

| <b>MENDOCINO COUNTY<br/>POLICY NO. 1</b> | <b>PURCHASING, LEASING &amp; CONTRACTING POLICY</b>   |
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**1.0 PURPOSE AND POLICY STATEMENT**

The purpose of this Purchasing Policy, which has been approved by the Board of Supervisors, is to set forth how purchasing activities are to be conducted in Mendocino County. It applies to all County employees.

Mendocino County employs centralized procurement to provide best value purchasing through fair and open competition conducted by trained and dedicated purchasing professionals. The Central Services Division of the General Services Agency is responsible for the purchase of supplies, equipment and services for the County unless otherwise exempted by this Policy or by State or Federal law.

The GSA/Central Services Division is responsible for providing leadership and guidance so that County purchasing policies and procedures are followed to maintain consistency in procurement processes and compliance with federal, state and local laws. The GSA/Central Services Division will provide leadership and guidance in all phases of material utilization, including acquisition, storage, distribution, re-utilization, and disposal.

The GSA/Central Services Division will also assist departments in all matters relating to pre-requisition investigation of possible supply sources and alternative product examinations, specification preparation, inspection and receiving practices, quality control, order follow-up and materials expediting, and the enforcement of the terms and conditions of purchase orders issued by the Division. The GSA/Central Services Division will assist departments in determining the appropriate method of acquisition of their equipment needs, which may include leasing or financing.

Finally, the GSA/Central Services Division will provide guidance and leadership to ensure County purchasing processes promote a competitive, fair and impartial environment throughout Mendocino County's vendor community.

**1.1 Authorities**

This policy indicates who has authority (Department Heads, Purchasing Agent, Auditor-Controller, Chief Executive Officer (CEO) or the Board of Supervisors to carry out each of the described tasks. When express authority is not delegated to the Department Heads, the Purchasing Agent, Auditor-Controller, or the CEO, the Board of Supervisors retains sole authority for that activity. All purchases subject to this policy are contingent upon the Board of Supervisors adopting the budget each fiscal year and the availability of funds.

**1.1.1 Sources of authority; priorities in case of conflict**

Public agencies, such as the County, have only those powers given to them by the legislature with regard to acquiring and disposing of personal and real property or contracting for services. County employees have only that purchasing and contracting authority expressly delegated to them by the Board of Supervisors or the Purchasing Agent and may be held personally liable for a transaction undertaken without such express delegation.

Except as otherwise provided by law (department must provide applicable Code Sections) or by action of the Board of Supervisors, all purchases of materials, supplies, furnishings or equipment required by any department shall be made on behalf of the County by or under the direction of the Purchasing Agent or designee in accordance with this Policy as well as the Purchasing, Leasing

and Contracting Procedure Manual. The Mendocino County Code currently designates the General Services Agency Director as the County's Purchasing Agent. (See County Code Section 2.32.030.)

## **2.0 PURCHASES OF SUPPLIES OR EQUIPMENT**

This section of the policy deals with the purchase of materials, supplies, furnishings and equipment, meaning any personal property (property which is movable - not permanently affixed to a building or the ground), even if part of the purchase price includes a separate charge for delivery or set-up. (However, charges for ongoing maintenance are separate from the purchase price and can be paid only if a maintenance (personal and professional service) contract is executed in accordance with section 6.9 of this policy.)

The General Services Agency will make every effort to incorporate the Sustainable Practices Policy (County Policy No. 44) while abiding by this Policy.

### **2.1 Purchasing Agent or designee's role in the purchase of supplies or equipment**

The Purchasing Agent or designee is the sole representative of the County in negotiating with vendors and preparing purchase orders or formal contracts for purchases. Departments may only make direct purchases from vendors when (1) the vendor has a blanket purchase order for the specific product or type of product being purchased, or (2) when the Department Head has been authorized by the Purchasing Agent or designee to make direct purchases from a specified vendor (see section 2.3). All other purchases must go through the Purchasing Agent or designee.

