

awarded to that bidder and additional items are being withheld for subsequent award; the award shall state that the County may make subsequent awards on those additional items within the bid acceptance period.

(5) All provisions of the invitation for bids, including any acceptable additions or changes made by a bidder in the bid, shall be clearly and accurately set forth (either expressly or by reference) in the award document. The award is an acceptance of the bid, and the bid and the award constitutes the contract.

- (d) (1) Award is generally made by using Richland County's Purchase Orders, or a written agreement.
- (2) Awards are also made through Notice to Proceed.

(e) *Forfeiture of bid surety.* If the successful vendor or contractor does not *enter into* a contract within the required days stipulated in the notice to proceed, he/she shall forfeit any surety that accompanied the bid, unless the county is responsible for the delay. Vendor or contractor shall also be held liable for any cost in excess of his bid price which the county incurs in purchasing the goods or services elsewhere.

Purchases through central state purchasing office

As an alternative to the procedures described elsewhere in this article, the director of procurement may purchase any supplies, materials, equipment or contractual services through the central state purchasing office of the division of general services.

Responsible bidder-reasonableness of price

(a) The procurement official shall determine that a prospective contractor is responsible and that the prices offered are reasonable before awarding the contract. Price analysis techniques must be used, as guidelines particular care must be taken in cases where only a single bid is received.

(b) The price analysis shall consider whether bids are materially unbalanced.

Economic price adjustment

(a) Bidder proposes economic price adjustment.

(1) When a solicitation does not contain an economic price adjustment clause but a bidder proposes one with a ceiling that the price will not exceed, the bid shall be evaluated on the basis of the maximum possible economic price adjustment of the quoted base price.

(2) If the bid is eligible for award, the Procurement Official shall request the bidder to agree to the inclusion in the award of an approved economic price adjustment clause that is subject to the same ceiling. If the bidder will not agree to an approved clause, the award may be made on the basis of the bid as originally submitted.

(3) Bids that contain economic price adjustments with no ceiling shall be rejected unless a clear acceptable basis for evaluation exists.

(b) County proposes economic price adjustment.

(1) When a solicitation contains an economic price adjustment clause and no bidder takes exception to the provisions, bids shall be evaluated on the basis of the quoted prices without the allowable economic price adjustment being added.

(2) When a bidder increases the maximum percentage of economic price adjustment stipulated in the solicitation or limits the downward economic price adjustment provisions

of the solicitation, the bid shall be rejected as non-responsive.

(3) When a bid indicates deletion of the economic price adjustment clause, the bid shall be rejected as non-responsive since the downward economic price adjustment provisions are thereby limited.

(4) When a bidder decreases the maximum percentage of economic price adjustment stipulated in the invitation, the bid shall be evaluated at the base price on an equal basis with bids that do not reduce the stipulated ceiling. However, after evaluation, if the bidder offering the lower ceiling is in a position to receive the award, the award shall reflect the lower ceiling.

Equal or tied low bids

The director of procurement shall specify a method for awarding contracts if the lowest responsive and responsible bids are identical in material detail. Such method shall be approved by the director of procurement but shall otherwise remain confidential pending the opening of bids. Such method shall be designed to discourage collusion and restrictions on competition; provided, however, that, if time and the public interest permit, the director of procurement may readvertise for bids instead of deciding among identical bids. If the director of procurement does not suspect that the bids are a result of collusion, he may award the contract to the firm located, or to the vendor offering goods produced, in the county.

Documentation of award

- (a) The procurement official shall document compliance with solicitation in the contract file.
- (b) The documentation shall either state that the accepted bid was the lowest bid received, or list all lower bids with reasons for their rejection in sufficient detail to justify the award.
- (c) When an award is made after receipt of equal low bids, the documentation shall describe how the tie was broken.

Information to bidders

- (a) The procurement official shall as a minimum-
 - (1) Publish notification of Intent to Award and provide copy to all participants in the solicitation;
 - (2) Extend appreciation for the interest the unsuccessful bidder has shown in submitting a bid; and
 - (3) When award is made to other than a low bidder, state the reason for rejection in a notice to each of the unsuccessful low bidders.
- (b) When a request is received concerning a solicitation from an inquirer who is neither a bidder nor a representative of a bidder, the procurement official should make *every* effort to furnish the names of successful bidders and, if requested, the prices at which awards were made. However, when such requests require so much work as to interfere with the normal operations of the Procurement office, the inquirer will be advised where a copy of the abstract of offers may be seen or a timeframe as to when the information will be available.
- (c) The Freedom of Information Act will govern all requests for solicitation records.

SECTION 6
OTHER TYPES OF BIDS

Other Types of Bids

Best Value Bid

The best value bid is a concept where the low-bid is still part of the bid selection process, but it is weighted with other elements to determine a best value that reflects quality, as well as cost issues. The low bid process is a valid strategy for buying most products. However, the best value bid is the best approach for purchasing high-tech equipment or instrumentation and for competing highly technological and complex projects. The goal is to contract for a lower long-term cost that includes such variables as superior service/support, greater reliability and uptime, better accuracy and precision of results, more efficient user interface/ease of use/automation, longer useful life, and higher resale/salvage value as the systems approaches the end of its useful life. These entire key differentiators are only known through user experience and "common" knowledge. Specifications and scope of service for highly technological and complex projects shall be solicited requiring and establishing criteria's that offer the best technical solution and/or the overall "Best value" for the taxpayer's dollar. The mechanisms for making a "Best value" acquisition should include few requirements or processes, purchasing procedures and limitations.

Policy

(a) When it is determined in writing that the acquisition is for high-tech equipment or instrumentation or for highly technological and complex projects and the use of competitive sealed bidding is either not practicable or not advantageous to the County, competitive best value bidding subject to the provisions of these regulations may be used to enter into a contract.

(b) The purpose of best value bidding is to allow factors other than price to be considered in the determination of award for highly technological and complex purchase and contracting for goods, services or construction based on pre-determined criteria identified by the County.

(c) The solicitation of a best value bid will be in accordance with advertising requirements set for sealed bids with the following exceptions:

- 1) At bid opening, the only information that will be released is the names of the participating bidders. Cost information will be provided after the ranking of bidders and the issuance of award.

(d) The best value bid should make allowances for awarding contracts to the best-performing contractors who deliver the highest quality service, projects or products. Various elements are considered in selecting a contractor on the basis of performance. Objective elements include contractor experience with similar projects, completion within schedule, compliance with material and workmanship requirements, timeliness and accuracy of submittals, and record of safety. Subjective elements include effective management of subcontractors, proactive measures to mitigate impacts to the environment, training and employee development programs, commitment to achieving customer satisfaction, and client relations

(e) The evaluation elements not only affect the ultimate performance and overall cost of the completed project or purchase, but also contribute to the efficient execution of the work. Under a "Best-Value" selection process, quality issues will be added to the bid evaluation process.

(f) Evaluation Factors. The best value bid shall state the factors to be used in determination of award and the numerical weighting for each factor. Cost must be a factor in determination of award and cannot be weighted at less than sixty percent. Best value bid evaluation factors may include, but are not limited to, any of the following as determined by the County in its sole discretion and not subject to protest:

- (1) Operational costs that the County would incur if the bid were accepted;
- (2) Quality of the product or service, or its technical competency;
- (3) Reliability of delivery and implementation schedules;

- (4) Maximum facilitation of data exchange and systems integration;
- (5) Warranties, guarantees, and return policy;
- (6) Vendor financial stability;
- (7) Consistency of the proposed solution with the state's planning documents and announced strategic program direction;
- (8) Quality and effectiveness of business solution and approach;
- (9) Industry and program experience;
- (10) Prior record of vendor performance;
- (11) Vendor expertise with engagement of similar scope and complexity;
- (12) Extent and quality of the proposed participation and acceptance by all user groups;
- (13) Proven development methodologies and tools; and
- (14) Innovative use of current technologies and quality results.

