
ARTICLE 3 – THE PUBLIC PROCUREMENT PROCESS

This Article 3 sets forth how vendors are to be identified and solicited. As a general rule, all County purchases and contracts shall be procured competitively. Accordingly, this Article begins with the manner in which a Standard Purchase is to be conducted.

Both applicable law and the BOCC recognize, however, that it is not always in the County's best interest to expend the time and resources required to make a Standard Purchase. As a result, certain exceptions based upon the nature and amount of the purchase are recognized. Whenever an exception is used to identify and select a vendor, the appropriate contract file should reflect the exception utilized and how it applied to the specific circumstance.

Regardless of the manner in which the vendor is selected and regardless of the amount of the purchase, a contract with that vendor is required (see Article 6).

3.1 STANDARD PURCHASES

A Standard Purchase is any purchase with a contract requirement of \$25,000 or more. The amount of a purchase cannot be divided in an attempt to avoid being classified as a Standard Purchase.

1. **General Rule.** All Standard Purchases must be procured competitively through the appropriate solicitation process and require:
 - a. **Budget:** Only those purchases that are authorized in an approved budget will be procured. If the expenditure is not reflected in the current budget, procurement planning should incorporate the additional time required to obtain a budget supplement.
 - b. **Authorization:** Department Heads and Elected Officials are authorized to initiate Standard Purchases when the amount to be spent is within an approved budget.
 - c. **Initiation of a Standard Purchase - Specifications or Scope of Work:** A Standard Purchase is initiated when the Department or Elected Official prepares written Specifications or a written Scope of Work (defined in Article 4) and attaches it to a Purchase Requisition, along with all of the other information required to complete a Purchase Requisition, via the County's financial software system, New World Systems.
 - d. **Solicitation Standard:** Based upon the information contained in the Purchase Requisition, and in collaboration with the Department or Elected Official, the Chief Procurement Officer will identify the appropriate competitive solicitation method and contract terms and will plan, schedule, and execute the solicitation (discussed in Article 5).

- e. **Legal Review:** All contract forms will be written and approved by the County Attorney's Office and will be included in the appropriate solicitation packages. Only the Chief Procurement Officer and Contracts Manager are authorized to vary the terms of these agreements without additional legal review.
- f. **Contract Award:** Once a Qualified Vendor has been selected, the Chief Procurement Officer and requesting Department or Elected Official will negotiate a final contract document, obtain all requisite attachments and vendor signatures, and present the proposed contract to the BOCC for approval at the next available meeting.
 - i. Unless otherwise approved by the Chief Procurement Officer, no contract will be submitted for BOCC approval until it is ready for signature, should the BOCC vote to approve it.
 - ii. Any work performed in accordance with the contract prior to BOCC approval is undertaken at the Vendor's sole risk and will not be paid for if the contract is not approved.
- g. **Payment Processing:** Upon BOCC approval of a Standard Purchase contract, the Chief Procurement Officer will attach the contract documents to the existing Purchase Requisition and assign a Purchase Order Number to encumber the contract funds from the appropriate budget line item. Invoices thereafter received by the Department or Elected Official will be paid when attached to a Voucher that includes the correct Purchase Order Number and will be submitted to Accounts Payable.
- h. **Centralized Documentation and Contract Management:** The Chief Procurement Officer is responsible for maintaining a complete contract file and all required documentation on all Standard Purchases.

3.2 EXCEPTION: NO COMPETITION REQUIRED

By their very nature, as well as by statute, some purchases and contracts do not require public competition in order to select an appropriate provider. In such instances, the public competition principles of openness, fairness and reasonableness of cost are achieved through other objectively reasonable methods, including competition by other governmental entities.

