

FORSYTH COUNTY
PROCUREMENT POLICIES AND PROCEDURES –
August 9, 2022

This policy shall govern all acquisitions and dispositions by Forsyth County of commodities, equipment and services and all related contracts and agreements. This policy supersedes all previous existing policies to the extent they are inconsistent with the provisions thereof.

PURPOSES

This policy shall be construed and applied to promote its purposes. The purposes of this policy are:

1. To foster effective, fair and broad-based competition for public procurement within the free enterprise system.
2. To provide safeguards for the maintenance of quality, integrity and equity in the purchase and disposition of County property.
3. Encourage advanced planning.
4. Encourage cooperative intergovernmental purchasing by departments.
5. Improve systems and techniques involved in the procurement process.

A. **CODE OF ETHICS**

This policy incorporates the "Code of Ethics Policy" adopted by the Board of Commissioners. Neither the Procurement Department nor any staff employed in the department shall accept any gratuities of any nature in conducting County business.

B. **BUDGETED EXPENDITURES**

It is the responsibility of the Department Directors to ensure all purchases are consistent with and support the current approved budget prior to committing funds. Specific approval is required for certain capital purchases, as provided in the Budget Resolution.

C. **AUTHORITY AND RESPONSIBILITY OF PROCUREMENT DEPARTMENT AND
DIRECTOR OF PROCUREMENT**

The Procurement Department shall serve all Forsyth County government by obtaining required commodities and services in accordance with the laws of the State of Georgia and this Policy. The Director of Procurement shall, except as otherwise specified herein, be responsible for the administration of all transactions governed by the provisions of this policy and shall serve as the principal procurement officer of the County. Unless otherwise provided, any duties and powers of the Director of Procurement may be delegated by him/her to subordinate Procurement agents/buyers and other employees/elected officials. The Director of Procurement shall be subject to the authority and supervision of the County Chief Financial Officer, County Manager, and the Board of Commissioners.

D. PROCUREMENT PROCEDURES

The Director of Procurement is authorized to establish, implement and enforce written operational procedures relating to acquisitions and dispositions contained in this Policy. Such procedures shall, to the extent consistent with applicable law and this Policy, be based upon generally accepted public procurement principles and practices and shall become effective upon approval by the County Manager. Additionally, these procedures may be revised, as necessary, through the same process used for their initial approval.

E. DELEGATION OF AUTHORITY TO USER DEPARTMENTS

With the approval of the County Manager, the Director of Procurement may delegate to personnel within user departments the authority to purchase certain commodities or services if such delegation is deemed advantageous to the County or necessary for the effective procurement of those items. The Director of Procurement shall recommend to the County Manager parameters, criteria and procedures for the management of this delegation of procurement authority.

Delegated purchases will be processed under the same procedures and Policy provisions as those that govern the procurement process. No delegation may be allowed until individuals within the user department have demonstrated adequate knowledge and understanding of the existing rules, procedures and policy. User departments are responsible for maintenance of appropriate documentation related to delegated purchases.

F. DISCLAIMER OF RESPONSIBILITY FOR IMPROPER PROCUREMENT

The Board of Commissioners may disclaim responsibility and liability for any expenditure or agreement for expenditure arising from a procurement made in its name, or in the name of any governmental body under its authority, by an unauthorized person or any person acting outside this Policy or the authorization or delegation as provided in this Policy. The expense of any such disclaimed transaction will become the personal liability of the individual who acted improperly.

G. TRANSPORTATION AGREEMENT REQUIREMENTS

Title VI. The County shall comply with Title VI of the Civil Rights Act, as amended, 42 U.S.C. 2000 d, section 303 of the Age Discrimination act of 1975, as amended, 42 U.S.C. 6102, section 202 of the Americans with Disabilities Act of 1990, 32 U.S.C. 12132, all other provisions of Federal law, and with its Nondiscrimination Agreement with the Georgia Department of Transportation.

Brooks Act and 23 CFR 172. The County shall comply with the procedures set forth in Appendix A, attached to and incorporated by reference as part of this Policy. Said procedures shall be administered by a committee appointed by the Procurement Department.

G. PUBLIC ADVERTISING

Operational procedures will be developed to define the requirements for public advertising to conform to all applicable provisions of the laws of the State of Georgia.

H. BID OPENING

Bids over \$50,000.00 shall be opened publicly in the presence of one or more witnesses on the date, time and place designated in the bid package. Specific procedures for this process shall be defined in the operational procedures.

I. PROFESSIONAL SERVICES

"Professional services" refer to such services as legal, medical, engineering, surveying, architectural, accounting, finance and others performed by individuals whose profession is licensed by the state or federal government.

It is the policy of this County to award contracts for professional services on the basis of demonstrated competence and qualifications at a fair and reasonable price with the ultimate selection based on the best interest of the County and receipt of maximum value.

The Board of Commissioners will approve all contracts for accounting, architectural, legal, and management consulting services. The Board of Commissioners will approve all contracts for other professional services over \$50,000. In some situations, a County elected official may possess the authority to expend budgeted funds without Board of Commissioner approval. In such situations, and assuming the proposed transaction is within the lawful authority of the elected official, any contract associated with such transaction may be presented to the Board of Commissioners for possible ratification.

J. CONSTRUCTION

Construction purchases shall follow the competitive sealed bid and/or proposal process and public advertising as described in the operational procedures. Procurement shall be responsible for the contract administration of all construction contracts.

K. BONDING REQUIREMENTS

Operational procedures will be developed to define the requirements; for bid bonds, performance bonds and payment bonds to conform to all applicable provisions of the laws of the State of Georgia.

L. APPROVAL OF CONTRACTS

All contracts shall be reviewed and approved as to form by the County's legal staff prior to execution on behalf of the County or prior to ratification, if applicable, on behalf of any elected official. All contracts shall conform to State and Federal law and to County policies, and shall otherwise contain such provisions as are reasonably necessary to protect the interest of the County. Limits for delegation of authority to sign contracts shall be identified in the County's operational procedures.

M. SOLE SOURCE

It is the policy of the Forsyth County Board of Commissioners to encourage and support competition in the procurement of goods and services for the County. To that end, any purchase in excess of \$ 2,500 shall be competed unless there are compelling and justifiable reasons to the contrary. In those rare instances, the reasons will be put in writing and are subject to the review and approval of the Director of Procurement. In addition, after award of any contract that requires approval of the Board of Commissioners, any change order, due to scope changes or site changes in excess of ten (10) per cent of the original contract price will also require the approval of the Board of Commissioners.

N. CONTRACT RENEWALS

Contracts awarded by Forsyth County can be renewed for a maximum of two additional years barring poor contract performance, significant changes in the contract requirements, or proposed increases that exceed the annual cost price index (CPI). If any of these situations occur, the contract will be re-bid. The Board of Commissioners must approve contract renewals. Certain agreements, where continuity is a consideration, can be renewed beyond the three year period with Board of Commissioners approval, e.g. ambulance service, medical insurance, banking, inmate medical, if performance is satisfactory and there are no significant changes in requirements.

O. DOLLAR THRESHOLDS FOR APPROVAL

All procurements in excess of \$50,000 will be presented to the Board of Commissioners for approval prior to award, except that lawful procurements on behalf of the Forsyth County Sheriff need not be presented to the Board of Commissioners for approval.

PROCUREMENT PROCEDURES

PART I
INTRODUCTION

These procedures have been prepared to provide information and direction to the various units/departments of the County involved in the Procurement process. Its primary purpose is to communicate policies and give guidance to personnel involved in the procurement process.

