

# **PROCUREMENT MANUAL ULSTER COUNTY PURCHASING DEPARTMENT**

**Marc D. Rider**  
Director of Purchasing

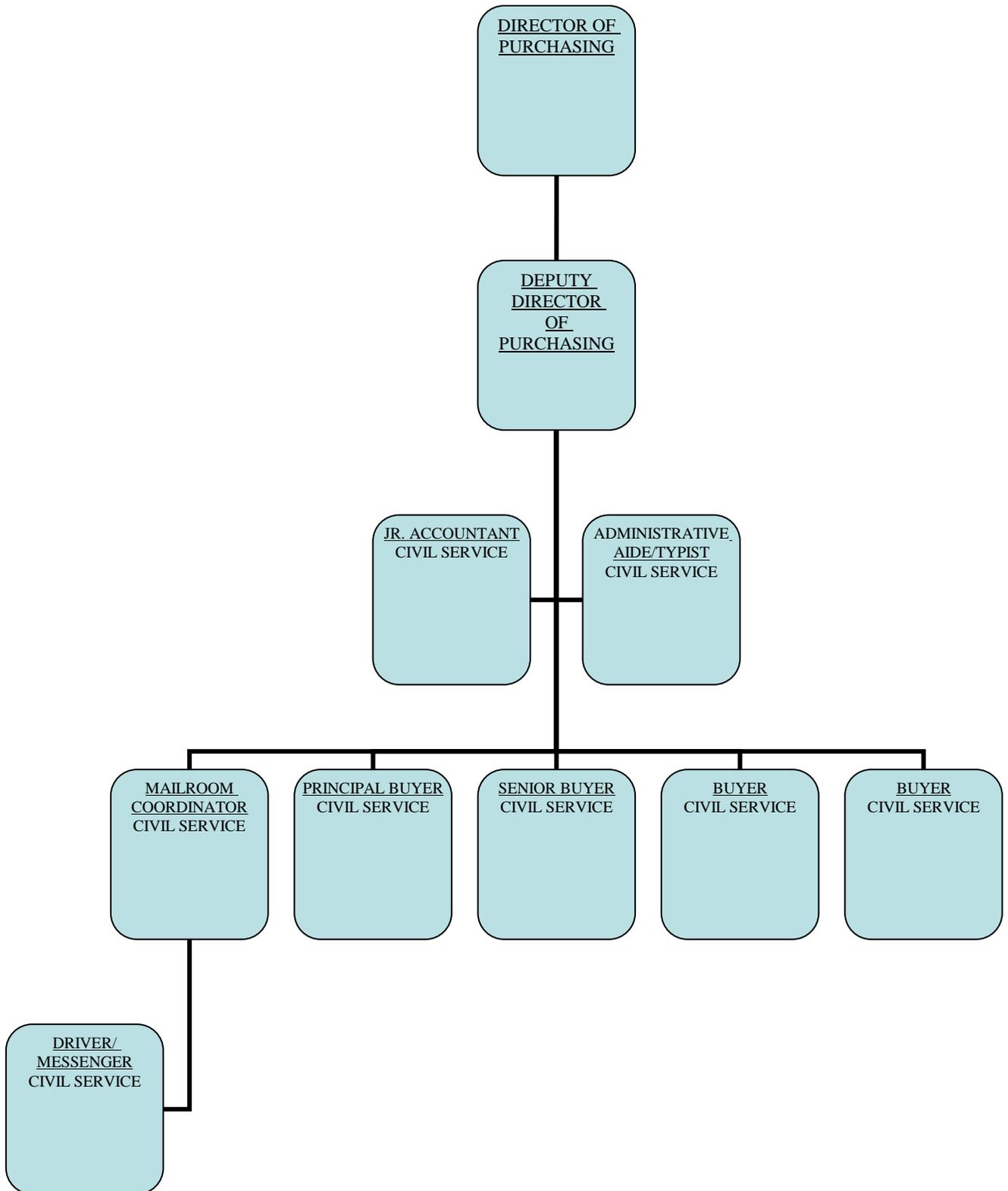


**Michael P. Hein, County Executive**

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# PURCHASING ORGANIZATION CHART



RECTOR OF

# ULSTER COUNTY DEPARTMENT OF PURCHASING

## PROCUREMENT PROCEDURES

### SECTION I INTRODUCTION

It is the intent of this Procurement Manual (hereinafter, the “Manual”) to explain to users what the Department of Purchasing (hereinafter “Purchasing”) does, to provide users with information that will enable them to make the most effective use of the services offered by Purchasing, and to allow them to meet their procurement needs in a manner that complies with State Law and County Procedures. It is suggested that the departments read this document closely, ask any questions that are necessary to increase their understanding of the purchasing process, and refer to it as frequently as needed in the course of carrying out their procurement responsibilities. This Manual is reviewed and updated annually.

#### **A. MISSION:**

Purchasing shall promote the County's best interest by providing a professional purchasing system of quality and integrity whereby all persons involved in public purchasing are treated fairly and equitably, the value of public funds are maximized, and a sufficient supply system is available for all departments/agencies.

Purchasing will implement and maintain the purchasing system in full accordance with the requirements set forth in the General Municipal Law (“GML”) of the State of New York, with such local laws as passed by the Ulster County Legislature, and/or with such directives as issued by the Ulster County Executive. Purchasing shall conduct the procurement system for the County in a cost effective, objective manner, devoid of favoritism or special interest influence.

