

Montrose County
Purchasing and Procurement Policy

August, 2018

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POLICY FOR PURCHASING, CONTRACTING, TRAVEL, TRAINING AND DISPOSAL OF COUNTY PROPERTY

August, 2018

INTRODUCTION:

The purpose of having a policy for purchases and contracts by County elected officials and employees is to ensure:

1. Compliance with Colorado law, and, in some limited situations, with federal law.
2. Provide transparency to the public of the expenditure of tax dollars.
3. Encourage maximum competition on a fair and equal basis to qualified and interested bidders of products and services, ensuring that the County is receiving the best overall value for taxpayer dollars.
4. Provide a uniform and easily understood process for the procurement of materials, equipment, vehicles, supplies and services.

This policy applies to all elected officials and County departments.

FINANCE DEPARTMENT:

The Finance Department is charged with maintaining accurate records of expenditures, ensuring transparency in County financial transactions, and working with the County's auditors each year to complete the review of the County's finances in accordance with state law. From time to time, Finance may provide additional guidance or requirements for documentation of expenditures. Elected officials and County employees are expected to cooperate with Finance in documentation, payment of invoices, and include them early and often in discussions regarding budgets, procurements, and major projects. Questions about procedures for procurement can also be directed to Finance.

ETHICS:

All elected officials and County employees are subject to the state Code of Ethics, found at C.R.S. 24-18-101, et seq., and should be familiar with the provisions of the law, especially as it relates to procurement and avoidance of conflicts of interest, or the appearance of impropriety.

In practice, this means that elected officials and employees should not enter into purchases/contracts with companies in which they, or a family member, have a financial interest. Commissioners should not vote on matters before the BOCC in which they, or a

family member, have a financial interest. (There are situations in which a commissioner can disclose a financial interest and not recuse him/herself.) There are also limitations on accepting of gifts (including meals, from vendors or other members of the public doing business with the County – generally anything over \$59.00 is prohibited (there are exceptions related to scholarships, and family or friend gifts). Questions about specific gifts or ethics questions can be directed to the County Attorney.

RETENTION AND DISCLOSURE OF RECORDS AND DOCUMENTS:

Generally, the retention period for any documentation of purchases (RFPs, ITBs, related correspondence, contracts, bid awards, and other documents related to a purchase) is three (3) years. There may be situations that require a longer retention period. All procurement documents are subject to public review under the Colorado Open Records Act (CORA), although the full proposals are not subject to CORA until after a bid has been awarded. Other proprietary information and trade secrets may also be protected from public disclosure, but all ITBs and RFPs should contain language providing notice to bidders that the County may be required to disclose any document or any information provided under CORA.

PURCHASES: WHO, HOW, WHAT:

Here are the basics¹:

-) Only the Board of County Commissioners has the authority to commit funds, or to delegate the authority to commit funds and spend county money.
-) Under Colorado law, a county cannot enter into contracts that require a multi-year spending obligation without the ability to terminate the contract in the event that funds are not available or appropriated.
-) For some purchases, state or federal laws and regulations may govern the procedures for purchasing or acquiring goods or services, and may supersede these policies. Road and bridge construction related projects, and projects funded by state or federal grants generally require careful analysis to determine the correct procedures, publication and notices.
-) Even if an expenditure has been contemplated in a department or elected official's budget, the rules for procurement apply.

¹ There are a number of state statutes governing procurement by local governments and public access to procurements records. Federal laws and regulations may apply to procurement for projects utilizing federal funding, including road and bridge projects. See: C.R.S. 24-72-203, 204; C.R.S. 6-17-103, 104, 105; C.R.S. 24-80-101; 24-72-201, et seq.; C.R.S. 24-110-101, 201; C.R.S. 8-17.5-101, 102; C.R.S. 24-91-101, et seq.

