

STATE OF NEW MEXICO
COUNTY OF LEA
RESOLUTION NO. 21-SEP-190R

A RESOLUTION APPROVING THE LEA COUNTY PROCUREMENT POLICY

WHEREAS, the Lea County Board of County Commissioners, as governing body of Lea County, is responsible for the procurement of goods and services for Lea County; *and*

WHEREAS, Section 13-1-97 NMSA 1978 requires the Board of County Commissioners to designate a central purchasing office that shall perform all procurement for the County; *and*

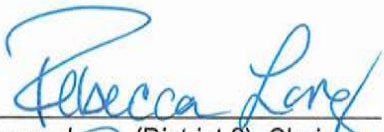
WHEREAS, except as otherwise provided in the State Procurement Code, that code shall apply to every expenditure by the County for the procurement of items of tangible personal property, services, and construction; *and*

WHEREAS, the County has developed a Lea County Procurement Policy that establishes a central purchasing office and provides procedures for County procurement in accordance with state law.

NOW, THEREFORE, BE IT HEREBY RESOLVED by the Board of County Commissioners of Lea County that the attached Lea County Procurement Policy is hereby adopted.

PASSED, APPROVED AND ADOPTED on this 2nd day of September, 2021, by the Lea County Board of County Commissioners in an open meeting in Lovington, New Mexico.

LEA COUNTY BOARD OF COUNTY COMMISSIONERS



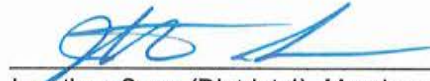
Rebecca Long (District 2), Chair
Voted: Yes No Abstain



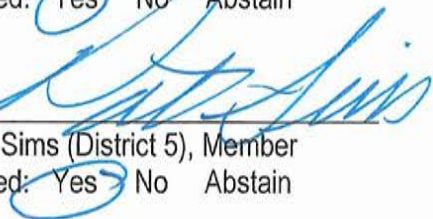
Dean Jackson (District 1), Vice Chair
Voted: Yes No Abstain



Gary G. Eidson (District 3), Member
Voted: Yes No Abstain



Jonathan Sena (District 4), Member
Voted: Yes No Abstain



Pat Sims (District 5), Member
Voted: Yes No Abstain

Lea County
SEP 02 2021
CBCC Meeting

ATTEST: Keith Manes
Lea County Clerk

APPROVED AS TO FORM AND LEGAL
SUFFICIENCY:

By: 
Teri Davis, Deputy Clerk


John W. Caldwell, County Attorney



Attachment

Lea County Procurement Policy



Lea County Board of Commissioners

Effective September 2, 2021

09/02/2021

Lea County Procurement Policy

1 Applicability of the Procurement Policy

1.1 User Applicability

- 1.1.1 This Procurement Policy (hereinafter “Policy”) and its procedures apply to elected officials, all departments, agencies, personnel, individuals, or other users authorized to make purchases from public funds budgeted and administered by, or otherwise under the supervision of the Lea County Board of Commissioners. The procurement function shall be conducted in a manner above reproach, with complete impartiality and without preferential treatment. Users shall avoid any conflicts of interest. No user may solicit or accept, directly or indirectly, any gratuity, gift, favor, entertainment, loan, or anything of value from any offeror.
- 1.1.2 As used in this Policy, the term “department” includes anyone described in the first sentence of section 1.1.1.

1.2 Administration

- 1.2.1 The responsibility for administration of the provisions of this Policy shall be under the County Manager. The County Manager shall have the responsibility and authority to ensure that all provisions of law and this Policy are followed and shall be authorized to issue any supplement consistent with this Policy deemed necessary to administer, manage, interpret, or clarify this Policy. Supplements shall be approved by the Board of Commissioners and copies of all supplements shall be numbered, attached to, and made a part of this Policy.
- 1.2.2 The Chief Procurement Officer (CPO) or designees shall be responsible for having the knowledge to ensure that all provisions of this Policy and all other purchasing concerns and activities of Lea County are appropriate and consistent with the most current, generally accepted purchasing techniques, this Policy and all provisions of law. Designees of the CPO must also be certified Chief Procurement Officers.
- 1.2.3 In the absence of the County Manager, the Chief Procurement Officer (CPO), or designee, will be responsible for the administration of provisions as set forth throughout this Policy. In the absence of the CPO, the County Manager, or designee, shall designate a new CPO in accordance with section 1.4.1.

1.3 Finance Department

- 1.3.1 The Finance Department is the general term for the individuals or offices designated by the County Manager to fulfill the responsibility and functions of this Policy. The term Finance Department, which, for these regulations, includes the Finance Director, CPO, Buyer, Accounts Payable, and related staff, is used to describe the office and/or personnel directly responsible for establishing accountability and procedures in relation to the purchasing function. The Finance Department is considered the Central Purchasing Office. The Finance Director may also serve as the Chief Procurement Officer (CPO).

1.4 Chief Procurement Officer

- 1.4.1 The Finance Department shall have on staff at least one certified Chief Procurement Officer (CPO) that meets the specifications listed in 13-1-95.2 NMSA 1978. It is the responsibility of the County Manager to provide the state purchasing agent with the name of the County’s designated CPO. In the absence of the designated CPO, the County Manager will designate a new CPO and report the change of status to the state purchasing agent.

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1.4.2 The CPO shall be responsible for the control of procurement of items of tangible personal property, services or construction.

1.4.3 For the purposes of this Policy, the CPO and the purchasing officer refer to the same position.

1.5 User Authority and Responsibility

1.5.1 Only individuals authorized by the County Department Directors, with the approval of the CPO or designee, shall be permitted to make purchases consistent with the provisions of this Policy. All authorized users shall receive and sign for a copy of this Policy, and shall thereby be responsible for the knowledge and appropriate compliance and use of the provisions of this Policy.