#### **B. GOALS:**

The goal of Purchasing is to make the purchasing process as competitive and objective as possible, while striving to promote high standards for all business relationships. To the extent allowable by NY State Law including General Municipal Law Sections 103 and 104-b, it is also a goal of Purchasing to encourage County departments to consider sustainability, environmental stewardship, and local economic development during the procurement process.

### **C. OBJECTIVES:**

Purchasing's objectives are to obtain, on a timely basis, quality products and services as economically as possible to satisfy the specific needs of our various departments. Purchasing's staff endeavors to assure that the taxpayers receive the maximum value for each dollar expended. The established purchasing objectives center on the need for efficient and effective operations that are responsive to users' needs, and practices that promote sound purchasing management and render the greatest value for the County taxpayers' dollars. With this in mind, Purchasing is charged with accomplishing the following objectives:

- Promote timely procurement of supplies, equipment, and services necessary for the daily operation of the County.
- Promote prudent spending of County funds by obtaining maximum value for purchasing dollars spent by ensuring competition. Promote fair and open competition among vendors in an impartial manner.
- Promote buying techniques that encourage economies of scale, thereby ordering materials and services in large quantities when applicable.
- Provide guidance, oversight, and problem resolution to County departments, and ensure compliance with County purchasing procedures.
- Simplify, clarify, and streamline the procurement process of the County. Make the purchasing procedures practiced by the County as consistent as possible.
- Ensure fair and equitable treatment of all persons/vendors who deal with the County.
- Ensure that all interested suppliers understand how to do business with the County.
- Maintain liaison with vendors providing goods/services to the County, including the resolution of complaints regarding those goods/services.
- Treat all prices and technical information submitted by suppliers as confidential when appropriate, in order to preserve a good business reputation and obtain competitive prices.
- Ensure that, where allowable under NY State Law, local tax dollars are spent on goods made and services provided by vendors located within Ulster County, contiguous counties, and New York State.

### **D. PURCHASING DEPARTMENT'S RESPONSIBILITIES**

Pursuant to GML 104-b(2)(f), the County hereby identifies the individual listed below as responsible for purchasing, as of the date of the last annual review of this Manual:

Marc Rider, Director, Department of Purchasing  
Edward Jordan, Deputy Director, Department of Purchasing  
James Werner, Principal Buyer, Department of Purchasing

Purchasing is charged with providing efficient service to the departments in the procurement of goods and services that are of the best value from responsible vendors. Purchasing is responsible for handling all aspects of the procurement process, including the identification and development of sources, assistance to departments in the development of specifications, solicitation of bids, proposals, and quotations, and interacting with vendors.

All County departments must adhere to the provisions detailed in GML Sections 103 and 104-b, (as such sections may be amended from time to time) regardless of whether they are covered in this Manual. So long as there is compliance with these sections of State Law, the Director of Purchasing shall have ultimate discretion regarding any and all procurements.

## **E. DEPARTMENT RESPONSIBILITIES**

Departments must plan for procurements sufficiently in advance to allow Purchasing to obtain the best price and/or overall service. For purposes here, “department” shall mean and include all departments, units, and agencies of the County. Offices of elected officials are considered a unit of County government.

Purchase orders are based on information and specifications shown on the requisition. Care should be taken so that specifications are adequate to allow someone with little or no knowledge of the merchandise to place the order properly. When requesting parts for machines or equipment, a manufacturer and part number or model number of the unit the parts are for, should be stated on the requisition.

Purchases to be made with grant money should be planned well in advance of the expiration date of the grant. The department shall immediately notify Purchasing what commodities need to be purchased with the grant money to allow for a cost effective purchase and prompt payment. Notifying Purchasing in a timely manner will help ensure that grant money will not be lost.

Grant funding is subject to the same procurement rules of any budgeted dollars.

Employees who are involved in their department’s procurement process are to familiarize themselves with these procedures. Supervisors are to ensure that new employees have read this Manual.

No purchase shall be divided for the purpose of bringing the value of the order down to avoid using more stringent purchasing methods or restrictions, or to avoid statutory competitive bidding requirements.

**SECTION II**  
**GENERAL PURCHASING PROCEDURES**

**A. GENERAL**

1. Only the County Director of Purchasing may commit the County for a purchase. No purchase may be made without a purchase order signed by the Director of Purchasing or his/her designee.
2. The dollar amount of the purchase and/or the commodity/service being acquired is the basis for determining the correct purchasing procedure. This dollar amount is determined on a County-wide basis, not on a departmental basis. The use of commodity codes has enabled Purchasing to easily identify those commodities that require public bids.
3. The Director of Purchasing has the right to make alternative suggestions to the requisitioning department if, in his/her judgment, the specifications would restrict competition, or otherwise preclude the most economical purchase of the required items.
4. When a low bidder proposes an alternative as "an equal" to that which was specified, the Director of Purchasing will consult with the department head or his/her authorized designee to determine the validity of the alternative.
5. Departments must record instances of vendor inconsistency and any evidence of unsatisfactory vendor performance during the course of any contract, and must provide this information to Purchasing immediately. This procedure should be followed each time a vendor does not perform to the standards of our bid or request for proposal. The Director of Purchasing will review the issue and will contact the County Attorney for legal assistance if necessary or prudent.
6. Departments should plan purchases sufficiently in advance to allow Purchasing to obtain the best price and/or overall service.
7. If authorized by Purchasing, departments can obtain and send vendor price quotes to Purchasing once they have entered a requisition. Prior to issuing a purchase order, Purchasing will confirm all price quotes to verify accuracy.
8. It is important to distinguish between contracts for public work and purchase contracts, as these items are not defined in the GML. This distinction is especially important because there is a \$15,000.00 difference between the bidding thresholds. Under Section 103 of General Municipal Law, the bidding threshold for purchase contracts (commodities goods) is \$20,000. The threshold for public work contracts (services) is \$35,000.

