



# FREMONT COUNTY

## 2020 PROCUREMENT POLICY

ADOPTED MARCH 10, 2020

## **I. PURPOSE**

The purpose of this policy is to promote responsible expenditures of public funds, adhere to the county budget and comply with State and Federal statutes. This policy is also intended to ensure all goods and services purchased for Fremont County are obtained in a cost-effective manner, and state and federal grant and other funds are used in compliance with the federal, state, and grant regulations.

This policy encompasses all purchases of goods and services necessary for the County to function and provide the public with services. It applies to all County offices, departments, boards and commissions funded through county appropriation.

## **II. SCOPE**

This policy applies to Elected Officials, Department Heads and employees who are authorized to initiate or approve purchases on behalf of Fremont County. Each County Elected Official or Department Head shall designate individuals in their department who are authorized to sign purchase documents. The Finance Department will maintain a list of authorized employees. All documents received in the Finance Department without the proper authorized signature will be returned to the department for correct authorization.

## **III. PURCHASING GOAL**

The goal is to increase the value and effectiveness of the purchasing process. To meet this goal all authorized purchasers will:

- Purchase goods and services to meet the needs of the county
- Attempt to obtain the best price for the goods and services
- Guard against misappropriation
- Ensure fair opportunities in competing for the county's business through statutory requirements for competitive bids and proposals combined with county purchasing procedures
- Make efforts to protect public funds and receive the best value for expenditures

## **IV. PURCHASING ETHICS**

Consistent with standards of conduct and ethics required of all public officials, Elected Officials and County employees participating in the purchasing process shall not:

- Participate in financial transactions in which the county participant has a personal or financial interest which actually or appears to create unethical or compromising relationships, actions or communications.

- Use County credit, purchasing power or facilities to purchase goods or services for non-county purposes, or purchases unrelated to county employment responsibilities.
- Make, participate in or attempt to influence any decision if the employee has a personal or financial interest in the outcome of the decision. Elected Officials and County employees who have a conflict of interest will provide written notification to the County Manager to excuse themselves from the process.
- Underestimate or exaggerate requirements to prospective bidders, misrepresent the quality of a bidder's goods or services or disclose confidential bid information to a competitor.
- Accept gifts, entertainment, favors or services from present or potential suppliers to the County which may influence, or appear to influence, purchasing decisions. Elected Officials and County employees may accept trivial items as a matter of courtesy with a value of less than \$65.00, or the amount determined by the Colorado Ethics Commission.
- Disclose County information of a confidential or proprietary nature. Persons with access to this information shall be held to higher standard.
- Demonstrate due care and proper consideration of ethical and legal ramifications and governmental regulations when interacting with a supplier of goods or services to the County.
- Engage in any other conduct that is prohibited by Title 24, Article 18 of the Colorado Revised Statutes.

**V. COMPLIANCE WITH STATE STATUTES, FEDERAL REGULATIONS AND COUNTY POLICY**

All purchases for goods and services will be made in compliance with applicable Code of Federal Regulations (CFR) as they relate to funding, Colorado Revised Statutes (C.R.S.), Code of Colorado Regulations, and County policy.

All County departments and operating funds will operate within the constraints of the approved annual budget, as adopted by the Board of County Commissioners. Exceeding the annual appropriation without proper authorization constitutes a violation of law and this Policy.

Elected Officials and County employees are responsible for the use and distribution of public funds and therefore, must remain cognizant of these responsibilities and the preservation of records for inspection by the public.

Any purchase made which significantly and materially violates this policy may result in non-payment and mandatory return of items purchased as well as personal liability of the responsible employee. Any violation of this policy may result in criminal or civil legal action against such employee.

The County Department of Human Services is also subject to 11 CCR 2508, Volume 5, Finance and Accounting regulations.

County departments receiving grant monies are responsible for ensuring the monies are spent within the guidelines of such grants and for submitting all required reports to the grantor.

