



RESOLUTION NUMBER: 2021-34

Approving the
ROOSEVELT COUNTY POLICY
Governing Purchasing and Procurement

Supersedes prior Resolution No. 2017-27

WHEREAS, Roosevelt County, State of New Mexico, acting by and through its duly elected Board of Commissioners, hereinafter referred to as County, is authorized pursuant to Section 13-1-97, NMSA, 1978 Compilation, to establish a center purchasing office and establish guidelines for the purchase of materials and services by Roosevelt County; and,

WHEREAS, the Roosevelt County Board of Commissioners recognizes that a Purchasing and Procurement Policy is necessary to provide the proper procedures to be followed by all County elected officials and personnel in all purchasing and procurement activities; and,

WHEREAS, the Roosevelt County Board of Commissioners desires to revise the current purchasing policy that details those procedures of purchasing and procurement to which each elected official and personnel are required to adhere; and,

WHEREAS, in accordance therewith, Roosevelt County is required to designate a Chief Procurement Officer; and,

WHEREAS, the County hereby designates the Administration Office as the Roosevelt County Procurement Office and the Finance Specialist as the Roosevelt County Procurement Officer; and,

WHEREAS, it will be the responsibility of the Procurement Officer or their designee to perform all duties and responsibilities under this Resolution in accordance with the State of New Mexico Procurement Code, Regulations and Roosevelt County policies; and,

WHEREAS, this Policy was originally adopted in 2013, and updated on the 19th day of November, 2014, and on the 4th day of April, 2017; it is now updated to include additional necessary revisions.

NOW, THEREFORE, BE IT RESOLVED, by the Roosevelt County Board of Commissioners that the attached Purchasing Policy, be and hereby is ratified, adopted, and approved by the Roosevelt County Commission, and this Policy shall control the manner and procedures followed by County elected officials, County personnel for all purchasing and procurement activities.



PASSED, APPROVED AND ADOPTED on this 22nd day of June, 2021 by the Roosevelt County Board of Commissioners in an open meeting in Portales, New Mexico.

**BODY OF COUNTY COMMISSIONERS
ROOSEVELT COUNTY, NEW MEXICO**

ATTEST:

Mandi M Park
Mandi Park, Roosevelt County Clerk

Tina Dixon
Tina Dixon, Chair – District IV

Voted: ☒ Yes ☐ No ☐ Abstained

Lewis (Shane) Lee
Lewis (Shane) Lee, Vice Chair – District III

Voted: ☒ Yes ☐ No ☐ Abstained

absent
Dennis Lopez – District I

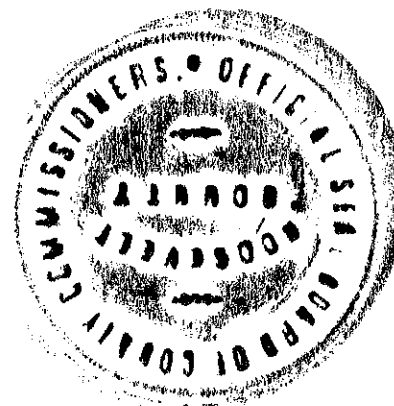
Voted: ☐ Yes ☐ No ☐ Abstained

Rodney Savage
Rodney Savage – District II

Voted: ☒ Yes ☐ No ☐ Abstained

Paul Grider
Paul Grider – District V

Voted: ☒ Yes ☐ No ☐ Abstained

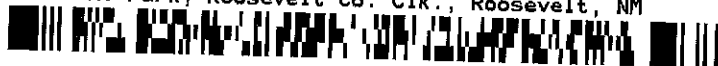


SECTION I: GENERAL PROVISIONS

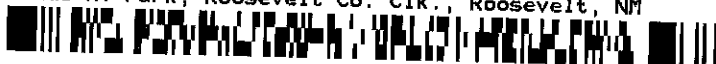
- 1.1 USER APPLICABILITY.** This Purchasing and Procurement Policy (hereinafter referred to as "this Policy") and its procedures apply to elected officials, departments, personnel, individuals, or otherwise under the supervision of, Roosevelt County Government. The purchasing function shall be conducted in a manner above reproach, with complete impartiality and without preferential treatment. Users shall avoid any conflicts of interest. No user may solicit or accept, directly or indirectly, any gratuity, gift, favor, entertainment, loan, or anything of value from any offeror.
- 1.2 ADMINISTRATION.** The County Manager shall be responsible for the administration of this Policy and shall verify the Finance Office insures that all provisions of law and this Policy are followed. Supplements issued by the Finance Office shall be approved by the County Manager and certified copies of all supplements shall be attached to and made a part of this Policy. Upon the absence of the County Manager, the Finance Office will be responsible for administration of this Policy.
- 1.3 IMPLEMENTATION.**
- A. Finance Office.** The term Finance Office is used to describe the office and/or personnel directly responsible for establishing budgetary control for expenditure of funds and accounts payable procedures for payment of purchases made. The Finance Office will contain the County Certified Procurement Officer.
 - B. Procurement Officer.** The Procurement Officer shall be a County employee who will be responsible for the control of the procurement of items of tangible personal property, services and construction for Roosevelt County. The Procurement Officer shall be certified by the State of New Mexico at the time of appointment and shall be responsible for recertification every two (2) years as required by §13-1-95.2 NMSA 2014.
- 1.4 AUTHORITY AND RESPONSIBILITY.**
- A.** Only individuals authorized by the elected official or department head shall be permitted to make Roosevelt County purchases consistent with the provisions of this Policy. Authorization shall be submitted to the Finance Office. All authorized users shall receive and sign for a copy of this Policy, and shall thereby be responsible for the knowledge and appropriate compliance and use of the provisions of this Policy.
 - B.** Authorized users may contact vendors to obtain technical information, prices, and delivery information for planning purposes. The Finance Office will review the technical information, confirm prices are reasonable, ensure availability of County funds, and issue a purchase order. All quotations documented or received by users shall be attached to the purchase order or p-card statement.
- 1.5 APPROVED VENDORS.** The Finance Office shall maintain a current list of vendors with whom the County does business.
- 1.6 DEFINITION OF A PURCHASE.** For the purpose of this Policy, a purchase is the commitment, obligation, and/or expenditure of Roosevelt County supervised funds to obtain goods or services.