In general, purchase contracts involve the acquisition of commodities, materials, supplies or equipment, while contracts for public work involve services, labor or construction. Many times contracts involve both goods and services and it is difficult to determine which bid

limit to apply. Procurements must be reviewed on a case by case basis and a determination must be made as to what kind of contract is involved. As a general rule, if the contract involves a substantial amount of services/labor, such that services are the focal point and the acquisition of goods is incidental, it will be considered a contract for public works. Conversely, if services or labor are only minimal or incidental to the acquisition of goods, it is considered a purchase contract.

For example, a contract for interior painting of a building involves both material (paint) and labor (painting). In most instances, the labor component of the contract will be predominant, making it a contract for public work.

## **B. REQUISITIONS**

Purchasing receives requests for supplies, services and equipment from the departments through the County's financial system. The Purchasing staff reviews each requisition for completeness and determines the correct purchasing procedures for that order.

After reviewing the requisition, the buyer selects the correct processing method to be used to complete the order. Each purchasing staff member is assigned to purchase goods or services based on multiple types of commodities. These staff members will work directly with vendors and issue the appropriate binding purchase order documents.

Requisitions with incomplete product descriptions are rejected back to the requesting department via the County's financial system until enough information is given to properly identify the product being requested. Departments will be notified via the financial system that the requisition has been sent back.

A completed requisition in the County's financial system will include the following:

- Type of Acquisition Name and phone extension of person entering requisition
- Vendor Number/Name
- Contract Number (if applicable)
- "Ship to" Address
- Date item required (realistic)
- Item Requested
- Description of Item
- Unit measure (each, pack, or other)
- Quantity required
- Account to be charged
- Special instructions
- Pricing (if known)

Once Purchasing receives and has reviewed all required information, it will process a requisition into a Purchase Order.

## C. THE PURCHASE ORDER

1. Purchase Orders (hereinafter, the "PO") are processed through the County's Financial System. There are four types of POs in the Financial System: (1) Standard, (2) Requisition, (3) Contract, and (4) Blanket. Once the PO is approved by the Purchasing Director it is sent directly to the vendor via e-mail, fax, or mail. If the PO is for a service, there is not normally a need to send a PO to the vendor because the services have already been performed (often, pursuant to a contract). These general procedures for POs can be and are altered from time to time as agreed upon by Purchasing and the department.

2. Request for Immediate Purchase Order:

If an emergency exists wherein the delay caused by soliciting quotes would endanger the health, welfare or property of the municipality, or more importantly, the individual taxpayer, then the procurement of goods or services will be at the discretion of the proper department head. Documentation as to the nature of the emergency shall be sent to the Director of Purchasing within five (5) working days of such procurement. The emergency purchase must be approved by The County Executive. See also, Section IV, sub-section D, "Emergency Procurements," in this Manual.

Emergency purchase order requests must be kept to a minimum and must be for essential items when the normal delay in processing will significantly affect the operation of the department. Routine items that the department has forgotten to maintain in inventory or for which the department has failed to anticipate a requirement, will not meet the emergency purchase guidelines. An example of an acceptable request would be for a part to repair an essential piece of equipment.

3. Payment:

All invoices shall be sent to the requisitioning department by the vendor.

4. Change Purchase Orders:

Change POs are required when it becomes necessary to increase the dollar amount (10% or more) of a purchase order to cover product price increases, or to cover shipping charge increases.

Change POs may not be used to change the vendor. If the department must change the selected vendor, first cancel the original purchase order through the Financial System and then create a new requisition.

**SECTION III**  
**PROCUREMENTS SUBJECT TO**  
**SEALED COMPETITIVE BIDDING**

Pursuant to GML §103, sealed, competitive bidding is required for the purchase of commodities or group commodities (goods/equipment) with an anticipated value of more than \$20,000, and for public works/services with an anticipated value of more than \$35,000.<sup>1</sup> The competitive bidding process ensures that all bidders receive the same information, and the bid award shall be made to the lowest responsible, responsive bidder or upon determination of best value, depending on which criteria is in the bid specifications.

As authorized by New York General Municipal Law 103, purchase contracts (including contracts for service work, but excluding any purchase contracts necessary for the completion of a public works contract pursuant to article eight of the Labor Law) may be awarded on the basis of best value, as defined in section 163 of the State Finance Law and as authorized in section 103 of the General Municipal Law, to a responsive and responsible offeror. When the bid specifications state that the bid will be awarded on the basis of "best value," the specifications will also include the criteria that will be used to award the bid. In assessing best value when awarding the purchase contract, non-price factors can be considered. Non-price factors can include, but are not limited to, environmental benefits, energy efficiency, reliability of a product, efficiency of operation, difficulty/ease of maintenance, useful lifespan, ability to meet needs regarding timeliness of performance, and experience of a service provider with similar contracts. The basis for a best value award, however, must reflect, whenever possible, objective and quantifiable analysis. Such basis may also identify a quantitative factor for offerors that are small businesses or certified minority- or women-owned business enterprises as defined in subdivisions one, seven, fifteen and twenty of section 310 of the Executive Law.