-) Potential vendors should be given an equal opportunity to compete for the County’s business. Competition generally generates the best value for use of taxpayer dollars. Sole source purchases should generally be avoided for purchases over \$2,500.
-) Procurement documents are generally “public records” for purposes of CORA. Bidders must clearly designate any information that is proprietary and/or confidential. RFPs and ITBs should always include language giving vendors/bidders notice that the County may need to disclose information pursuant to CORA.

WHO Approves: (SEE SUMMARY CHART)

1. The BOCC has delegated authority for purchases under \$25,000, already included and authorized in a department or elected official’s annual budget, to the department head or elected official.

-) Electronic equipment, cell phones and software should be reviewed by the IT Director.
-) Vehicle or heavy equipment should be reviewed by the Public Works Director.
-) Construction/remodeling of facilities should be reviewed by the Facilities Director.
-) All major purchases or acquisitions should be discussed with the County Manager and/or Finance Department.
-) Any purchase not included in the budget, or if it will exceed the budget, must be approved by the BOCC.

2. Any purchase, construction, acquisition, and/or services contract greater than \$25,000 (but under \$50,000) MUST be approved by the County Manager prior to undertaking the bid process (RFP, ITB). All purchases, construction or services contracts over \$50,000 MUST be approved by the BOCC. Generally, a department head or elected official should advise the BOCC of the need for acquisition, construction, or services through a work session or other means, prior to initiating the bid process, unless the acquisition or project was included in the budget.

-) Other approvals may be required/advised from Finance, IT, Facilities, Public Works, depending on the specific item.

HOW Purchased/Procured: (SEE SUMMARY CHART)

1. **Up to \$2,500** – Each department can use its own discretion and judgment in finding the best value and price. It is recommended that at least two bids, quotes, or sources be considered and documented for audit and public inspection purposes.

2. **\$2,500 - \$25,000** – These purchases remain in the discretion of the Department Head or Elected Official, but competitive pricing should be obtained by one or more of the following:

-) Purchases made through government cooperative contracts or master purchase agreements.

-) Professional or official organization pricing/discounts.
-) Previous bids (within ninety (90) days) where the price has not changed.
-) Renewal of a lease, maintenance or other supply agreement if it has been bid within two years or as may be provided in a previous contract of not more than five years.
-) Telephone quotes from at least three (3) sources with documentation for audit and public inspection purposes.
-) Request for quotes may be used to solicit quotes or bids from at least three (3) qualified vendors, and documented for audit and public inspection purposes.
-) Sole source purchases should be used sparingly but may be appropriate for specialized needs, or where the County has an established vendor uniquely qualified to provide a service or product (for example, cell phone service). Where a specific brand is preferred in order to achieve savings in maintenance and repairs, or to assure compatibility (computers, heavy equipment), multiple dealers of the same brand should be contacted for quotes.

3. **\$25,000. and up** – These purchases require a formal, competitive bidding process; Request for Proposals (RFP) or Invitation to Bid (ITB). The steps for this process are:

- a.) Determine what is needed, including any specifications, qualifications, deadlines, completion dates, or other information as is appropriate for a vendor/bidder to have sufficient information to respond with a qualified bid.
- b.) Draft a Request for Proposals (RFP) - used when the project is more open ended with the end result being more important than the means of achieving the result;
 Invitation to Bid (ITB) - used when the parameters of the project are known, or there are specific requirements and specifications desired and the primary response is expected to be a quote for price);
 Request for Qualifications (RFQ) - used primarily for professional services or similar needs and the end result desired is to find the best consultant for a project).
- c.) Send the draft to the County Attorney for legal review. Some kinds of projects (for example, construction) have specific statutory requirements which must be covered.
- d.) Send the final draft to the County Manager and/or Finance for review. If the request is not covered within the current year's budget, or if the request is expected to be over \$50,000, it must have BOCC approval. Scheduling time in a work session may be appropriate to provide background briefing. Elected officials do not need approval unless the funds have not been appropriated in the annual budget.
- e.) Determine the schedule for publication and acceptance of bids or responses. Generally, the minimum solicitation time is fourteen (14) calendar days from the publication/advertisement of the RFP/ITB/RFQ to the date of bid closing. However, there

are some situations that may require a longer time period, and a shorter time period may be permissible when a short turn-around is necessary.