(g) Discussions may be conducted with apparent responsive bidders to assure understanding of the best value bid. All bidders whose bids, in the County's sole judgment, need clarification shall be accorded such an opportunity.

(h) Bids shall be evaluated by using only the criteria stated in the best value bid and by adhering to the weighting as assigned. All evaluation factors, other than cost, will be considered prior to determining the effect of cost on the score for each participating bidder. Once the evaluation is complete, all responsive bidders shall be ranked from most advantageous to least advantageous to the County, considering only the evaluation factors stated in the best value bid.

(i) Award must be made to the responsive and responsible bidder whose bid is determined, in writing, to be most advantageous to the County, taking into consideration all evaluation factors set forth in the best value bid.

Two-Step Sealed Bidding

Two-step sealed bidding is a combination of competitive procedures designed to obtain the benefits of sealed bidding when adequate specifications are not available. An objective is to permit the development of a sufficiently descriptive and not unduly restrictive statement of the County's requirements, including an adequate technical data package, so that subsequent acquisitions may be made by conventional sealed bidding. This method is especially useful in acquisitions requiring technical proposals, particularly those for complex items. It is conducted in two steps:

(a) Step one consists of the request for, submission, evaluation, and (if necessary) discussion of a technical proposal. No pricing is involved. The objective is to determine the acceptability of the supplies or services offered. As used in this context, the word "technical" has a broad connotation and includes, among other things, the engineering approach, special manufacturing processes, and special testing techniques. It is the proper step for clarification of questions relating to technical requirements. Conformity to the technical requirements is resolved in this step, but not responsibility.

(b) Step two involves the submission of sealed priced bids by those who submitted acceptable technical proposals in step one. Bids submitted in step two are evaluated and the awards made in accordance with the bid requirements.

Conditions for use

(a) Unless other factors require the use of sealed bidding, two-step sealed bidding may be used in preference to negotiation when all of the following conditions are present:

- (1) Available specifications or purchase descriptions are not definite or complete or may be too restrictive without technical evaluation, and any necessary discussion, of the technical aspects of the requirement to ensure mutual understanding between each source and the County.

- (2) Definite criteria exist for evaluating technical bids.
- (3) More than one technically qualified source is expected to be available.
- (4) Sufficient time will be available for use of the two-step method.
- (5) A firm-fixed-price contract will be used.

Step one

(a) The request must include, as a minimum, the following:

- (1) A description of the supplies or services required.
- (2) A statement of intent to use the two-step method.
- (3) The requirements of the technical bid.
- (4) The evaluation criteria, to include all factors and any significant sub-factors.
- (5) A statement that the technical bids shall not include prices or pricing information.
- (6) The date, or date and hour, which bid must be received,
- (7) A statement that-

(i) In the second step, only bids based upon technical proposals determined to be acceptable, either initially or as a result of discussions, will be considered for awards, and

(ii) Each bid in the second step must be based on the bidder's own technical proposals.

(8) A statement that-

(i) Offerors should submit proposals that are acceptable without additional explanation or information,

(ii) The County may make a final determination regarding a proposal's acceptability solely on the basis of the proposal as submitted; and

(iii) The County may proceed with the second step without requesting further information from any offeror; however, the County may request additional information from offerors of proposals that it considers reasonably susceptible of being made acceptable, and may discuss proposals with their offerors.

(9) A statement that a notice of unacceptability will be forwarded to the offeror upon completion of the proposal evaluation and final determination of unacceptability.

(10) A statement either that only one technical proposal may be submitted by each offeror or that multiple technical proposals may be submitted. When specifications permit different technical approaches, it is generally in the County's interest to authorize multiple proposals.

(b) Information on delivery or performance requirements may be of assistance to bidders in determining whether or not to submit a proposal and may be included in the request. The request shall also indicate that the information is not binding on the County and that the actual delivery or performance requirements will be contained in the invitation issued under step two.

(c) Upon receipt, the procurement director shall-

- (1) Safeguard proposals against disclosure to unauthorized persons; conditions; and
- (2) Remove any reference to price or cost.

(d) The Procurement director shall establish a time period for evaluating technical proposals. The period may *vary with* the complexity and number of proposals involved. However, the evaluation should be completed quickly.

(e) Evaluations shall be based on the criteria in the request for bids and shall be categorized as-

- (1) Acceptable;
- (2) Reasonably susceptible of being made acceptable; or
- (3) Unacceptable.
- (4) Proposal that modifies, or fails to conform to the essential requirements or specifications of, the request for technical proposals shall be considered non-responsive and categorized as unacceptable.

(f) The Procurement director may proceed directly with step two if there are sufficient acceptable proposals to ensure adequate price competition under step two.

(g) When a technical proposal is found unacceptable (either initially or after clarification), the Procurement director shall promptly notify the offeror of the basis of the determination.

(h) Late technical proposals shall not be accepted.

Step two

(a) Sealed bidding procedures shall be followed except that Request for Bids shall-

- (1) Be issued only to those offerors submitting acceptable technical proposals in step one;
- (2) Bidders that has submitted multiple technical proposals in step one of this acquisition may submit a separate bid on each technical proposal that was determined to be acceptable to the County.
- (3) State that the bidder shall comply with the specifications and the bidder's technical proposal.

SECTION 7

REQUEST FOR INFORMATION &

COMPETITIVE PROPOSALS

Request For Information and Competitive Proposals

This section prescribes policies and procedures for-

- (a) Exchanging information with industry prior to receipt of proposals;
- (b) Preparing and issuing requests for proposals (RFP(s)) and requests for information (RFI(s)); and
- (c) Receiving proposals and information.

Request for Information before receipt of proposals

(a) Request for information from all interested parties, from the earliest identification of a requirement for a request for proposals, are encouraged. Any exchange of information must be consistent with procurement integrity requirements. Interested parties include potential offerors, end users, County acquisition and supporting personnel, and others involved in the conduct or outcome of the acquisition.

(b) The purpose of exchanging information is to improve the understanding of the County requirements and industry capabilities, thereby allowing potential offerors to judge whether or how they can satisfy the County's requirements, and enhancing the County's ability to obtain quality supplies and services, including construction, at reasonable prices, and increase efficiency in proposal preparation, proposal evaluation, negotiation, and contract award.

(c) Departments shall promote early exchanges of information about future acquisitions. An early exchange of information among industry and the contracting officer, project manager, and other participants in the acquisition process can identify and resolve concerns regarding the acquisition strategy, including proposed contract type, terms and conditions, and acquisition planning schedules; the feasibility of the requirement, including performance requirements, statements of work, and data requirements; the suitability of the proposal instructions and evaluation criteria, including the approach for assessing past performance information; the availability of reference documents; and any other industry concerns or questions. Some techniques to promote early exchanges of information are-

- 1) Industry or small business conferences;
- 2) Public hearings;
- 3) Market research;
- 4) One-on-one meetings with potential offerors (any that are substantially involved with potential contract terms and conditions should include the contracting officer; also see paragraph (f) of this section regarding restrictions on disclosure of information);
- 5) Pre-solicitation notices;
- 6) Draft RFP(s);
- 7) RFI(s);
- 8) Pre-solicitation or pre-proposal conferences; and
- 9) Site visits.