Planning and gathering information is vital. Sufficient lead-time should be built into the procurement process to permit adequate planning, specification writing, bidding, vendor selections, documentation, etc. Departments must allow sufficient time for Purchasing to review product specifications and/or scopes of work and complete the bid or proposal documents. Additional time will be needed for bids and requests for proposals (RFPs) where the resulting contracts must be processed through Contract Management and approved by the County Executive and/or the Legislature.

Each bid or RFP will be numbered before being published.

- Advertisements for public bids and RFPs are published in the designated official County newspapers which are chosen annually via a resolution of the County Legislature.

Bids and RFPs may be posted on the Empire State Purchasing Group (ESPG) website for viewing and downloading as appropriate.

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<sup>1</sup> Exceptions to the sealed, competitive bidding requirements exist and are set forth in Section IV of this Manual.

Prior to publishing the bid or RFP in our official papers, the requesting department head will be required to approve and sign off on the specifications. They are also required to identify the funding source.

Purchasing will issue bid or proposal packages to vendors/contractors at the advertised location, or the vendors/contractors may download them from the ESPG website. Bid or proposal packages may also be sent to vendors/contractors via First Class Mail, Federal Express, or UPS, if the vendor/contractor furnishes the County with their account number.

All bid or proposal packages picked up at Purchasing or sent out from Purchasing are recorded in the bid file. The ESPG website maintains a record of all interested parties who download the bid or proposal documents from the website.

## **A. DEVELOPING BID SPECIFICATIONS**

Purchasing writes a bid using the department's list of specifications as the criteria against which vendors' bids are evaluated. These specifications must be absolutely clear to all the potential bidders as to not be restrictive in the bidding process. The bid will be awarded to the lowest cost, responsible supplier who meets all of the department's needs, exactly as they were defined by the department in the specifications.

Departments will not be allowed to add or delete requirements after the bids open; the evaluation will be based solely on all requirements set forth in the bid. During the bid process, the vendors must be absolutely certain they are all considering the same thing. The vendor needs to offer the appropriate product at the right price.

A good specification should do four things:

- Identify minimum requirements;
- Allow for competition;
- List reproducible test methods to be used for testing compliance with specifications; and
- Provide for an equitable award at the lowest possible cost, or in the case of best value, provide the criteria that will be used in considering the award.

### **1. Brand Names**

With regard to procurement of goods, brand names can be used in a specification for the purpose of describing the type of product sought. If the department supplies Purchasing with a brand name, Purchasing's buyers will generally specify, "brand name or equal" on the bid or request for quote. A brand name gives the parties involved an idea of what type and quality of product you require. In many cases, several distributors can supply a given brand. Department still must address the most important features or requirements. Since no two brands are identical in all respects, describe in which respects is required for any product offered to be equivalent. Make it clear at the outset what you consider an "equivalent" to be.

## 2. Use of Vendor Specifications

Only departments are qualified to know exactly what their needs are. Avoid turning the job over to a vendor. Vendors' literature is written to describe and promote their products. It is their job to sell their company's product and it is to their benefit to emphasize the uniqueness of their product both verbally and in their product literature.

By copying a vendors' literature rather than writing their own specifications, departments are likely to over-restrict the specifications to the point where only the vendor whose literature has been copied can meet them. This may reduce competition and result in higher costs.

Departments must write their specifications using their own thoughts and words. If Purchasing unknowingly issues a bid based on specifications supplied by a department that are from a specific vendor's literature, a competing vendor may challenge the bid or purchase decision, saying the requirements unfairly favored one vendor and restricted competition. The bids may need to be rejected (or the order canceled), and a new list of requirements developed to more accurately reflect the department's true needs. Departments can avoid delays by spending quality time up-front writing their own, well-thought-out list of requirements.

## 3. Avoid Over Specifying

The department should avoid writing down more than what is actually required to meet their operational needs. The more requirements are added, the more likely it is that it will limit the number of vendors that can offer a product or service to meet them. The department should consider the use of a product or the need for a service and limit requirements to what actually makes sense in your setting.

## 4. Basis For Award

The bid specifications must state whether the bid will be awarded to the lowest responsible, responsive bidder, or upon the basis of best value. The bid specifications must also include the criteria used for the basis for award. An non-exclusive list of acceptable criteria used in evaluating a bid on the basis of best value is stated on page 11 of this manual.

## **B. BIDDERS LIST**

In addition to the required public advertisement, Purchasing posts its Bids/RFPs/Quotes on the ESPG website. Any vendor wishing to have automatic notification must register on the ESPG website and pay a small fee for that service. Vendors who do not wish to have automatic notification may register for free to obtain access to downloading any document. Vendors who register for free have the responsibility of checking the ESPG website to look for business opportunities. Purchasing will no longer maintain lists of vendors for commodities or services.

In order for specifications to be sent to any vendor, that vendor must first contact Purchasing by mail, e-mail or fax, requesting that the specifications be sent via regular mail. Any vendor requesting that specifications be sent by Federal Express or other overnight carrier must pay for this service. No bid or proposal packages will be "faxed" to any vendor under any circumstances.

### **C. BID SECURITY**

There are two different types of circumstances that may require bid security.