## **VI. PROCUREMENT RECORDS AND INFORMATION**

Procurement information is a public record and shall be available for inspection and copying by the public, as provided in the Colorado Open Records Act (C.R.S. 24-72-201, *et seq.*).

Procurement records shall be retained and disposed of in accordance with records retention guidelines and schedules. If records retention guidelines and schedules are not adopted the general rule of seven (7) years will be followed.

## **VII. DEFINITIONS**

**Award** – The acceptance of a bid or proposal, which may include the presentation of a proposed written agreement for performance of a contract.

**Authorized Signature** – Elected Officials, Department Heads and their designees who are authorized to sign purchase documents.

**Change Order** – A written order authorizing the vendor to change an original purchase order or contract.

**Construction** – The process of building, altering, repairing, improving or demolishing any County owned structure, building or real property.

**Contract** – Any agreement between the County and a contractor to acquire or dispose of supplies or services, or for construction.

**Contract Amendment** – Any written alteration of a contract accomplished in accordance with the terms of that contract.

**Proprietary Information** – Information or data describing technical processes, mechanisms or operational factors a business wishes to keep confidential and restricted from public access.

**Purchase Order** – Written authorization for a purchase of goods or services from a vendor. Acceptance of a purchase order forms a contract.

**Purchaser** – An Elected Official, Department Head or their designee authorized to make purchases for the department or to obtain quotes from vendors.

**Request for Proposals (RFP)** – A formal solicitation for technical and pricing proposals.

Request for Qualifications – A formal solicitation for technical or specific information (without pricing) to ascertain the qualifications of vendors who may provide a product or service.

Request for Quote (RFQ) – A formal solicitation for price quotes for a product or service.

Statement of Work (SOW) – A document that defines specific activities and deliverables and their respective timelines, all of which form contractual obligations and performance obligations of the parties.

## **VIII. PURCHASING AUTHORITY**

The Board of County Commissioners (BOCC) has the authority, or may delegate the authority, to commit funds. The Board of County Commissioners, by resolution, has authorized spending limits for a single purchase as follows:

Individual Departments:	\$ .01 - ≤\$5,000
County Manager:	>\$5,000 - ≤\$25,000
Board of County Commissioners Approval:	>\$25,000

Individual departments are authorized to complete transactions up to the designated monetary cap for items approved in the annual budget. For purchases exceeding this amount departments are authorized to obtain quotes for authorized signatory approval prior to purchasing.

Policies set forth in this manual shall apply to all employees acting as agents of the County in the procurement of goods or services. Any employee who expends County funds, without proper authorization or compliance with the procedures as set forth by the BOCC will be subject to disciplinary action(s) up to and including termination.

The Elected Official, Department Head, or their designee, is responsible for determining whether a purchase is within the approved budget, and whether it complied with grant expenditure requirements, when applicable. In the event of a budget overrun, the Elected Official, Department Head, or their designee, will cooperate with the Finance Department, which will communicate the overrun to the BOCC for final approval.

**IX. PROCEDURES**

All expenditures will be estimated by the purchaser to establish the level of approval required prior to purchase.

A.) Purchases up to \$10,000

County offices, departments, boards and commissions have the authority to purchase goods and services in this cost range on a non-competitive basis. Any purchase over \$5,000 requires the County Manager’s signature prior to finalizing the purchase.

<b>Purchases ≤ \$10,000</b>			
Supplies/ Materials	Technology	Fleet	Professional Services
↓	↓	↓	↓
	Review by IT Dept.	Review by DOT	No formal competitive solicitation by Dept.
	↓	↓	↓
Department is not required to solicit bids. Any purchase over \$5,000 requires the County Manager’s signature prior to finalizing the purchase.			
↓			
Any agreements and contracts to be reviewed by County Attorney and County Manager and approved by the BOCC			

B.) Purchases over \$10,000 but less than \$25,000

County offices, departments, boards and commissions will attempt obtain at least two (2) quotes from qualified vendors. For a telephone quote, the purchaser must obtain the vendor’s name, contact information, purchase price and any relevant additional terms. If only one quote is received, the Elected Official or Department Head must provide documentation showing the process that was used and the organizations contacted for quotes. The County Manager must approve/sign for the purchase prior to finalizing the purchase.