### **2.2 Limitations on items that may be purchased**

In general terms, a county (acting through a Department Head, the Purchasing Agent, or the Board of Supervisors) may purchase only those items necessary to carry out the authorized activities of the County. The Auditor-Controller will not reimburse purchases of items not specifically authorized by law unless the purchase is ratified by formal Board of Supervisor action upon a finding that the purchase was necessary and appropriate.

Before requesting or making a purchase, department staff shall ensure that State law or County ordinance or resolution authorizes that purchase.

Departments are not authorized to pay for banquets or award ceremonies. However, plaques or other awards to employees, community leaders or volunteers are subject to CEO approval.

### **2.3 Acquisitions by direct purchase**

#### **2.3.1 Acquisition under a County Blanket Purchase Order (BPO)**

Blanket purchase orders (BPO's) are issued to selected vendors willing to supply specific items needed by County departments, which can be bought in quantity. These items (such as office supplies, paper products, etc.) are supplied at specified contract prices, usually discounted substantially or at specified discount rates based on manufacturers' suggested retail prices.

When a BPO has been issued by the Purchasing Agent or designee, departments may order directly from that vendor without going through the Purchasing Agent or designee when the total order is less than the maximum dollar limit specified on the BPO.

In order to obtain the discounts given by BPO vendors, the County may be required to use those vendors for the purchase of all of the items covered by the contract. When this is the case,

departments may not order outside these contracts even if they can buy individual items elsewhere at a lower price, unless the immediacy of the need for an item precludes the use of the BPO vendor. Whenever this is the case, an explanation of the circumstances must be attached to the claim form requesting payment as well as receiving prior authorization of the Purchasing Agent or designee. In every case, the BPO will indicate whether the vendor has an exclusive or non-exclusive contract for the provision of the respective goods and/or services covered by the BPO.

The appropriate departments will be advised when BPO have been issued and will be provided with updated information concerning their use.

2.3.2 Acquisition by Department Head authorized to make certain direct purchases (DPA – Direct Purchase Authority)

When there is no BPO covering the specific items the department needs to purchase, and when the Department Head has been authorized by the Purchasing Agent or designee and/or the Auditor-Controller or designee to make such specific types of purchases, the Department Head may make routine purchases (including tax, delivery, and set-up charges) directly from the vendor without going through the Purchasing Agent or designee and/or the Auditor-Controller or designee. Sometimes there is no BPO for a particular product because there is only one source for that product. Sometimes the BPO may not cover the type of item needed. In other instances, the need to acquire a product or supply may occur in the field and the immediacy of the need may preclude the use of a BPO. In cases such as these, it may be appropriate for the Purchasing Agent or designee and/or the Auditor-Controller or designee to authorize the Department Head to make direct purchases without a BPO.

2.3.3 Acquisition by departments authorized to make certain direct purchases with a County-approved procurement card

The Purchasing Agent or designee and Auditor-Controller or designee may authorize departments to make certain direct purchases with a County-approved procurement (credit) card. Such direct purchases may only be made when the goods or services sought are:

- (a) Information Technology related hardware and Software supplies that have been pre-approved by GSA Information Services Division; or
- (b) Not available for direct purchase via a BPO; or
- (c) Not printing-related goods or services.

Under this section, the Purchasing Agent or designee and the Auditor-Controller or designee have the authority to approve participation in the program for other County departments as requested by departments and mutually approved by the Purchasing Agent and Auditor-Controller. Requests will be considered on an individual (departmental) basis. Approval will be granted when a department's participation in the program is deemed to be beneficial not just to the department but also to the County as a whole.

In no event shall such direct purchase authorization limit for individual items, individual transactions, or total transactions in a 30-day period exceed the limits established by the Purchasing Agent and the Auditor-Controller. These limits shall be set on a department-by-department basis.

Under Sections 2.3.2 and 2.3.3, to avoid a conflict of interest, direct purchase from County employees is prohibited. Departments shall make their purchases from recognized, responsible vendors only. Purchases may only be made during the authorized employees' normal business

working hours unless otherwise authorized by the employees supervisor and may not be combined with personal activities in any manner. Claims for direct purchases will be audited by the Auditor-Controller or designee and the Purchasing Agent or designee. Misuse of direct purchasing or procurement card privileges may result in the revocation of the privileges by the Purchasing Agent.