1. **PURCHASE OF GOODS OR SERVICES** - A percentage of the estimated bid is required as security and must be in the form of a certified check or bid bond. The certified check and/or bid bond of the awarded vendor is held until Purchasing receives written notification from the requesting department head that bid items or services have been received. The bid security is then returned to the awarded vendor.
2. **CAPITAL IMPROVEMENT or PUBLIC WORKS PROJECTS** - A percentage or fixed dollar amount bid security in the form of a certified check or bid bond is required. Bid security will be five percent (5%) of the total bid amount or a fixed dollar amount. Bid security will be returned once the required performance bonds have been received and the contracts are fully executed.

### **D. PERFORMANCE BOND**

Performance bonds shall be required when bidding capital improvement or public works projects. Bidders are required to submit their performance bonds before or at the time that they sign a contract. This bond will ensure that the bidder fully completes its performance requirements for the municipality between the date of award and the date of completion stated in the contract.

### **E. PREVAILING WAGES**

Prevailing wages consist of pay scales that have been bargained for by the various unions throughout the State and are set by the New York State Department of Labor. Vendors must pay these rates to those employees who work on public projects in any municipal building. These wage rates apply regardless of the dollar amount of the contract. It is extremely important to make sure that bidders/proposers understand that prevailing wages apply for any public works project in County buildings regardless of the dollar value of the contract. Certified payroll reports are required to be filed with the County by the vendor.

### **F. ADDENDUMS**

As stated in the Request for Bid terms and conditions, "only formal, written addenda can alter the bid specifications." When a discrepancy, ambiguity, or omission is revealed in the bid specs, Purchasing will issue an addendum to clarify the bid requirements. The addendum is sent by fax and/or Email to all vendors that have picked up or were mailed bid packages, and the addendum

is also posted on the ESPG website. The first addendum will be labeled "Addendum #1". Subsequent addendums issued will be sequentially labeled. Purchasing will make every effort to ensure that all vendors of record receive addenda.

The addendum procedure will also be used to extend the bid date where additional time is necessary to give the vendors/contractors sufficient time to submit a responsible bid.

## **G. RECEIPT OF BIDS**

(1) Vendors or contractors must mail, express, or otherwise physically deliver sealed bids to the Department of Purchasing office before the bid deadline specified in the legal advertisement. As the bids are received, they are immediately date and time stamped and this bid receipt information is recorded in the Department of Purchasing Bid/Proposal Log. No bids are accepted after the bid deadline. Those received after the bid deadline will be returned to the sender unopened. No "fax" machine transmission or other electronically submitted bids will be accepted under any circumstances. All bids are kept in a secure location.

(2) If authorized by the bid specification, bids may be submitted in an electronic format. Submission in an electronic format may not, however, be required as the sole method for the submission of bids.

(a) The receiving device designated by the County of Ulster will be the ESPG'S e-Procurement software from BidNet, which will be identified in the bid specification. The receiving device will:

- Document the time and date of each bid received electronically;
- Authenticate the identity of the sender;
- Ensure the security of the information transmitted; and
- Ensure confidentiality of the bid until the time and date established for opening of the bids.

(b) The timely submission of an electronic bid in compliance with instructions provided for such submission in the advertisement for bids and/or specifications shall be the sole responsibility of each bidder or prospective bidder. The County shall not incur any liability from delays of or interruptions in the receiving device designated for the submission and receipt of electronic bids.

(3) At the appointed time, the Director of Purchasing, or designee, will announce the names of the bidders whose bids are to be opened. The bids will be opened and read aloud, and the bid prices appropriately recorded.

## **H. BID RECOMMENDATION PROCESS**

All bids received are copied and sent to the requesting department with a memo requesting a review of the submittals. The department must review the bid and advise Purchasing whether it properly responds to the bid specifications. Purchasing shall review the packages and send a

memo of their recommendation to department. If the lowest bidder is not recommended, then a detailed written explanation from the department head must be attached. The Director of Purchasing will review the packages and department recommendation, and, if necessary, contact the County Attorney to clear up any legal technicalities and then will approve or disapprove the department's recommendation. All documentation, including any award justification, must remain with the bid package held by Purchasing.

## **I. BID AWARD PROCESS**

If a contract is required, the department head must submit the contract package with recommendations to the County Attorney's Contract Management Division for appropriate contract review, drafting, and approval. All contracts must be approved by Contract Management, by the County Executive, and in certain instances, by the Ulster County Legislature. Purchasing will process any necessary notice of award or purchase order. When the award process is finalized, the entire bid package becomes a permanent file in Purchasing.

GML Section 104-b, Subdivision 2, paragraph (e) requires that the procedures "require justification and documentation of any contract awarded to other than the lowest responsible bidder or upon the basis of best value, setting forth the reasons such an award furthers the purpose of this section."

Any time an award is made to other than the lowest responsible bidder submitting a quotation or proposal, or upon the basis of best value, there must be justification and documentation of the reason why the purchase was in the best interest of the County, and how the procurement otherwise furthers the purposes of GML Section 104-b.

For example, if a vendor submitting the lowest proposal has a history of not making deliveries on time or of delivering goods of inferior quality, such facts might be justification for taking other than the lowest offer, but such decision must be documented with facts, and the vendor must be given an opportunity to be heard as to any objection prior to awarding the contract to a different vendor.

**SECTION IV**  
**PROCUREMENTS NOT REQUIRING**  
**SEALED COMPETITIVE BIDS**

In addition to the obvious exceptions to the requirements for sealed, competitive bidding (i.e., purchases of goods/equipment that are equal to or less than \$20,000, and purchases of public works/services that are equal to or less than \$35,000), there are a number of other exceptions, some statutory and some resulting from case law, of which all departments should be aware. Each of the exceptions in the list that follows is further explained later in this section.