- 1.7 **REFERENCES.** The State Procurement Code (Code), sections 13-1-28 through 13-1-199 NMSA 1978, and applicable OMB circulars, federal and state laws, regulations, and guidelines and County policy.
- 1.8 **APPLICATION OF PROCUREMENT LAW.** When procurement involves the expenditure of federal funds, the procurement shall be conducted in accordance with mandatory applicable federal and state laws and regulations. When mandatory applicable federal law or regulations are inconsistent with the provisions of the state Procurement Code or this policy, compliance with federal law or regulations shall be compliance with the state Procurement Code (Section 13-1-30 NMSA 1978).
- 1.9 **DOLLAR AMOUNTS.** Whenever a dollar amount appears in this policy, such amount is exclusive of applicable gross receipts and local option taxes as the term is defined in Section 7-9-3 (Q) NMSA 1978.
- 1.10 **INDEMNIFICATION AND INSURANCE.** Tort liability. Except as provided for in the Tort Claims Act, Sections 41-4-1 through 41-4-27 NMSA 1978, no contract governed by this policy shall contain any provision whereby the County agrees to indemnify or provide tort liability insurance for any contractor. The indemnification and insurance provisions of contracts provided for in the Tort Claims Act shall be approved in writing by the County legal counsel or risk manager before they become effective.
- 1.11 **UNAUTHORIZED AND QUESTIONABLE PURCHASES.** Any purchase which is not legally and appropriately approved within the County budget or by other County Commission action, or which does not substantially comply with the provisions of the State Statutes, particularly the State Procurement Code, and the provisions of this Policy, shall be considered an unauthorized County purchase and thereby not subject to payment by the County. **The County hereby declares and establishes that it will assume no responsibility for payment of unauthorized purchases. Furthermore, any individual initiating or otherwise executing any unauthorized purchase is solely responsible for payment. All questionable purchases shall be submitted to the County Manager for review and determination under the provisions of this Policy.** Roosevelt County is a tax exempt entity and is not required to pay tax on any purchase of goods. All County purchases of goods should reflect the County's tax exempt status. The amount of taxes on any invoice where a tax exemption has not been taken may be an unauthorized purchase, depending upon the circumstances.
- All County personnel and Elected Officials agree to indemnify and hold Roosevelt County harmless from any unauthorized purchase or acquisition made by such personnel including payment of the County's attorney's fees.
- 1.12 **COMMISSION APPROVAL OF UNAUTHORIZED PURCHASES.** Any purchase determined by the County Manager to be unauthorized shall be considered for approval of payment at a public meeting of the County Commission. Unauthorized purchases shall not be approved or processed for payment prior to Commission approval, and shall be attached to the purchasing transaction file for audit purposes.
- 1.13 **PENALTIES.** Any business or person that willfully violates the Procurement Code is guilty of a misdemeanor if the transaction involves fifty thousand dollars (\$50,000) or less; or a fourth degree felony if the transaction involves more than fifty thousand dollars (\$50,000).



- 1.14 CONSISTENCY WITH STATE PROCUREMENT CODE.** The provisions of this Policy are subject to change in accordance with New Mexico Statute updates or State Procurement Code revisions. Any revision that is inconsistent with the provisions of this Policy shall be resolved in favor of the State Statutes or State Procurement Code. All authorized users shall be given a copy of each revision and notified that it is in effect.
- 1.15 AMENDMENT.** Amendments to this Policy shall be provided to all user offices/departments for comments. Amendments shall then be executed by resolution approved by the County Commission prior to implementation.
- 1.16 INTERPRETATION OF POLICY AND SUPPLEMENTS.** In any case that a provision of this Policy is vague or unclear, the County Manager shall provide a written supplement for clarification of the provision, which shall be implemented by all departments/offices.
- 1.17 SOLICIATIONS.** Solicitations of County personnel by private company agents on County time or County property or through County Offices or Departments are prohibited, except upon request by the County, or for programs or proposals available to all offices/departments authorized and approved by the County Manager. The Finance Office may accept agent solicitations at their discretion for the purpose of gaining information regarding new or existing companies and their representatives and/or products, if such is determined to be potentially beneficial to the County.