(d) The special notices or electronic notices may be used to publicize the County's requirement or request for information.

(e) RFI(s) may be used when the County does not presently intend to award a contract, but wants to obtain price, delivery, other market information, or capabilities for planning purposes. Responses to these notices are not offers and cannot be accepted by the County to form a binding contract. There is no required format for RFI(s).

(f) General information about the County mission needs and future requirements may be disclosed at any time. After release of the solicitation, the contracting officer must be the focal point of any exchange with potential offerors. When specific information about a proposed

acquisition that would be necessary for the preparation of proposals is disclosed to one or more potential offerors, that information must be made available to the public as soon as practicable, in order to avoid creating an unfair competitive advantage. Information provided to a potential offeror in response to its request must not be disclosed if doing so would reveal the potential offeror's confidential business strategy. When conducting a pre-solicitation or pre-proposal conference, materials distributed at the conference should be made available to all potential offerors, upon request.

Multi-step process

(a) The County may publish a pre-solicitation notice that provides a general description of the scope or purpose of the acquisition and invites potential offerors to submit information that allows the County to advise the offerors about their potential to be viable competitors. The pre-solicitation notice should identify the information that must be submitted and the criteria that will be used in making the initial evaluation. Information sought may be limited to a statement of qualifications and other appropriate information (e.g., proposed technical concept, past performance, and limited pricing information). At a minimum, the notice shall contain sufficient information to permit a potential offeror to make an informed decision about whether to participate in the acquisition. This process should not be used for multi-step acquisitions where it would result in offerors being required to submit identical information in response to the notice and in response to the initial step of the acquisition.

(b) The procurement director shall evaluate all responses in accordance with the criteria stated in the notice, and shall advise each respondent in writing either that it will be invited to participate in the resultant acquisition or, based on the information submitted, that it is unlikely to be a viable competitor. The director shall advise respondents considered not to be viable competitors of the general basis for that opinion. The director shall inform all respondents that, notwithstanding the advice provided in response to their submissions; they may participate in the resultant acquisition at the risk of being non-responsive.

Requests for proposals (RFP(s))

Competitive sealed requests for proposals may be used in the procurement of goods, services, and construction in the manner provided for herein.

(a) Conditions for use, When the county administrator determines that the use of competitive sealed bidding in procurement of particular goods, services, or construction is either not practicable or not advantageous to the county, it shall instruct the director of procurement or such other persons or entities as designated by the county council to utilize the competitive sealed proposals procedure established herein to contract for and procure the particular goods, services or construction required by the county.

(b) Proposals shall be solicited from at least three (3) qualified sources, when such sources are reasonably available.

A "request for proposal" is a written or published solicitation for proposals to provide goods, services, or construction, as described therein. Evaluation factors upon which the proposals will be evaluated for award of the contract shall be stated in the request for proposals. Price or cost shall be one of the evaluation factors but it shall not be the sole basis for award of the contract.

(c) Requests for proposals are used in negotiated acquisitions to communicate the County requirements to prospective contractors and to solicit proposals. RFP(s) for competitive acquisitions shall, at a minimum, describe the-

- (1) County's requirement;
- (2) Anticipated terms and conditions that will apply to the contract:
 - (i) The solicitation may authorize offerors to propose alternative terms and conditions, and
- (3) Information required to be in the offeror's proposal; and

(4) Factors and significant sub-factors that will be used to evaluate the proposal and their relative importance.

(d) Electronic commerce may be used to issue RFP(s) and to receive proposals, modifications, and revisions. In this case, the RFP shall specify the electronic commerce method(s) that offerors may use.

(e) Letter RFP(s) may be used in sole source acquisitions and other appropriate circumstances. Use of a letter RFP does not relieve the contracting officer from complying with other code requirements. Letter RFP(s) should be as complete as possible and, at a minimum, should contain the following:

- (1) RFP number and date;
- (2) Name, address (including electronic address and facsimile address, if appropriate), and telephone number of the contracting officer;
- (3) Type of contract contemplated;
- (4) Quantity, description, and required delivery dates for the item;
- (5) Applicable certifications and representations;
- (6) Anticipated contract terms and conditions;
- (7) Instructions to offerors and evaluation criteria for other than sole source actions;
- (8) Proposal due date and time; and
- (9) Other relevant information; e.g., incentives, variations in delivery schedule, cost proposal support, and data requirements.

(f) Public notice of the request for proposals shall be given at a reasonable time prior to the date set forth therein for the receipt of proposals. Such notice may include utilization of the vendors' list or publication in a newspaper of general circulation in the county.

Responsibilities

(a) The contracting officer is designated as the source selection authority.

(b) The contracting officer shall-

- 1) After release of a solicitation, serve as the focal point for inquiries from actual or prospective offerors;
- 2) After receipt of proposals, control exchanges with offerors.

Handling proposals and information

(a) Upon receipt at the location specified in the solicitation, proposals and information received in response to a request for information (RFI) shall be marked with the date and time of receipt.

(b) Proposals shall be recorded publicly in the presence of one (1) or more witnesses at the time and place designated in the request for proposals. Only the names of the offering participants shall be disclosed at the proposal opening. Contents of the proposals shall not be disclosed during the negotiation process. Proposals shall be open for public inspection after contract award, except that proprietary or confidential information in any proposal that is clearly marked "confidential" by the offering vendor shall not be disclosed without written consent of the offering vendor.

(c) Proposals shall be safeguarded from unauthorized disclosure throughout the source selection process. Information received in response to an RFI shall be safeguarded adequately from unauthorized disclosure.

(d) If any portion of a proposal received by the contracting officer electronically is unreadable, the contracting officer immediately shall notify the offeror and permit the offeror to resubmit the unreadable portion of the proposal. The method and time for resubmission shall be prescribed by the contracting officer after consultation with the offeror, and documented in the file. The resubmission shall be considered as if it were received at the date and time of the original

unreadable submission for the purpose of determining timeliness, provided the offeror complies with the time and format requirements for resubmission prescribed by the contracting officer.

Submission, modification, revision, and withdrawal of proposals

(a) Offerors are responsible for submitting proposals, and any revisions, and modifications, so as to reach the procurement office address as designated in the solicitation by the time specified in the solicitation. Offerors may use any transmission method authorized by the solicitation (*i.e.*, regular mail or electronic commerce). If no time is specified in the solicitation, the time for receipt is 4:00 p.m., local time, at the procurement office on the date that proposals are due.

(b) Any proposal, modification, or revision, that is received at the designated procurement office after the exact time specified for receipt of proposals is "late" and will not be considered unless it is received before award is made and the contracting officer determines that accepting the late proposal would not unduly delay the acquisition; and-

- (1) If it was transmitted through an electronic commerce method authorized by the solicitation, it was received at the initial point of entry to the county's main administration building not later than 5:00 p.m. one working day prior to the date specified for receipt of proposals; or
- (2) There is acceptable evidence to establish that it was received at the procurement office or location designated for receipt of proposals and was under the county's control prior to the time set for receipt of proposals; or
- (3) It was the only proposal received.

However, a late modification of an otherwise successful proposal, that makes its terms more favorable to the county, will be considered at any time it is received and may be accepted.