- A. PROCUREMENTS OF GOODS/EQUIPMENT - \$20,000 OR LESS
- B. PROCUREMENTS OF PUBLIC WORKS/SERVICES - \$35,000 OR LESS
- C. PROFESSIONAL SERVICES
- D. EMERGENCY PROCUREMENTS
- E. SOLE SOURCE PROCUREMENTS
- F. INTER-MUNICIPAL PROCUREMENTS (GOODS/SERVICES OBTAINED THROUGH NYS OGS &/OR FROM OTHER COUNTIES, TOWNS, ETC.)
- G. PROCUREMENTS FROM PREFERRED SOURCES
- H. TRUE LEASES
- I. PROCUREMENTS FROM SURPLUS GOVERNMENT AUCTIONS
- J. PROCUREMENTS RESULTING FROM MANDATES
- K. PROCUREMENTS INVOLVING A NAMED SUB-RECIPIENT IN A GRANT APPLICATION
- L. PROCUREMENTS OF ARCHITECTURAL, ENGINEERING, AND/OR SURVEYING SERVICES BY THE QUALIFICATION-BASED SELECTION (QBS) PROCESS
- M. PROCUREMENTS USING ESTABLISHED NATIONAL AND REGIONAL COOPERATIVE PURCHASING CONTRACTS, INCLUDING BUT NOT LIMITED TO, THE CONTRACTS ISSUED BY THE FOLLOWING ENTITIES: THE U.S. GENERAL SERVICES ADMINISTRATION(GSA) SCHEDULE 70 INFORMATION TECHNOLOGY, MINNESOTA MULTISTATE CONTRACTING ALLIANCE FOR PHARMACY(MMCAP), U.S. COMMUNITIES GOVERNMENT PURCHASING COOPERATIVE, WESTERN STATES CONTRACTING ALLIANCE(WSCA), OR THE NATIONAL JOINT POWERS ALLIANCE(NJPA)

Pursuant to GML§104-b, the County must develop its own procurement procedures for those procurements that are not covered by the sealed competitive bidding requirement. Those procedures must provide for the solicitation of alternative proposals or quotations so that each procurement is in the best interest of the County. Procurements of goods and services that fall below the dollar threshold that would trigger sealed competitive bidding, as well as the other exceptions listed, must still be procured in a manner that (1) assures the prudent and economical use of public moneys in the best interest of the taxpayers of Ulster County, (2) facilitates the acquisition of goods and services of maximum quality at the lowest possible cost under the circumstances, and (3) will guard against favoritism, improvidence, extravagance, fraud, and corruption. To this end, a good-faith effort shall be made to obtain the required number of proposals or quotations for each procurement. Documentation is required for each action taken in connection with each procurement. The Director

of Purchasing, in any situation, may determine that more stringent procurement procedures are in the County’s best interest. **The Director of Purchasing has ultimate discretion with regard to the procedure required for any given procurement.**

**A. PURCHASES OF GOODS/EQUIPMENT/COMMODITIES - \$20,000 OR LESS**

UNDER \$5,000	Awarded at the discretion of the Director of Purchasing.*
\$5,001 - \$20,000	Minimum of three (3) quotes. Written, email or facsimile. Awarded at the discretion of the Director of Purchasing.*
OVER \$20,000	Sealed, public bid per GML §103

If the required number of proposals or quotations cannot be obtained, the attempt made at obtaining them shall be documented and made a part of the procurement file. In no event shall the inability to obtain the proposals or quotations be a bar to the procurement.

\*The Director of Purchasing may determine more stringent procurement requirements are in the best interest of the County.

**B. PURCHASES OF PUBLIC WORKS/SERVICES - \$35,000 OR LESS**

“Public Works” relates to most service contracts, and is not limited to contracts for construction and building services.

UNDER \$10,000	Department should negotiate with the vendor. * Department may recommend Award. Contract Awarded at the discretion of the Director of Purchasing.
\$10,001 - \$35,000	Obtain three (3) written quotes/proposals. * Department may recommend Award. Contract Awarded at the discretion of the Director of Purchasing.
OVER \$35,000	Sealed, Public bid per GML §103

\*The Director of Purchasing may determine more stringent procurement requirements are in the best interest of the County.

**C. PROFESSIONAL SERVICES**

When procuring the services of accountants, clergy, physicians, lawyers, dentists, registered nurses, dieticians, or any other profession that requires licensing, specialized skills and training, expertise, judgment, discretion, a relationship of personal trust or confidence, or a high degree of creativity in the performance of the services (as defined in New York State case law or Opinions of the New York State Comptroller), the department must procure such services in accordance with the procedures below, unless otherwise directed by the Director of Purchasing. Questions as to whether or not the services may be considered “professional services” should be directed to

the Director of Purchasing, who shall have the sole authority to make that determination. The Director of Purchasing may also consult with the County Attorney in this respect for advice in making a determination.