These procedures will be revised and supplemented to meet new needs and conditions, as warranted. Revised pages will be distributed to department heads. An important part of this updating process depends on the constructive comments, information, and suggestions received from the departments. Comments are encouraged.

These procedures shall govern all acquisitions and dispositions by Forsyth County of commodities, equipment and services and all related contracts and agreements. This procedure supersedes all previously existing procedures to the extent they are inconsistent with the provisions thereof.

SECTION 1 – EXEMPTIONS

The following supplies and services are not covered by this Procedure:

- Artwork for public places,
- Printed copyright material including published books, maps, periodicals, and technical pamphlets (not including software for computer systems), except where a greater savings can be realized by a volume purchase,
- Real property, real estate brokerage and appraising, abstract of titles for real property, title insurance for real property and other related costs of acquisition of real property,
- Purchases between governments and/or nonprofit organizations,
- Dues, memberships and board member fees, subscriptions,
- Services provided directly to individual citizens and employees including reimbursements and other miscellaneous payments.
- Supplies and services purchased by the Forsyth County Sheriff following approval of its fiscal budget.

SECTION 2 - APPLICATION OF FEDERAL AND STATE LAW

It is intended that these Procedures shall conform to all applicable provisions of the laws of the United States and of the State of Georgia. In the event any portion of these Procedures shall be declared invalid for its failure to conform to State or Federal law such invalidity shall not affect the remaining portions. Notwithstanding any other provision of these Procedures, the County may enter into contracts, follow any procedure, or take any action, which is otherwise at variance with these Procedures if required as a condition to receiving funds from the government of the United States or the State of Georgia.

SECTION 3 -PROVISIONS FOR VIEWING OPEN RECORDS

Once a bid or sealed written quotation is opened, it is considered to be open for review by the general public. If a vendor or other interested party would like to view specific bid(s), such vendor or other interested party must first submit a request either in writing or verbally to the Procurement Department. The request will be sent to the Forsyth County legal department for review. Proprietary and/or confidential information may be redacted from any bid material in the County's position. Once the review is completed and Procurement is notified to proceed, an appointment must be made with the Procurement Department for an appropriate time to review the document. The hours of operation for the Procurement Department are Monday through Friday from 8:00 AM to 4:30 PM. All awards of bids on projects over \$50,000 will be posted on the Forsyth County web site and on Comcast Channel 24 by the Procurement department by bid number and description.

Information regarding proposals over \$50,000 will not be available until the Board of Commissioners approves the award, the award has been made and contract has been signed.

In accordance with the State of Georgia Open Records Act, O.C.G.A. Section 50-18-72, copies of open records may be obtained by submitting a written or verbal request. The service charge fee is 10 cents per copied page plus staff's time to research and prepare the documents after the first 15 minutes which are provided at no charge. Forsyth County has three working days to respond to requesting party stating the length of time and associated costs necessary to provide the information, if it is available.

SECTION 4 – ETHICS

Forsyth County’s Ethics Ordinance shall govern the ethical obligations of all Forsyth County officers, employees, and elected officials, including those involved or affected by procurement decisions.

SECTION 5 – BUDGETED EXPENDITURES

It is the responsibility of the Department Heads to ensure all purchases are consistent with and support their current approved budget prior to approving requisitions/purchases.

PART II **PROCUREMENT RESPONSIBILITIES**

It is imperative that the County continually strive to balance cost, delivery, and quality in every area of the County’s operations. It is mandatory that the responsibilities for buying materials and services be assigned to a group of people skilled in negotiating, value analysis, and other Procurement techniques.

To achieve this overall objective, the responsibilities, authorities, and controls set forth in this procedure, and related policies, must be adhered to by all County employees.

The following are the basic responsibilities of the Procurement Department (hereinafter “Procurement”):

Only those persons to whom authority has specifically been delegated by the Board of Commissioners are authorized to commit County funds for materials, equipment, supplies, and services, except that such delegation of authority shall not apply to or be required of those employees or agents of the Forsyth County Sheriff, as the Sheriff is empowered by law with decision-making authority to commit funds for the purchase of materials, equipment, supplies, or services following approval of its fiscal budget,.

The Director of Procurement has the responsibility for the procurement of all goods and services, and to either provide the services for such procurement or give functional directions to others delegated the authority to perform such service.

Procurement has the authority to obligate the County for purchases and for making the final determination of sources of supply, quantities purchased, delivery schedules, and price negotiations for all purchases under \$50,000 or where others are so authorized by the Director of Procurement. Notwithstanding the above, in the event a contract must be executed, such contract shall be tendered to the Board of Commissioners for approval and recordation on the minutes. The Board of Commissioners will make the final decision for purchases over \$50,000, unless purchased under State of Georgia Procurement Contracts, or unless purchased by the Forsyth County Sheriff following approval of its fiscal budget.

Procurement is responsible for initiating and maintaining effective, professional relationships with suppliers.

Procurement is to serve as the exclusive channel through which all requests regarding prices and products are handled. The Procurement Department will generate all correspondence with suppliers involving prices or quotations. In cases where technical details are necessary, the using department may correspond directly with suppliers regarding technical issues, so long as Procurement is apprised of those communications.

All negotiations are to be handled by the appropriate Procurement personnel within their delegated authority.

When supplier sales representatives make personal sales calls, they are to be directed to call on the appropriate employee in Procurement responsible for Procurement the materials or services being offered.

All employees involved in Procurement activities will work to maintain and enhance the County's image by their personal conduct and methods of doing business.

All employees engaged in Procurement activities will recognize and practice good public relations by giving all callers and visitors courteous treatment.

Procurement personnel are to seek to obtain and purchase all goods at the lowest possible total end-user cost, considering the guidelines of prices, service, quality, and delivery.

Procurement personnel are to inform ordering departments whenever the quantity or specifications of materials ordered are inconsistent with sound Procurement practices or market conditions.

Procurement personnel will negotiate the return of rejected equipment or supplies to suppliers.

Procurement awards for off-the-shelf equipment and/or standard commodities where the dollar amount is equal to or less than the approved budget do not require Board of Commissioner approval, regardless of dollar value, if the following criteria have been met:

- The proposed award was competitively bid
- The responsible, responsive low bidder was selected
- The user department agrees with the recommendation in writing

If the award for an off-the-shelf item or standard commodity exceeds the approved budget and the bid amount exceeds a total of \$50,000, the Board of Commissioners must approve the procurement prior to award, unless the item or commodity is being purchased by the Forsyth County Sheriff following approval of its fiscal budget. The Department Head will identify to the Finance Department where the additional funds will come from and, upon approval by the Board of Commissioners, will coordinate with Finance on the transfer of funds. The Board of Commissioners must approve all awards for construction and services if the award amount exceeds \$50,000, except those awards for construction and services sought or secured by the Forsyth County Sheriff following approval of the its fiscal budget. Notwithstanding the entitlement of the Forsyth County Sheriff to spend budgeted funds without Board of Commissioner approval, the Forsyth County Sheriff remains subject to the dictates of State and federal law with respect to Procurement, including the obligation of competitive bidding where required by law.

Procurement is responsible for establishing contracts for annual requirements for consumables e.g. office supplies and service contracts for items such as janitorial services, HVAC maintenance, etc. These types of contracts will be competed and can be renewed for two additional subject to performance and contractor cost increases staying within the Consumer Price Index. Departments are required to use these contracts and Procurement will notify all users if the contractor is changed.