If the Purchasing Agent and the Auditor-Controller deny a department's request for program participation, the requesting department may appeal the decision by demonstrating in writing, to the Board of Supervisors, that its current purchasing processes are inadequate.

#### 2.4 Obtaining equipment fixed assets

A fixed asset is any individual item having a useful life exceeding one year and costing \$5,000 or more, including tax, delivery costs and all costs to put it in place in a working condition. (NOTE: All purchases related to facility construction and/or maintenance projects are exempted from this fixed asset section). The only way to acquire a fixed asset is by using the requisition process. There is no other method, regardless of the funding source (i.e. General Fund dollars, State or Federal funds, Asset Forfeiture funds). The Purchasing Agent or designee can acquire a fixed asset, even if the asset is leased, lease/purchased or rented. (See section 8.0 regarding leasing or renting equipment or other personal property.)

Although the fixed asset limit is defined as \$5,000, departments are responsible for tracking all assets costing \$2,000 or more via the department's budgetary line item 864370.

#### 2.5 Obtaining printing or copying services

County departments shall use the General Services Agency Copy Center for printing, graphics, bindery and art work and large volume copies unless the Copy Center declines to accept the order or cannot meet the required time frames. In that case, the General Services Agency will obtain quotes from outside vendors and communicate with the department.

The Auditor-Controller must approve all purchases of printed checks, voucher books, or receipts.

#### 2.6 The purchase order

Purchases \$2,000 or more (or higher as determined by the Purchasing Agent and Auditor-Controller) require the issuances of a purchase order by the Purchasing Agent or designee. The purchase order constitutes a legal contract between the County and the vendor.

#### 2.7 Emergency purchases

An "emergency" exists when an item must be purchased in order to ensure the continued operation of the office or department, or when necessary for the preservation of life or property. (See Mendocino County Code section 2.32.040.) During regular working hours, any purchase not authorized under Mendocino County Code section 2.3 required to alleviate an emergency must be made by advising the Purchasing Agent or designee of the circumstances constituting the emergency.

#### 2.8 Purchases from petty cash accounts

The County Board of Supervisors has authorized the Auditor-Controller to establish petty cash (impress cash fund) accounts for individual departments. The purpose of having a petty cash account available to departments is to allow the department the flexibility to meet its emergency needs. Please refer to the Auditor-Controllers Cash Control and Accounting Standard Practice Manual document on the County's Intranet.

Once the fund has been authorized and the monetary cash provided to the department, receipts are gathered and retained to justify the expenditures from and later to replenish the money in the department's petty cash account.

The Auditor-Controller will deny any claim for the purchase of goods or services that is not in conformity with existing County policy. It is a violation of state law to use petty cash funds to cash personal checks or to give loans to employees; doing so is grounds for disciplinary action.

### **3.0 BIDDING REQUIREMENTS – GOODS AND SERVICES**

#### 3.1 Goods

County Code Sec. 2.32.060 "Purchasing Procedures" requires that in the event the Purchasing Agent or designee purchases any individual item (as distinct from the total contract) costing more than Ten Thousand Dollars (\$10,000) without securing competitive bids or quotations thereon, the Purchasing Agent or designee shall report such action to the Board of Supervisors through the Chief Executive Officer, with his/her reasons therefore; and provided, further, that if the Purchasing Agent or designee does call for competitive bids or quotations and accepts any bid or quotation other than the lowest upon any individual item costing more than Ten Thousand Dollars (\$10,000), the Purchasing Agent or designee shall likewise report such fact to the Board of Supervisors through the Chief Executive Officer.

#### 3.2 Services

Departments shall obtain competitive bids for personal and professional services contracts (defined in section 6.0) over \$25,000. Departments shall complete the Exception to Bid form when appropriate. If a Department holds a contract between \$10,000 and \$25,000 for three consecutive years, the Department shall obtain competitive bids for that contract before beginning the fourth year of the contract.

### **4.0 VENDOR RELATIONS AND ETHICS**

#### 4.1 Vendor relations

The County's vendor relations reflect the public image of the County organization. Also it is to the County's advantage to maintain and promote good relations with suppliers. All officials and employees of the County are responsible for promoting fairness, integrity, courtesy and goodwill in our vendor relations.