<p>UNDER \$10,000</p>	<p>Department negotiates with the Firm. Department processes Contract through Contract Management. ALL contracts must be approved by the County Executive.</p>
<p>\$10,000 - \$40,000</p>	<p>Obtain three (3) quotes/proposals when possible. Department negotiates with the Firm with the best quote/proposal. Award is made at the discretion of the Purchasing Director. Department processes Contract through Contract Management. ALL contracts must be approved by the County Executive.</p>
<p>OVER \$40,000</p>	<p>At the discretion of the Director of Purchasing, may require a written Request For Proposal (RFP) issued through Purchasing. See Section V for details of RFP process. All contracts must be approved by the County Executive; and in the event that the amount is \$50,000 or more, the contract must also be approved by the County Legislature.</p>

**D. EMERGENCY PROCUREMENTS**

Section 103(4) of GML sets forth an exception to bidding requirements for emergency situations and provides as follows:

"Notwithstanding the provisions of subdivision one of this section, in the case of a public emergency arising out of an accident or other unforeseen occurrence or condition whereby circumstances affecting public buildings, public property or the life, health, safety or property of the inhabitants of a political subdivision or district therein, require immediate action which cannot await competitive bidding, contracts for public work or the purchase of supplies, material or equipment may be let by the appropriate officer, board or agency of a political subdivision or district therein."

Accordingly, the following three basic statutory criteria must be met in order to fall within the emergency exception:

1. The situation must arise out of an accident or unforeseen occurrence or condition;
2. Public buildings, public property, or the life, health, safety or property of the County’s inhabitants must be affected;
3. The situation must require immediate action that cannot await competitive bidding. Even when a governing board passes a resolution that a public emergency exists, the public interest dictates that public purchases are made at the lowest possible cost, seeking competition by informal solicitation of quotes or otherwise, to the extent practicable under the circumstances.

The Office of the State Comptroller has suggested that, to meet these criteria, there generally must be a present, immediate and existing condition that is creating an "imminent danger to public or private property or the life, health or safety of the municipality's residents which makes a further delay in action occasioned by compliance with competitive bidding requirements unwarranted" (1981 Opns St Comp, No. 81-224, P 241). Further, in as much as GML Section 103(4) provides that the emergency must arise out of an accident or unforeseen occurrence, it is doubtful that a local government may invoke the emergency provisions in a situation that is the result of inaction or dilatory behavior on the part of officials and which, therefore, could have been foreseen (1978 Opns St Comp No. 78-780, unreported; see also, Rodin v. Director of Purchasing, 38 Misc. 2d 362, 238 N.Y.S.2d 2 (1963)).

Note that even in an emergency situation, it is in the public interest that purchases be made at the lowest possible cost (Orange Paint v. Scaramuccia, 59 A.D. 2d 894, 399 N.Y.S.2d 52). Thus, the political subdivision should seek competition by informal solicitation of quotes or otherwise, to the extent practicable under the circumstances.

The law cannot be circumvented by a declaration of an emergency that is caused by lack of planning on the part of a department. A "sudden" emergency arising from the gradual deterioration of a piece of equipment or an out-of-stock condition of a routine supply item, will not withstand the legal scrutiny.

The requesting department should contact the Director of Purchasing for the determination that the situation qualifies as an emergency. If the Director of Purchasing deems it necessary or prudent, she/he will contact the County Attorney for an opinion.

When circumstances support an emergency purchase, the requesting department should, with Purchasing's assistance, attempt to locate a source for the goods or services. An attempt should be made to obtain the lowest price from a vendor or contractor who will best meet the requirements. When the supplier and the price have been established, the department head or designee will call Purchasing for emergency purchase procedures. A written determination of the basis for the emergency and for the selection of the particular supplier shall be included in the procurement file. As soon as practicable, a full record of each emergency procurement shall be made and shall set forth the supplier's name, the amount and type of contract, a listing of the item(s) procured under the contract and the identification number of the contract file.

The County Executive has the ultimate power to designate an "emergency purchase" or "emergency project," and may waive normal bidding requirements. If the emergency designation is approved and certified by the County Executive, the requesting department will submit all original backup information, such as the vendors' or contractors' proposed contracts or proposals, quotations, letters, etc. to Purchasing for its records.

## **E. SOLE-SOURCE PROCUREMENTS**

A contract may be awarded without competition when the Director of Purchasing determines, in writing, after a good faith review of available resources, that there is only one source for a particular procurement. The Director of Purchasing, in consultation with the department, shall conduct negotiations, as appropriate, as to price, delivery and terms. A written record of each sole-source procurement including the vendor's name, the amount and type of each contract or purchase order, a listing of the goods or services procured under each contract or purchase order, and the identification number of each contract file or purchase order, shall be maintained by the Director of Purchasing.

Sole-source procurements, without comparative pricing or competitive bidding, should only be used in rare instances. Only in extraordinary cases are goods or services manufactured, sold or performed by solely one entity. Examples of goods or services that might be acceptable for sole-source contracting include licensing of software or required maintenance of equipment by an authorized dealer during warranty.

In determining whether a procurement qualifies for a sole-source exception, the department must document to the Director of Purchasing, at a minimum, the following:

1. The unique benefits to the County of the product or service as compared to other products or services available in the marketplace;
2. That no other product or service provides substantially equivalent or similar benefits;
3. That, considering the benefits received, the cost of the product or service is reasonable in comparison to other products or services in the marketplace;
4. That there is no possibility of competition, as from competing dealers or distributors.

No sole-source contract will be approved without written justification from the department with supporting documentation from the entities manufacturers providing the good or service stating that they are the only source for the required good(s) and/or service(s).

