding method whereby a jurisdiction publishes via newspaper, internet, or direct mail its need for input from interested parties for an upcoming solicitation. A procurement practice used to obtain comments, feedback or reactions from potential suppliers (contractors) prior to the issuing of a solicitation. Generally price or cost is not required. Feedback may include best practices, industry standards, technology issues, etc.

Request for Proposal (RFP): The document used to solicit proposals from potential providers for goods and services (Offers). Price is usually not a primary evaluation factor.

Request for Qualifications (RFQ): Also, referred to as RFQ, it is a formal solicitation method which is limited for use in soliciting professional services and is required under California Government Code and Public Contract Code in the procurement of certain construction related professional services. A document also issued to obtain statements of the qualifications of potential development teams or individuals (i.e. consultants) to gauge potential competition in the marketplace, prior to issuing a Request for Proposals.

Request for Quotation: Generally used for small orders under a certain dollar threshold, such as \$1000.00. A request is sent to suppliers along with a description of the commodity or services needed and the supplier is asked to respond with price and other information by a pre-determined date. Evaluation and recommendation for award should be based on the quotation that best meets price, quality, delivery, service, past performance, and reliability.

Responsible Bidder: A vendor/contractor, business entity or individual who is fully capable to meet all of the requirements of the solicitation and subsequent contract. Must possess the full capability, including financial and technical, to perform as contractually required.

Scope of Work: A detailed, written description of the conceptual requirements for the project contained within a Request for Proposal. The scope of work should establish a clear understanding of what is required by the entity. It defines what will be done, how, by whom, and cost factors.

Sealed Bid: A formal submission from a bidder/vendor submitted in response to an invitation to bid (ITB). It is submitted in a sealed envelope to prevent its contents from being revealed before the time and date set for the bid opening.

Service/Services Contract:

1. An agreement calling for a contractor's time and effort.

2. The furnishing of labor, time, or effort by a contractor or vendor, which may involve to a lesser degree, the delivery or supply of products.

Single Sourcing: A procurement decision whereby purchases are directed to one source because of standardization, warranty, or other factors, even though other competitive sources may be available. Also see *Sole Sourcing*.

Small Purchase/Procurement: Any procurement not exceeding a given upper monetary limit, as established by law, regulation, executive order, etc. Usually applies to purchases of small dollar amounts under a certain monetary threshold. Department Heads are authorized to make purchases up to \$5,000 (except for office furniture, printing services and computer equipment) per transaction without further authorizations from the Purchasing Agent or the Board of Supervisors.

Sole Sourcing: Selection of one particular supplier to the exclusion of all others. This decision may be based on lack of competition, proprietary technology, copyright or a supplier's unique capability. In government procurement, a sole source justification may be required from the requestor. Also see *Single Sourcing*.

Solicitation: An invitation for bids, a request for proposals, request for qualifications, telephone calls or any document used to obtain bids or proposals for the purpose of entering into a contract. Also see *Bid*.

Sourcing: Sourcing is the identification and selection of the supplier whose costs, qualities, technologies, timeliness, dependability, and service best meet the organization's needs.

Specification: A precise description of the physical or functional characteristics of a product, good or construction item; a description of goods and/or services; a description of what the purchaser seeks to buy and what a bidder must be responsive to in order to be considered for award of a contract. Specifications generally fall under the following categories: design, performance, combination (design and performance), brand name or approved equal, qualified products list and samples.

Standardization: The adoption of a single product or group of products to be used by different organizations or all parts of one organization.

Standards (Standardization) Committee: Generally an internal committee consisting of cross-functional representation including procurement, users, and other internal stakeholders impacted by the decisions of the committee. Examples of key functions and activities may include:

- Developing standards through a simplification process for designated products and services;
- Establish specifications;
- Review items to determine which items should be incorporated into a standards program;
- Approving products for the Qualified Products List.

Statutes: The written laws approved by legislatures, parliaments or house of assembly.

Supplies: All tangible items purchased or consumed by an organization.

Surplus:

- Results in an overstock situation when the quantity of goods on hand exceeds the quantity of goods needed. The overstocked goods may be returned to the vendor, sold at auction or disposed of in a method acceptable to the entity.

- Refers to goods or materials that are obsolete or no longer needed by the agency and are designated for disposal.

Term Contract: A contract in which a source of supply is established for a specified period of time.

Transparency: In an ethical context, the idea that the more information disclosed about a business, financial or economic activity the better. Transparency improves ethical conduct. Maximum disclosure is for the betterment of the public and will help to discourage more regulation.

Waiver of Bids: A process, usually statutory, whereby a government purchasing office may procure items without formal bidding procedures because of unique circumstances related to that particular action. For example, bids are waived for emergency purchases that are needed, due to a threat to the public safety.