1. **No Competition Required.** Expenditures to acquire or to pay for the following goods or services may be made without competition or comparison among vendors:
 - a. **Advertising** space to publish or promote County business and events in geographically appropriate or legal newspapers and publications;
 - b. **Auto Mileage and Personal Reimbursements,** which will be reimbursed to County employees in the manner determined by the County Personnel Policies and Procedures or other applicable guidelines;

- c. **Cooperative Purchases**, defined as purchases made from another contract or agreement written by another federal, state, county, city, government agency, or government cooperative for identical goods or services do not require additional competition when the agreement has been formally competed or renewed by the acquiring government within the last 12 months;
 - i. The State bid list qualifies as a source of appropriate vendors for Cooperative Purchases.
- d. **Department of Human Services** contracts for client services that are paid directly to or on behalf of DHS clients for such items as transportation, medications, medical examinations, psychological examinations, physical abuse examinations, birth certificates, drug testing, DNA testing, or other expenditures related to case services;
- e. **Education and Training Expenses** for training of County employees may be paid to organizations with public funds without requiring competition among providers;
- f. **Expert Witnesses** retained to consult with or testify on behalf of the County by the County Attorney, District Attorney, Assessor, or Sheriff or in connection with any judicial matter involving the County;
- g. **Membership Dues, Meeting Registration Fees, and Miscellaneous Travel Expenses** incurred to pay for or attend authorized functions will be paid on behalf of or reimbursed to County employees in the manner determined by the County Personnel Policies and Procedures or other applicable guidelines;
- h. **Outside Legal Counsel** or Special Prosecutor retained by the County Attorney or District Attorney;
- i. **Rent Payments** made pursuant to a properly negotiated and authorized lease agreement for equipment, buildings, vehicles, or other items;
- j. **Telephone service**, including both land lines and cell phones;
- k. **Transcripts** or other records required by the County Attorney or District Attorney;
- l. **Utility Services**, including by way of example, electrical, water, natural gas, sewer, cable, internet, trash, recycling, or similar services;
- m. **Perishable Items**, such as those required by the Public Health Department, including medicines, vaccines, and food products that have a limited useful shelf life or are time or date marked; and
- n. **Purchases directly from government units**, including federal, state, county, or other local governmental entities may be made without additional competition.

2. **Contract is still required.** Purchases of the foregoing items and services are exempt from the competition and publication requirements of public procurement but are not exempt from the requirement that the terms of the purchase must be documented in an appropriate contract.
 - a. The dollar amount of the purchase dictates the appropriate contract form and will be provided by the Contracts Manager upon submission of a Purchase Requisition that states the basis for the exemption from competition.

3.3 EXCEPTION: SIMPLIFIED PURCHASES

A Simplified Purchase is any purchase with a contract requirement of \$10,000 up to \$25,000. The amount of a purchase cannot be divided in an attempt to avoid being classified as a Simplified Purchase or a Standard Purchase.

1. **General Rule.** All Simplified Purchases must be procured competitively through the Documented Quote process and shall include the following:
 - a. **Budget:** Only those purchases that are authorized in an approved budget will be procured.
 - b. **Authorization:** Department Heads and Elected Officials are authorized to make Simplified Purchases when the amount to be spent is within an approved budget and the provisions of this § 3.3 are followed.
 - c. **Initiation of Simplified Purchase - Scope of Work or Specifications:** A Simplified Purchase is initiated when the Department or Elected Official prepares written Specifications or a written Scope of Work or Service (defined in Article 4).
 - d. **Solicitation Standard:** All Simplified Purchases are made directly by the Department or Elected Official by notifying at least three (3) Qualified Vendors of the work or service specifications and essential contract terms, reviewing the responses received within the time specified, and selecting the vendor who best meets the selection criteria.
 - i. Vendors may be notified of the specifications and terms and conditions by letter, email, telephone or in person; however, the method of contact must be documented and steps must be taken to ensure that each vendor received the same information so that all responses are based upon equivalent information.
 - e. **Documented Quote:** A Documented Quote is a written description of the actions undertaken to meet the Solicitation Standard and is to be completed by the Department or Elected Official for each Simplified Purchase. Vendor invoices will

not be approved for payment in the absence of a Documented Quote that includes the following:

- i. A copy of the Scope of Work and additional information provided to the vendors contacted; and
 - ii. The names and addresses of each vendor to whom the information was provided; and
 - iii. A copy (or summary if communicated verbally) of each vendor response received; and
 - iv. The reason(s) the successful bidder was selected.
- f. **Contract Award.** The Department or Elected Official shall negotiate the final contract with the selected vendor using an appropriate County form and shall obtain all required attachments.
 - i. The Contracts Manager is available to assist in confirming the proper form.
 - ii. Only the Contracts Manager is authorized to vary the terms of the approved contract forms.
- g. **Commencement of Work:** No work shall be performed until the contract, and all appropriate attachments, are signed by all parties.
- h. **Payment Processing:** No invoice can be paid until the Department or Elected Official attaches both a completed Documented Quote form and a signed contract with all attachments to a Purchase Requisition via New World Systems. Upon receipt of a completed Purchase Requisition, the Chief Procurement Officer will assign a Purchase Order Number to encumber the contract funds from the appropriate budget line item. Invoices thereafter received by the Department or Elected Official will be paid when attached to a Voucher submitted to Accounts Payable that includes the correct Purchase Order Number.
 - i. Ideally, the Purchase Requisition will be submitted prior to commencement of work but in any event must be submitted prior to receipt of any vendor invoice.
 - ii. No invoice can be paid without a Purchase Order Number; no Purchase Order Number can be assigned without a completed Purchase Requisition.
- i. **Decentralized Documentation and Contract:** The Department or Elected Official is responsible for ensuring that documentation, including the Documented Quote and signed contract for all Simplified Purchases, is added to New World Systems.

2. **Exception Does Not Apply.** By state statute, certain purchases do not qualify for an exception to the Standard Purchase process and, therefore, regardless of the cost of the requirement must be purchased in accordance with §3.3. These purchases include “contracts for work on county highways” and “stationery supplies”, which are discussed below in § 3.9.
3. **Procurement Department Assistance.** Any Department representative, Elected Official, or County employee who desires assistance for any purchase, regardless of type or cost, is encouraged to contact the Procurement Department.

3.4 EXCEPTION: SMALL PURCHASES

A Small Purchase is any purchase with a contract requirement of less than \$10,000. The amount of a purchase cannot be divided in an attempt to qualify as a Small Purchase.³

1. **General Rule.** Small Purchases may be made on the open market without public notice or competitive quotes when the price paid is objectively consistent with the price that would be paid by a member of the general public and require:
 - a. **Budget:** Only those purchases that are authorized in an approved budget will be procured.
 - b. **Authorization:** Department Heads and Elected Officials are authorized to make Small Purchases when the amount to be spent is within an approved budget.
 - c. **Scope of Work or Specifications:** No written Scope of Work is required.
 - d. **Solicitation Standard:** Each Department Head or Elected Official is responsible for defining the standard by which the Department or Elected Official will demonstrate that the method by which the vendor selected for a Small Purchase contract follows the principles of objective fairness, cost reasonableness and best use of public funds.
 - i. Appropriation solicitation standards could include evidence that price comparisons were conducted or evidence of what a member of the general public would pay when purchasing a like good or service, such as an internet price sheet, a catalog price list, or newspaper advertisement.
 - e. **Contract Award:** Each Department Head or Elected Official is responsible for ensuring that all purchases are properly documented and signed.

³ Colo. Rev. Stat. § 24-103-24

- i. Form terms and conditions for Small Purchases of goods and services approved by the County Attorney’s Office should be sufficient to document a majority of Small Purchase agreements.
 - ii. Examples of additional acceptable contract forms for Small Purchases include: a vendor invoice, purchase order, proof of purchase, P-Card statement, inventory list, or vendor contract form.
 - f. **Payment Processing:** No Purchase Requisition or Purchase Order Number is required for payment of Small Purchase contracts as long as the annual payment to a vendor is less than \$10,000. Invoices for payment should be attached to a Voucher and submitted to Accounts Payable.
 - i. The Procurement Department is not involved in processing payment of Small Purchase contracts; it does, however, monitor such payments and will notify the Department or Elected Official if a payment history suggests that the Small Purchase criteria no longer apply.
 - g. **Decentralized Documentation and Contract Management:** The Department or Elected Official is responsible for retaining documentation sufficient to establish that the price paid was fair and reasonable.
2. **Exception Does Not Apply.** By state statute, certain purchases do not qualify for an exception to the Standard Purchase process and, therefore, regardless of the cost of the requirement must be purchased in accordance with §3.3. These purchases include “contracts for work on county highways” and “stationery supplies,” which are discussed below in § 3.9.
 3. **Procurement Department Assistance.** Any Department representative, Elected Official, or County employee who desires assistance for any purchase, regardless of type or cost, is encouraged to contact the Procurement Department.