PART III

FORMAL PROCUREMENT PROCESS

When feasible, all requests for items will be submitted to Procurement using the online MUNIS Financial System Requisition; all backups for the request should be attached to the electronic requisition Approvals shall be in accordance with process described below. If the request is for a Public Work, Road Project or any other material or service for which advertising is necessary, the request will be submitted to Procurement no later than 12:00 noon on Wednesday for submittal to the newspaper by 12:00 noon on Friday. The publication of the advertisement and content thereof shall conform to applicable provisions of Georgia Law and shall be submitted by the Director of Procurement. A bid package will be developed by Procurement which can be obtained by interested parties. Once an approved requisition and appropriate back up (including detailed specifications and plans if required) is received the Procurement staff will use the following process:

SECTION 1 - COMPETITIVE SEALED BIDDING

In most cases, the competitive sealed bid is the preferred method of source selection and should be used whenever possible as it allows qualified, responsive bidders to compete on the basis of price. Generally, the following conditions must be met:

- Clear and adequate specifications are available;
- Two or more responsible, responsive bidders are willing to participate in the process; and
- Cost of materials, supplies, equipment or project is \$25,000 or greater.

PURCHASES OF \$50,000 OR MORE – Any commodity which is expected to cost \$50,000 or more shall be acquired through the competitive sealed bid process except as otherwise provided herein.

DISSEMINATION OF INVITATIONS TO BID – Public notice of an Invitation to Bid shall be advertised as required by Georgia law. The public notice shall contain a general description of the item or services to be purchased shall state the location where bid documents may be obtained and the date, time and place of bid opening. Notice of any required bonding and insurance shall be included in the public notice. A copy of such notice shall be in the Procurement office. Any other methods of advertisement, identified as likely to result in optimal competition may be used in addition to required advertisement, at the discretion of the Director of Procurement.

RECEIPT OF BIDS – No bid shall be eligible for consideration by the County unless it is placed in a sealed envelope or package and actually received by the Procurement department on or before the date and time specified in the Request for Bids. The Procurement department shall cause all bids to be stamped with the date and time of receipt and shall secure such bids until the designated opening time. A bid delivered late shall under no circumstances be eligible for consideration by the County. Late bids shall be returned unopened to the bidder.

BID OPENING – Bids shall be opened publicly in the presence of one or more witnesses on the date and at the time and place designated in the Request for Bids. The name of each bidder, the purchase price contained in each bid and such other information as the Director of Procurement deems appropriate shall be announced as the bids are opened. A record of bid information, bid tabulation, shall be recorded and available for public inspection. The bid information will be posted on the Forsyth County web site and will also be available to bidders upon written request.

MODIFICATION OF BIDS – Any clerical mistake which is patently obvious on the face of a bid may, subject to the limitations described below, be corrected upon written request and verification submitted by the bidder. A non-material omission in a bid may be corrected if the Director of Procurement determines the correction to be in the County's best interests. Omissions affecting or relating to any of the following shall be deemed material and shall not be corrected after bid opening:

-Price information and any required bonding

WITHDRAWAL OF BIDS – Bids may be withdrawn only by written request of the submitting party, at any time prior to the bid opening. After bids have been publicly opened, withdrawal of bid shall be based upon the following:

The bidder shall give notice in writing of his claim of right to withdraw his bid due to an error, with said notice to be given within two business days after the conclusion of the bid opening procedure. Bids may be withdrawn from consideration if the price was substantially lower than the other bids due solely to a mistake therein, provided the bid was submitted in good faith, and the mistake was a clerical mistake as opposed to a judgment mistake, and was actually due to an unintentional arithmetic error or an unintentional omission of a quantity of work, labor or material made directly in the compilation of the bid, which unintentional arithmetic error or unintentional omission can be clearly shown by objective evidence drawn from inspection of original work papers, documents and material used in the preparation of the bid sought to be withdrawn. The bidder's original work papers shall be the whole acceptable evidence of error and mistake if he elects to withdraw his bid. If a bid is withdrawn under the authority of this provision, the lowest remaining responsive bid shall be deemed to be the low bid.

BID EVALUATION – Bids shall be evaluated based on the requirements set forth in the Invitation to Bid. No criteria may be used in bid evaluation that is not specifically set forth in the invitation.

BID CANCELLATION – An Invitation for Bid may be cancelled prior to opening date, or any or all bids may be rejected in whole or in part as may be specified in the solicitation, where it is in the best interest of the County in accordance with regulations promulgated by the Procurement department or; as a result of improper conduct on the part of a County employee. The reasons for any cancellation shall be made a part of the bid file.

SECTION 2 - BID AWARD:

Responsive and Responsible Bidder(s)

Subject to approval by the Forsyth County Board of Commissioners, except as otherwise specified herein, bids shall be awarded to the lowest responsive and responsible bidder(s) whose bid, conforming to the Invitation for Bid, will be most advantageous to the County, with price and other factors considered. A written award mailed (or otherwise furnished) to the successful bidder within the time of acceptance specified in the bid shall be deemed to result in a binding contract without further action by either party.

Approval of Bids

All bid awards for amounts of \$50,000 or greater shall be approved or rejected by the Forsyth County Board of Commissioners, unless such bid awards are awarded under a Georgia State Contract, unless such bid awards are for budgeted off-the-shelf equipment or standard commodities and the award price is within the budgeted amount and is awarded to the lowest responsible, responsive offeror with department concurrence, or unless such bid awards are for construction, materials, or services sought or secured by the Forsyth County Sheriff following approval of its fiscal budget, as the Sheriff is empowered by law with decision-making authority to authorize such expenditures so long as State and federal law is otherwise observed..

REJECTION OF BIDS. – The County reserves the right to reject any or all bids if it determines such rejection to be in the best interest of the County

DISQUALIFICATION OF BIDS – The following types of bids shall be disqualified for consideration for a bid award:

- A bid that is incomplete in any material aspect;
- A bid submitted without required bonds; and
- A bid submitted by a company that has been permanently removed from the bidders list for cause

TIE BIDS - In the event two (2) responsive bids are tied for the lowest price and the other terms and conditions of the two (2) bids are substantially the same (including business reputation, financial stability and work history), the bid shall be awarded to the Forsyth County bidder if only one of the bidders has its principal place of business in Forsyth County. If both or neither of the tied bidders has its principal place of business in Forsyth County, then the bid award shall be made to the winner of a coin toss by Procurement staff in a public session where bidders and one or more witnesses may be present.

SECTION 3 - CONTRACT/PURCHASE ORDER AWARDS OVER \$50,000

The Procurement Department will submit to the Board of Commissioner's a recommendation for accepting or rejecting a bid/proposal at the Commissioner's meetings on the second and fourth Tuesday of each month unless an emergency exists. In such event, a letter will be submitted with the bid form describing the emergency. Budgeted items that were competitively bid, where the bids are within the budget, and the lower bidder is selected with Department head approval are exempt from this requirement.

The Director of Procurement and the appropriate department head prior to submittal will base the recommendation on a review. A written recommendation will be submitted along with the bid or proposal tabulation, list of bidders solicited, and justification for vendor selection (e.g. low bidder, best - qualified bidder/proposal, sole source justification, and any necessary back up).

Once a Bid or Proposal has been approved by the Board of Commissioners and recorded in the minutes of the meeting the Procurement staff will issue the appropriate documents to the selected bidder.

PART IV
INFORMAL PURCHASE ORDERS

Purchases that involve amounts less than \$50,000 do not require a formal sealed bid process. However, the process used for any such purchase will include as much competition as is consistent with the anticipated cost of procurement.