Direct contact with vendors may be made for purchases authorized under the delegated purchasing authority described in this Policy as well as to obtain technical information and cost estimates.

The Purchasing Agent or designee may serve as an intermediary between County departments and vendors, interviewing vendors, arranging interviews with department staff, or obtaining prices, catalogs, samples, equipment demonstrations and general information on commodities.

#### 4.2 Ethical standards for purchasing activities

It is the policy of the County of Mendocino to promote integrity and guard against misconduct or even the appearance of impropriety by prescribing certain essential standards of conduct for County employees.

County employees and officers must discharge their duties impartially so as to assure fair competitive access to government procurement by responsible suppliers and contractors and to foster public confidence in the integrity of the County procurement system.

County employees and officers must not solicit, demand, accept or agree to accept from another person a gratuity or an offer of employment in connection with any decision, approval, recommendation, or preparation of any part of a program requirement, specification, standard or contract.

County employees and officers must not participate directly or indirectly in procurement when the employee or officer knows:

- (a) the employee or any member of the employee's family (defined as by marriage or blood) has a financial interest pertaining to the procurement;
- (b) a business or organization in which the employee has financial interests pertaining to the procurement; or
- (c) any other person, business or organization with which the employee is negotiating or has an arrangement concerning prospective employment is involved in the procurement.

All County employees that have been delegated purchasing authorities under this Policy will be required to take the County's ethics training.

## **5.0 LOCAL VENDOR PREFERENCE**

The County of Mendocino has established a local vendor preference. All informal and formal Invitations to Bid and Request for Proposals for contracts will be evaluated with a 5% preference for local vendors. The vendor **must** claim local vendor preference to be considered. Please note the following exceptions:

1. Those contracts which State Law or, other law or regulation precludes this local preference.
2. Public Works construction projects.

A "local" vendor will be approved as such when, 1) it conducts business in an office with a physical location within the County of Mendocino; 2) it holds a valid business license issued by the County, and will be asked the name of the Local Agency which issued the license; and 3) business has been conducted in such a manner for not less than six (6) months prior to being able to receive the preference, said vendor will be asked the business address and how many years the business has been at that location.

## **6.0 CONTRACT APPROVAL REQUIREMENTS**

### **6.1 Definition; authority to enter into personal and professional service contracts**

Contracts for advertising, election supplies, legal brief printing, legal notices, road construction or maintenance work, subscription to publications, insurance or utility services or reimbursement for ordinary travel expenses are not covered by this Policy because the Purchasing Agent or designee is not authorized by state law to handle those types of contracts.

County Counsel and CEO must review and approve all personal and professional service contracts.



Personal and professional service contracts are contracts that engage the time and effort of the contracting party with the primary purpose of performing specific functions or tasks rather than furnishing a product.

Contracts with professionals such as architects, engineers, etc., for services related to public projects as defined by the Public Contracts Code, are considered personal and professional service contracts and are governed by this chapter. Similarly, contracts for the maintenance of County buildings or grounds are personal and professional service contracts. However, contracts for public projects, as defined by the Public Contract Code, are not considered personal and professional service contracts (refer to Mendocino County Code Section 2.33); they are considered public contracts.

The types of personal and professional services for which the County may contract are financial, economic, accounting, engineering, environmental, land surveying, construction project management, legal, medical, therapeutic, administrative, architectural, landscape architectural, airport or building security, and laundry or linen services (Government Code sections 4526, 31000). The Board may also contract with a firm to provide certain services related to claims adjustment (Government Code section 31000.8). The Board of Supervisors may contract for site maintenance/custodial services only if the site is remote from County employee resources and it would be more cost effective for the work to be done by contract (Government Code section 31000). The Board of Supervisors also may contract with an agency for temporary workers for a period of 90 days or less if the Board of Supervisors makes certain findings (Government Code section 31000.4).

Finally, a personal and professional service contract is not required to procure the services needed by the Sheriff's Office or the District Attorney to investigate or prosecute crimes nor is it necessary for services required by a court order.