<b>Purchases &gt; \$10,000 and ≤ \$25,000</b>					
Supplies/ Materials	Technology	Fleet	Professional Services	Emergency Purchases	
↓	↓	↓	↓	↓	↓
	Review by IT Dept.	Review by DOT	No formal competitive solicitation by Dept.	During Business Hours	After Business Hours
	↓	↓	↓	↓	↓
Dept. should attempt to obtain at least 2 quotes	IT Dept. should attempt to obtain at least 2 quotes	Fleet Dept. should attempt to obtain at least 2 quotes	Dept. should attempt to obtain a quote		Notify County Manager the next business day
↓					↓
Purchase Order or quote signed by County Manager					Purchases > \$10,000 and ≤ \$25,000, notify County Manager the next business day
↓					
Any agreements and contracts to be reviewed by County Attorney and County Manager and approved by the BOCC					
↓					
Copy to Finance Dept.					

C.) Purchases over \$25,000 but less than \$50,000

County offices, departments, boards and commissions will obtain at least three (3) quotes from qualified vendors for the goods or services. If three quotes are not received the Elected Official or Department Head must provide documentation a written showing the process that was used and the organizations contacted for quotes. The County Manager and BOCC must approve/sign for the purchase prior to finalizing the purchase.

<b>Purchases &gt; \$25,000 and ≤ \$50,000</b>					
Supplies/ Materials	Technology	Fleet	Professional Services	Emergency Purchases	
↓	↓	↓	↓	↓	↓
	Review by IT Dept.	Review by DOT	No formal competitive solicitation by Dept.	During Business Hours	After Business Hours
	↓	↓	↓	↓	↓
Dept. obtain at least 3 quotes	IT Dept. obtain at least 3 quotes	Fleet Dept. obtain at least 3 quotes	Dept. should obtain at least 3 quotes		Notify County Manager the next business day
↓					↓
Purchase Order signed by County Manager and BOCC					Purchase > \$25,000 ≤ \$50,000, notify County Manager the next business day and place on the next BOCC agenda
↓					
Any agreements and contracts to be reviewed by County Attorney and County Manager and approved by the BOCC					
↓					
Copy to Finance Dept.					



D.) Purchases over \$50,000

County offices, departments, boards and commissions will complete the formal competitive bidding process; either Request for Proposal (RFP) or Request for Quote (RFQ). Upon award of the bid the Board of County Commissioners must approve/sign for the purchase prior to finalizing the purchase.

<b>Purchase &gt; \$50,000</b>					
Supplies/ Materials and other Contract Services	Technology	Fleet	Professional Services and other contract Services	Emergency Purchases	
↓	↓	↓	↓	↓	↓
	Review by IT Dept.	Review by DOT		During Business Hours	After Business Hours
	↓	↓		↓	↓
Review with County manager					Notify County Manager the next business day
↓					↓
Department to request bids					
↓					
Invitation to bid and advertisement					Purchase > \$50,000, notify County Manager the next business day and place on the next BOCC agenda
↓					
Sealed bid opening					
↓					
Review by County Manager and award of bid at BOCC formal agenda meeting					
↓					
Any agreements and contracts to be reviewed by County Attorney and County Manager and approved by BOCC					
↓					
Copy to Finance Dept.					

E.) Any exceptions to the above procedures must be approved, in writing, by the Board of County Commissioners.