3.5 EXCEPTION: SOLE SOURCE PURCHASE

A Sole Source Purchase is any purchase of a good or service with a contract requirement of \$10,000 or more that does not meet the competitive solicitation standards of either a Simplified Purchase or a Standard Purchase, and includes any contract amendment or extension outside the terms of the original solicitation and contract.

1. **General Rule.** A Sole Source Purchase is permissible when a requirement is available only from a single supplier and the County Manager approves the Sole Source Justification.
 - a. **Budget:** Only those purchases that are authorized in an approved budget will be procured.

- b. **Authorization:** Department Heads and Elected Officials are authorized to make Sole Source Purchases when the amount to be spent is within an approved budget, a written Sole Source Justification is prepared, and the Sole Source Justification is approved by the County Manager.
 - c. **Scope of Work or Specifications:** A written Scope of Work or Specifications is required in order to complete the mandatory Sole Source Justification form.
 - d. **Solicitation Standard – Sole Source Justification:** The standard by which the fairness and cost efficiency of a Sole Source Purchase is determined shall be set forth in a written Sole Source Justification form, signed by the Department Head or Elected Official, that includes:
 - i. A description of the Scope of Work or Specifications sought;
 - ii. An explanation of why no other supplier will be suitable or acceptable to meet the need;
 - iii. An explanation of how cost reasonableness was determined; and
 - iv. The County Manager’s signature.
 - e. **Documentation and Contract:** The Department Head or Elected Official is responsible for maintaining documentation when the amount spent is less than \$25,000. The Chief Procurement Officer is responsible for maintaining the documentation when the amount spent is \$25,000 and above.
 - f. **Contract Award:** The appropriate approved contract form, determined by the contract type and amount, shall be used to document all Sole Source Purchases.
 - i. No Sole Source Purchases shall be presented to the BOCC for consideration until the contract is signed by the vendor and all requisite exhibits are attached.
 - g. **Payment Processing:** Payment of invoices submitted for Sole Source Purchases are processed in the same manner as payments for Standard Purchases when the contract is \$25,000 or more (§ 3.1(1)(g)), and as payments for Simplified Purchases when the contract is less than \$25,000 (§ 3.3(1)(h)). Instead of a Documented Quote, however, and for both Standard and Simplified Purchases, the Sole Source Justification must be attached to the Purchase Requisition.
2. **Application of Rule.** Sole Source refers to the supplier, not the product or service. Justification for a Sole Source Purchase depends upon a needed item or service being available from only a single supplier under the prevailing conditions.

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

- b. Examples of circumstances that do not necessitate a Sole Source Procurement include:
 - Whenever the item or service may be obtained from more than one source;
 - The vendor has provided excellent service or products in the past;
 - The vendor is familiar with the County's preferred practices;
 - No other vendor can do the job as well;
 - There is insufficient time to vet the credentials of any other vendor.

3. **BOCC Quarterly Report.** The Chief Procurement Officer shall maintain a list of all Sole Source Purchase contracts and shall provide an updated listing of such contracts, regardless of dollar amount, in a quarterly report to the BOCC.

3.6 EXCEPTION: EMERGENCY PURCHASES

An Emergency Purchase is a purchase made in response to a condition that creates a threat to public health, welfare, or safety such as may arise by reason of flood, epidemic, riot, equipment failure, or other such reason as may be proclaimed by the Governor, BOCC, Sheriff, or County Manager as provided, and creates an immediate and serious need for supplies or services.