#### 6.2 Initiating, amending, and funding contracts

Requests for contracts are initiated by the department that requires the service or good. The Department Head of the requesting department is responsible for the administration of the contract once it is signed.

Any proposed change to the terms of an existing contract must be approved at the same authority level of the contract when it was first entered into, unless the scope of the proposed change will have changed the level of approval originally required.

#### 6.3 Approval and administration of contracts

All contracts must be reviewed for approval and signature by County Counsel and CEO.

The Department Head, Purchasing Agent, or Board of Supervisors' role in County contracting depends on the type of contract and the amount of compensation. Department Heads can sign personal and professional service contracts up to \$25,000. The Purchasing Agent signs personal and professional service contracts of up to \$50,000. The Board of Supervisors signs personal and professional service contracts over \$50,000.

County Counsel (or the Risk manager in regards to insurance provisions) must approve any modification to the County's boilerplate contract language.

#### 6.4 Negotiating contracts or purchases not subject to competitive bid

With regard to those contracts or purchases that are not subject to the competitive bidding process, the burden of arriving at the best terms, i.e., price, quantity, quality, warranty, delivery, setup, training, etc., is placed on the party charged with the negotiation process. That person is either the Department Head or the Purchasing Agent or designee.

In every case, the contracting department shall maintain documentation showing that the County's choice of contractor or vendor was fair and reasonable. These records shall be retained in accordance with the County's records retention standards.

If the contract is for the purchase of equipment or some other item of personal property, the County shall insist that the vendor not waive or limit available warranties.

#### 6.5 Personal and professional service contracts with compensation under \$25,000

The Board of Supervisors has authorized Department Heads to sign certain personal and professional service contracts. All contracts signed by Department Heads shall meet all of the following criteria:

- (a) Total compensation, including reimbursable costs, will not exceed \$25,000. "Contract splitting" to keep each contract under the maximum allowable amount is prohibited.
- (b) The contract is primarily for personal and professional services rather than the purchase of goods (although the contract may also provide for incidental purchases, such as the purchase of training materials).
- (c) The contract is for a one-time service or for duration of three years or less.
- (d) The amount of the contract is already budgeted for in the department's current budget.
- (e) The services to be provided are not legal.
- (f) The contractor is not employed by the County in any other capacity.
- (g) The contractor is not related to any person employed in the department (by blood or by marriage).
- (h) The contract covers all services to be rendered by the contractor.
- (i) The contract does not involve the remodeling or modification of County-owned or leased premises; the installation or maintenance of security or alarm systems; the rental of equipment, vehicles or real property; or the maintenance, cleaning, or repair of buildings or equipment (the Purchasing Agent or the Board of Supervisors are the only authorized representatives to sign off on these types of contracts).
- (j) The contract is compliant with all applicable local, state and federal laws and regulations.

If a proposed contract does not meet any one or more of the above requirements, the procedure described in section 6.6 or 6.7 of this policy shall be followed.

#### 6.6 Personal and professional service contracts with compensation between \$25,001 and \$50,000

The Board of Supervisors has authorized the County's Purchasing Agent or designee to sign certain personal and professional service contracts up to \$50,000.

#### 6.7 Personal and professional service contracts with compensation of more than \$50,000

All personal and professional service contracts for more than \$50,000 must be approved and signed by the Board of Supervisors [Mendocino County Code section 2.32.030(f)].

#### 6.8 Aggregate vendor services contracts

An aggregate vendor services contract commits the contractor to perform a series of similar services (County wide) during the term of the contract. If the stated or reasonably projected dollar amount of an aggregate services contract is less than \$25,000 per fiscal year for the total of all services and/or projects, the Department Head may sign the contract. The contract may be negotiated by the Department Head and the Purchasing Agent or designee, with the assistance of County Counsel as requested.

The Department Head administers the contract once it is made. It is essential that the compensation not exceed \$25,000 during the fiscal year. If total compensation will exceed that amount, an amendment to the contract must be prepared for the Purchasing Agent's approval and signature. Aggregate vendor service contracts over \$25,000 and under \$50,000 must be signed by the Purchasing Agent. Any Aggregate contract over \$50,000 must be approved by the Board of Supervisors.