f.) Publish/advertise on the County website, local newspapers, on the bulletin board where BOCC meetings and other official notices are posted; and/or trade publications, as appropriate. Some federally funded projects may require additional publication. The public notice must include:

-) A brief description of the desired items, project or services
-) Where/how to obtain a bid or proposal package
-) Name, phone, email address of the County representative who can answer questions
-) Deadline for submitting a proposal, bid or response
-) Time, date and location of any pre-bid meeting, and whether it is mandatory or optional
-) All questions answered on-line (where); with a deadline for questions/process for amendments/addendums to RFP/ITB/RFQ
-) Deadline for submissions (date and time)
-) Award criteria
-) Time, date and location of bid opening and recording responses
-) Approximate date of anticipated bid award

g.) All submittals should be sealed and when received should be date-stamped and stored in a secure area. No submissions should be opened until the deadline has passed and bids are recorded. Bids must be opened and recorded in public (at least two people should participate and record the bids). They can then be reviewed by a panel and evaluated against the noticed criteria, although the evaluation does not need to be in a public meeting.

h.) Submittals are not returned to the bidders, however, a bidder may withdraw or amend/replace a submittal up until the deadline for submission.

i.) Late submittals should be date stamped with the time and date of receipt and returned to the bidder. Only in rare circumstances should a late submittal be accepted (emergency situations where postal service was not operating or similar situation where compliance with the deadline was unavoidably prevented – not just a mistake on the part of the bidder).

j.) Bidders should be advised that the Colorado Open Records Act applies to the successful bid, as well as all bids, once the bid is awarded. Confidential and proprietary information should be identified by the bidder, but no guarantee should be made that it will not be released if required by CORA.

k.) Always include language in the notice and bid packages that allows the County to accept or reject any bid. (County Attorney can assist with this language.)

I.) Once the bids/proposals have been reviewed and judged according to the criteria and put onto a spreadsheet with results, *if* the bid must be approved by the BOCC, it must also be put on the agenda for approval. The final contract can be negotiated and finalized and put onto the agenda at the same time for simultaneous approval by the BOCC. If the bid does not require BOCC approval, the department head, or elected official may award the bid and work with County Manager/Finance/County Attorney, as appropriate, to finalize an acceptable contract.

WHAT ELSE IS REQUIRED:

- J) A written contract is required for a number of reasons, but primarily to ensure that there is no later disagreement as to what was expected, how much it was to cost, deadlines for performance and contingencies for bad performance or non-performance. Without a written contract, enforcement is challenging and the risk of litigation increases. Similarly, changes in the performance requirements or change orders for construction should always be in writing and approved as an amendment to the contract, especially if it increases the total price of the project.
- J) Performance bond. For construction or other large projects (as opposed to purchase of equipment/vehicles/supplies), a performance bond, terms for which should be included in the contract, ensure that if performance is unacceptable or cannot be completed, the County has funds available through the surety and calling of the performance bond, to complete the project. For construction contracts in excess of \$50,000, a separate Performance Bond, Labor and Materials Bond, or other surety acceptable to the county in an amount equal to 100% of the contract price are required by statute. C.R.S. 38-26-105 and 106.
- J) Finance should be provided a copy of the contract and any payment instructions.
- J) Acquisitions with federal grants or other funding may require additional notifications to potential bidders and/or compliance with federal procurement policies, including for road and bridge construction that price cannot be in the criteria for bid award.
- J) Construction projects require compliance with C.R.S. 24-91-101, et. seq., including a monthly payment schedule; this permits withholding of 5% of the contract price as “retainage” to ensure the construction is completed satisfactorily and that the contractor has paid all sub-contractors.
- J) For construction projects, all funds must be available and appropriated at the time the contract is entered into with the contractor.
- J) Contracts that span more than one year should always be subject to funds being available and appropriated, with termination at the County’s option in the event that funds are not available or appropriated.
- J) State of Colorado contracts, from almost any agency, are difficult to revise, but not impossible. Sometimes multiple counties banding together can negotiate terms that are more acceptable than what is initially offered.