SECTION II: STANDARD PURCHASING PROCEDURE

- 2.1 STANDARD PURCHASING PROCEDURE APPLICABILITY.** “Standard Purchases” are describe as systematic, planned, and necessary purchases for administration and operation of a project, division, and/or Department. There shall be no exception to these standard procedures except as provided in “Non-Standard, Urgent, and Emergency Purchases Procedures” in Section III of this policy.
- 2.2 INITIATING A PURCHASE: PURCHASE ORDER/REQUISITION.** All standard purchases as authorized by this section require that the buyer utilize either a Roosevelt County Purchasing Card (P-Card) or a Roosevelt County purchase order/requisition be issued prior to placing an order or making a purchase. All purchase orders must be submitted to the Finance Office or a designated authorized Purchaser for approval. The Finance Office or any other personnel designated as an Authorized Purchaser has the right to refuse approval of any purchase or request. The purchase order form shall contain all information as required by the Finance Office to include, but not limited to, the following:
- A. Vendor-**The business to which the purchase order will be issued.
 - B. Vendor Number-**To be taken from the mainframe database or listing of vendors. Numbers for new vendors shall be assigned only through the Finance Office. A vendor number must be on file for the vendor prior to issuance of a purchase order.
 - C. Terms-**Roosevelt County pays net within 30 days of receipt of invoice unless other arrangements are made and included on this section of the purchase order.
 - D. Quantity-**Specify a unit and the approximate amount per unit being requested. Units may be “each”, “box”, “gallons”, “reams”, “pounds”, etc. If exact quantity is not known, users shall provide the best estimate of quantity.
 - E. Description of Item-**The description of the items or services should be sufficiently complete to identify the item being purchased. Services that have been obtained through the use of an agreement must reference the agreement number and attach a copy of the agreement. Services that have been obtained through the use of a bid must reference the bid number. Commonly used items may be identified by brand names.
 - F. Estimated Amount-**Calculation of the quantity multiplied by the unit price. If exact cost cannot be determined, users shall provide the best estimate of cost.
 - G. Department-**Enter name of department or office initiating the purchase order.
 - H. Elected Official-** Includes Commissioners, Treasurer, Clerk, Assessor, Sheriff, and Probate Judge.
 - I. Personnel/ Employee-**Includes all classified, unclassified, grant-funded, and contracted members of staff.
 - J. Account Number-**The appropriate budget line item account number to be charged. It is the authorized user’s responsibility to assign the correct line item account number to the purchase order. Multiple line item accounts may be included in the purchase order.
- 2.3 AUTHORIZATION OF PURCHASE ORDERS.** The completed purchase order form shall be submitted to the Finance Office for authorization, date and number assignment. The user department/office shall inform the vendor that the purchase order must be included on the invoice submitted to the County for payment. Purchases executed prior to obtaining a purchase order are prohibited except as otherwise provided in “Non-Standard and Emergency Purchasing Procedures”, Section III of this Policy. Adding different items to a purchase order after it has been authorized is prohibited, unless approved by the Finance Office to ensure compliance. However, a purchase order may be increased if there are no changes in the item and unit price, and funds are available.



- 2.4 INVOICES.** An invoice is an itemized statement submitted by the vendor to the County for payment of material or services delivered to the County. It is the responsibility of the vendor to insure a purchase order is provided prior to issuing materials or services and the vendor shall include the purchase order number on the invoice submitted to the County for payment. In cases that purchase order numbers are not included on the invoice when required, the vendor shall be informed. The Finance Office, at its discretion, is authorized to return any invoices, which do not reference a valid purchase order number. The County will not be responsible for purchases made without an executed and authorized purchase order.

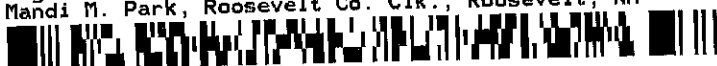
The vendor shall be notified that repeated improper invoicing is sufficient cause to exclude the Vendor from the County's purchasing program. Also, the County may refuse payment in any case that there is an unauthorized purchase.

- A. Verification of Invoices.** All invoices shall be reviewed by user Department/Office prior to payment to insure materials or services have been received and to certify authorization for payment. The certification statement requires an authorized signature, date of signature, and purchase order number on the invoice. It will be the responsibility of user Department/Office to insure outstanding invoices are promptly submitted for payment.
- B. Processing for Payment.** The Finance Office will insure that all invoices received are appropriately authorized and certified prior to payment. The Finance Office shall be responsible for insuring that appropriate procedures are established and used for payment after invoices are received to include timely payments and to insure that discounts are received and late charges avoided.

- 2.5 OVER EXPENDITURES.** Purchase orders shall not be issued, approved, or processed in cases that line items will be over expended, except as approved by the Finance Office in accordance with State and County regulations and provisions, and provided there are legally sufficient budget balances available elsewhere. It shall be the primary responsibility of the elected official or department head to insure sufficient funds are available prior to initiating a purchase. The Finance Office shall provide sufficient information, data, or reports, monthly, to keep purchasers properly updated on budget balances, and shall notify any office/department of any indications of existing or impending budget balance problems.

- 2.6 COMPETITIVE PURCHASES.** Authorized users shall attempt to insure that all purchases are made at the best possible prices. Purchases shall be made in accordance with the following provisions:

- A. Less than \$20,000.** Purchases may be processed without quotations. Award can be made without securing competition if the user determines that the price received is reasonable. The user is not precluded from obtaining quotes from more than one vendor if the user suspects that the price is not reasonable or determines that it is in the best interest of the County.
- B. \$20,000 to \$59,999.99.** Written Quotes. Purchases shall be made according to the best obtainable price provided at least three (3) bona fide written quotes are obtained on the offering vendor's official letterhead or quote form, or through an email, and submitted for approval to the Finance Office. Purchases may only be made after receiving approval. The Finance Office reserves the right to delay approval, to seek additional confirmation or information regarding any quote, and to request additional quotes be obtained. The Finance Office may procure services, construction or items of tangible personal property having a value not exceeding sixty thousand dollars (\$60,000) upon obtaining and documenting three quotes (including written, oral, electronic and advertised).