TYPES OF INFORMAL PURCHASES:

Informal purchases (purchases which involve amounts less than \$25,000) are classified by two categories:

- Purchases under \$500.00 made with a Procurement Card; and
- Purchase not made with a Procurement Card.

SECTION 1 –PROCUREMENT CARDS

Purchases under \$500.00 shall be made with a Procurement Card in accordance with the following procedures:

The Forsyth County Procurement Card Program provides an optional Procurement procedure regarding transactions for goods and services valued at \$500.00 or less, including shipping/handling charges, insurance, etc. Purchases over \$500.00 should continue to be processed in accordance with established Procurement procedures. Purchases shall not be split to circumvent this requirement. The card can only be used for County related business for which County funds will be disbursed, and the County's tax - exempt status shall be brought to the vendor's attention.

No personal purchases shall be made with this card.

The Department Director may apply to participate in this program by completing a Procurement card application and agreement form. The card will be issued in the County's name with a person identified as the authorized user. The Director is responsible for any unauthorized, personal, or inappropriate purchases made through the use of the card by designated person(s) in his/her department.

The department Director is responsible for ensuring that the Procurement card will be used to purchase supplies and materials and charged to the appropriate account.

Funds must be budgeted in the appropriate account code prior to any purchase.

The Card may not be used to purchase any of the following:

Maintenance or other service agreements
Entertainment, alcoholic beverages
Computer Equipment
Hazardous or radioactive material
Services or items provided by in-house departments such as administrative or computing, etc.
Personal-use items, such as radios, coffeepots, gifts, microwave ovens, etc.
Telecommunications equipment of any type or value i.e. telephones, fax machines, answering machines.
Postage
Firearms or explosives

Services involving an employer/employee relationship
Rental of equipment (except in a declared County emergency or for critical equipment breakdown)
Printing
Flowers
Furniture

Items for Personal Use or cash advances

No single purchase unless travel-related shall exceed \$500.00. Circumventing the \$500.00 by splitting a large order into two or more orders will lead to revocation of the Procurement card, and is prohibited.

Unauthorized use of card

Unauthorized/ Illegal purchases will be returned for credit or paid for in full by personal check made payable to Forsyth County Board of Commissioners from the Director at the department to which the Procurement Card was issued. Failure to reimburse the County will result in funds being deducted from the department Director's paycheck as allowed by Georgia law. Continued unauthorized/illegal purchase shall result in revocation of the Procurement card.

How to use the Card

The Procurement card may be used to make purchases from any vendor that accepts the card, and may be used in person, over the phone, or by mail. **All deliveries must be sent directly to the user.** Procurement or the Administration Receptionist will not accept any Procurement card deliveries. Use the following address format for Procurement Card deliveries:

Your name, department name
Forsyth County BOC, Building and suite number Street Address
City, State, Zip Code

It is extremely important that an agent be present to sign for the order. It is suggested that the department office be used as the delivery address.

The total cost of the order should be obtained from the supplier before the order is placed.

No sales tax should be charged on the order, as the County is exempt.

The department making purchases pursuant to this section should maintain Activity Log identifying all purchases. This will be used to verify the accuracy of supplier's charges on the monthly report received from the Works software. It is important to record the name and telephone number of the person who processed your order for future reference. Once items are received, copies of the packing slips or charge slips should be attached to the log.

As of December 1, 1999, the Procurement Card may be used for travel-related expenditures such as airline tickets, hotel, car rental, etc.

Program Audit

The Forsyth County Finance Department is responsible for reviewing the Countywide transaction report on a monthly basis. Pursuant to that review, Finance will attempt to identify any misuse of the card (including, but not limited to the splitting of orders to circumvent the per transaction limit). If any transaction appears questionable, a request will be made to the department Director for a written explanation of the charge.

Lost or stolen cards

If the card is lost or stolen, the director of the department to which the card was issued shall notify the Bank of America 24-hour service at 1-888-449-2273.

Termination

Should the cardholder's employment with the county be terminated, the Director or Human Resources has the obligation to reclaim the Procurement card and return it to the Procurement Card Administrator, prior to the employee's termination date.

Disputes

The department making any purchase pursuant to this section shall be responsible for resolving any dispute with the vendor regarding pricing, shortages, damaged merchandise, etc. In the event that a solution is not achieved between the vendor and the department making the purchase, the Finance Department may be called upon for assistance.

SECTION 2 - INFORMAL PURCHASES OTHER THAN PROCUREMENT CARD

PURCHASES \$0 - \$25,000 - Those that are required to be made through the Procurement Department when not using the Procurement Card. Except as otherwise specified herein, these purchases shall be handled through the Procurement Department unless otherwise delegated by the Director of Procurement. The department is to complete a requisition using the online MUNIS Financial system; upon appropriate approvals the requisition will then be submitted to Procurement for processing. It is highly recommended that the department maintain a requisition log so that they may check on the status of the requisition on - line.

If the amount of the purchase is not greater than \$2,500, the Procurement staff will use its best judgment as to source, and number of pre-purchase estimates to obtain prior to making the purchase. If the amount is greater than \$2,500 but not greater than \$10,000, the Buyer should obtain at least two verbal quotes (Exceptions: Proprietary, Sole Source, Emergency or State Contract), and otherwise comply with the directives in paragraph N of the policy section. If a Proprietary, Sole Source or Emergency purchase is made, then justification should be indicated on the requisition. **The Buyer will indicate the quotes received and convert the requisition to a Purchase Order. The department will then be able to check their requisition and be able to pull up the Purchase Order using the MUNIS Financial System.**

If the amount of the purchase is greater than \$10,000 but not more than \$50,000 the Procurement staff shall obtain written quotes from not less than three bidders. (Exceptions: Proprietary, Sole Source, Emergency or State Contract), and otherwise comply with directives in Paragraph N of the Policy section. If a Proprietary or Sole Source purchase is made, justification should be indicated on an attached letter from the department stating the compelling and justifiable reasons for the sole source or proprietary purchase. Emergency purchases can be explained on the requisition from Procurement will complete the Quote Tabulation and convert the requisition to a Purchase Order in the MUNIS Financial System.

If the amount of the purchase is greater than \$50,000 the Procurement staff shall obtain commodities and services competitively through sealed written solicitation. (Exceptions: Proprietary, Sole Source, Emergency, or State Contract) If a Proprietary or Sole Source purchase is made, then the Sole Source form, signed by the Department Director, should be attached stating the compelling and justifiable reasons for the lack of competition. Emergency purchases should be explained on the purchase requisition. Procurement will complete the Quote Tabulation and convert the requisition to a Purchase Order in the MUNIS Financial System.

All original Purchase Order documentation (i.e. quotes, written specifications, plans, sole source, etc.) will be maintained within the MUNIS Financial System.

PURCHASE REQUISITIONS

Requisitioners will complete a Purchase Requisition for all Informal Purchased items using the **MUNIS Financial System**.

Requisitioner - The person requesting the goods and services.

Delivery Address -The destination to which goods are to be shipped.

Quantity – Ordering quantity for each item.

Description – Should be complete and include size, color, type, grade, etc. When necessary, the information may be put on a separate sheet attached to the requisition. Brand names, catalog numbers, should be used as a part of the description. Advise if substitutes can be used.

Estimated Unit Cost

Account Number – The budget line item account number to which the item will be charged.

(Note: It is the responsibility of the approving authority to verify that there is budget available).

Vendors may be indicated if desired.

Commodity Code – is important that the correct commodity code is used for the purchase so that the requisition is forwarded to the correct party. Current commodity code list is maintained on the Intranet.