(c) Acceptable evidence to establish the time of receipt at the procurement office includes the time/date stamp of the procurement office on the proposal wrapper, other documentary evidence of receipt maintained by the installation, or oral testimony or statements of county personnel.

(d) If an emergency or unanticipated event interrupts normal Government processes so that proposals cannot be received at the procurement office designated for receipt of proposals by the exact time specified in the solicitation, and urgent Government requirements preclude amendment of the solicitation closing date, the time specified for receipt of proposals will be deemed to be extended to the same time of day specified in the solicitation on the first work day on which normal Government processes resume.

(e) Proposals may be withdrawn by written notice at any time before award. The contracting officer must document the contract file when withdrawals are made. One copy of withdrawn proposals should be retained in the contract file. Extra copies of the withdrawn proposals may be destroyed or returned to the offeror at the offeror's request and cost. Where practicable, electronically transmitted proposals that are withdrawn must be purged from primary and backup data storage systems after a copy is made for the file. Extremely bulky proposals must only be returned at the offeror's request and expense.

(f) The contracting officer must promptly notify any offeror if its proposal, modification, or revision was received late, and must inform the offeror whether its proposal will be considered; unless contract award is imminent then public notices would suffice.

(g) Late proposals and modifications that are not considered must be held unopened, unless opened for identification, until after award and then retained with other unsuccessful proposals.

(h) If available, the following must be included in the contracting office files for each late proposal, modification, revision, or withdrawal:

- (1) The date and hour of receipt.

- (2) A statement regarding whether the proposal was considered for award, with supporting rationale.
- (3) The envelope, wrapper, or other evidence of date of receipt.

Evaluation factors and significant sub-factors

(a) The award decision is based on evaluation factors and significant sub-factors that are tailored to the acquisition.

(b) Evaluation factors and significant sub-factors must-

- 1) Represent the key areas of importance and emphasis to be considered in the source selection decision; and
- 2) Support meaningful comparison and discrimination between and among competing proposals.

(c) The evaluation factors and significant sub-factors that apply to an acquisition and their relative importance are within the broad discretion of county procurement officials, subject to the following requirements:

- (1) Price or cost to the county shall be evaluated in every source selection,
- (2) The quality of the product or service shall be addressed in every source selection through consideration of one or more non-cost evaluation factors such as past performance, compliance with solicitation requirements, technical excellence, management capability, personnel qualifications, and prior experience; and
- (3) Past performance shall be evaluated in all source selections for negotiated competitive acquisitions.
- (4) Past performance need not be evaluated if the contracting officer documents the reason past performance is not an appropriate evaluation factor for the acquisition.

(d) All factors and significant sub-factors that will affect contract award and their relative importance shall be stated in the solicitation. The rating method need not be disclosed in the solicitation. The general approach for evaluating past performance information shall be described.

Proposal evaluation

(a) Proposal evaluation is an assessment of the proposal and the offeror's ability to perform the prospective contract successfully. An evaluation team shall evaluate competitive proposals and then assess their relative qualities solely on the factors and sub-factors specified in the solicitation.

(b) Evaluation factors. Proposals shall be evaluated using only the criteria stated in the request for proposals and there must be adherence to any weighing that has been previously assigned. The request for proposals shall state the relative importance of each evaluation factor. The evaluation factors shall be examined with respect to each proposal in determining which proposal is most advantageous to the county. There are no restrictions on the kind or number of evaluation factors that may be used, as long as they are stated in the request for proposals and relate to the purpose of the procurement.

(c) Discussions may be conducted with any with responsive and responsible vendors submitting a proposal that appears eligible for contract award (based upon the evaluation factors) for the purpose of clarification to assure full understanding of and responsiveness to the requirements of the request for proposals. A contract may be negotiated after an unsuccessful request for proposal at any time before an award is made provided that:

- 1) The negotiated price must be fair and within the limits of available funds as determined by the county council or its designee.

(d) Offering vendors shall be accorded fair and equal treatment with respect to any opportunity

for discussion and revision of proposals. Revisions in proposals may be permitted after their submission and prior to contract award for the purpose of obtaining best and final offers. In conducting negotiations, there must be no disclosure of any information derived from proposals submitted by competing offering vendors.

Oral presentations

- (a) Oral presentations by offerors may augment written information. Use of oral presentations to augment a written proposal can be effective in streamlining the source selection process. Oral presentations may occur at any time in the acquisition process, and are subject to the same restrictions as written information, regarding timing and content. Oral presentations provide an opportunity for dialogue among the evaluation team and the presenter. Pre-recorded presentations will not be accepted.
- (b) The information pertaining to an Offeror's methodology, capability, past performance, approaches, staffing resources, transition plans, or sample tasks (or other types of tests) may be suitable for oral presentations. In deciding what information to obtain through an oral presentation, the following will be considered:
- (1) The evaluation team ability to adequately evaluate the information;
 - (2) The complexity of the project;
 - (3) The impact on the efficiency of the acquisition.
- (c) The Contracting Officer will also consider alternatives to on-site oral presentations (*e.g.*, teleconferencing, video teleconferencing).
- (d) When oral presentations are required, the Contracting Officer shall provide offerors with sufficient information to prepare them. Accordingly, the Contracting Officer may describe-
- (1) The types of information to be presented orally and the associated evaluation factors that will be used;
 - (2) The qualifications for personnel that will be required to provide the oral presentation(s);
 - (3) The requirements for, and any limitations and/or prohibitions on, the use of written material or other media to supplement the oral presentations;
 - (4) The location, date, and time for the oral presentations;
 - (5) The restrictions governing the time permitted for each oral presentation; and
 - (6) The scope and content of exchanges that may occur between the evaluators and the Offeror's representatives as part of the oral presentations, including whether or not discussions will be permitted during oral presentations.
- (e) The contracting officer shall maintain a record of oral presentations to document what the County relied upon in making the source selection decision. The method and level of detail of the record (*e.g.*, videotaping, audio tape recording, written record, notes, and copies of offeror briefing slides or presentation notes) shall be at the discretion of the Contracting Officer. A copy of the record placed in the file may be provided to the offeror.
- (f) When an oral presentation includes information that the parties intend to include in the contract as material terms or conditions, the information shall be put in writing. Incorporation by reference of oral statements is not permitted.
- (g) The evaluation team must not conduct discussion(s) during an oral presentation.
- (h) The contracting Officer's opportunity to re-score and consolidate the new scores.
- (i) Ranking process is considered the highest score received.
- (j) A Notice of Ranking memo will be generated and sent to the Administrator for approval.

Documenting the negotiation

(a) The contracting officer shall document in the contract file the principal elements of the negotiated agreement. The documentation (e.g., price negotiation memorandum (PNM)) shall include at a minimum the following:

- 1) The purpose of the negotiation.
- 2) A description of the acquisition, including appropriate identifying numbers (e.g., RFP No.).
- 3) The name, position, and organization of each person representing the contractor and the county in the negotiation.
- 4) A summary of the contractor's proposal
- 5) Documentation of fair and reasonable pricing

(b) Projects under \$100,000. you can proceed with negotiation and award

(c) Projects over \$100,000. requires County Council approval for negotiation and award

(d) Issue Intent to award notice

(e) After protest period, process the requisition and award

Award

Subject to any exceptions found in this article, the award shall be made to the responsive and responsible offering vendor, whose proposal is determined to be the most advantageous to the county, taking into consideration price or cost and the other evaluation factors set forth in the request for proposals. If the county council or its designee should determine that none of the proposals is advantageous to the county, the county shall have the absolute right to reject any and all proposals. The contract file shall contain the basis on which the award is made and be sufficient to satisfy external audit.