- C. **\$60,000 and Above.** All purchases exceeding sixty thousand dollars (\$60,000) require formal bid procedures as specified by State regulations and shall be processed and executed by the Finance Office, through formal procedures. Such purchases must be approved in the current budget, and purchases not approved in the current budget require approval by the County Commission prior to advertising for bids. Bids may be rejected by the Finance Office or County Manager in the event that they are in excess of budgetary limits, are non-responsive to specifications, or due to irregularities in the bids specifications.
- D. **Written Quote Exceptions.** In the event there are not three (3) known vendors which have materials/services available, less than three (3) quotes are permissible provided the user attaches the quotes obtained and identifies, on the quote form or on separate attachment, the names of other vendors contacted who could not provide the materials/services. The Finance Office reserves the right to delay approval or require three (3) quotes prior to approving a purchase.
- E. **State or Federal Purchasing Contracts and Cooperative Bid Exceptions.** Quotations or bids are not required for purchases under this section. Purchases may be made providing that the vendor has a State or Federal Purchasing Contract. Procurement involving State or Federal Purchasing Contracts will have to be approved by Roosevelt County Administration. The Finance Office shall keep copies of all federal, state or other such contracts for a period of seven years.
- Federal and/or State contract numbers must be identified on the purchase order or p-card statement, and a copy of the contract must be kept on file by the Finance Office, either physically or electronically, for a period of seven years.
- F. **Uniform Administrative Requirements for Federal Purchases, Grants, and Contracts**
This section is intended to integrate purchasing procedures with additional requirements applicable to procurements that are subject to the Federal Uniform Guidance, Federal Acquisition Regulation (FAR) and/or Office of Management and Budget (OMB). The County shall maintain the following purchasing procedures, in accordance with federal and state laws, and regulations (2 CFR § 200.317 – 326). If there is a difference or variance in the Federal Regulation, New Mexico Procurement Code, as amended, and this Procurement Resolution, the most stringent requirement(s) shall be followed.
- G. **Bid Specifications.** Specifications should be written primarily to address the need of the County for a specific item to perform a specific function. Specifications written for purchases shall not be “closed or exclusive”, or otherwise written in such a way as to intentionally favor or exclude a vendor. Reference to specific types or quality shall be followed by wording “or equal” and all specifications regardless of wording shall be considered as “or equal”. It shall be the authorized user’s responsibility to insure that all specialized technical aspects of specifications are correct and appropriate. It shall be the Finance Office’s responsibility to review and insure that all other provisions, procedures and considerations are correct and appropriate, and to address any questionable unusual or inappropriate specifications prior to processing. The bidding process may be waived by the Finance Office in cases that a vendor has a State, Federal or other qualified Purchasing Contract.



H. RESPONSIBILITY OF BIDDERS AND OFFERORS. Standards of responsibility. A determination of responsibility or non-responsibility shall be governed by this section.

- Standards for bidders. Factors to be considered in determining whether the standard of responsibility has been met include whether a bidder has: a) submitted a responsive bid; b) adequate financial resources, production or service facilities, personnel, service reputation and experience to make satisfactory delivery of the services, construction, or items of tangible personal property described in the IFB; c) a satisfactory record of performance; d) a satisfactory record of integrity; e) qualified legally to contract with the County; and f) supplied all necessary information and data in connection with any inquiry concerning responsibility.
- Standards for Offerors. Factors to be considered in determining whether the standard of responsibility has been met include whether an offeror has: a) submitted a responsive proposal; b) adequate financial resources, production or service facilities, personnel, service reputation and experience to make satisfactory delivery of the services or items of tangible personal property described in the proposal; c) a satisfactory record of performance; d) a satisfactory record of integrity; e) qualified legally to contract with the County; and f) supplied all necessary information and data in connection with any inquiry concerning responsibility.
- Ability to meet Standards. A bidder or offeror may demonstrate the availability of adequate financial resources, production or service facilities, personnel and experience by submitting, upon request: a) evidence that the bidder or offeror possesses the necessary items; b) acceptable plans to subcontract for the necessary items; or c) a documented commitment from, or explicit arrangement with, a satisfactory source to provide the necessary items.
- Inquiry by Purchasing Agent. Before awarding a contract, the Purchasing Agent or procurement manager must be satisfied that the bidder or offeror is responsible. Therefore, a bidder or offeror shall supply information and data requested by the Purchasing Agent concerning the responsibility of the bidder or offeror. The unreasonable failure of a bidder or offeror to promptly supply information or data in connection with such an inquiry is grounds for a determination that the bidder or offeror is not responsible.
- Determination Required. If a bidder or offeror who otherwise would have been awarded a contract is found to be non-responsible, a written determination, setting forth the basis of the finding, shall be prepared by the purchasing office. The written determination shall be made part of the procurement file, and a copy of the determination shall be sent to the non-responsible bidder or offeror.

I. PERFORMANCE AND PAYMENT BONDS.

- Performance and (labor and material) payments bonds. Pursuant to Section 13-4-18 NMSA 1978 performance and payments bonds are required if the construction contract is over \$25,000. The bonds may be required if a project is under \$25,000 at the County's sole and complete discretion. If a contractor fails to deliver the required bonds, the contractor's bid shall be rejected; its bid security shall be enforced to the extent of actual damages. See Section 13-4-18A(1) & (2) for approved listing of bonding companies.
- Bonding of Subcontractors. A subcontractor shall provide a performance and payment bond on a public works building project if the subcontractor's contract for work to be performed on a project is \$50,000 or more (Section 13-1-21 NMSA 1978).



J. NONDISCRIMINATION. Federal grant recipients, sub-recipients, contractors and subcontractors shall comply with the nondiscrimination and equal opportunity provisions of the enabling Act, including Title VI of the Civil Rights Act of 1964, as amended; Section 504 of the Rehabilitation Act of 1973, as amended; the Age Discrimination Act of 1975, as amended; Title IX of the Education Amendments of 1972, as amended; the Americans with Disabilities Act of 1990, and any amendments thereto; and all applicable requirements imposed pursuant to regulations implementing those laws. The applicable federal funding agency and the state administrative entity reserve the right to seek judicial enforcement of this assurance.