1.5.2 Authorized users may contact vendors to obtain technical information, prices, and delivery information for planning purposes. Purchasing personnel may review the technical information, confirm prices are reasonable and ensure the availability of County funds. All quotes documented or received by users shall be attached to the purchase order or uploaded to the purchase card portal. Purchases may require the use of a purchase order in accordance with Section 2.9.1, Purchase Orders.

1.6 Definition of a Purchase

1.6.1 For the purpose of this Policy, a purchase is the commitment, obligation, and/or expenditure of County supervised funds to obtain goods or services.

1.7 Unauthorized or Questionable Purchases

1.7.1 Any purchase which is not legally and appropriately approved within the County budget or by other Board of Commissioners action, or State Procurement Code, and the provisions of this Policy, shall be considered an unauthorized purchase and thereby not subject to payment by the County. The County hereby declares and establishes that it will assume no responsibility for payment of unauthorized purchases. Any individual initiating or otherwise executing any unauthorized purchase is solely responsible for payment.

1.7.2 Over-expenditure of a line item constitutes an unauthorized purchase until the Board of Commissioners adopts a resolution or other plan for resolving the over-expenditure. All authorized purchases shall be legally budgeted or approved within an appropriate fund or agency account, or within an appropriate line item as approved by the Board of Commissioners.

1.7.3 All questionable purchases shall be submitted to the CPO for review. Determination shall be made by the CPO to be either an authorized or unauthorized purchase under the provisions of this Policy. The CPO may consult with the County Manager, County Attorney, and/or Finance Director prior to making a determination.

1.8 Commission Approval of Unauthorized Purchases

1.8.1 Any purchase determined to be an unauthorized purchase shall be considered for approval of payment at a public meeting of the Board of Commissioners. Unauthorized purchases shall not be approved or processed for payment prior to Commission approval.

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1.9 Violation of Policy

- 1.9.1 Violation of any provision of this Policy may be grounds for discipline, up to and including termination of employment or appointment, against the offending employee or person.

1.10 Consistency with State Procurement Code

- 1.10.1 The provisions of this Policy are subject to change in accordance with New Mexico law, as amended. Any revision that is inconsistent with the provisions of this Policy shall be resolved in favor of state law. All authorized users shall be given a copy of each revision and notified that it is in effect.
- 1.10.2 Unless specifically prohibited by the Lea County Procurement Policy, additional methods of procurement not stated in this Policy but consistent with NMSA 1978 Chapter 13, Section 1, as amended will be available for use by authorized users with the prior approval of the CPO.

1.11 Amendment

- 1.11.1 Any amendment of this Policy shall be executed by resolution as adopted by the Board of Commissioners prior to implementation. Written procedures or clarifications may be recommended by the CPO and approved by the Board of Commissioners.

1.12 Agent Solicitations

- 1.12.1 Solicitations of County employees by private company agents is prohibited, except upon request by the County, or for programs or proposals available to all County departments authorized and approved by the County Manager.
- 1.12.2 The CPO may accept agent solicitations for the purpose of gaining information regarding new or existing companies or their representatives and/or products, if such is determined to be potentially beneficial to the County.

1.13 Penalties

- 1.13.1 Persons knowingly violating the New Mexico Procurement Code may be subject to a civil penalty of up to \$1,000 for each violation. (NMSA 1978 13-1-196).
- 1.13.2 Any business or person that willfully violates the State Procurement Code is guilty of a misdemeanor if the transaction involves fifty thousand (\$50,000) or less; or a fourth degree felony if the transaction involves more than fifty thousand dollars (\$50,000) (NMSA 1978 13-1-199).

2 Purchasing Procedure

2.1 Standard Purchases

- 2.1.1 Standard Purchases are systematic, planned, necessary or routine purchases for the administration and operation of a Department. Other planned and necessary expenditures such as professional services, leases, bids, proposals, insurance, purchases of real property, funds appropriated for support to other agencies, purchases for County construction projects, purchases by agreement or contract, and other purchases shall be standard purchases and processed in accordance with state laws, Lea County Procurement Policy, and written procedures / clarifications established by the County Manager and adopted by the Board of Commissioners.

Lea County Procurement Policy

- 2.1.2 Routine monthly County expenditures include payroll related expenditures, utility bills, taxes, gasoline credit cards, per diem and registration fees for approved travel, postage, and building deposit refunds.
- 2.1.3 There shall be no exception to these routine or standard procedures unless specifically stated.
- 2.1.4 All information regarding purchase orders in Section 2.9 is applicable to all other sections and supplements and is hereby incorporated in them by reference.
- 2.1.5 It shall be the primary responsibility of the department to ensure sufficient funds are available prior to initiating a purchase in order to avoid an unauthorized purchase. The Finance Department shall provide sufficient information, data or reports to keep purchasers properly updated on budget balances.