#### 6.9 Maintenance/repair of equipment contracts

Maintenance/repair contracts are personal and professional service contracts for labor and materials necessary to properly maintain specified equipment, vehicles or other personal property owned or used by the County. All equipment maintenance contracts are signed by the Purchasing Agent. Department Heads may obtain minor repair services for County tools and equipment without a formal contract. Section 6.5 of this policy describes the procedures to use.

#### 6.10 Revenue contracts

A revenue contract is any contract that results in the County receiving funds for services rendered. Authority limits for revenue contracts are the same as other contracts as listed in Sections 6.3 through 6.7 of this policy.

#### 6.11 Cash advances

Advance payment of contract amounts by the County is to be discouraged. If paying cash advances is appropriate, the advances shall not be more than 25% of the total contract amounts as stated in section 6.0. Each subsequent payment must be based on actual services rendered. However, the Board of Supervisors may authorize that all services be paid in advance when the interests of the County would be served by doing so.

The Chief Executive Officer has authority to sign cash advances of up to 25% of the contracting amounts stated in section 6.0. Any amount over the 25% shall be approved by the Board of Supervisors by a separate action. The contract must contain a clause in which the contracting party warrants that cash advances will be used only toward providing the contractual service to the County.

The Chief Executive Officer or the Auditor-Controller may condition the advance on the provision of performance and fidelity bonds naming the County as loss payee.

#### 6.12 Provision of Goods and Services to the Health and Human Services Agency Recipients

Goods and services provided directly to, or on the behalf of, recipients of County Health and Human Services Agency programs shall meet the following conditions:

1. Federal, State and/or County law or regulation authorizes the provision of goods or services.
2. The provision of the goods and services conform to Federal, State and/or County policies, procedures and relevant licensing requirements.
3. A case management plan documents the recipient's need for the good or services.
4. If a vendor voucher is used for the purchase, the vendor is pre-approved by the Health and Human Services Agency Director and the Purchasing Agent.
5. Vendor vouchers must not exceed \$500 per purchase.

## **7.0 MAINTENANCE RENTALS AND LEASES OF EQUIPMENT AND OTHER PERSONAL PROPERTY**

County Code Section 2.32.030(C) authorizes the Purchasing Agent or designee to negotiate and execute all equipment service contracts (including software maintenance contracts) and lease/lease purchase agreements of personal property on behalf of the County. All leases extending beyond the current fiscal year must contain a non-appropriation clause that allows the County to terminate the lease should funding for the equipment terminate or decrease.

## **8.0 LEASES OF REAL PROPERTY**

County Code Section 2.32.030(D) authorizes the County's Purchasing Agent or designee to negotiate and execute all rentals or leases of real property. The Purchasing Agent's authority to enter into leases is limited, however, by State of California Government Code section 25350.51. The Board of Supervisors has adopted a policy statement that departments utilize County owned facilities before considering leasing of space. Any departmental proposed lease for space shall go before the Board of Supervisors for approval.

### **8.1 Definition of real property**

Real property includes land, buildings and other structures attached to the land, and fixtures. In general terms, a fixture is any tangible item that is securely attached to a building.

### **8.2 Procedure where the County is the landlord (lessor)**

The procedures for leasing County real property is defined in County Code Section 2.32.110.

### **8.3 Rental Contracts**

Department Heads are authorized to enter into rental contracts for facility uses to conduct meetings, trainings, and seminars (etc.) for up to \$2,000 and no more than 14 days. These rental contracts must follow Section 6.0 of this policy.

## **9.0 POLICY ACCOUNTABILITY**

If a County department purchases goods or services contrary to this Policy, said purchases or contracts are void, of no effect, and do not obligate the County. A department making an unauthorized purchase may be required to appear before the Board of Supervisors to obtain retroactive approval of such expenditure. Willful failure of a County employee to comply with this Policy purchasing policy could result in a Department Head being held personally liable as well as disciplinary action, including termination, pursuant to applicable policies. In addition to disciplinary action, criminal prosecution could also be warranted.