K. RESTRICTIONS AND CERTIFICATIONS. The County, its contractors and sub-grantees shall comply with: the Drug-Free Workplace Act of 1998 (Pub L. 100-690, Title V, Sub Title D); Federal Restrictions on Lobbying (20 CFR 93.100); restrictions on the use of funds involving sectarian activities; and certification regarding debarment, suspension and voluntary exclusion-lower tier covered transactions (29 CFR 98, OMB Circular A-133, and Executive Order 12549); certification regarding conflict of interest; and tobacco-free certification, if applicable and County policy.

L. APPLICABILITY -- PROTESTS. The provisions of this section apply to all protests filed with the purchasing office.

- Right to Protest. Any bidder or offeror who is aggrieved in connection with a solicitation or award of a contract may protest to the County Manager through the purchasing office. Protest must be written and addressed to the Procurement Officer.
- Contents. The protest shall: a) include the name and address of the protestant; b) include the solicitation number; c) contain a statement of the grounds for protest; d) include supporting exhibits, evidence or documents to substantiate any claim unless not available within the filing time in which case the expected availability date shall be indicated; and e) specify the ruling requested from the central purchasing office.
- Pleadings. No formal pleading is required to initiate a protest, but protests should be concise, logically arranged, and direct.
- Time limit. Protests shall be submitted within fifteen calendar days after knowledge of the facts or occurrences giving rise to the protest. Any person or business that has been sent written notice of any fact or occurrence is presumed to have knowledge of the fact or occurrence.
- Procurements after Protest. In the event of a timely protest, as defined in this section, the purchasing office shall not proceed further with the procurement unless the office makes a written determination that the award of the contract is necessary to protect substantial interests of the County. Such written determination should set forth the basis for the determination. As used in this section, the point in time in which a contract is awarded is that point at which a legally enforceable contract is created unless the context clearly requires a different meaning. Procurement shall not be halted after a contract has been awarded merely because a protest has been filed. After a contract has been awarded, the purchasing office may, in its sole discretion, halt procurement in exceptional circumstances or for good cause shown.



- *Protest procedure.* Upon the filing of a timely protest, the purchasing office shall give notice of the protest to the contractor if award has been made or, if no award has been made, to all bidders or Offerors who appear to have a substantial and reasonable prospect of receiving an award if the protest is denied. The protestant and every business that receives notice pursuant to this section will automatically be parties to any further proceedings before the purchasing office. In addition, any other person or business may move to intervene at any time during the course of the proceedings. Intervention will be granted upon a showing of a substantial interest in the outcome of the proceedings. Interveners shall accept the status of the proceedings at the time of their intervention; in particular, they must abide by all prior rulings and accept all previously established time schedules. The purchasing office and all employees thereof, are not parties to the proceedings. The purchasing office may take any action reasonably necessary to resolve a protest. Such actions include, but are not limited to, the following: a) issue a final written determination summarily dismissing the protest; b) obtain information from the staff of the central purchasing; c) require parties to produce for examination information or witnesses under their control; d) require parties to express their positions on any issues in the proceedings; e) require parties to submit legal briefs on any issues in the proceeding; f) establish procedural schedules; g) regulate the course of the proceedings and the conduct of any participants; h) receive, policy on, exclude or limit evidence; i) take official notice of any fact that is among the traditional matters of official or administrative notice; j) conduct hearings; and k) take any action reasonably necessary to compel discovery or control the conduct of parties or witnesses.
- *Protest Discovery.* Upon written request of any party, or upon its own motion, the purchasing office may require parties to comply with discovery requests.
- *Protest Hearings.* Hearings will be held only when the purchasing office determines that substantial material factual issues are present that cannot be resolved satisfactorily through an examination of written documents in the record. Any party may request a hearing, but such requests shall be deemed denied unless specifically granted. Hearings, when held, should be as informal as practicable under the circumstances, but the purchasing office has absolute discretion in establishing the degree of formality for any particular hearing. In no event is the purchasing office required to adhere to formal policies of evidence or procedure.
- *Resolution.* The purchasing office shall promptly issue a written determination relating to the protest. The determination shall a) state the reasons for the action taken; and b) inform the protestant of the right to judicial review of the determination pursuant to Section 13-1-183 NMSA 1978. A copy of the written determination shall be sent immediately by certified mail, return receipt requested, to each of the parties.
- *Relief.* If, prior to award, the purchasing office makes a written determination that a solicitation or proposed award of a contract is in violation of law, then the solicitation or proposed award shall be canceled.
- a) If, after an award, the purchasing office makes a written determination that a solicitation or award of a contract is in violation of law and that the business awarded the contract has not acted fraudulently or in bad faith: a) the contract may be ratified, affirmed or revised to comply with law, provided that a written determination is made that doing so is in the best interest of the County; or b) the contract may be terminated, and the business awarded the contract shall be compensated for the actual expenses reasonably incurred under the contract plus a reasonable profit prior to termination.