2.2 Competitive Purchases

- 2.2.1 Authorized purchasers shall attempt to ensure that all purchases are made at the best obtainable price. Purchases shall be made in accordance with the following provisions:
 - A. \$20,000.00 or less excluding applicable state and local gross receipts taxes. Purchases may be processed without quotations. Award can be made without securing competition if the user determines that the price received is the best obtainable price. Users are encouraged, but not required, to obtain quotes from more than one vendor. Purchases of \$1,500 or more are subject to the rules in Section 2.9 – Purchase Orders. No purchases shall be artificially divided in order to avoid compliance with Section 2.9.
 - B. \$20,000.01 to \$60,000.00 excluding applicable state and local gross receipts taxes. Written Quotations are required. Purchases shall be made according to the best obtainable price provided in at least three bona fide written quotations. *Request for Quotation* forms that include the specifications for the procurement, shall be provided to vendors in advance of the purchase, unless prices are readily available on a vendor's website. A deadline shall be listed for the written quotations' return. Quotations must be on vendor's letterhead, the quotation form, or other document(s) identifying the responding vendor. Printed pages from a vendor's website are acceptable. It is highly preferable to obtain a minimum of three written quotations. The quotations must be summarized using the "Summary of Quotes" form that will be signed by the Department Director or designee and sent to Purchasing along with copies of supporting documentation. The acceptable quotations must be signed by the CPO, County Manager, or CPO designee and a purchase order issued by Finance Department, before the purchase is made. Quotations not signed by the CPO, County Manager, or CPO designee before the purchase is made constitute an unauthorized purchase.
 - i Written quotations are valid for six months with the vendor's concurrence. A copy of the original quotation must be attached by the user department to each subsequent purchase. It is the user department's responsibility to keep copies of the quotation to attach to subsequent purchase orders. It is the user department's responsibility to ensure appropriate pricing is received on repurchases within six months and on any indefinite quantity bid.
 - ii In the event there are not three known vendors which have materials/services available, less than three quotations are permissible provided the user verifies on the quotation form that every reasonable attempt has been made to obtain three

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quotations. The quotations obtained will be listed on the quotation form. Names of businesses unable, unwilling, or unresponsive to providing quotations shall be included on the *Summary of Quotes* form and submitted to the Finance Department. Internet and catalog quotes must include freight.

- C. More than \$60,000.00. All purchases exceeding \$60,000.00 require formal bid or competitive sealed proposal procedures and shall be processed and executed by the CPO or designee. Such purchases must be approved in the current budget, and purchases not approved in the current budget require approval by the Board of Commissioners. Bids and proposals may be rejected by the County Commissioners in the event it is determined to be in the best interest of the County, or in the event that they are in excess of budgetary limits, are non-responsive to specifications, or due to irregularities in the bid or proposal specifications.

2.2.2 Procurement requirements shall not be artificially divided so as to constitute a small purchase.

2.3 Bids and Proposals

2.3.1 Specifications should be written primarily to address the need of the County for a specific item or service to perform a specific function. Specifications written for purchases shall not be “closed or exclusive”, or otherwise written in such a way as to intentionally favor or exclude a vendor.

- A. Reference to specific types or quality shall be followed by wording “or equal to” and all specifications regardless of wording shall be considered as “or equal to”.
- B. It shall be the authorized user’s responsibility to ensure that all specialized technical aspects of specifications are correct and appropriate.

2.3.2 It shall be the CPO’s or designee’s responsibility to review and ensure that all other provisions, procedures and considerations are correct and appropriate, and to address any questionable, unusual or inappropriate specifications prior to processing.

2.3.3 A pre-bid checklist and signature form shall accompany all formal bids and RFP’s. The approval form shall be signed by the the user department and the CPO prior to advertising an invitation to bid or request for proposal. The approval form shall signify that all terms and specifications contained in the bid or RFP have been reviewed and approved and that all procurement steps have been addressed. Additionally, a licensed professional engineer must review and sign off on all construction or other engineering related procurements before advertising an invitation to bid or request for proposal. An invitation for bids or request for proposal, or a notice thereof, shall be published not less than ten calendar days prior to the date set forth for the opening of bids or proposals. The invitation or notice shall be published at least once in a newspaper of general circulation in the area.

2.3.4 The CPO shall keep a list of businesses that have expressed an interest in submitting bids or proposals and shall notify them when an invitation for bids or request for proposals is issued that could be fulfilled by the business. This requirement may be met by mailing a notice regarding the bid or RFP or via electronic transmittal of the invitation to bid or request for proposals to prospective vendors. Invitation for bids (IFB) or request for proposals (RFP) are also posted on Lea County’s website immediately after they become available. If IFB or RFP are prepared by an Architect or Engineer and dispersed by their office or by a “Plan Room”,

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County may post to the website only the Bid / RFP advertisement page, which will direct any potential responders as to where to obtain the full Bid / RFP.

- 2.3.5 Bids or proposals shall be opened publicly by the CPO or designee in the presence of at least one or more County employee(s) witness(es) at the time designated in the invitation for bids or request for proposals.
- 2.3.6 RFP documents will state the Offerors may mark/label certain information within their RFP response as “proprietary”. Entire proposals/offers may not be marked as “proprietary”. The CPO or designee shall make the final determination whether information marked is “proprietary”. Bids become public record once opened and may be inspected by members of the public upon request.
- 2.3.7 Lea County follows state procedures regarding the assignment of preferences to resident businesses and veteran owned resident businesses per N.M.S.A. 13-1-21 through 13-1-22. Businesses must include proof of their residency or ownership status in order to qualify for preference. Proof may consist of a copy of a NM Resident Preference Certificate or a copy of a NM Resident Veterans’s Certificate (submitted with response to Bid/RFP). All preferences shall be verified with the State of NM prior to the bid or RFP award. Preferences shall not apply when federal funds may be used in payment to vendors selected through a competitive invitation for bids or request for proposals.
- 2.3.8 The formal procurement process may be waived by the CPO in cases that a vendor has a State, Federal, cooperative, or other qualified Purchasing Contract.

2.4 Sole Source Purchases

- 2.4.1 A contract may be awarded without competitive sealed bids or competitive sealed proposals regardless of the estimated cost when the CPO determines, in writing, that:
 - A. there is only one source for the required services, construction or item of tangible personal property;
 - B. the service, construction, or item of tangible personal property is unique and this uniqueness is substantially related to the intended purpose of the contract; and
 - C. other similar services, construction or items of tangible personal property cannot meet the intended purpose of the contract.
- 2.4.2 The user department shall use due diligence in determining the basis for the sole source procurement, including reviewing available sources, and shall submit its written determination on the *Sole Source Determination* form to the CPO or designee for review, approval, and processing.
- 2.4.3 The user department along with the CPO or designee shall conduct negotiations, as appropriate, as to price, delivery and quantity in order to obtain the price most advantageous to the County.
- 2.4.4 The user department shall not circumvent this section by narrowly drafting specifications so that only one predetermined source would satisfy those specifications.
- 2.4.5 At least thirty days before a sole source contract is awarded, the CPO or designee shall post notice of the intent to award a sole source contract on the County website, and shall transmit the notice to the state purchasing agent for posting on the state purchasing agent’s website.