1. General Rules.

- a. **Garfield County Sheriff:** In accordance with BOCC Resolution 08-114, contracts and agreements less than \$100,000, whose purpose is to provide emergency response to both natural and manmade emergencies, including but not limited to fires, motor vehicle accidents, rail accidents, airplane accidents, floods, avalanches,

hazardous spills or contamination, earthquakes, industrial or residential fires, and law enforcement activities that require a regional response, may be authorized by the Garfield County Sheriff without other approval so long as sufficient budgeted and appropriated funds are available in the Emergency Response line item of the Emergency Management Department.

- b. **Department Heads and Elected Officials:** Notwithstanding any other provision of this Code, Department Heads and Elected Officials may make, or authorize others to make, emergency purchases of products, services, or construction items within the scope of their purchasing authority and with budgeted and appropriated Department or Elected Official funds when a threat to public health, welfare, or safety exists and the need cannot be met through normal procurement methods.
 - i. The individual authorizing the Emergency Purchase shall inform the County Manager and the Chief Procurement Officer of the Emergency Purchase no later than the first working day following the purchase.
- c. **County Manager:** When the next regularly scheduled BOCC meeting is not in time to address an emergency situation or the functioning and operation of a County Department would be seriously hampered or delayed through use of the otherwise applicable procurement process, the County Manager may authorize an Emergency Purchase up to \$50,000 without additional approval so long as sufficient budgeted and appropriated funds are available in the appropriate line item.
 - i. Any such Emergency Purchase must be placed on the next regularly scheduled BOCC meeting agenda for ratification or termination by the BOCC.
 - ii. If the BOCC terminates the Emergency Purchase, the value of all goods or services received in the interim and any reasonable close-out expenses shall be paid in full.
- d. **Limitations on Purchase:** An Emergency Purchase shall be limited only to a quantity of those supplies, equipment, materials, or services necessary to meet the emergency.
- e. **Review of Emergency:** If the follow-up review of an Emergency Purchase indicates that the purchase was not an emergency, the purchase may be disallowed for payment.

3.7 ADDITIONAL APPROVALS REQUIRED

Certain purchases are of such a nature that the County's need and ability to properly use the item or service purchased should be evaluated by the appropriate Department Head prior to purchase. In such instances, regardless of the procurement method followed above, signature approval of the appropriate Department Head shall be obtained prior to solicitation. This approval indicates that the purchase is compatible with but not duplicative of existing County resources.

Additional Department Head purchase approval is required in the following instances:

1. **Technology Purchases**, including computer hardware, copy machines, and software, regardless of price, must be approved by the appropriate representative of the County's Information Technology Department prior to solicitation. The IT representative will review each request to determine all systems issues, including compatibility, support, architectural standards, and implementation and integration capabilities. When no systemic issues are presented, the IT representative's approval should be reflected in the Purchase Requisition.
2. **Professional Services involving County facilities** such as utilities service, remote communications, custodial service, repair and maintenance, and remodeling and changes to offices and work areas, including design and construction, must include the signature approval of the Director of Public Works and Facilities, regardless of price.
3. **Purchases of Insurance Coverage** must include signature approval of the County Manager or appropriate designee depending on insurance type, regardless of price.
4. **Retention of Outside Legal Services** must include signature approval of the County Attorney.

3.8 STATUTORY PURCHASES

Colorado statutes dictate the solicitation and purchasing requirements in the following specific instances:

1. **Contracts for Work on County Highways - Colo. Rev. Stat. § 43-2-209.**
 - a. **Less than \$5,000:** When the BOCC desires to let out any work on the County highways by contract, it may advertise in a legal newspaper in the County or post a notice in the County courthouse for a period of not less than 10 days before the contract is let, for sealed proposals for performing the work.
 - b. **\$5,000 or More:** When a contract for work on highways involves the expenditure of five thousand (\$5,000) or more, the BOCC shall advertise in a newspaper unless such advertisement, in the judgment of the BOCC would be detrimental to the immediate preservation of the public peace, health, and safety.
 - c. **Advertisement:** Such advertisement shall describe the work to be done and its location and identify the person holding the plans and specifications.
 - d. **Contract Award:** Such contract shall be awarded to the lowest responsible bidder, the BOCC reserving the right to reject any bids proffered.
2. **Bids on Supplies – Colo. Rev. Stat. §§ 30-11-109 to 30-11-112.** It is the duty of the BOCC to cause at least one advertisement to be inserted in the Elected Official newspaper of