- b) If, after an award, the purchasing office makes a written determination that a solicitation or award of a contract is in violation of law and that the business awarded the contract has acted fraudulently or in bad faith, the contract shall be canceled.
- c) Relief not allowed. Except as provided in subsection L.a), the purchasing office shall not award money damages or attorneys' fees.
- Motion for Reconsideration. A motion for reconsideration of a written determination issued pursuant to this policy may be filed by any party or by any user agency involved in the procurement. The motion for reconsideration shall contain a detailed statement of the factual and legal grounds upon which reversal or modification of the determination is deemed warranted, specifying any errors of law made, or information not previously considered. A motion for reconsideration shall be filed not later than seven calendar days after receipt of the written determination. The purchasing office shall promptly issue a written response to the motion for reconsideration. A copy of the written response shall be sent immediately by certified mail, return receipt requested, to each of the parties.
- Designee. At any point during a protest proceeding, the purchasing office may appoint a designee as defined in Section 13-1-51 NMSA 1978 to preside over the proceeding. The designee will have all of the powers described in this policy except the power to issue a written determination of this policy. The designee only has authority to recommend a resolution to the purchasing office of this policy. Any person, other than the Purchasing Agent, procurement manager or other person not directly involved in the procurement may serve as a designee. The Business Manager may be designated by the Purchasing Agent as the designee. A designee shall present a recommended written resolution to the purchasing office and mail a copy to each of the parties. No party may appeal from the recommended resolution of the designee. The County Manager shall approve, disapprove or modify the recommended resolution of the designee in writing. Such approval, disapproval or modification shall be the written determination required this policy. Any party may file a motion for reconsideration of the written determination pursuant to this policy.
- Final Determination. No motion for reconsideration. In those proceedings in which no motion for reconsideration is filed, the written determination issued pursuant to subsection 24.6 of this policy shall be the final determination for purposes of the time limits for seeking judicial review under Section 13-1-183 NMSA 1978. In those proceedings in which a motion for reconsideration is filed, the written response to the motion issued pursuant to this policy shall be the final determination for purposes of the time limits for seeking judicial review under Section 13-1-183 NMSA 1978.
- Copies of Communications. Each party to a protest proceeding shall certify that it has provided every other party with copies of all documents or correspondence addressed or delivered to the purchasing office. No party shall submit to the central purchasing office, ex-parte, any material, evidence, explanation, analysis, or advice, whether written or oral, regarding any matter at issue in a protest. In computing any period of time prescribed in this policy, the day of the event from which the designated period of time begins to run shall not be included, but the last day of the period shall be included unless it is a Saturday, a Sunday, or a legal holiday, in which event the period shall run to the end of the next business day.

2.7 SOLE SOURCE PURCHASE.



A contract may be awarded without competitive sealed bids or competitive sealed proposals regardless of the estimated cost when the Finance Office determines in writing that:

- There is only one source for the required service, construction or item of tangible personal property.
- The service, construction or item of tangible personal property is unique and this uniqueness is substantially related to the intended purpose of the contract; and,
- Other similar services, construction or items of tangible personal property cannot meet the intended purpose of the contract.
- The Procurement Officer shall use due diligence in determining the basis for the sole source procurement, including reviewing available sources and consulting the using agency, and shall include its written determination in the procurement file.
- The Procurement Officer shall conduct negotiations, as appropriate, as to price, delivery and quantity in order to obtain the price most advantageous to Roosevelt County.
- The Procurement Officer shall not circumvent this section by narrowly drafting specifications so that no one predetermined source would satisfy these requirements.

2.8 **PURCHASE OF INVENTORY ITEMS.**

- A. All capital outlay and non-expendable supply purchases are considered inventory items and shall be noted as such on the purchase order or purchasing card statement. It shall be the responsibility of the Finance Office to identify inventory items in accordance with all current State and County provisions and laws.
- B. Accessories to new capital purchases may be purchased as part of the capital purchase provided funds are budgeted, noted on the purchase order, and assigned the same fixed asset number as the original capital purchase.

2.9 **PROCUREMENT OF PROFESSIONAL SERVICES.**

For each public works project, architectural, landscape architectural, construction management, engineering and surveying services will be procured in accordance with Sections 13-1-120 through 13-1-123, NMSA, 1978.

i. Professional services, not exceeding \$60,000, may be procured utilizing an approach that would be in the best interest of the residents of Roosevelt County. Otherwise, the following professional service procurement process shall be adhered to:

ii. \$60,001 and above: Any Professional Service (excluding architectural, landscape architectural, construction management, engineering and surveying services) exceeding \$60,000 requires a formal Request for Proposal, as specified by the State of New Mexico Procurement Code and Regulations; and, shall be processed and executed by the County Purchasing Office through formal procedures.

2.10 **PERSONAL USE PROHIBITED.** No purchases shall be made for the purpose of personal or private use.