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- A. The notice shall identify at a minimum:
 - i the parties to the proposed contract;
 - ii the nature and quantity of the service, construction or item of tangible personal property being contracted for; and
 - iii the contract amount.
 - B. Any qualified potential contractor that was not selected for a proposed sole source contract may protest the selection in writing, within fifteen calendar days after the notice of intent to award the contract was posted by the County, by submitting the protest to the CPO or designee. The CPO or designee shall then reconsider its selection.
 - C. Immediately before a sole source contract is awarded, the notice of intent to award a sole source contract located on the County website shall be adjusted in order to show the award of the contract. This adjusted notice shall remain on the County website for a period of no less than 72 hours.
- 2.4.6 The Finance Department shall maintain, for a minimum of three years, records of sole source procurements, including, at a minimum, the information required to be included in the notice of intent to award a sole source contract.

2.5 Emergency Purchases

- 2.5.1 The CPO or designee may only make an emergency procurement when the service, construction or item of tangible personal property procured:
- A. Is needed immediately to:
 - i control a serious threat to public health, welfare, safety or property caused by a flood, fire, epidemic, riot, act of terrorism, equipment failure or similar event, or
 - ii plan or prepare for the response to a serious threat to public health, welfare, safety or property caused by a flood, fire, epidemic, riot, act of terrorism, equipment failure or similar event; or
 - B. cannot be acquired through normal methods.
- 2.5.2 The CPO or designee:
- A. In making an emergency procurement, shall:
 - i Employ a competitive process to the extent practicable under the circumstances; and
 - ii use due diligence in determining the basis for the procurement and in selecting a contractor; and
 - B. shall not make an emergency procurement for the purchase or lease of heavy road equipment.
- 2.5.3 The CPO or designee that makes an emergency procurement shall outline its determination of the basis for the procurement and its selection of the contractor in writing and include the writing in the procurement file. Promptly thereafter:

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- A. The CPO or designee shall post notice of the procurement on the County website and shall transmit the notice to the state purchasing agent on the state purchasing agent's website.
- 2.5.4 The CPO or designee that makes an emergency procurement to plan or prepare for the response to a serious threat to public health, welfare, safety or property caused by flood, fire, epidemic, riot, act of terrorism, equipment failure or similar event shall account for the money spent in making the procurement and report on that accounting to the legislative finance committee and the department of finance and administration within sixty days after the end of the fiscal year in which the procurement was made.
- 2.5.5 Within three business days of awarding an emergency procurement contract, the CPO or designee thereof shall post a notice of an emergency procurement on the County web site that includes the following:
 - A. the contractor's name and address;
 - B. the amount and term of the contract;
 - C. a listing of the services, construction or items of tangible personal property procured under the contract; and
 - D. the justification for the procurement method.
- 2.5.6 The CPO or designee shall maintain, for a minimum of three years, records of emergency procurements, including, at a minimum, the information required to be included in the notice of an emergency procurement.
- 2.6 Pre-existing Contracts and Cooperative or Joint Purchasing and Bulk Fuel Purchases and other Exceptions**
- 2.6.1 When a vendor has a State Purchasing Contract, a federal General Services Administration (GSA) contract, cooperative procurement contract, or if a vendor has an indefinite quantity contract with the County to provide materials or services, multiple quotes are not required.
 - A. Direct purchases may be made in cases where a vendor has a State Purchasing Contract, a General Services Administration Contract, or a cooperative procurement contract attached to the purchase order or a reference is made to a Lea County Bid or Proposal Number.
 - B. Purchases from an indefinite quantity contract must be made within the time frame established in the contract and at the contract price.
- 2.6.2 The County may purchase items or services cooperatively or jointly through another public body's processes consistent with state regulations in NMSA 13-1-135. An approved and signed copy of all cooperative procurement agreements entered into pursuant to this subsection shall be filed with the state purchasing agent. A cooperative procurement agreement entered into pursuant to this subsection is limited to the procurement of items of tangible personal property, services or construction. The CPO or designee shall retain a copy of each contract relied upon to make purchases without seeking competitive bids or proposals.
- 2.6.3 Contracts entered into with other governmental entities are exempt from competitive procurement.

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2.7 Vehicle Repair Procurement

- 2.7.1 Routine vehicle or equipment repairs are subject to the requirements in Section 2.2.1.A. Repairs on equipment or vehicles that require forensic disassembly for estimates and/or equipment that can only be serviced by a manufacturer certified mechanic with an estimated cost of \$20,000 or greater are exempt from compliance with Section 2.2.1, parts B & C. Once a repair estimate is received, then the Department Head is required to request a Purchase Order for the repairs. When possible, the repairs should be performed by a vendor located in the County trade area.
- 2.7.2 If repairs are due to the result of an accident, the responsible Department Director will notify the Risk Manager before initiating repair work. This will allow the County to ensure that all proper insurance notifications are done.