SECTION 8

SELECTION OF FIRMS FOR PROFESSIONAL & CONSULTING SERVICES

Selection of Firms for Professional and Consulting Services

Selection criteria

(a) The director of procurement (Director) shall evaluate each potential company, firm, person or entity in terms of its-

- (1) Professional qualifications necessary for satisfactory performance of required services;
- (2) Specialized experience and technical competence in the type of work required;
- (3) Capacity to accomplish the work in the required time;

(4) Past performance on contracts with Government agencies and private industry in terms of cost control, quality of work, and compliance with performance schedules;

(5) Location in the general geographical area of the project and knowledge of the locality of the project; provided, that application of this criterion leaves an appropriate number of qualified firms, given the nature and size of the project; and

(6) Acceptability under other appropriate evaluation criteria.

Evaluation team

(a) When acquiring professional services, the Director or shall establish an evaluation team of three or more individuals (preferably odd numbers) to be composed of members who, collectively, have experience in the areas of professional services requested, architecture, engineering, construction, information technology, finance, procurement, Government and related acquisition matters. Members shall be appointed from among qualified employees of the county and if authorized by the Administrator (Administrator) other agencies, private practitioners, professionals and any related professions or any citizen deemed qualified to perform such services.

(b) No firm shall be eligible for award of a professional services contract during the period in which any of its principals or associates are participating as members of the evaluation team.

Evaluation team functions

(a) Under general direction, an evaluation team shall perform the following functions:

- (1) Review the current data submitted and responses to a public notice concerning the particular request for qualifications.
- (2) Evaluate the firms in accordance with the criteria in the request for qualifications.
- (3) Hold discussions (if required) with at least three of the most highly qualified firms regarding concepts and the relative utility of alternative methods of furnishing the required services.
- (4) Prepare a selection/evaluation report for the Director recommending, in order of preference, the firms that are considered to be qualified to perform the required services. The report shall include a description or narrative of the evaluation conducted.

Selection authority

(a) The Administrator shall make decision.

(b) The Administrator shall review the recommendations of the evaluation team and with the advice of appropriate technical and staff representatives, make a recommendation. The recommended shall be on a listing of firms considered qualified. All firms on the selection list are considered "selected firms" with which the contracting officer may negotiate.

Collecting data on and appraising firms qualifications

(a) *Data files and the classification of firms.* The Office of Procurement shall maintain professional services qualifications data file and shall review the qualifications filed, and shall classify each firm with respect to-

- (1) Location;
- (2) Specialized experience;
- (3) Professional capabilities; and
- (4) Capacity, with respect to the scope of work that can be undertaken. A firm's ability and experience in computer-assisted design should be considered, when appropriate.

(b) *Current files.* Qualifications data files shall be reviewed and updated at least once every two years. This process should include:

- (1) Encouraging firms to submit a biennial updated statement of qualifications and performance data.
- (2) Reviewing the qualification data files.
- (3) Recording any contract awards made to the firm in the past year.
- (4) Assuring that the file contains a copy of each pertinent performance report.
- (5) Discarding any material that has not been updated within the past two years, if it is no longer pertinent.
- (6) Posting the date of the review in the file.

Performance evaluation

(a) *Preparation of performance reports.* For each contract of more than \$15,000, performance evaluation reports shall be prepared. Performance evaluation reports may also be prepared for contracts of \$15,000 or less.

- (1) A report shall be prepared after final acceptance of the contract work or after contract termination.
- (2) A report may also be prepared after completion of the actual construction of the project.
- (3) In addition to the reports in paragraphs (a) {1} and (2) of this section, interim reports may be prepared at any time.
- (4) If the evaluating official concludes that a contractor's overall performance was unsatisfactory, the contractor shall be advised in writing that a report of unsatisfactory performance is being prepared and the basis for the report. If the contractor submits any written comments, the evaluating official shall include them in the report, resolve any alleged factual discrepancies, and make appropriate changes in the report.

(b) *Review of performance reports.* Each performance report shall be reviewed to ensure that it is accurate and fair. The reviewing official should have knowledge of the contractor's performance.

Government cost estimate for professional service work

(a) An independent estimate of the cost of professional services shall be prepared prior commencing negotiations for each proposed contract or contract modification. The estimate shall be prepared on the basis of a detailed analysis of the required work.

(b) Access to information concerning the county estimate shall be limited to county personnel whose official duties require knowledge of the estimate. An exception to this rule may be made during contract negotiations to allow identification of a specialized task and disclose the

associated cost breakdown figures in the county estimate, but only to the extent deemed necessary to arrive at a fair and reasonable price. The overall amount of the county's estimate shall not be disclosed.

Negotiations

(a) Unless otherwise specified the Director shall conduct negotiations. Negotiations shall be conducted beginning with the firm providing the most responsible and responsive proposal and or the selected firm which meets all the requirements and is most advantageous to the county.

(b) The Director should request a proposal from the firm

(c) The selected firm shall be advised that no construction contract may be awarded to the firm that designed the project unless it's a Design Build project.

(d) If mutually satisfactory terms and conditions cannot be negotiated, the Director shall obtain a written final proposal revision from the firm, and notify the firm that negotiations have been terminated. The contracting officer shall then initiate negotiations with another qualified firm on the qualification list. This procedure shall be continued until a mutually satisfactory contract has been negotiated. If negotiations fail the Director shall provide the Administrator a memorandum as to why a contract cannot be negotiated, and may recommend negotiating with additional firm(s) on the list.

Release of information on firm selection

(a) After final selection has taken place, the Director may release information identifying only the firm with which a contract will be negotiated for certain work. The work should be described in any release only in general terms, unless information relating to the work is classified. If negotiations are terminated without awarding a contract to the highest rated firm, the contracting officer may release that information and state that negotiations will be undertaken with another (named) firm.

(b) Debriefings of successful and unsuccessful firms may be held after final selection has taken place only as requested.

Liability for Government costs resulting from design errors or deficiencies

Professionals shall be responsible for the professional quality, technical accuracy, and coordination of all services required under their Agreement with the county. A firm may be liable for costs resulting from errors or deficiencies in designs furnished under its contract. Therefore, when a modification to a contract is required because of an error or deficiency in the services provided under a contract, the Director (with the advice of technical personnel and legal counsel) shall consider the extent to which the contractor may be reasonably liable. The Director shall enforce the liability and collect the amount due, if the recoverable cost will exceed the administrative cost involved or is otherwise in the county's interest. The Director shall include in the contract file a written statement of the reasons for the decision to recover or not to recover the costs from the firm.

Design within funding limitations

(a) The county may require the professional service firm to design the project so that costs will not exceed a contractually specified dollar limit (funding limitation). If the price proposed in response to a county solicitation exceeds the funding limitation in the professional service contract, the firm shall be solely responsible for redesigning the project within the funding limitation if an amendment has not been agreed to by both parties in writing by the authorized agents. These additional services shall be performed at no increase in the price of this contract. However, if the cost of proposed project is affected by events beyond the firm's reasonable control (e.g., if there is an increase in material costs which could not have been

anticipated, or an undue delay by the county in issuing a solicitation), the firm shall not be obligated to redesign at no cost to the county. If a firm's design fails to meet the contractual limitation on project cost and the county determines that the firm should not redesign the project, a written statement of the reasons for that determination shall be placed in the contract file.