-) The County cannot indemnify anyone, so indemnification clauses should be avoided and eliminated. In the event that the other party insists on an indemnification clause, the language ***“to the extent permitted by law”*** needs to be included. (Which essentially voids the indemnification since it is not permitted by Colorado law.)

CREDIT CARD POLICY AND PROCEDURE

All County credit card usage shall be for County business only. Do not use a County credit card for any personal uses or purchases. County credit cards may not be used for cash advances or to purchase fuel for privately owned vehicles. The County does not generally approve the purchase of alcoholic beverages on a County credit card, although there may be limited circumstances for which such a purchase is appropriate due to an employee’s job responsibilities. Failure to comply with credit card policy and procedures may result in cancellation of credit card privileges, disciplinary action and/or termination.

Credit cards for elected officials and employees should be requested from the Finance Department. The County has limited credit card availability, depending upon credit limits, so departments may be limited as to the number of credit cards available or the credit limit for an employee, based upon needs of the Department and/or the job responsibilities of an employee. The only credit cards issued for County official and employee use are bank credit cards.

Vendor or other purchasing cards are not permitted except as may be specifically authorized by the County Manager. The County does have a Home Depot purchasing card, so if purchasing materials at Home Depot, check with the County Manager or Facilities Director on the use of that purchase card.

Credit cards may be used to pay for any allowable county business purpose up to the credit limit of the card, including overnight travel expenses, registration for educational or professional events, lodging, and purchases of materials and services.

Credit cards may ***not*** be used for cash advances or fuel for private vehicles.

Documentation must be provided to Finance for all charges onto a County credit card, whether invoice, receipt, or purchase order, on the form for Report of Credit Card Purchases. Receipts and the completed Report should be delivered to Finance within five (5) days of purchase or completion of business travel. All Reports of Credit Card Purchases must be submitted with the approval signature of the employee’s supervisor or elected official. Employees are responsible for obtaining copies of lost or misplaced receipts.

Where a meal is not on a per diem basis, and is charged to a credit card, and the meal is for multiple employees, the names of all employees for whom the meal was purchased must be included with the itemized receipt.

The vehicle number of any County-owned vehicle for which fuel is purchased with a credit card must be included along with the receipt for fuel purchase. Where a county fuel card is available and accepted by the merchant, it should be used instead of a credit card. When in proximity to the County's fuel pumps, that is the preferred source of fuel.

No individual card holder may modify his account or credit limit in any way. Any such changes must be requested through Finance, with approval and authorization of the Department head, supervising elected official or County Manager.

If a card is lost or stolen it is imperative that Finance be notified immediately.

Any misuse of a County credit card should be reported to Finance immediately. Recurring or significant misuse of a credit card, generally in excess of \$500, will result in an investigation and measures will be implemented to prevent or reduce the likelihood of future occurrences.

TRAVEL POLICY AND TRAINING EXPENSE PROCEDURES

Travel or training must be approved in advance by the supervisor, department head, or elected official. An estimate of all fees, costs and expenses should be provided prior to approval in order to determine whether it is within budget limitations. Travel or training that does not involve cost or expense to the County should also be approved in advance.

Travel requests and credit card use will be approved when it benefits the County and is integral to County business. Travel should be planned and completed using the most economical means available which will satisfactorily accomplish the County's business. In those circumstances where travel combines both business and personal purposes, an employee or elected official should be diligent and careful in claiming reimbursement only for those expenses that are directly related to County business. County credit cards may not be used for personal expenses.

Travel or training expenses that are paid in advance (registrations for conferences, training) may be made with a County credit card, if available, or by a check request to Finance with appropriate documentation.