2.8 Professional Services

- 2.8.1 It is preferred the offer from the professional be written. The offer should specify the basis of charge, what will be charged as extra expense items and whether there will be any surcharges added to expenses incurred. It should include an estimate of total charges expected under the contract for the items specified. The Board of Commissioners or County Manager may select the offer it deems to be in the best interest of the County, and may further make the selection contingent upon entering into a written contract mutually agreeable to the parties.
- 2.8.2 The Board of Commissioners or County Manager may direct in a circumstance covered by this section, that the services of a particular professional be obtained based upon that person's particular expertise or background, or past familiarity with the County in a material respect or some other reason that makes the professional especially well-suited for the work to be done. In such a case, such services may be retained without soliciting information from multiple sources subject to the statutory limit.
- 2.8.3 Professional services shall be procured at the best negotiated price, provided the value, exclusive of gross receipts taxes and expense reimbursements, does not exceed \$60,000.
- 2.8.4 The services of architects, archaeologists, engineers, medical arts practitioners, scientists, management and systems analysts, certified public accountants, lawyers, psychologists, planners, researchers and persons or businesses providing similar services as designated by the CPO or designee are deemed to be professional services.

2.9 Purchase Orders

- 2.9.1 All purchases \$1,500 or more require that a Lea County Requisition be completed by the user department, and Purchase Order be completed by the CPO or designee. Purchase Orders shall be approved by the CPO or designee prior to purchasing goods and services and shall contain all information as required, including but not limited to:
 - A. Description. Describe the items or services sufficiently to identify the item or services being purchased and to allow processing of the Purchase Order without requesting additional information.

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- B. Unit/Quantity. Specify a unit or quantity and the approximate amount per unit or quantity being requested within the Purchase Order "Description". Units or quantities may be "each", "box", "gals", "reams", "pounds", etc.
- C. General Ledger Account Number. The appropriate budgeted line item account number will be listed on each requisition . It is the user department's responsibility to assign the appropriate line item account number(s). Purchase orders may include multiple line item account numbers. The Finance Department must approve line item account numbers to ensure budgetary intent, comparability among years and departments, and appropriate usage.
- D. Price/Amount. Total cost, or a cost for each item.
- E. Source. Vendor to whom the purchase order will be issued, including Address, City, State and Zip Code.
- F. Purchase Orders which do not include the above information will not be approved by Purchasing.
- G. On purchases where a purchase order is not required, it is the responsibility of the purchaser to verify that budgeted funds are available prior to the purchase. Purchases are not to be artificially divided in order to avoid obtaining a purchase order.

2.9.2 Certain types of purchases do not require a purchase order. Those purchases are defined as recurring monthly payments for utilities, software maintenance, copier services, fuel card bills, and board/committee fees, etc. The CPO may designate other purchases exempt from purchase orders if they meet the definition of recurring monthly payments.

2.9.3 Certain purchases for services or materials over \$20,000 using an approved bid or proposal for indefinite quantities may be procured prior to the issuance of a purchase order. The Bid or proposal number must be listed on the Purchase Order. The CPO or designee shall determine which items or services will fall under this category.

2.9.4 All purchase orders are to be reviewed and approved by the CPO or designee, prior to being scheduled for payment.

2.9.5 Finance Department shall maintain W-9 Taxpayer Identification forms on file for all active vendors as required by the Internal Revenue Service. W-9 forms will be reviewed bi-annually for verification of current taxpayer information.

2.10 Invoices

2.10.1 An invoice is an itemized document submitted by the vendor (including an Invoice #) to the Finance Department for payment of materials or services delivered to the County. The County may refuse payment in any case that there is an unauthorized purchase.

- A. Verification of Invoices. All invoices shall be reviewed by user departments prior to payment to ensure materials or services have been received and to certify authorization for payment. This certification requires the signature of the Department Director or designee. It will be the responsibility of user departments to ensure outstanding invoices are promptly submitted for payment.
- B. Processing for Payment. The Finance Department will ensure that all invoices received are appropriately authorized and certified prior to payment. The Finance Director shall be responsible for ensuring that appropriate procedures are established and used for

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payment after invoices are received to include timely payments and to make certain that discounts are received and late charges avoided.

2.11 Exemptions - The Procurement Code shall not apply to:

- 2.11.1 procurement of items of tangible personal property or services from a state agency, a local public body or external procurement unit except as otherwise provided in Sections 13-1-135 through 13-1-137 NMSA 1978;
- 2.11.2 printing and duplicating contracts involving materials that are required to be filed in connection with proceedings before administrative agencies or state or federal courts;
- 2.11.3 purchases of publicly provided or publicly regulated gas, electricity, water, sewer and refuse collection services;
- 2.11.4 purchases of books, periodicals and training materials in printed or electronic format from the publishers or copyright holders thereof;
- 2.11.5 travel or shipping by common carrier or by private conveyance or for meals and lodging;
- 2.11.6 purchase of livestock at auction rings or to the procurement of animals to be used for research and experimentation or exhibit;
- 2.11.7 purchases not exceeding ten thousand dollars (\$10,000) consisting of magazine subscriptions, web-based or electronic subscriptions, conference registration fees and other similar purchases where prepayments are required;
- 2.11.8 the issuance, sale and delivery of public securities pursuant to the applicable authorizing statute, with the exception of bond attorneys and general financial consultants;
- 2.11.9 contracts entered into by a local public body with a private independent contractor for the operation, or provision and operation of a jail pursuant to Sections 33-3-26 and 33-3-27 NMSA 1978;
- 2.11.10 contracts and expenditures for services or items of tangible personal property to be paid or compensated by money or other property transferred to New Mexico law enforcement agencies by the United States department of justice drug enforcement administration;
- 2.11.11 contracts with professional entertainers;
- 2.11.12 contracts and expenditures for legal subscription and research services and litigation expenses in connection with proceedings before administrative agencies or state or federal courts, including experts, mediators, court reporters, process servers and witness fees, but not including attorney contracts;
- 2.11.13 contracts for service relating to the design, engineering, financing, construction and acquisition of public improvements undertaken in County improvement districts pursuant to Subsection L of Section 4-55A-12.1 NMSA 1978;
- 2.11.14 works of art for museums or for display in public buildings or places;
- 2.11.15 purchases of advertising in all media, including radio, television, print and electronic;
- 2.11.16 procurement of services from community rehabilitation programs or qualified individuals pursuant to the State Use Act [13-1C-1 through 13-1C-7 NMSA 1978];
- 2.11.17 purchases of products or services for eligible persons with disabilities pursuant to the federal Rehabilitation Act of 1973; and

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2.11.18 purchases exempt from the Procurement Code as otherwise provided by State law.