F.) Request for Quote / Request for Proposal Process:

- 1.) Elected Official or Department Head prepares the specifications for the goods or services.
- 2.) Specifications should be clear and concise with sufficient detail and include the following information: function of the goods or services, materials, methods, shipment information with delivery point, quality assurance, warranties and support requirements. The Elected Official or Department Head shall not prepare the specification with the intention or goal of restricting or limiting competition.
- 3.) Elected Official or Department Head in consultation with the County Manager will initiate the Request for Proposal or Request for Quote process to solicit bids from vendors. This process includes the development of an accurate Statement of Work.
- 4.) Elected Official or Department Head in consultation with the County Manager will ensure proper public notice by advertising in the County's designated newspaper and on the County website. Advertisements are to be published at least once weekly for two (2) consecutive weeks, unless otherwise specified, and shall allow for a reasonable amount of time for bid submissions.
- 5.) Public Notice will include:
  - a. Brief description of the goods or services;
  - b. Instructions on how to obtain a bid package;
  - c. Contact information of the County representative;
  - d. Deadline, including date and time, for submitting questions;
  - e. Date, Time and Location of Pre-bid/Pre-Proposal Conference, if any;
  - f. Submission requirements of bids;
  - g. Deadline, including date and time, for submitting bids;
  - h. Award criteria;
  - i. Date, Time and Location of bid opening.
- 6.) A Pre-bid or Pre-Proposal Conference may be conducted prior to the bid deadline to provide information to potential bidders.
- 7.) Each bid received will be date-stamped, unopened and stored in a secure location until the designated date and time of bid opening. Should a bid be opened mistakenly, (typically due to insufficient information on the outside of the envelope), it will be noted on the envelope and stapled closed.
- 8.) All bids are to be submitted via United States Postal Mail, hand-delivery, or through the Bid Portal on the Fremont County website. Exceptions will be noted in the Public Notice. Late submissions shall not be accepted unless circumstances

warrant. All bids, once accepted, shall not be altered or corrected, except as specifically authorized in this policy.

- 9.) A bid may be modified or withdrawn only by written request prior to the submission deadline.
- 10.) The County may cancel a RFP or RFQ at any time.
- 11.) All bids will be publicly opened as advertised. The company name, amount and other relevant information shall be read aloud, recorded and witnessed by the Elected Official, Department Head or County Manager. Any errors discovered following the bid opening will be handled at the discretion of the County.
- 12.) Bids will be primarily evaluated on price with vendor responsibility and responsiveness as additional factors. If sufficient funds are not available to award a contract, the solicitation may be canceled or the Purchaser may choose to re-scope the project and re-solicit bids, as may be determined to be in the best interest of the County.
- 13.) The RFQ or RFP must clearly identify relevant and material criteria to properly evaluate bids. This criteria will include price, and may include the vendor's plan for providing the goods or services, qualifications, experience with similar projects, previous work experience with County, availability and reputation. Vendors may be asked to clarify any aspect of the bid as necessary.
- 14.) An appropriate notice awarding the contract will be issued before work commences. Any award requiring approval by the Board of County Commissioners will occur at a regularly scheduled Board meeting with a recommendation, or presentation, by the department.
- 15.) Formal bid requirements may be waived by the Board of County Commissioners if the same or similar goods or services was properly advertised within the past six (6) months or if the formal process would cause undue hardship or delay, harm to public safety or is contrary to the best interests of the County.
- 16.) The department will maintain the quotes and the formal RFQ or RFP procurement file as a public document. The procurement file will contain:
  - a. RFQ or RFP;
  - b. List of vendors who received the solicitation;
  - c. Quotes received;
  - d. Copy of the Public Notice, if applicable;
  - e. Bid analysis sheet justifying the selection.

#### G.) Specifications and Scope of Work

- 1.) All specifications and scope of work will be prepared and drafted in a manner to promote efficiency, encourage and maximize competition, and compliance with requirements without excessive restrictions.

- 2.) The County reserves the right to prepare specifications and scope of work including reference to standardized goods or services, levels of product functionality, product performance requirements and required levels of professional experience and qualifications to meet the needs of the County.
- 3.) Specifications and scope of work will be made available to any vendor at their request.