Travel or training expenses such as lodging, meals, and mileage (if using a personal vehicle) may be submitted to Finance after the travel or training has concluded on a Request for Reimbursement (Travel or Day Trips) form, with receipts attached. Add any explanation for partial reimbursement (for example, if not all of the expense is business related).

Where feasible and available, a County-owned vehicle should be used for travel rather than reimbursement of mileage for a personal vehicle. However, if both business and personal business are being conducted, a County vehicle should not be used for more than incidental personal business.

The following rates are used for travel expenses:

1. **Lodging** – Actual cost of reasonable lodging, with receipts, or use of County credit card. Reimbursement is only for the cost of a single room. Any additional costs incurred by traveling with a spouse or other companion will not be reimbursed by the County. Because the County is tax exempt, use of County credit card, coupled with tax exempt certificate, should be used in order to eliminate lodging taxes.

2. **Meals** – Reimbursement shall be for the standard allowance rather than actual costs of meals, at rates established by the U.S. General Services Administration (GSA). The GSA per diem rates can be found at the GSA website: <http://www.gsa.gov/portal/content/104877>. Montrose County does not reimburse employees for the “incidental expenses” identified on the GSA website.

An employee or elected official may not claim more than the established per diem rate, except with prior approval and within the limits of whatever per diem rate is recognized for a location by the IRS. Reimbursement claims must include documentation with receipts.

Employees on Day Trips (no overnight stay) are entitled to the GSA per diem rate reimbursement for one meal if the destination is 50 miles or more from their normal place of business. The GSA per diem rate will be reimbursed in the employee’s paycheck within four weeks of submission of the Day Trip Reimbursement Request, listing the meal.

If an employee transports inmates or clients, meal costs will be reimbursed for that traveling companion at the same rate as the employee. The reimbursement request form must include information who else was included in the meal.

3. **Mileage** - Reimbursement will be for the actual miles driven which are directly related to County business at the current rate established by the IRS.

4. **Parking fees, tolls, telephone, fax or other miscellaneous expenses** - Reimbursed for actual cost; provide a receipt for expenses over \$25; no receipt required for under \$25, but provide an explanation and location.

5. **Reasonable tips** - paid to bellhops, ground transportation and so on are reimbursed without receipts. No tips are reimbursed for meals as they are included in the meal allowance/per diem allowance and so cannot be claimed separately.

6. **Rental car costs** - are reimbursed with receipt or as a County credit card expenditure with receipt. Rental cars should be the most economical vehicle available that will provide adequate transportation.

Non-Reimbursable Expenses:

1. **Alcoholic beverages.** Please pay for these separately; do not use a County credit card.

2. **Entertainment expenses** not directly associated with a conference or other training event, except as approved by the department head or supervising elected official.
3. **Personal expenses** such as snacks, magazines, personal hygiene products, movie rentals.
4. **Political event expenses.**
5. **Traffic fines and parking tickets.**

Exceptions to these rates and prohibitions may be approved by the County Manager. If you have a question about reimbursements or travel expenses, please ask Finance or the County Manager prior to incurring the expense.

COUNTY PROPERTY DISPOSAL

County property includes all real estate, buildings and facilities, vehicles, motorized and fleet equipment, office equipment and machines, furniture, phones, and computers. Finance maintains an inventory of all property, some of which is depreciated over a number of years, some of which is accounted for in an annual inventory. Some property has a limited life of utility, for example, computers, cell phones, vehicles. These items are routinely replaced in cycle as the budget permits. Some property has value, even at the end of its useful life to the County and may be disposed of upon approval of the BOCC. Property acquired with grant funds may have specific disposal requirements. The County is not authorized to hold real estate for speculation, so real estate that is not being used for a public purpose, or is not expected to be used for a public purpose, must also be sold.