SECTION III. NON-STANDARD, URGENT AND EMERGENCY PURCHASING PROCEDURES

- 3.1 NON-STANDARD PROCEDURES: GENERAL PROVISIONS.** The provisions of this section apply to all purchases except those purchases subject to the standard purchasing procedures specified in Section II of this Policy. Generally, this section includes all purchases which are justifiably urgent, are emergencies, due to insufficient time required for standard processing, or involve other non-standard procedures. It is the responsibility of the authorized user to insure that all purchases made under provisions of this section are immediate and unforeseen. Questionable purchases shall be reported to and reviewed by the County Manager. Purchases that could have been reasonably pre-planned or anticipated shall not be considered as an emergency or urgent purchase.
- 3.2 URGENT OR EMERGENCY PURCHASES.** Urgent or Emergency purchases are permissible provided they are in accordance with the following provisions:
- A. Urgent Purchases. (For purchases to be done by Purchase Orders)** An urgent purchase is a local or non-local purchase during or after normal working hours of the Finance Office that justifiably requires immediate purchase and which cannot reasonably or practicably be communicated to the Finance Office to obtain a purchase order number prior to the purchase being made.
- B. Emergency Purchases.** The Finance Office may make emergency procurements when there exists a threat to public health, welfare, safety or property requiring procurement under emergency conditions; provided that emergency procurements shall be made with competition as is practicable under the circumstances.
- An emergency condition is a situation that creates a threat to public health, welfare, or safety such as may arise by reason of floods, fires, epidemics, riots, acts of terrorism, equipment failures or similar events and includes the planning and preparing for an emergency response. The existence of the emergency condition creates an immediate and serious need for services, construction or items of tangible personal property that cannot be met through normal procurement methods and the lack of which would seriously threaten:
1. The functioning of government;
 2. The preservation or protection of property; or
 3. The health or safety of any person.
- Emergency procurements shall not include the purchase or lease purchase of heavy road equipment.
- The Finance Office shall use due diligence in determining the basis for the emergency procurement and for the selection of the particular contractor. The determination shall be in writing and included in the procurement file.
- C. Urgent or Emergency Purchase Orders.** All urgent or emergency purchase orders shall have the words "Urgent" or "Emergency" documented on the form as is applicable, and shall be accompanied by a receipt or invoice for the purchase.
- D. Justification.** All emergency and urgent purchases shall be justifiable and the top level Department Head or Elected Official shall be responsible for attaching a written justification.



- 3.3 Open Purchase Orders.** For the purpose of this Policy, open purchase orders, are purchase orders against which multiple billings will be submitted over a specific period of time. All open purchase orders shall be accompanied by any required applicable documentation. An open purchase order will be closed out at the end of the fiscal year.

Authorization to use open purchase orders in all cases shall require adherence to Section 2.6 of this Policy and prior approval by the Finance Office. The open purchase order shall include an estimated total cost of all purchases anticipated during the specific period. Actual invoices for all purchases made using an open purchase order shall be submitted to the Finance office upon receipt and the final invoice shall be marked **FINAL** to denote closing of the open purchase order.

Open Purchase Orders shall not be used for the purchase of items to be tagged. Cases of improper use of open purchase orders shall be reported to the County Manager.

- 3.4 End of Fiscal Year.** Special purchasing procedures shall be followed to insure that State law and regulations and proper accounting procedures are followed to appropriately close out at the end of the fiscal year. Provisions are as follows:

- A. 30 days prior to year ending:** 30 days prior to the end of the fiscal year, purchase orders will be issued only for purchases in which invoices will be received within an estimated thirty (30) days, except as otherwise specifically approved by the Finance Office.
- B. 15 days prior to year ending:** There shall be no purchase orders issued or processed within 15 days prior to the end of the fiscal year except in extreme emergencies or as specifically approved otherwise by the Finance Office.
- C. 10 days prior to year ending:** Purchases made using the purchasing card shall be limited only to those items that are absolutely necessary to conduct business.



SECTION IV. PURCHASING CARD PROCEDURES

- 4.1 CARD ISSUANCE.** Elected Officials and/or a Department Head can request a County Purchasing Card through the Finance Office. Purchasing Cards may be issued at the discretion of the County Manager. Such purchasing cards are the responsibility of the applicable Elected Official or Department Head. County Purchasing Cards can be issued to Departments to facilitate the purchasing process. It is the responsibility of a Department Head(s) and/or Elected Official(s) to log the authorized use of the Department Purchasing Card. Cardholders and any employee whom intends to use the Purchasing Card must review and sign the Requirements for Use Agreement. By signing the Requirements for Use Agreement, P-Card User(s) acknowledge the receipt of this policy and agree to adhere to the guidelines established herein. The card is not to be used for purchases of personal use. The Finance Office and County Manager have the right to approve or deny any credit limit increases requested. The County is responsible for payment of all bona fide purchases.
- 4.2 CARD USAGE.** The Purchasing Card can be used at any merchant that accepts Visa, except as the County otherwise directs. It may be used for in-store purchases as well as phone, fax or mail orders. There is no special terminal or equipment needed by the Visa merchant to process a purchasing card transaction. For security reasons, each P-Card may have a pin designated by an Elected Official or Department Head.

In order to comply with State Procurement Regulations, items ordered via mail, phone, or otherwise that are not shipped immediately should not be charged until they are shipped. To avoid charges for items on backorder, discuss the issue with the vendor or consider an alternate method of payment (purchase order, invoice, etc.).

It is a requirement that you keep all receipts for goods and services purchased. For orders placed via internet, phone, fax or mail, you must request a receipt, detailing merchandise price, sales/use tax, freight, etc. to be included with the goods mailed/shipped. It is extremely important to request and retain purchase receipts, as this is the only original documentation. As purchasing cards records will be audited monthly, it is essential to adhere to the above records keeping guidelines.

- 4.3 LIMITATIONS AND RESTRICTIONS.** Each purchasing card will be assigned a credit limit. There also is a single transaction limit placed on your card, which means the card will be declined if a purchase exceeds this limit. Do not split a purchase to avoid the single transaction limit. Splitting of a purchase to circumvent purchase regulations is a violation of NM State law and anyone found doing such will be subject to criminal penalties and disciplinary action. Increases in the single transaction limit will be permitted only upon the approval of the Elected Official or Department Head and the Finance Office.

Cardholders must remain aware of the Roosevelt County Purchasing Policy and the requirements stated therein.

IMPORTANT: All requests for changes in limitations and restrictions must be made through the Finance Office and approved by the County Manager.



- 4.4 **LOST OR STOLEN CARDS.** The cardholder is responsible for the security of their card and any purchases made on the account. If the purchasing card is lost or stolen, immediately report this information to the issuing bank's Customer Service Department 888.449.2273. **Immediately after reporting to Customer Service, you must inform the Finance Office.** It is extremely important to act promptly in the event of a lost or stolen card to avoid county liability for fraudulent transactions.