Garfield County, under the heading of “stationery proposals”, asking for bids for the supplying, for one year, of all books, stationery, records, printing, lithographing, and such other supplies, specifically mentioning and describing them, as are furnished to the several officers of the county:

- a. The advertisement must be published not less than twenty or more than forty days prior to the opening of such bids. Such advertisement may be made in conjunction with any other county or the state.
- b. In-state stationery suppliers, as defined in C.R.S. § 30-11-110, shall be preferred over out-of-state suppliers when the net cost does not exceed the cost of procurement and delivery from out of state.
- c. Contracts for the procurement of stationery supplies shall not be made for more than one (1) year.
- d. No county officer is authorized to purchase any of the stationery supplies provided for in these statutes.

3.9 DISPOSAL OF COUNTY PROPERTY

This procedure shall be used for disposing of all County-owned supplies and equipment, except for property seized by the Sheriff's Office or property that has come into the possession of the Sheriff's Office.

1. **Authority.** Department Heads and Elected Officials have the authority to deem property to be surplus, with the exception of computer and computer-related equipment, which can be declared as surplus only by an approved representative of the IT Department. The Chief Procurement Officer shall have the authority to determine the disposition of all surplus property.
2. **Approved Dispositions.** When surplus property cannot be sold to a bona-fide third party for value, approved dispositions, in the order of priority, include:
 - a. The exchange or trade-in of supplies as part or full payment for the procurement of new supplies.
 - b. The transfer of property no longer needed by one County Department or Elected Official to another Department or Elected Official. Surplus County property shall first be offered to other County departments via email. The property will be distributed on a first come, first served basis.
 - c. The transfer of property no longer needed by any County Department or Elected Official to another governmental agency.

- d. The transfer of property no longer needed by any County Department or Elected Official to a non-profit entity serving local needs, including any recipients of Human Service Commission awards or other non-profit agencies who have applied for County assistance.
 - e. The sale of supplies that cannot be used by any Department or Elected Official.
 - f. The sale at salvage value of any supplies that cannot be used by any Department or Elected Official and that have been determined to have no value to the County or the public.
3. **Prohibited Dispositions.** County employees and their immediate family members are prohibited from purchasing surplus property, unless such purchases are made at a public auction.
4. **BOCC Approval.** With the approval of the BOCC, the Chief Procurement Officer may sell, transfer, or convey any personal property, vehicles, or equipment, or supplies to another government entity if that property is no longer needed for use by any County department or office.
5. **Manner of Sale.**
- a. **Sales under \$2,000:** A total sale (representing a single transaction of one or more items) estimated to be under \$2,000 should be made by informal procedures calculated to achieve the maximum financial benefit to Garfield County.
 - b. **Sales of \$2,000 or more:** A total sale (representing a single transaction of one or more items) of surplus property in estimated amounts of \$2,000 or more shall be formally advertised, sealed bids shall be taken, and the bids received shall be submitted to the Chief Procurement Officer for award. Sale by public auction may be used in lieu of sealed bids.
 - i. Garfield County employees may submit sealed bids and may bid on surplus property at public auction.
 - ii. If no monetary offers are received in the form of sealed bids or bids at public auction, the Chief Procurement Officer may negotiate a sale. County employees may not procure any surplus County property through a negotiated sale of any type
6. **Returns:** Nothing contained in this Code shall be construed to prohibit the return of unused supplies, which are surplus to the requirements of the County. Unused supplies may be returned to the original supplier with or without a restocking fee if this method of disposal will result in higher benefit to the County.

7. **Refunds.** Funds received from the sale of surplus property will be credited back to the same fund from which its original purchase originated.