Once the requisition is entered, the authorized employee from the department making the purchase must approve the requisition on-line. Once approved, the requisition will go to the appropriate agent as designated by the commodity code. Note: requisitions, either through MUNIS, relating to computer equipment or software shall first be reviewed and approved by the I. S&T. department prior to being approved by Procurement.

Purchases will not be artificially divided as to constitute an informal purchase, thereby circumventing the dollar limit requirement for informal purchases and required approvals.

PART V
APPROVAL REQUIREMENTS FOR REQUISITIONS

Each Department is responsible for advising Procurement of the desired Work Flow and approvals within the MUNIS Financial System.

SECTION 1 – PURCHASE ORDER RECEIVING

Upon receipt of the ordered items by the department, the following procedures are to be used: Ensure that the item(s) are correct, the quantity is correct, the item(s) are undamaged and are in good order;

- a. Use the MUNIS Financial System to receive in the items on the Purchase Order – **ONLY RECEIVE IN THE ITEMS RECEIVED IN GOOD ORDER.**
- b. If a partial shipment is only received, indicate the number of items actually in hand in the MUNIS System; and
- c. Once a correct invoice is received from the supplier, the items will be paid for in accordance with the terms and conditions of the purchase order.
- d. If an item is picked up, the invoice should be sent immediately to Finance. It is very important that the departments receive items promptly with correct invoices attached thereto so that the supplier is paid appropriately.

SECTION 2 – APPROVAL OF AWARDS BY THE BOARD OF COMMISSIONERS

Board of Commissioners approval is required as follows:

1. All purchases and services where the cost is \$50,000 or greater except for (a) approved budgeted items being purchased within budget as previously defined, (b) items bought under Georgia State Procurement contracts, or (c) items and services purchased or secured by the Forsyth County Sheriff following approval of its fiscal budget.
2. All emergency purchases in excess of \$15,000.
3. All Sole Source purchases in excess of \$35,000.00.
4. Any unbudgeted requests.

PART VI
SOLE SOURCE PURCHASES

Based upon evidence that a particular commodity or service may be obtained from only one source and no similar commodity or service is available from a different source that will adequately meet the departments' requirements and specifications, the Director of Procurement may recommend to the County Manager that the commodity or service be purchased sole source based upon supporting documentation from the requesting Department Head. The Board of Commissioners shall review all sole source purchases where cost is \$35,000 or greater, except for those purchases sought or made by the Forsyth

County Sheriff following approval of its fiscal budget, as the Sheriff is empowered by law with decision - making authority to approve and make such purchases. A copy of a sole source form is attached to these procedures.

PART VII

EMERGENCY PURCHASES

The Director of Procurement, and delegated staff, shall have the authority to purchase commodities and services for an emergency which shall be defined as any situation or circumstance that is determined to constitute a threat to public health, safety or welfare or to the soundness and integrity of public property or to the delivery of essential services and where the adverse effects of such emergency may worsen materially with the passage of time.

Acquisitions made pursuant to this section shall be made using such competitive procedures as circumstances reasonably permit. Emergencies shall be documented by the using department and submitted to the Procurement Department.

When an emergency (as defined herein) exists where time does not permit involvement of the Procurement Department e.g. disaster recovery, the Department Director is authorized to purchase necessary commodities or make necessary repairs.

For emergencies where cost exceeds the amount authorized to a using department, written documentation shall be prepared and submitted to the Procurement Department explaining the nature of the emergency. All emergencies involving or requiring purchases with a cost of \$15,000 or greater require ratification from the Board of Commissioners.

PART VIII

STATE OF GEORGIA PROCUREMENT CONTRACTS

The Department of Administrative Services for State of Georgia competitively bids certain commodities, supplies, and services on an annual basis. Copies of these contracts and revisions are maintained on -line at www.doas.state.ga.us. These contracts are available to counties for use but are not mandatory. When State contracts are used for source justification, there will be no requirement for Board of Commissioner approval regardless of dollar amount. **However, except for purchases by the Forsyth County Sheriff following approval of its fiscal budget, the County Manager shall approve all vehicle purchases prior to their purchase whether they are being purchased under State contract or not.**

PART IX

BLANKET PURCHASES

Whenever possible, long term contracts or blanket purchase agreements should be obtained for supplying commodities and/or services such as motor oil, gasoline, diesel fuel and other items for which monthly or periodic requirements can be reasonably forecast.

These purchases shall be handled in accordance with the terms and conditions described in the procedure. During the month of **December** of each year a list of proposed Blanket Contracts will be presented to the Board of Commissioner's for approval. The renewal period for blanket orders shall not exceed two years.

On the "Requisition form there is an area to designate the Blanket Purchase Order Number and the Reference Line Item Number. When filling out a requisition for a Blanket Purchase the detail that must be filled in is abbreviated: the description is not required as the blanket number and reference number will populate that field for you, as well as the vendor name and number.

PART X **CONTRACTUAL REQUIREMENTS**

CONSTRUCTION PROJECTS

Construction projects shall follow the competitive sealed bid or proposal process, if over \$ 50,000.

SECTION 1 - BONDING

Bonds are required for construction Public Works contracts where the cost is \$100,000 or greater. Road projects are not considered Public Works. They are required occasionally for non-construction contracts and will be listed in the advertisement and invitation. The requirement will be stated clearly in the solicitation document in all cases, and the bid bond must accompany the bid/proposal. Any bid or proposal submitted without the required bid bond will not be considered. **The Procurement Department will verify with the State Insurance Commissioner and Secretary of State that the Bonding Company is authorized to do business in Georgia and is in good standing. If an AMBest rating is indicated the Procurement Department will ensure that the Bonding Company meets or exceeds the required rating.**

BID BOND: The bid must be accompanied by a bid guarantee bond of not less than five (5) percent of the amount of the bid where the cost is greater than \$100,000 or as required by the County. The guarantee may be in the form of a Cashier's Check, Certified Check made payable to the Forsyth County Board of Commissioners, or a Bid Bond issued by a surety company. The guarantee shall insure the execution of the contract document and the furnishing of a Payment and Performance Bond. Bid bonds are not required for Public Works Projects under \$20,000.00. Bid Bonds will be returned upon award of the contract.

PERFORMANCE BOND: The successful bidder will be required to furnish a guarantee of the performance in the amount of the contract: if the contract is more than \$5,000 for ROAD PROJECTS, \$100,000 for PUBLIC WORK PROJECTS, and \$40,000 for all other projects, prior to commencing work. The guarantee of performance may be in the form of a Cashier's Check, Certified Check made payable to Forsyth County Board of Commissioners, Performance Bond, or irrevocable Letter of Credit issued by a Bank or Savings and Loan Association as defined in O.C.G.A., Section 7 -1 -4. Irrevocable Letters of Credit will not be accepted on contracts of more than \$300,000.00. Performance Bonds will be returned to the contractor within thirty (30) days after the work is completed and accepted by the County.

PAYMENT BOND: The successful bidder will be required to furnish a guarantee of payment for the protection of all subcontractors, and all persons supplying labor, material, machinery and equipment provided for in the contract in the amount of the contract awarded prior to commencing work. This bond is required for ROAD PROJECTS only if the contract is \$20,000.00 or greater; all other projects require a Payment Bond regardless of the contract amount. This guarantee may be in the form of Payment Bond, Cashier's Check, Certified Check made payable to the Forsyth County Board of Commissioners, or

irrevocable Letter of Credit issued by a Bank or a Savings and Loan as defined in O.C.G.A., Section 7 -1-4. Irrevocable Letters of Credit will not be accepted on contracts of more than \$300,000.00.