#### H.) Protested Solicitations and Awards

Any bidder, actual or prospective, who is aggrieved in connection with a solicitation or award of a contract may protest to the Board of County Commissioners within seven (7) days following the award notification.

#### I.) Exceptions to the Procurement Process

- 1.) Emergency purchases to address imminent threats to public health, welfare or safety, or other exigent circumstances, Reference should be made to the County Emergency Operations Plan.
- 2.) Intergovernmental Agreements to receive specific goods or services from other government entities which are qualified to provide such goods or services.
- 3.) Sole Source Vendor purchases made after soliciting and negotiating a specific good or service available from only one source.
- 4.) State Bid Pricing for items common to government operations which are bid by the State to obtain beneficial pricing for local governments.
- 5.) Short term contracts with licensed professionals such as Attorneys, Engineers, Architects and medical professionals.
- 6.) Newspaper Advertising for notices published in the designated County newspaper to meet public notice legal requirements.
- 7.) Utility Bills for various utilities such as electrical, water, natural gas, sewer and telephone services which are regulated through pricing schedules controlled by the Colorado Public Utilities Commission or other government entity.
- 8.) Recurring purchases under a County-approved contract for goods, services or construction projects.

#### J.) Agreements for Goods or Services

- 1.) All County contracts must be prepared in an acceptable format, presented and approved, prior to execution, by the County Attorney.
- 2.) All computer hardware and software purchases must be coordinated with the County Information Technology Department.
- 3.) All service providers must agree to the contract terms and conditions.

- 4.) All vendors must provide a completed W-9 form.
- 5.) All vendors must provide written verification of insurance coverage, compliance with Colorado Worker's Compensation law and professional certifications as necessary.

K.) Change Orders for Professional Services and Capital Construction Contracts

- 1.) All agreements for Services and Contracts will contain a defined procedure to document changes to the scope of work or contract price. The County representative overseeing the contract is responsible for documenting the change(s) in the scope of work and any resulting change in the contract value.
- 2.) Change orders to an Agreement for Services or Contract approved by the Board of County Commissioners must be approved by the Board at a public meeting.

L.) Delivery of Goods or Services

- 1.) All goods and services purchased on behalf of the County must be delivered to a County government address, unless it is agreed a County employee will pick up the goods or services from the vendor or the services will be performed at a non-County government location. No goods or services may be delivered to an employee's home address.
- 2.) Delivery of goods and services should occur during normal business hours. The delivery should be inspected in a timely manner for conformance with the order. Any damaged or unacceptable goods shall be immediately returned to the vendor.

M.) Capital Purchases and Asset Procedures

- 1.) Equipment, fixtures, vehicles and building improvements with a purchase price of \$5,000 or more are classified as a capital asset and included in the annual depreciation process.
- 2.) Capital Assets no longer used by the acquiring department may be disposed of as follows:
  - a. Elected Official or Department Head determines the asset to be obsolete, non-repairable or no longer useful.
  - b. Elected Official or Department Head notifies the Finance Department of the need for disposal.
  - c. Elected Official or Department disposes of the asset through recycling, disposal facility or sale. Employees cannot receive any asset without cost.
  - d. If an item is sold, proceeds of the sale will be deposited in a county account and recorded as a revenue.

## N.) Conflict of Interest in Procurement Processes

- 1.) No County employee may contract for providing goods or services with the department for which the employee works.
- 2.) Contracting for goods or services with an employee, administrative officer, member of the employee's immediate family or a company which is owned in whole or in part by an employee, administrative officer or member of employee's immediate family member or a company in which an employee, administrative officer or member of employee's immediate family has a financial interest, will be permitted if:
  - a. Immediate written notification is given to the Finance Department describing such relationship;
  - b. Contracting with an employee-owned business could not be construed as an unfair advantage over other competitors;
  - c. The employee is not involved with the RFP or RFQ process in any manner. If the employee is an Elected Official or Department Head then the procurement process will be delegated to the Finance Department.