2.12 PENALTIES – Any business or person that willfully violates the State Procurement Code is guilty of:

2.12.1 a misdemeanor if the transaction involves fifty thousand dollars (\$50,000) or less; or

2.12.2 a fourth degree felony if the transaction involves more than fifty thousand dollars (\$50,000).

2.12.3 It must be a violation of state law to be a Policy violation.

2.13 End of Fiscal Year

2.13.1 Special purchasing procedures shall be issued by Purchasing to ensure that State law and regulations and proper accounting procedures are followed to appropriately close out at the end of the fiscal year.

2.14 Protests

2.14.1 All protests regarding selection of vendors through competitive bids, proposals, or sole-source procurements shall be filed and determinations made in accordance with 1978 NMSA Sections 13-1-172 through 13-1-178.

3 Fixed Assets and Annual Inventory

3.1 Definition of Fixed Asset

3.1.1 For the purpose of this Policy, a fixed asset is any property or material item which has a useful life expected to exceed one year and has a value normally of \$5,000.00 or greater, extends the useful life of an existing asset, or is of significant value as otherwise determined by the County Manager or Finance Director.

3.1.2 Fixed assets can usually be described as furniture, fixtures, equipment, land, buildings, or betterments to these items.

3.2 Administrative Responsibility

3.2.1 The Finance Department shall be assigned the general responsibility for and accountability for fixed assets in accordance with this Policy.

3.3 Annual Fixed Asset Resolution

3.3.1 Physical Inventory: Each Department shall submit a complete list of inventory each year by the date determined by the Finance Director, with locations of assigned fixed assets identified, approved by the Department Head, verifying that a complete, on-site inventory of all fixed assets under their supervision has been completed.

3.3.2 Annual Review and Approval of Fixed Assets Inventory: The Finance Director shall reconcile the certified physical inventory, specifying any changes or differences in the fixed assets, and submit a resolution to the County Commission for review and approval. The County Commission shall approve by resolution an official listing of all additions, deletions, and transfers to the County Fixed Assets Inventory each fiscal year. Each Department shall by such resolution be assigned the custodial responsibility over all fixed assets listed under their supervision as stated in the certified physical inventory.

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3.4 Custodian Responsibility

- 3.4.1 It shall be the responsibility of each Department designated as Custodian having possession of any County fixed asset to ensure the appropriate care, safeguard, location, maintenance and security of all fixed assets assigned to the Department.
- 3.4.2 Change in Custodian Responsibility: At any change of a Department head, a physical inventory of fixed assets assigned to that Department shall be made to ensure that all fixed assets are present and accounted for. An interim person shall be assigned the custodial responsibility until the new Department Head assumes responsibility. The incoming person shall then be responsible to complete a physical inventory for the fixed assets assigned to that department, and certify that it has been reconciled to the physical inventory performed by the Finance Department.

3.5 Knowledge of Provisions

- 3.5.1 A copy of this Policy and all supplements shall be given to each custodian who shall sign for and be required to be knowledgeable, understand and comply with the provisions of this Policy.

3.6 Enforcement

- 3.6.1 Actions which appear to be in violation of the provisions of this Policy shall be reviewed by the County Manager and if determined to be a violation shall be submitted to Human Resources for potential disciplinary action.

4 Fixed Assets Processing Procedures

4.1 Purchasing Fixed Assets

- 4.1.1 Fixed assets shall be purchased in accordance with this Section of the Procurement Policy. It shall be the responsibility of the custodial Department and Finance Department to screen all purchases, identify and process fixed assets in accordance with the provisions of this Policy.

4.2 Fixed Assets Requiring Commission Approval and Exceptions

- 4.2.1 All fixed assets purchased shall be either specifically approved in the budget, or by approval of the County Commission prior to purchase, except in an emergency. All emergency purchases of fixed assets shall be in compliance with Section 2.5 of the Policy.

4.3 Verification

- 4.3.1 If a fixed asset is purchased, it shall first be verified that it is a budgeted item. In cases of unbudgeted items, approval is required from the Commission before a purchase is made. In all questionable cases, the County Manager shall make a determination.

4.4 Receiving and Recording of Fixed Assets

- 4.4.1 It shall be the responsibility of the custodial Department, immediately upon receipt and prior to processing for payment, to completely check the item to verify that it has been received in acceptable and satisfactory condition.
- 4.4.2 Upon processing a fixed asset purchase, an Inventory Addition Form shall be completed by the custodial Department and submitted with the invoice to the Finance Department.

4.5 Recording and Maintenance of Fixed Asset Files

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4.5.1 The fixed asset shall be entered into the computerized fixed asset inventory file to include all pertinent information and data required. It shall be the responsibility of the Finance Department to appropriately update and maintain a permanent Fixed Asset File. The Finance Department will prepare inventory tags for distribution to custodians.

4.6 Transfers

4.6.1 Custodians shall assume full responsibility for all transfers of fixed assets from their original locations. All transfers shall be reported to the Finance Department by completing the *Inventory Addition/Transfer/Deletion Form*.

4.7 Disposal of Fixed Assets

4.7.1 Disposal of all Fixed Assets shall be in accordance with all applicable laws. There shall be an official finding and disposition of property resolution approved by the Commission prior to disposal of any fixed asset.

4.7.2 It is the responsibility of the Department to notify the Finance Department of intent to dispose of any item, including trade-ins. Items may not be disposed of without the approval of the Finance Department.