SECTION 2 - INSURANCE REQUIREMENTS

The County Manager shall determine what types and amounts of insurance coverage are reasonably necessary for the protection of the County's interests for all acquisitions and equipment rentals made pursuant to this Procurement procedure. All sureties must be licensed to do business in the State of Georgia. The County Manager shall have the authority to waive any requirements regarding insurance.

SECTION 3 - SPECIFICATIONS

All specifications shall be prepared to promote overall economy for the purpose intended and encourage competition in satisfying the County's needs and shall not be overly restrictive. This procedure applies to all specifications including but not limited to those prepared for the County by architects, engineers, designers and draftsmen.

SECTION 4 - ADVERTISING

Contracts for public works and road construction projects shall be advertised and bid as may be required by State and/of Federal law.. In addition, such notice shall be posted on the Forsyth County web site and in the Procurement Department along with any specifications or plans for public inspection. When proposals are rejected and plans are subsequently changed, further advertisement is required.

Advertisements for other County contracts over \$50,000 will be reviewed by the Director of Procurement to determine if it is in the best interest of the County to advertise. If so, we will advertise once a week for two weeks in the Forsyth County legal organ, and such advertisement shall also be posted on the Forsyth County web site, and in the Procurement Department area.

SECTION 5 - AUTHORITY TO SIGN CONTRACTS

All contracts shall be reviewed and approved as to form by the County's Legal Department prior to execution of it on behalf of the County. Once approved the following shall apply:

When the amount of the contract exceeds \$100,000, the Board of Commissioners shall sign the contract or can delegate to the County Manager on an individual basis.

-When the amount of the contract exceeds \$25,000 but is \$100,000 or less, the County Manager shall sign the contract.

When the contract does not exceed \$25,000, the Director of Procurement or as delegated in Section 6 below may sign the contract.

If the contract involves procurement on behalf of the Forsyth County Sheriff and is for a good or service within the Sheriff's budget and is otherwise lawful in all respects, the contract may be signed by the Forsyth County Sheriff but may also be provided to the Forsyth County Board of Commissioners for ratification and placement on the minutes.

The Procurement Department using the appropriate process described above shall award all contracts.

SECTION 6 - PURCHASE ORDER SIGNATURE AUTHORITY

Signature authority shall be delegated as follows:

Board of Commissioners - Over \$100,000 unless delegated to County Manager
County Manager - Up to \$100,000 for those approved by BOC or delegated by the BOC.
Director of Procurement - Up to \$50,000.00
Contract Administrator - Up to \$20,000 35,000.00
Procurement Agent III - Up to 25,000.00
Procurement Agent II - Up to \$ \$20,000.00
Procurement Agent I - Up to \$15,000

SECTION 7 - COLLUSIVE OR ANTI-COMPETITIVE PRACTICES

All bid packages over \$50,000 shall contain a Non-Collusion Affidavit to be signed and notarized prior to award. This will ensure that each bidder has certified in writing that such bidder has not engaged in any collusive or anti-competitive practices in responding to a solicitation for bid.

SECTION 8 – NOTICE TO PROCEED

A Notice to Proceed will be issued from the Forsyth County Procurement Department for certain contracts. This date will be used in determining the contract completion date of the contract.

Exception: Road Construction/Repair Contracts: The Notice to Proceed will be issued by the Forsyth County Engineering Department with a copy of the Notice submitted to Procurement.

SECTION 9 - CHANGE ORDERS AND CONTRACT MODIFICATIONS

Procurement shall have the authority to approve all change orders including change orders relating to Public Works and Road Works contracts where the total of all changes does not exceed 10% of the original contract amount. The Board of Commissioner's shall approve change orders over the 10%. Change orders are to be requested through the Procurement Department in writing by the vendor. If the change order exceeds the signature authority of the Director of Procurement and is under the 10% threshold, the County Manager will sign the Change order. **Extensions of time are considered a change order. Departments will be notified of the request and may be asked for their consent to the requested change.**

PART XI
PROFESSIONAL SERVICES – REQUEST FOR PROPOSAL

"Professional Services" refer to such services as legal, medical, engineering, surveying, architectural, accounting, finance and others performed by individuals whose profession is licensed by the state or federal government.

It is the policy of this County to award contracts for professional services on the basis of demonstrated competence and qualifications, at a fair and reasonable price, with the ultimate selection being based on the best interest of the County and receipt of maximum value. This is a "Best Value Selection" process.

Except as otherwise specified herein, approval from the Board of Commissioner's (BOC) is required on all contracts for accounting architectural, legal and management consulting services, and on all contracts for other professional services over \$50,000.

The selection process for professional services may, in the Board's sole discretion, follow the same process as that for competitive sealed bids. If such a process is followed, the invitation will be for REQUEST FOR PROPOSAL, and pricing will not always be requested at the invitation level. The Scope of Work will include the selection criteria to be used. When the selection process for professional services is handled any way other than through sealed proposals or sealed bids, the BOC will authorize such process and procedures.

Such procedures shall permit as much competition as possible consistent with obtaining qualified persons and/or firms to perform necessary professional services. The selection process may vary from type to type of professional service or according to the purpose of the individual contract. In such an event, the County Manager shall forward selection procedures approved by the BOC to the Procurement Office to be maintained in a master file. The user department shall also maintain documentation of such authorizations and procedures approved by the BOC.

For professional services selected through the process set forth above (i.e., using competitive sealed bids or request for proposals, being handled through Procurement), the User department(s) will be responsible for the service requirements and evaluation of the bids. Procurement will ensure that the process is handled properly, and that appropriate documentation is maintained. If the selection process is not handled through Procurement, the User department is responsible for ensuring that proper authorization, and approval of procedures utilized, has been obtained from the BOC. The User department is also responsible for following the procedures approved by the BOC and maintaining appropriate documentation. The selection process may be handled directly by the User department or by an outside firm acting as an agent for the County if that procedure is determined to be most advantageous to the County.

PART XII
DISPOSITION OF PROPERTY

Disposition of real property owned by the County shall be conducted by public sale in accordance with Section 36-9-3, Official Code of Georgia Annotated, or as otherwise provided by State Law. Except as otherwise specifically provided by State law, the County shall not dispose of any real property unless the Board of Commissioners has declared such real property to be surplus.

Surplus property may be sold by public sale, sealed bidding, spot bidding, auctions, or by any other means deemed most advantageous to the County under the particular circumstances as determined by the

Board of Commissioners. A sale of property pursuant to this part to a private person shall be for highest net purchase price, reasonably obtainable by the County. A sale of property pursuant to this part to another unit of government shall be for a fair and reasonable purchase price, which need not be as high as the purchase price obtainable from a private person.