(b) The amount of the project funding limitation is to be established during negotiations between the contractor and the county. This estimated project contract price should take into account any statutory or other limitations and exclude any allowances for county supervision and overhead and any amounts set aside by the county for contingencies. In negotiating the amount, the Director may make available to the contractor the information upon which the county has based its initial project estimate and any subsequently acquired information that may affect the project costs.

Redesign responsibility for design errors or deficiencies

(a) Under professional service contracts, contractors shall be required to make necessary corrections at no cost to the county when the designs, drawings, specifications, or other items or services furnished contain any errors, deficiencies, or inadequacies. If, in a given situation, the county does not require a firm to correct such errors, the Director shall include a written statement of the reasons for that decision in the contract file.

Architects

Contracting with an architect for professional services on any basis must be done by direct negotiations. Prior to selection of an architect for conducting business with the county and to negotiate; the architect must meet the pre-qualification criteria's for consulting and professional services. The architect must understand, show and meet the following minimum criteria's prior to selection for negotiations:

- (a) understands the nature of the project,
- (b) the proximity (location) of the architect to the project,
- (c) the capability of the architect, engineer to produce the required service within a reasonable time,
- (d) past performance, and
- (e) ability to meet project budget requirements,
- (f) shows creativity and insight to the project
- (g) meets any electronic and technically advance requirements of the project,
- (h) ability to provide the most current and latest process available in the industry.

SECTION 9

CONTRACTING OFFICER'S REPRESENTATIVE

Contracting Officer's Representative (COR)

Objective

To provide necessary guidelines for Contracting Officer's Representatives (COR) to effectively monitor contractor performance. The only way we can be sure that we are getting a dollar's worth of service for every dollar paid is by tough and fair COR monitoring of contractor performance.

Instruction

It is the goal of Richland County to have successful contract performance, which means completion of work or service on time, within budget, with a quality of product or services. The COR is the key to making this happen.

Responsibilities

Contracting Officer for the County is the Director of Procurement. He/she is responsible for all contracts from the point of advertising of a contract to completion of the services requested.

Contract Administrator is the individual who administers the contract from the time of award to the completion of the services requested.

Contracting Officer's Representative (COR) is an individual, appointed in writing, to monitor contractor performance during the life of a specific contract.

Duties of the COR

A COR is an expert in the area that he is appointed to monitor contract(s). Once the COR is assigned the responsibility to monitor a contract(s), she/he should immediately read and understand the scope of work; i.e. exactly what are we paying the contractor to do.

The COR must read, understand, and be able to quote exactly what we are expecting to receive from the contractor line by line, specification by specification.

The COR must establish, with the assistance of the Contracting Officer, a surveillance plan which details the monitoring methods which will insure compliance with the contract specifications and scope of work/service. The following tools are available to monitor contractor performance.

- Contractor Failure to Perform
- Check List
- Record of Inspections

All instances of failure to perform in accordance with the specifications and scope of work of the contract must be reported by the COR. These instances of failure to perform will allow the Contract Administrator to counsel the contractor about the failure to perform. Further reports from the COR of failure to perform will result in penalties or ultimately termination of the contract. In order for the COR to report instances of failure to perform, the COR must know exactly what the contract calls for.

The COR does not confront the contractor when failures are discovered. The COR is a scout who reports deficiencies to the Contract Administrator. This is the person who confronts the contractor.

The COR must maintain records, as instructed by the Contract Administrator and upon completion of the contract shall forward the closed-out file to the Office of Procurement for retention in the contract file. As a minimum, The COR file shall include:

- a. Copy of COR appointment letter;
- b. Copy of contract with all modifications;
- c. Notice of Award and/or Notice to Proceed;
- d. Statement indicating that COR understands and is aware of the ethical standards required; and
- e. Copy of records of COR inspections and conferences.

We always hope that contractors who are given awards to provide services to Richland County are willing and capable of providing a dollar's worth of service for every tax dollar paid. As the COR you are the key person in making sure that happens. Don't let the citizens of our County down. Help make Richland County, South Carolina's County of Excellence.

DO'S AND DON'TS

a. GENERAL

Chapter 2, Article IV, Code of Ethics, Richland County Code of Ordinances, is applicable to all County officials and employees, especially those officials and employees involved in contract dealings with private industry. As such, each designated contracting and related activities must conduct business dealings with industry in a manner above reproach in every respect and must protect the County's interest and maintain its reputation of fair dealings with contractors.

b. GUIDANCE FOR CONTRACTING OFFICER'S REPRESENTATIVES

When the Contracting Officer determines that a COR will be appointed for a specific contract, the Contracting Officer shall prepare an appointment letter which delineates the COR on the extent of the delegation of authority. Some of the more common requirements and limitations for the COR are given below:

1. retain the appointment letter. The letter defines the delegation of authority to the COR.
2. understand the limits of authority delegated to the COR.
3. keep a copy of the contract, change orders and other contract documents available.
4. become familiar with the terms and conditions of the contract.
5. establish and maintain a project file for all documents and correspondence pertaining to the contract. The file is to be forwarded to the Contracting Officer for inclusion in the official contract file after the contract is completed.
6. ensure that a Notice-to-Proceed is issued on a timely basis by the Contracting Officer to the selected contractor.
7. ensure that a pre-construction conference is held to discuss contract provisions and requirements, and to clarify any issues of concern to the contractor.
8. give prompt attention to correspondence requiring COR action.
9. spot check the contractor's work to ensure that it meets contract requirements. This includes the work of subcontractors.
10. follow up to have deficient work corrected. However, the COR is not to give instructions to or supervise the contractor's employees or subcontractors.
11. maintain a log (record) of inspections.
12. complete required reports in a timely and accurate manner.
13. make certain that all emergency situations are attended to and resolved as quickly as possible. DO keep the Contracting Officer advised of the emergency and actions taken to correct the situation.
14. inform the contractor immediately when unsatisfactory performance is noted. Differences of opinion or interpretation of contract requirements between the COR and the contractor which cannot be mutually resolved will be referred to the Contracting Officer.
15. report to the Contracting Officer any problem that has the potential of causing delay or increasing the cost of the project.
16. give instructions to the contractor in writing, first ensuring that they are within the scope of the COR's authority.
17. obtain as-built drawings, technical bulletins, operational and maintenance manuals, warranties, keys, and other related data prior to making final payment to the contractor. The COR will make appropriate distribution of these documents.
18. **DON'T** tell the contractor how to run his business or resolve problems. This is his responsibility.
19. **DON'T** get involved with the contractor's personnel procedures or give instructions to the contractor's employees.
20. **DON'T** let personalities enter into discussions with the contractor.
21. **DON'T** request the contractor to do work outside the scope of the contract.
22. **DON'T** permit the contractor to proceed on his own with work outside the contract. The contractor may claim additional payment for the extra work. Immediately advise the Contracting Officer if the contractor persists in proceedings with the unauthorized work.
23. **DON'T** commit the use of County personnel, equipment or supplies to assist the contractor, unless the County furnished support is specifically provided for in the contract.

SECTION 10

**BLANKET PURCHASE
ORDERS (BPO)**

Blanket Purchase Orders, (BPO(s))

General

(a) A blanket purchase order (BPO) is a simplified method of filling anticipated repetitive needs for supplies, goods or services by establishing "charge accounts" with qualified sources of supply. BPO(s) are agreements normally established for supplies, goods, or services for which the price is determined and remains consistent, for a pre-determined amount and a pre-determined timeframe.