4.7.3 All revenues received from the disposal of items shall revert to the general fund, except as otherwise required by law or state regulations.

4.7.4 All fixed assets listed in the County inventory with residual value must be disposed of through a negotiated sale, sealed bids or public auction or donated to a state agency, local public body, school district, state educational institution or municipality in accordance with state law .

4.8 Property – Missing, Lost or Stolen

4.8.1 It shall be the responsibility of each custodian to report to the Sheriff's Department and local police department immediately any item which has been discovered to be missing, lost or stolen.

4.8.2 A Deletion Form shall then be completed and forwarded to the Finance Department along with a copy of the Sheriff's Incident Report.

4.9 Inventory Control and Annual Inspection

4.9.1 It shall be the responsibility of each custodian to inspect and oversee its Department's inventory, and to ensure that the inventory is appropriately protected, safeguarded, maintained and repaired, and is physically inspected, present and accounted for.

4.9.2 The Finance Department may conduct random physical inventories of items or Departments to verify that the computerized fixed asset file contains accurate information.

5 Purchase Cards

5.1 Program Purpose

5.1.1 The purpose of the Purchase Card Program is to streamline and simplify the requisitioning, purchasing and payment process for small dollar transactions that require immediate payment. It is designed to replace the need for petty cash, check requests and expense

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reimbursements. It is also designed to allow employees to make online payments for goods and services, if necessary.

5.2 Purchase Card Issuance

5.2.1 Purchase cards will be issued to employees upon the request of the respective Department Director or Elected Official with approval of the CPO or designee. Use of the card may be revoked at any time by the County Manager, CPO or designee, if it is determined to be in the best interest of the County.

5.3 Purchase Card Usage

5.3.1 The purchase card is intended to be used for small dollar transactions that are needed during the course of business. These purchases may include but are not limited to:

- A. Office supplies and forms
- B. Books and subscriptions
- C. Computer supplies (non-capital hardware, software, etc.)
- D. Professional dues and conference registrations
- E. Travel expenses (hotels, parking, etc.)
- F. Other miscellaneous items

5.3.2 The purchase card is not intended to be used for the following items:

- A. Items for personal use
- B. Capital outlay
- C. Alcohol
- D. Any product, service or merchant considered inappropriate for County funds

5.3.3 The purchase card should only be used when it is necessary to complete a purchase and invoicing is not available. When purchasing goods and services online, employees should first seek to use vendors that offer an invoicing option.

5.4 Reconciliation and Payment

5.4.1 The cardholder is responsible for obtaining a receipt for every purchase made with a purchase card. In the event that a receipt cannot be obtained, then a statement describing the date of purchase, vendor, item(s) purchased and amount paid must be prepared and signed off on by the purchaser.

5.4.2 All receipts or purchase statements must be uploaded into the purchase card system by the 8th day of the month following the close of the month purchased.

5.4.3 The cardholder is required to login to the purchase card system, review all purchases made, ensure that receipts are uploaded and that the line item coding is correct. Once it is confirmed to be correct then the cardholder must approve the statement.

5.4.4 It is the responsibility of the cardholder and their Department Director to ensure that all transactions posted are legitimate transactions of the County and have been procured

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according to the procurement requirements as described in Section 2.2.1 – Small Purchases and Section 2.9 – Purchase Orders.

6 Fuel Cards

6.1 Use of Cards

- 6.1.1 Upon the request of the Department Head or Elected Official, each vehicle under their supervision is issued a fuel card by Finance to be used for the purchase of fuel, oil and minor repairs. The card issued is specifically identified to a vehicle and must remain with the vehicle at all times.
- 6.1.2 Each approved vehicle operator is issued a personal pin number that will work with any card issued by the County. The County may cancel the employee's pin for misuse.
- 6.1.3 The card assigned to a specific vehicle must only be used for fuel and services for that vehicle.
- 6.1.4 Under no circumstances is the card and pin to be used for personal use or to provide fuel and services for a personal vehicle. Violation of this Policy could result in disciplinary action.

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Appendix A – Sample Forms and Resolutions

- 7 Purchase Order Form
- 8 Sole Source Form
- 9 Emergency Purchase Form
- 10 Request for Quotations
- 11 Quotation Form
- 12 Inventory Addition/Transfer/Deletion Form
- 13 Resolution to Dispose of Fixed Assets
- 14 Resolution to Approve List of Fixed Assets

Forms included herein are for example only. Forms may be revised at the discretion of the County Manager or the Chief Procurement Officer (CPO).

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1.4.2 The CPO shall be responsible for the control of procurement of items of tangible personal property, services or construction.

1.4.3 For the purposes of this Policy, the CPO and the purchasing officer refer to the same position.

1.5 User Authority and Responsibility

1.5.1 Only individuals authorized by the County Department Directors, with the approval of the CPO or designee, shall be permitted to make purchases consistent with the provisions of this Policy. All authorized users shall receive and sign for a copy of this Policy, and shall thereby be responsible for the knowledge and appropriate compliance and use of the provisions of this Policy.

1.5.2 Authorized users may contact vendors to obtain technical information, prices, and delivery information for planning purposes. Purchasing personnel may review the technical information, confirm prices are reasonable and ensure the availability of County funds. All quotes documented or received by users shall be attached to the purchase order or uploaded to the purchase card portal. Purchases may require the use of a purchase order in accordance with Section 2.9.1, Purchase Orders.

1.6 Definition of a Purchase

1.6.1 For the purpose of this Policy, a purchase is the commitment, obligation, and/or expenditure of County supervised funds to obtain goods or services.

1.7 Unauthorized or Questionable Purchases

1.7.1 Any purchase which is not legally and appropriately approved within the County budget or by other Board of Commissioners action, or State Procurement Code, and the provisions of this Policy, shall be considered an unauthorized purchase and thereby not subject to payment by the County. The County hereby declares and establishes that it will assume no responsibility for payment of unauthorized purchases. Any individual initiating or otherwise executing any unauthorized purchase is solely responsible for payment.