PART XIII **DEFINITIONS**

1. **Acquiring Office:** The department, division, board, authority, or other unit of Forsyth County government under whose authority, on whose behalf, or for whose use a commodity, service, or real property is requested or acquired, or a contract or agreement relating thereto, is obtained.
2. **Acquisition:** A transaction in which the County purchases, orders, contracts for, or otherwise agrees to obtain for value any commodity, service, or real property or combination of thereof.
3. **Bid:** Submission of information from an Offeror which describes the Offerors commodities or services, and any other information necessary to respond to the specifications and other requirements set forth in a Request for Bids.
4. **Brand Name or Equal Specification:** A specification limited to one or more items by manufacturers' names or catalogue numbers to describe the standard of quality, performance, and other salient characteristics needed to meet County requirements, and which provides for the submission of equivalent products.
5. **Brand Name Specification:** A specification limited to one or more items by manufacturers' names or catalogue numbers.
6. **Business:** Any corporation, partnership, individual, sole proprietorship, joint stock company, joint venture, or any other private legal entity.
7. **Change Order:** A written order signed and issued by the County Manager or Board of Commissioners, directing the contractor to make changes which the "Changes" clause of the contract authorizes the Director of Procurement to order with the consent of the contractor.
8. **Commodity:** A discrete and distinct item of tangible personal property, including, without limitation, any such item which is intended to become an integrated part of another item of tangible personal property or of any improvement to real property.
9. **Confidential Information:** Any information which is available to an employee only because of the employee's status as an employee of Forsyth County and which is not a matter of public knowledge or available to the public upon request.
10. **Consultant:** A person who has expertise because of education or experiences which uniquely qualifies him or her to provide specialized services or advice.
11. **Contract:** Any agreement, purchase order, lease, or other document which creates, or is intended to create, binding reciprocal obligations including, without limitation, any document evidencing a bid or proposal award.

12. Direct or Indirect Participation: Involvement through decision, approval, disapproval, recommendation, preparation of any part of a purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing, or in any other advisory capacity.
13. Employee/Official/Staff: An individual drawing a salary or wages from Forsyth County, whether elected or not.
14. Gratuity: A payment, loan, subscription, advance, deposit of money, service or anything of more than nominal value, present or promised, unless consideration of substantially equal or greater value is received.
15. Immediate Family: A spouse, children, parents, brothers and sisters, mother in -law and father in -law.
16. Offeror: Any person who has submitted a bid or proposal to the County or otherwise offered to enter into a contract with the County.
17. Person: Any individual or legal entity.
18. Professional Service: A service consisting in material part of advice, evaluation, planning, design, or other effort involving the exercise of judgment, discretion, and knowledge, including, without limitation, a service provided by a person whose profession is licensed or regulated by the State or federal government.
19. Purchase Requisition: A document by which an Acquiring Office requests the acquisition of commodities or services, or specifies the requirements to be filled by the acquisition of commodities or services.
20. Qualified Products List: An approved list of supplies, services or construction items described by model or catalogue numbers, which prior to competitive solicitation, the County has determined will meet the applicable specification requirements.
21. Request for Bids: Information and documentation disseminated by the County for purposes of soliciting bids.
22. Request for Qualifications: Information and documentation disseminated by the County for purposes soliciting qualifications of parties submitting bids to the County.
23. Responsible Bidder or Offeror: A person who has the capability in all respects to perform fully the contract requirements.
24. Responsible Director: The director or acting director who has supervisory authority over a County Department.
25. Responsive Bidder or Offeror: A person who has submitted a bid, which conforms in all material, respects to the requirements set forth in the invitation.
26. Specification: The specified characteristics of the commodities or services, which meet the County's requirements as set forth in a Request for Bids.

27. Unit of Government: The government of the United States of America or any department, agency, or division thereof; the State of Georgia or any department, agency, political subdivision, municipal corporation, or authority thereof.

Sole Source Justification

Requisitions for items that are to be purchased from a specific vendor, where substitutes to the vendor or brand are unacceptable, must be accompanied by a written justification explaining the circumstances that make substitutes unsuitable. The requisitioner must sign the justification if under \$15,000. The Director of Procurement determines whether the justification is appropriate. Justifications are to be supported by factual statements and documentation that will pass an internal or external audit

Instructions

This form should be sent to Procurement once your requisition has been entered in the system. Make sure you note in the remarks of your requisition that the sole source justification will follow. This form should be used when requesting equipment, material, supplies and services exceeding \$1,000. Please check the appropriate category below and furnish explanation. Attach sheets if necessary.

1. The requested product is an integral repair part or accessory compatible with existing equipment.

Existing equipment: _____
Manufacturer/Model No.: _____
Age/Current Value: _____

2. The requested product has unique design performance specifications or quality requirements, which are essential to job/project and are not available in comparable products.

3. The requested product is essential in maintaining continuity or to remain in compliance with established county standards.

___ Requested product is being used in continuing County projects;
___ Other County departments have used the product/service in similar jobs or projects and, for comparability of results, it is required.
___ I have standardized the requested product and the use of another brand/model would require considerable time and funding to evaluate.

4. The requested product is one with which (or my department) have specialized training and/or extensive experiences. Retraining would incur substantial cost in money and/or time.

5. Other factors (provide detailed explanation below)

Explanation for item(s) check above:

Signature _____

APPENDIX A

The County shall use the competitive negotiation method for the procurement of engineering and design related services when Federal Aid Highway Program (FAHP) funds are involved in the contract (as specified in 23 U.S.C. 112(b)(2)(A)). The solicitation, evaluation, ranking, selection, and negotiation shall comply with the qualifications-based selection procurement procedures for architectural and engineering services codified under 40 U.S.C. 1101-1104, commonly referred to as the Brooks Act.

In accordance with the requirements of the Brooks Acts, the following procedures shall apply to the competitive negotiation procurement method:

I. Solicitation

The solicitation process shall be by public announcement, public advertisement, or any other public forum or method that assures qualified in-State and out-of-State consultants are given a fair opportunity to be considered for award of the contract. Procurement procedures may involve a single step process with issuance of a Request for Proposal (RFP) to all interested consultants or a multiphase process with issuance of a request for statements of letters of interest or qualifications (RFQ) whereby responding consultants are ranked based on qualifications and request for proposals are then provided to three or more of the most highly qualified consultants. Minimum qualifications of consultants to perform services under general work categories or areas of expertise may also be assessed through a prequalification process whereby statements of qualifications are submitted on an annual basis. Regardless of any process utilized for prequalification of consultants for an initial assessment of a consultant's qualifications under an RFQ, a RFP specific to the project, task, or service is required for evaluation of a consultant's specific technical approach and qualifications.

II. Request for Proposal (RFP)

The RFP shall provide all information and requirements necessary for interested consultants to provide a response to the RFP and compete for the solicited services. The RFP shall:

(A) Provide a clear, accurate, and detailed description of the scope of work, technical requirements, and qualifications of consultants necessary for the services to be rendered. The scope of work should detail the purpose and description of the project, services to be performed, deliverables to be provided, estimated schedule for performance of work, and applicable standards, specifications and policies.

(B) Identify the requirements for any discussions that may be conducted with three (3) or more of the most qualified consultants following submission and evaluation of proposals;

(C) Identify evaluation factors including their relative weight of importance in accordance with subparagraph (a) (1) (iii) of this section;

(D) Specify the contract type and method(s) of payment to be utilized in accordance with 172.9

(E) Identify any special provisions or contract requirements associated with the services;

(F) Require that submission of any requested cost proposals or elements of cost be in a concealed format and separate from technical/qualifications proposals as these shall not be considered in the evaluation, ranking, and selection phase; and

(G) Provide a schedule of key dates for the procurement process and establish a submittal deadline for responses to the RFP which provides sufficient time for interested consultants to receive notice, prepare, and submit a proposal, which except in unusual circumstances shall not be less than 14 days from the date of issuance of the RFP.

III. Evaluation Factors

(A) Criteria used for evaluation, ranking, and selection of consultants to perform engineering and design related services must assess the demonstrated competence and qualifications for the type of professional services solicited. These qualifications-based factors may include, but are not limited to, technical approach (e.g., project understanding, innovative concepts or alternatives, quality control procedures), work experience, specialized expertise, professional licensure, staff capabilities, workload capacity, and past performance.