O.) Any requests for exceptions to this policy will be submitted in writing to the County Manager who will have the final decision regarding the exceptions.

## X. FEDERAL GRANTS

### A.) Office of Management and Budget (OMB) Compliance Reference 2 C.F.R. Part 200

This section addresses grant funding, reimbursement from Federal funding sources and other government assisted funding within individual programs or departments.

- 1.) Federal Emergency Management Agency (FEMA) – Public Assistance (PA)
  - a. Program categories:
    1. Category A – Debris Removal
    2. Category B – Emergency Protective Measures
    3. Category C:G – Permanent Work
  - b. FEMA Categories A and B are most often associated with a public exigency or emergency.
    1. An exigency exists when there is a need to avoid, prevent or alleviate serious harm or injury, financial or otherwise, to the applicant and use of competitive procurement proposals would prevent urgent action required to address the situation.
    2. An emergency exists when a threat to life, public health or safety, or improved property requires immediate action to alleviate the threat.

3. The exigency and emergency exception only apply during the actual exigent or emergency circumstance and may vary in length for each incident.
- 2.) Colorado Department of Public Health and Environment (CDPHE)
    - a. Fremont County Department of Public Health and Environment (FCDPHE) is a subrecipient of federal grant funding and therefore required to competitively procure products and services used in the operation and administration of federal funds received.
      1. FCDPHE is responsible for ensuring compliance with these policies, 2 C.F.R. Part 200, Appendix II to 2 C.F.R. when procuring goods and services.
  - 3.) USDA Child and Adult Care Food Program (CACFP)
    - a. Fremont County Department of Human Services (FCDHS) is a subrecipient of federal funding therefore required to competitively procure products and services used in the operation and administration of federal funds received.
      1. FCDHS is responsible for ensuring compliance with these policies, 2 C.F.R. Part 200 when procuring goods and services.
  - 4.) Other Grant Programs
    - a. Fremont County will follow the appropriate regulation for any grant funds that are received by the County.
- B.) Methods of Procurement:
- 1.) Micro-purchase – The one-time acquisition of supplies or services of which the aggregate dollar amount does not exceed the threshold defined in §200.67.
    - a. No requirement to solicit competitive quotes.
    - b. Cost of goods or services are considered reasonable.
    - c. Purchases are distributed equitably among qualified sources.
    - d. Invoices or receipts are maintained to document the purchase.
  - 2.) Small Purchase – the relatively simple and informal procurement method to secure services, supplies or other property which do not cost more than the Simplified Acquisition Threshold.
    - a. Requires a written solicitation including specifications.
    - b. Requires competitive price or rate quotes from an adequate number of qualified sources (preferably 3 or more).
    - c. Quotes are kept confidential prior to awarding of the contract.
    - d. Quotes are evaluated based on price and other factors identified in RFP or RFQ.
    - e. Purchases are awarded to the most responsive and responsible vendor.
    - f. All vendors receive the same information about the goods or services.
  - 3.) Large Purchase – all purchases requiring formal procurement processes of submission of bids.

- a. Requires RFQ process, prior to solicitation a price analysis will be conducted to determine a reasonable cost of the goods or services.
  - b. Developer of the specifications cannot submit a bid.
  - c. RFQ clearly defines the purchase conditions.
  - d. Public notice is given through advertisement in the County designated newspaper and on the County website.
- 4.) Noncompetitive Procurement (Sole Source) - This is a non-competitive process and is only used when one of the following circumstances is met:
- a. Item is available from only a single source.
  - b. A public emergency will not permit a delay resulting from competitive solicitation.
  - c. After solicitation, competition is deemed inadequate.
  - d. Noncompetitive negotiation of a noncompetitive procurement is authorized.
- C.) Necessary steps must be taken to assure purchases are from small businesses, minority businesses, women's business enterprises and labor surplus firms when possible.