(b) BPO(s) are established for use by County departments responsible for providing supplies for its own operations or for other offices, projects, or functions.

(c) The use of BPO(s) does not exempt a department from the responsibility for keeping obligations and expenditures within available funds.

Establishment of BPO(s)

(a) The following are circumstances under which contracting officers may establish BPO(s):

- 1) There are a wide variety of items in a broad class of supplies or services that are generally purchased, but the exact items, quantities, and delivery requirements are not known in advance and may vary considerably;
- 2) There is a need to provide sources of supply for one or more departments;
- 3) The use of this procedure would avoid the writing of numerous purchase orders;
- 4) There is no existing requirements contract for the same supply or service that Procurement is required to use;
- 5) Recurring requirements for the same or similar supplies or services seem likely;

- i) Qualified sources are willing to accept BPO(s); and
- ii) It is otherwise practical to do so.

6) Limit documentation of purchases to essential information and forms.

(b) After determining a BPO would be advantageous, Procurement shall-

- 1) Conduct a solicitation for the required goods, supplies or service;
- 2) Establish the parameters to limit purchases to individual items or commodity groups or classes, and
- 3) Consider vendors whose past performance has shown them to be dependable, who offer quality supplies or services at consistently lower prices.

(c) BPO(s) may be established with-

- 1) More than one supplier for supplies or services of the same type to provide maximum practicable competition;
- 2) A single firm from which numerous individual purchases at or below the informal purchasing threshold will likely be made in a given period.

(d) BPO(s) should be prepared with a purchase order and a requisition and only after contacting suppliers to make the necessary arrangements for-

- 1) Securing maximum discounts and prices;
- 2) Periodic billings and payments;
- 3) Shipping and delivery;
- 4) Warranties;
- 5) Scope of Work/Service;
- 6) Specifications; and
- 7) Additional terms and conditions.

The following terms and conditions are mandatory

(a) Description of agreement: A statement that the vendor shall furnish supplies or services, described in general terms, if and when requested by an authorized representative of the County during a specified period and within a stipulated aggregate amount, if any.

(b) Extent of obligation: A statement that the County is obligated only to the extent of authorized purchases actually made under the BPO by County employees.

(c) Delivery/Receiving Report. A requirement that all shipments under the agreement, except those for newspapers, magazines, or other periodicals, shall be accompanied by delivery/receiving report, tickets, or sales slips that shall contain the following minimum information:

- 1) Name of supplier
- 2) BPO number
- 3) Date of purchase
- 4) Purchase number
- 5) Itemized list of supplies or services furnished
- 6) Quantity, unit price, and extension of each item, less applicable discounts
- 7) Date of delivery or shipment

(d) Invoices. A summary invoice shall be submitted at least monthly or upon expiration of the BPO, whichever occurs first, for all deliveries made during a billing period, identifying the delivery tickets covered therein, stating their total dollar value, and supported by receipt copies of the delivery tickets.

(e) Individual purchases shall not exceed the BPO(s) threshold.

(f) The existence of a BPO does not justify purchasing from only one source or avoiding small, woman, disabled, and minority owned business.

(g) Use a BPO only for purchases that are otherwise authorized by law or regulation. If, for a particular purchase greater than the authorized purchase threshold, Procurement must solicit quotations from other sources and make the purchase as appropriate; and

Review procedures

(a) The procurement official placing orders under a BPO, or the designated representative of the Director, shall review a sufficient random sample of the BPO files at least annually to ensure that authorized procedures are being followed.

SECTION 11
QUOTATIONS

Quotations

A quote is not an offer or a binding contract. Therefore, issuance of a purchase order (PO) in response to a vendor's quotation does not establish a binding contract. The purchase order is an offer by the County to the vendor to make certain purchases for goods, supplies or services upon specified terms and conditions. A contract is established when the vendor accepts the offer in writing or delivers the supplies, goods or services.

If the County issues an order resulting from a quotation, the County may (by written notice to the vendor, at any time before acceptance occurs) withdraw, amend, or cancel its offer.

The Procurement official must ask the vendor to indicate acceptance of an order by notification to the County, preferably in writing. All PO's resulting from a quote must have an acceptance from an authorized person from the vendor from whom we are purchasing. In other circumstances, the vendor may indicate acceptance by furnishing the goods, supplies or services ordered or by proceeding with the work to the point where substantial performance has occurred.

When soliciting quotes, the Procurement official must notify vendors of the basis on which award will be made (price alone or price and other factors, e.g., past performance and quality). Procurement officials are encouraged to use best value. When performing informal solicitations the procurement official is not required to state the relative importance assigned to each evaluation factor and sub-factor, nor are they required to include sub-factors.

The director of procurement must promote competition to the maximum extent practicable to obtain supplies, goods, and services from the source whose offer is the most advantageous to the County, considering the administrative cost of the purchase.

(a) The procurement official must not-

- (1) Solicit quotations based on personal preference; or
- (2) Restrict solicitation to suppliers of well-known and widely distributed makes or brands.

(b) Soliciting from a single source.

- (1) For purchases not exceeding the informal solicitation threshold, procurement official may solicit from one source if the procurement official determines (in writing) that the circumstances of the contract action deem only one source reasonably available (e.g., urgency, exclusive licensing agreements, or industrial mobilization).

(c) Price Reasonableness.

- (1) Procurement officials may make purchases not exceeding one thousand five hundred dollars without Soliciting competitive quotations if the prices are considered to be fair and reasonable. Distribution of purchases must be made equitably among qualified Vendors.
- (2) Procurement officials must solicit from other than the previous supplier before placing a repeat order, whenever practical in order to accomplish equity.
- (3) Procurement officials must take action to verify the fairness and reasonableness of the price quoted.

(d) Soliciting orally.

- (1) Small purchases not exceeding \$5,000.00 (excluding tax, shipment and handling charges):

- (i) The procurement official must solicit quotations orally to the maximum extent practicable, if- the purchase does not exceed the five thousand (\$5,000.00) small purchase threshold; all construction purchases must be in writing.

(ii) The procurement official should establish and maintain records of oral quotes in order to have a record of placing the order at the price paid with the vendor concerned. The record must consist of showing the vendors contacted, names of the person who made the quote, prices quoted, and other terms and conditions quoted.

(e) The purchase is for emergency purpose.

(1) For purchases from \$5,000.01 to \$15,000.00 (excluding tax, shipment and handling charges):

(i) Solicitations of written quotes from a minimum of three (3) qualified sources of supply shall be made and documented. Such documentation shall be written on or attached to the purchase order.

(f) Evaluation of quotes

Procurement officials shall evaluate informal solicitations in an impartial manner; and must include transportation charges and delivery timeframe. The informal solicitation shall be evaluated on the basis established in the solicitation.

(1) Evaluation procedures. Each procurement official must use evaluation procedures relative to the solicitation such as price, shipping cost, delivery timeframe, warranty, and past performance.

(i) The procurement official shall use his or her discretion in fashioning suitable evaluation procedures.

(ii) If using price and other factors, insure that quotations or offers can be evaluated in an efficient and minimally burdensome fashion. Formal evaluation plans and establishing a competitive range, conducting discussions, and scoring quotations or offers are not required. Procurement officials may conduct comparative evaluations of offers. Evaluation of other factors, such as past performance-

(A) Does not require the creation or existence of a formal data base; and

(B) May be based on information such as the procurement official's knowledge of and previous experience with the supply or service being acquired, customer surveys, or other reasonable basis.