1.7.2 Over-expenditure of a line item constitutes an unauthorized purchase until the Board of Commissioners adopts a resolution or other plan for resolving the over-expenditure. All authorized purchases shall be legally budgeted or approved within an appropriate fund or agency account, or within an appropriate line item as approved by the Board of Commissioners.

1.7.3 All questionable purchases shall be submitted to the CPO for review. Determination shall be made by the CPO to be either an authorized or unauthorized purchase under the provisions of this Policy. The CPO may consult with the County Manager, County Attorney, and/or Finance Director prior to making a determination.

1.8 Commission Approval of Unauthorized Purchases

1.8.1 Any purchase determined to be an unauthorized purchase shall be considered for approval of payment at a public meeting of the Board of Commissioners. Unauthorized purchases shall not be approved or processed for payment prior to Commission approval.

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1.9 Violation of Policy

- 1.9.1 Violation of any provision of this Policy may be grounds for discipline, up to and including termination of employment or appointment, against the offending employee or person.

1.10 Consistency with State Procurement Code

- 1.10.1 The provisions of this Policy are subject to change in accordance with New Mexico law, as amended. Any revision that is inconsistent with the provisions of this Policy shall be resolved in favor of state law. All authorized users shall be given a copy of each revision and notified that it is in effect.
- 1.10.2 Unless specifically prohibited by the Lea County Procurement Policy, additional methods of procurement not stated in this Policy but consistent with NMSA 1978 Chapter 13, Section 1, as amended will be available for use by authorized users with the prior approval of the CPO.

1.11 Amendment

- 1.11.1 Any amendment of this Policy shall be executed by resolution as adopted by the Board of Commissioners prior to implementation. Written procedures or clarifications may be recommended by the CPO and approved by the Board of Commissioners.

1.12 Agent Solicitations

- 1.12.1 Solicitations of County employees by private company agents is prohibited, except upon request by the County, or for programs or proposals available to all County departments authorized and approved by the County Manager.
- 1.12.2 The CPO may accept agent solicitations for the purpose of gaining information regarding new or existing companies or their representatives and/or products, if such is determined to be potentially beneficial to the County.

1.13 Penalties

- 1.13.1 Persons knowingly violating the New Mexico Procurement Code may be subject to a civil penalty of up to \$1,000 for each violation. (NMSA 1978 13-1-196).
- 1.13.2 Any business or person that willfully violates the State Procurement Code is guilty of a misdemeanor if the transaction involves fifty thousand (\$50,000) or less; or a fourth degree felony if the transaction involves more than fifty thousand dollars (\$50,000) (NMSA 1978 13-1-199).

2 Purchasing Procedure

2.1 Standard Purchases

- 2.1.1 Standard Purchases are systematic, planned, necessary or routine purchases for the administration and operation of a Department. Other planned and necessary expenditures such as professional services, leases, bids, proposals, insurance, purchases of real property, funds appropriated for support to other agencies, purchases for County construction projects, purchases by agreement or contract, and other purchases shall be standard purchases and processed in accordance with state laws, Lea County Procurement Policy, and written procedures / clarifications established by the County Manager and adopted by the Board of Commissioners.

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payment after invoices are received to include timely payments and to make certain that discounts are received and late charges avoided.

2.11 Exemptions - The Procurement Code shall not apply to:

- 2.11.1 procurement of items of tangible personal property or services from a state agency, a local public body or external procurement unit except as otherwise provided in Sections 13-1-135 through 13-1-137 NMSA 1978;
- 2.11.2 printing and duplicating contracts involving materials that are required to be filed in connection with proceedings before administrative agencies or state or federal courts;
- 2.11.3 purchases of publicly provided or publicly regulated gas, electricity, water, sewer and refuse collection services;
- 2.11.4 purchases of books, periodicals and training materials in printed or electronic format from the publishers or copyright holders thereof;
- 2.11.5 travel or shipping by common carrier or by private conveyance or for meals and lodging;
- 2.11.6 purchase of livestock at auction rings or to the procurement of animals to be used for research and experimentation or exhibit;
- 2.11.7 purchases not exceeding ten thousand dollars (\$10,000) consisting of magazine subscriptions, web-based or electronic subscriptions, conference registration fees and other similar purchases where prepayments are required;
- 2.11.8 the issuance, sale and delivery of public securities pursuant to the applicable authorizing statute, with the exception of bond attorneys and general financial consultants;
- 2.11.9 contracts entered into by a local public body with a private independent contractor for the operation, or provision and operation of a jail pursuant to Sections 33-3-26 and 33-3-27 NMSA 1978;
- 2.11.10 contracts and expenditures for services or items of tangible personal property to be paid or compensated by money or other property transferred to New Mexico law enforcement agencies by the United States department of justice drug enforcement administration;
- 2.11.11 contracts with professional entertainers;
- 2.11.12 contracts and expenditures for legal subscription and research services and litigation expenses in connection with proceedings before administrative agencies or state or federal courts, including experts, mediators, court reporters, process servers and witness fees, but not including attorney contracts;
- 2.11.13 contracts for service relating to the design, engineering, financing, construction and acquisition of public improvements undertaken in County improvement districts pursuant to Subsection L of Section 4-55A-12.1 NMSA 1978;
- 2.11.14 works of art for museums or for display in public buildings or places;
- 2.11.15 purchases of advertising in all media, including radio, television, print and electronic;
- 2.11.16 procurement of services from community rehabilitation programs or qualified individuals pursuant to the State Use Act [13-1C-1 through 13-1C-7 NMSA 1978];
- 2.11.17 purchases of products or services for eligible persons with disabilities pursuant to the federal Rehabilitation Act of 1973; and

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