(B) Price shall not be used as a factor in the evaluation, ranking, and selection phase. All price or cost related items which include, but are not limited to, cost proposals, direct salaries/wage rates, indirect cost rates, and other direct costs are prohibited from being used as evaluation criteria.

(C) In-State or local preference shall not be used as a factor in the evaluation, ranking, and selection Phase. State licensing laws are not preempted by this provision and professional licensure within a Jurisdiction may be established as a requirement which attests to the minimum qualifications and Competence of a consultant to perform the solicited services.

(D) The following non-qualifications based evaluation criteria are permitted under the specified conditions and provided the combined total of these criteria do not exceed a nominal value of ten percent of the total evaluation criteria to maintain the integrity of a qualifications-based selections:

(1) A local presence may be used as a nominal evaluation factor where appropriate. This criterion shall not be based on political or jurisdictional boundaries and may be applied on a project-by-project basis for contracts where a need has been established for a consultant to provide a local presence, a local presence will add value to the quality and efficiency of the project, and application of this criteria leaves an appropriate number of qualified consultants, given the nature and size of the project. If a consultant outside of the local area indicates as part of a proposal that it will satisfy the criteria in some manner, such as establishing a local project office, that commitment shall be considered to have satisfied the local presence criteria.

(2) The participation of qualified and certified Disadvantaged Business Enterprise (DBE) Sub-consultants may be used as a nominal evaluation criterion where appropriate in Accordance with 49 CFR Part 26 and the County's Federal Highway Administration (FHWA) approved DBE program.

IV. Evaluation, Ranking and Selection

(A) Consultant proposals shall be evaluated by the County based on the criteria established and published within the public solicitation.

(B) While the contract will be with the prime consultant, proposal evaluations shall consider the qualifications of the prime consultant and any sub-consultants identified within the proposal with respect to the scope of work and established criteria.

(C) Following the submission and evaluation of proposals, the County shall conduct interviews or other types of discussions determined, three of the most highly qualified consultants to clarify the technical approach, qualifications, and capabilities provided in response to the RFP. Discussion requirements shall be specified within the RFP and should be based on the size and complexity of the project as defined in County written policies and procedures (as specified in 172.4(c)). Discussions may be written, by telephone, video conference, or by oral presentation/interview. Discussions following proposal submission are not required provided proposals contain sufficient information for evaluation of technical approach and qualifications to perform the specific project, task or service with respect to established criteria.

(D) From the proposal evaluation and any subsequent discussions which have been conducted, the County shall rank, in order of preference, at least three consultants determined most highly qualified to perform the solicited services based on the established and published criteria.

(E) Notification must be provided to responding consultants of the final ranking of the three most highly qualified consultants.

(F) The County shall retain acceptable documentation of the solicitation, proposal, evaluation and selection of the consultant in accordance with the provisions of 49 CFR 18.42.

V. Negotiation

A) Independent estimate. Prior to receipt or review of the most highly qualified consultant's cost proposal, the County shall prepare a detailed independent estimate with an appropriate breakdown of the work or labor hours, types or classifications of labor required, other direct costs, and consultants fixed fee for the defined scope of work. The independent estimate shall serve as the basis for negotiation and ensuring the consultant services are obtained at a fair and reasonable cost.

(B) Elements of contract costs (e.g. indirect cost rates, direct salary or wage rates, fixed fee, and other direct costs) shall be established separately in accordance with 172.11.

(C) If concealed cost proposals were submitted in conjunction with technical/qualifications proposals, only the cost proposal of the consultant with which negotiations are initiated may be considered. Concealed cost proposals of consultants with which negotiations are not initiated should be returned to the respective consultant due to the confidential nature of this data (as specified in 23 U.S.C. 112 (b) (2) (E)).

(D) The County shall retain documentation of negotiation activities and resources used in the analysis of costs to establish elements of the contract in accordance with the provisions of 49 CFR 18.42. This documentation shall include the consultant cost certification and documentation supporting the acceptance of the indirect cost rate to be applied to the contract (as specified in 172.11(c)).

(2) Small Purchases

The small purchase method involves procurement of engineering and design related services where an adequate number of qualified sources are reviewed and the total contract costs do not exceed an established simplified acquisition threshold. The County may use the State's small purchase procedures which reflect applicable State laws and regulations for the procurement of engineering and design related services provided the total contract costs do not exceed the Federal simplified acquisition threshold (as specified in 48 CFR 2.101). When a lower threshold for use of small purchase procedures is established in State Law, regulation,

or policy, the lower threshold shall apply to the use of FAHP funds. The following additional requirements shall apply to the small purchase procurement method:

(A) The scope of work, project phases, and contract requirements shall not be broken down into smaller components merely to permit the use of small purchase procedures.

(B) A minimum of three consultants are required to satisfy the adequate number of qualified sources reviewed.

(C) Contract costs may be negotiated in accordance with State small purchase procedures; however, the allow ability of costs shall be determined in accordance with Federal cost principals.

(D) The full amount of any contract modification or amendment that would cause the total contract amount to exceed the established simplified acquisition threshold would be ineligible for Federal-aid funding. The FHWA may withdraw all Federal –air from a contract if it is modified or amended above the applicable established simplified acquisition threshold.

(4) Noncompetitive

The noncompetitive method involves procurement of engineering and design related services which it is not feasible to award the contract using competitive negotiation or small purchase procurement methods. The following requirements shall apply to the noncompetitive procurement method:

(I) The county may use their own noncompetitive procedures which reflect applicable State and local laws and regulations and conform to applicable Federal requirements.

(II) The County shall establish a process to determine when noncompetitive procedures will be used and shall submit justification to, and receive approval from, the FHWA before using this form of contracting.

(III) Circumstances under which a contract may be awarded by noncompetitive procedures must be limited to the following:

(A) The service is available only from a single source;

(B) There is an emergency which will not permit the time necessary to conduct competitive Negotiations; or

(C) After solicitation of a number of sources, competition is determined to be inadequate

(IV) Contract costs may be negotiated in accordance with the County noncompetitive procedures; however, the allow ability of costs shall be determined in accordance with the Federal cost principles.

Additional Procurement Requirements

(1) Common Grant Rule

(I) The County must comply with procurement requirements established in State and local laws, Regulations, policies and procedures which are not addressed by or in conflict with applicable Federal laws and regulations (as specified in 49 CFR 18.36).

(II) When State and local procurement laws, regulations, policies, or procedures are in conflict with Applicable Federal laws and regulations, the County must comply with Federal requirements to be eligible for Federal –aid reimbursement of the associate’s costs of the services incurred following FHWA authorization (as specified in 49 CFR 18.4).

(2) Disadvantaged Business Enterprise (DBE) Program

(I) The county shall give consideration to DBE consultants in the procurement of engineering and design related service contracts subject to 23 U.S.C. 112 (b) (2) in accordance with 49 CFR part 26. When DBE program participation goals cannot be met through race-neutral measures, additional DBE participation on engineering and design related services contracts may be achieved in accordance with the County’s FHWA and approved DBE program through either:

- (A) Use of an evaluation criterion in the qualifications-based selection of consultants (as specified in 172.7(a)(1) (iii) (D)).
- (B) Establishment of a contract participation goal.

(II) The use of quotas or exclusive set-asides for DBE consultants is prohibited (as specified in 49 CFR 26.43).

(3) Suspension and Debarment.

The County must verify suspension and debarment actions and eligibility status of consultants and sub-consultants prior to entering into an agreement or contract in accordance with 49 CFR 18.35 and 2 CFR part 180.