(2) For acquisitions conducted using electronic mail or a method that permits electronic response to the solicitation, the contracting officer may-

(i) After preliminary consideration of all quotations or offers; identify from all quotations or offers received one that is suitable to the user, such as the lowest priced brand name product. and quickly screen all lower priced quotations or offers based on readily discernible value indicators, such as past performance, warranty conditions, and maintenance availability; or

(ii) Where an evaluation is based only on price and past performance, make an award based on whether the lowest priced of the quotations or offers having the highest past performance rating possible represents the best value when compared to any lower priced quotation or offer.

(g) Special situations. Include additional statements explaining the absence of competition if only one source is solicited.

(h) Formal solicitations. For purchases above \$15,000.01 (excluding tax, shipment and handling charges):

(1) Formal solicitation from a minimum of three (3) qualified sources of supply shall be made and documented. Such documentation shall be written and attached to the

purchase order of record.

(2) Procurement Officials shall issue a written solicitation for all construction.

i) Award and documentation

(1) *Basis for award.* Before making award, the contracting officer must determine that the proposed price is fair and reasonable, by:

(i) Whenever possible, insuring base price reasonableness on competitive quotations or offers;

(ii) If only one response is received, include a statement of price fairness and reasonableness in the contract file. The Procurement Official may base the statement on-

(A) Market research;

(B) Comparison of the proposed price with prices found reasonable and fair on previous purchases;

(C) Current price lists, catalogs, or advertisements. However, inclusion of a price in a price list, catalog, or advertisement does not, in and of itself, establish fairness and reasonableness of the price;

(D) A comparison with similar items in a related industry;

(E) The Procurement Official's personal knowledge of the item being purchased;

(F) Comparison to an independent Government estimate; or

(G) Any other reasonable basis.

(iii) Occasionally an item can be obtained only from a supplier that quotes a minimum order price or quantity that either unreasonably exceeds stated quantity requirements or results in an unreasonable price for the quantity required. In these instances, the Procurement Official should inform the requiring department of all facts regarding the quotation or offer and ask it to confirm or alter its requirement. The file shall be documented to support the final action taken.

j) File documentation and retention.

Keep documentation to a minimum. Purchasing offices shall retain data supporting purchases (paper or electronic) to the minimum extent and duration necessary for management review purposes. The following illustrate the extent to which quotation or offer information should be recorded:

(1) *Written solicitations.* For acquisitions not exceeding the simplified acquisition threshold, limit written records of solicitations or offers to notes or abstracts to show prices, delivery, references to printed price lists used, the supplier or suppliers contacted, and other pertinent data.

(3) Special situations. Include additional statements-

(i) Explaining the absence of competition if only one source is solicited and the acquisition does not exceed the threshold, or

(ii) Supporting the award decision if other than price-related factors were considered in selecting the supplier.

SECTION 12
SOLE SOURCE PROCEDURES

Sole Source Procedures

(a) Sole Source Procurement is when only one vendor possesses unique and singularly available capacity to meet the requirements such as technical qualifications, ability to deliver at and in a particular time. When the required supplies or services are available from only one source and no other type of property or services will satisfy the need.

(b) A true Sole Source product is available from only one source, often determined by patent or copyright protection, proprietary rights and capacity of one supplier to provide superior capabilities unobtainable from any other supplier for similar products.

(c) Sole Source must be justified with information of efforts undertaken to locate possible alternative supplier. Provide explanation of the reason that specifications suitable for full and open competition could not be developed and that it is necessary and in the county's best interest to use Sole Source rather than full and open competition. Sole Source addresses the source of a product or services not the item itself.

(d) The following examples describing minimum circumstances, which could necessitate "Sole Source" procurement:

- (1) Where the compatibility of equipment, accessories, or replacement parts is the paramount consideration;
- (2) Where a sole supplier's item is needed for trial use or testing;
- (3) Where a sole source supplier's item is to be procured for resale;
- (4) Where public utility services are to be procured;
- (5) Where the item is one of a kind; and
- (6) Printed forms, pamphlets, brochures, exclusive of printing equipment.

(e) Explanation of Sole Source Circumstances

(1) Sole Source Justification Requirements:

- (i) Explain why the item is needed and what will happen if it's not received by the Required Delivery Date (ROD). Describe impact on overhaul/availability schedules, to support, personnel safety issues, potential environmental damages, etc., and include the dollar value associated with late delivery.
- (ii) Explain the unique features/function of the item and why only one manufacturer can provide it. Discuss why a similar product from another manufacturer will not work.
- (iii) If the item can only be obtained from the OEM (Original Equipment Manufacturer), discuss the proprietary (i.e. owned by the company, not for public release) design/drawing/specification requirements.
- (iv) If there is a higher order requirement mandating a particular manufacturer (Public Safety equipment, goods and services), cite the requirement and who approved or required its usage. For component repair or replacement parts, explain any compatibility requirements, including a description of the existing equipment and the interface requirements.

(2) A contract may be awarded for a supply, service, or construction item without competition when, under the code of ordinances, the procurement director, determines in writing that there is only one source for the required supply, service, or construction item. Written documentation must include the determination and basis for the proposed sole source procurement. In cases of reasonable doubt, competition must be solicited. A determination by a department that a purchase be restricted to one potential vendor must be accompanied by an explanation as to why no other will be suitable or acceptable to meet the need.

SECTION 13

EMERGENCY PURCHASING

Emergency Purchasing

(a) Definitions that should be used when determining a true Emergency Purchases:

(1) Emergency procurement is when there is an unexpected situation or sudden occurrence of a serious and urgent nature that causes an immediate threat to public health, welfare, critical economy and efficiency, or safety under emergency conditions and any other reason as defined in the laws and regulations, and proclaimed by the County Council, County Administrator or authorized representative.

(2) The occurrence of emergency conditions must create an immediate and serious need which cannot be met through normal procurement methods and the lack of which would seriously threaten:

- (i) the functioning of the County government;
- (ii) the preservation or protection of property; and
- (iii) the health, welfare, or safety of any person

(3) Emergency procurements are limited to purchases necessary to alleviate the emergency and only those conditions that create a serious need that must be fulfilled immediately and the Department cannot follow the normal procurement procedures. Taking this into account, whatever competition, as is practicable and required, should be obtained. The Director of Procurement must approve all emergency purchases \$30,000.00 or less. The County Administrator or authorized representative must approve emergency purchases of \$30,000.01 through \$100,000.00, and purchases of \$100,000.01 or more require approval of the County Council.

(4) Whenever possible the Department must obtain approval prior to making purchases. If not possible (such as weekends and after normal hours) the department must report the circumstances and obtain approval on the next working day. To a practical extent, under the circumstances emergency purchases should be made competitively to attain the best value and cost.

(5) Emergency requisitions will be accepted via e-mail, fax, or telephonically from authorized department personnel. These requisitions will be processed as expeditiously as possible contingent on receiving all required information and having sufficient funds to make the purchase.

(6) Failure to anticipate normal needs does not constitute an emergency

(b) Disaster or Emergency Assistance Activities

(1) When contracting under this section for major disaster or emergency assistance activities, such as debris clearance, distribution of supplies, or reconstruction, preference shall be given, to the extent feasible and practicable, to those organizations, firms, or individuals residing or doing business primarily in the area affected by such major disaster or emergency.

(2) The authority to provide preference applies only to those acquisitions conducted during the term of a major disaster or emergency declaration made by the County Council.