As with a personal charge card, you will no longer be able to use the account number after notifying the bank and a new card can be issued.

- 4.5 **AUTHORIZED PURCHASES.** The County Purchasing Card Program is designed to work under the guidelines and regulations set forth by the Roosevelt County Purchasing and Procurement Policy.

- 4.6 **UNAUTHORIZED PURCHASES.** P-Card exceptions, as defined by this Policy as unauthorized purchases or otherwise incomplete documentation, as determined by the Finance Office, that are not resolved within one month could result in a loss of purchasing card privileges for the cardholder. Said loss of privileges will be at the discretion of the Finance Office. The cardholder may appeal the decision of the Finance Office to the County Manager. If the exceptions are not resolved within three (3) months, then the cardholder and/or the applicable Elected Official or Department Head shall present the exception to the County Commission for resolution. Exceptions include, but are not limited to the following:

- Items for personal use
- Personal/Family travel
- Tangible items with gross receipts tax/sales tax
- Capital Outlay- Finance Office only may purchase or authorize the purchase of capital outlay items

As with any county purchase, the card is not to be used for any product, service or with any merchant considered being inappropriate for company funds.

Failure to comply with the above guidelines for authorized purchases under the Roosevelt County Purchasing Card Program may result in disciplinary action, cancellation of your card privileges, and possible termination of employment.

- 4.7 **RECONCILEMENT AND PAYMENT.** It is the responsibility of the Elected Official or Department Head, immediately upon receipt of his/her monthly statement, to review his/her statement to ensure all of the transactions that have been posted are legitimate County business transactions. The County requires that the Elected Official or Department Head code each transaction to the appropriate budget line item and attach all receipts to the monthly statement. The monthly statement will be sent to each Elected Official or Department Head at the beginning of each month from the Finance Office. Once the Elected Official or Department Head has reviewed the monthly statement, attached the applicable receipts, coded the transactions, and signed the statement, it must be forwarded to the Finance Office within seven (7) calendar days after the statement is emailed to each Elected Official or Department Head. It is the Elected Official(s) or Department Head(s) responsibility to approve the purchases and forward all statements with attached receipts to the Finance Office by the requested date of the Finance Specialist. If there are missing receipts, then the vendor shall be contacted to request an additional copy.



4.8 SALES AND USE. Merchants are required by tax authorities to include the applicable sales or use tax at the time of purchase. The amount of tax is dependent on a variety of factors including the state, county and city where the goods are purchased. Roosevelt County is not required to pay sales tax on tangible goods except for construction project materials. Services and rentals are taxable. It is the responsibility of the cardholder to inform the vendor if a purchase should be processed without tax. Please contact the Finance Office if the vendor requires proof of a non-taxable status. It is the responsibility of the Purchasing Card User to notify Vendor of sales tax exempt status. Users who repeatedly have excessive sales tax charges or fail to reconcile and provide proper documentation by the deadlines above, shall be subject to card revocation. In the event a receipt is lost and the vendor is unable to provide a duplicate, the employee will be required to complete a lost receipt affidavit.

4.7 RECEIPT RETENTION /RECORD. It is a requirement of the program that you keep all receipts for goods and services purchased. For orders placed via phone, fax or mail, ***you must request a receipt***, detailing merchandise price, sales/use tax, freight, etc. be included with the goods mailed/shipped. {Note: a merchant should not reject this request, as it is a Visa policy}. ***It is extremely important to request and retain purchase receipts***, as this is the only original documentation. A copy of the purchasing card statement should be retained by the cardholder. The cardholder is responsible for the following:

- Retaining all itemized receipts for items purchased under the Program.
- Ensuring all transactions posted are legitimate purchases made by the cardholder on behalf of the County.
- Ensuring that no tax has been charged on tangible items or that the correct tax has been charged when there is an invoice with parts and labor

4.9 DISPUTED OR FRAUDULENT CHARGES. If there is a discrepancy between the cardholder's receipts and the credit card statement, it is imperative that the issue is addressed immediately. Depending on the type of discrepancy, the cardholder must contact the merchant and the Finance Office to resolve the disputed transaction.

If the cardholder believes the vendor has charged the account incorrectly or there is an outstanding quality or service issue, you must first contact the vendor and try to resolve the error or problem. If the cardholder is able to resolve the matter directly with the merchant, and the error involved an overcharge, a credit adjustment should be requested and receipt of the credit verified.

If the merchant disagrees that an adjustment is necessary, **immediately notify the Finance Office.** The Finance Office will work with the merchant and the bank in an attempt to resolve the disputed charge.

Fraudulent Charges. Any fraudulent charge (i.e., a charge appearing which you did not authorize) **must be reported immediately** to the Finance Office. Prompt reporting of any such charge will help to prevent the company from being held responsible.

In the event the Finance Office is not available, please report any fraudulent charge to the issuing bank's Fraud Department. Upon report of fraud, the card affected will be immediately terminated and a new card with a different number will be issued.



4.10 TERMINATION OF CARD PRIVILEGES. Card privileges may be terminated for the following reasons:

- Termination of employment- Upon employment termination cardholder shall immediately return card to their Department Head, Elected Official, or directly to County Administration.
- When use of the card causes budgetary limits to be exceeded without prior authorization from the Finance Office or County Manager.
- Unauthorized purchases and misuse of the card in any manner not consistent with this policy.
- Failing to comply with this policy.

Questions regarding this policy and any other questions concerning tax issues should be addressed to the Finance Office.