Generally, the procedure for disposal of County property is:

1. Computers, cell phones – return to IT and document for Finance the return and end of use of such item.
2. Fleet vehicles; road and bridge equipment – Document that the items are considered “surplus” due to damage/loss, end of useful life, acquisition of new vehicle/equipment, obsolescence and request BOCC to declare such items as “surplus” and available for sale by auction, bid or other appropriate disposal method, with public notice of opportunity to bid or purchase.
3. Real estate, including buildings or other structures – Document that the property is not needed for a public purpose and will not be needed for a public purpose in the foreseeable future; obtain a survey, if appropriate, and appraisal. Request the BOCC to declare the property as “surplus” and direction to dispose of through public bid or auction (required for disposal of property obtained by the

County via tax lien/tax sale) or by engaging a Realtor to list it on MLS for not less than the appraised value.

4. Furniture, other office equipment. Obtain approval from County Manager to offer to other departments for use, or if obsolete, to dispose of in an appropriate manner. Document for inventory purposes and Finance.

SUMMARY CHART “A”

*Only the Board of County Commissioner’s has the authority to commit funds, or to delegate the authority to commit funds and spend county money.

EXPENDITURE	AUTHORITY TO MAKE PURCHASE	PURCHASE METHOD	REVIEW or APPROVAL FROM
UNDER \$2,500.00	<ul style="list-style-type: none"> - Department Head - County Manager - Elected Official <p>Must Be Authorized in annual budget</p>	Competitive pricing from multiple sources is encouraged.	<ul style="list-style-type: none"> - Department Head - County Manager - Elected Official
\$2,500.00 TO \$24,999.99	<ul style="list-style-type: none"> - Department Head - County Manager - Elected Official <p>Must Be Authorized in annual budget</p>	Competitive bids from no less than two (2) sources should be obtained. Requires Purchase Order	<ul style="list-style-type: none"> - Department Head - County Manager - Elected Official
\$25,000.00 TO \$49,999.99	<ul style="list-style-type: none"> - Elected Official - County Manager - BOCC <p>Must Be Authorized in Annual Budget</p>	Requires formal competitive bidding process – <ul style="list-style-type: none"> - RFP - ITB - RFQ 	<ul style="list-style-type: none"> - County Manager - BOCC
\$50,000.00 AND ABOVE	<ul style="list-style-type: none"> - Elected Official - County Manager - BOCC <p>Must Be Authorized in Annual Budget.</p>	Requires formal competitive bidding process – <ul style="list-style-type: none"> - RFP - ITB - RFQ 	<ul style="list-style-type: none"> - County Manager - BOCC Approval
Any Expenditures NOT in annual budget	<ul style="list-style-type: none"> - BOCC 	<ul style="list-style-type: none"> - See Above 	<ul style="list-style-type: none"> - BOCC Approval

SUMMARY CHART “B”

Formal Bid Process Steps			
	“Who” Initiates Process	Task Performed	Approval Needed
1.	County Department Head	<ul style="list-style-type: none"> - Notify County Manager of need – - Start RFP/RFQ/Formal Bid process 	
2.	County Department Head	Develop specifications of needs – Draft Proposal <ul style="list-style-type: none"> - RFP - ITB - RFQ 	
3.	County Department Head	1.Send to County Attorney for review 2.Send to County Manager/Finance for final review	County Attorney County Manager Finance
4.	County Department Head	Develop schedule for publication and opening of bid(s).	County Manager Finance
5.	County Department Head	Advertise and Solicit Sealed Bids *Public Notice of bids must be provided fourteen (14) days prior to date set for opening	
6.	County Department Head	Opening of sealed bids. Must be done in public, and recorded on formal spreadsheet.	Must have two (2) witnesses.
7.	County Department Head	Present award recommendation to BOCC for approval	BOCC
8.	County Department Head	Notice of Award – Thank You (for submittal) letters	Department Head
9.	County Department Head	Obtain/finalize necessary documents <ul style="list-style-type: none"> - Performance Bond - Labor and Materials Bond - Certificate of Liability 	Department Head County Attorney
10.			