## **F. INTER-MUNICIPAL PROCUREMENTS**

Purchases of materials, equipment, supplies and/or services through the NYS Office of General Services (OGS) may be exempt from competitive bidding or subject to a modified competitive bidding process. If a department's procurement item or service is available under an OGS contract, the department must review the OGS contract to determine the possible bidding requirements. Purchasing can assist with this determination if need be and the Director of Purchasing has the discretion to require competition in this area.

Procurements under contracts of other NYS Counties are not subject to competitive bidding. (GML §103(3))

Procurements using established national and regional cooperative purchasing contracts may not be subject to competitive bidding. Purchasing will help a department determine whether utilizing the cooperative purchasing contract will be in the best interest of the County.

## **G. PROCUREMENTS FROM PREFERRED SOURCES**

New York State Finance Law, §162, provides that procurements from certain “preferred sources” are exempt from competitive bidding. Pursuant to this law and as determined by the Director of Purchasing, procurements from the following entities may be exempt from competitive bidding:

1. Commodities produced by the department of correctional services’ correctional industries program (CORCRAFT).
2. Commodities and services produced by any qualified charitable non-profit-making agency for the blind approved for such purposes by the Commissioner of the Office of Children and Family Services.
3. Commodities and services produced by any special employment program serving mentally ill persons, which shall not be required to be incorporated, and which is operated by facilities within the office of mental health and is approved for such purposes by the Commissioner of Mental Health.
4. Commodities and services produced by any qualified charitable non-profit-making agency for other severely disabled persons approved for such purposes by the Commissioner of Education, or incorporated under the laws of the State of New York and approved for such purposes by the Commissioner of Education.
5. Commodities and services produced by a qualified veterans’ workshop providing job and employment skills training to veterans, where such a workshop is operated by the United States Department of Veterans Affairs and is manufacturing products or performing services within New York State, and where such workshop is approved for such purposes by the Commissioner of Education.
6. Commodities and services produced by any qualified charitable non-profit-making workshop for veterans approved for such purposes by the Commissioner of Education, or incorporated under the laws of New York State and approved for such purposes by the Commissioner of Education.

Departments must consult the Director of Purchasing for a determination as to whether a particular procurement qualifies under this exemption.

## **H. TRUE LEASES**

Equipment leases are not subject to competitive bidding if they meet the following criteria:

1. the term of the lease is less than the useful life of the equipment being leased; AND
2. the lease does NOT provide for a buy out at the end of the term.

The Director of Purchasing has the discretion to require competition in this area.

Leases of real property are not subject to §§103 or 104 of GML.

#### **I. PROCUREMENTS FROM SURPLUS GOVERNMENT AUCTIONS**

If they meet the County's needs, surplus or second-hand supplies, materials, or equipment from the state or federal government or any other political subdivision, district, or public benefit corporation, may be purchased without competitive bidding pursuant to GML §103(6).

#### **J. PROCUREMENTS RESULTING FROM MANDATES**

Where payment rates are established by the federal or state government, or when the County contracts with all qualified providers to procure certain professional services, the department may procure those services without the need to issue a RFP as set forth in Section IV(C) above.

#### **K. PROCUREMENTS INVOLVING A NAMED SUB-RECIPIENT IN A GRANT APPLICATION**

Where a contractor has been identified in an approved grant application as the contractor to perform certain professional services covered by the grant, the department may procure those professional services without the need to issue a RFP as set forth in Section IV(C) above.

However, prior to submitting the grant application, the department must obtain a minimum of three statements of qualifications and cost estimates for the services to be performed. If required under the terms and conditions of the grant, the department shall obtain additional cost quotations.

#### **L. PROCUREMENTS OF ARCHITECTURAL, ENGINEERING, AND/OR SURVEYING SERVICES BY THE QUALIFICATION-BASED SELECTION (QBS) PROCESS**

As a public owner, Ulster County has the right to choose any selection process for professional services, unless restricted by applicable statute. NYS Finance Law, Section 136-a, requires all State agencies to procure professional architectural, engineering, and surveying services using Qualification Based Selection (QBS). Pursuant to the Brooks Act, federally funded projects also require utilization of the QBS process for the procurement of professional architectural, engineering and surveying services. NYS GML, Section 104-b acknowledges that in some instances, professional services are not best procured by the competitive bid method, and allows local governments the latitude and/or option to adopt separate procurement procedures such as QBS.

Therefore, notwithstanding any previous requirements, in those instances when Ulster County receives Federal and State funds to procure Professional Architectural/Engineering/Surveying Services, QBS shall be an exception to the RFP process. When utilizing QBS, the County will establish evaluation criteria, solicit statements of qualifications from interested firms, develop a short list of three (3) to five (5) firms, investigate references and previous jobs, invite certain firms for oral interviews, interview and rank the firms, establish contract terms, ask for a fee proposal and, if agreeable, enter into a formal contract.

**SECTION V**  
**REQUESTS FOR PROPOSALS (RFP)**

A RFP is a competitive process for choosing an individual or firm with which to contract for services. The contract is awarded based on factors such as cost, qualifications, experience and demonstrated ability, and not necessarily to the proposer with the lowest price. These guidelines are for the development, solicitation, evaluation, and award of RFPs consistent with applicable laws and regulations of the Federal Government, New York State, and Ulster County. Generally, a RFP is to be used as a procurement vehicle when the end-user does not have a pre-defined product specification or specifically identifiable service requirement, but rather a set of outcomes or deliverables needed to meet the project objective(s). A RFP allows responding proposers to use their best resources to propose solutions that meet the project objective(s).

A thorough, well-written RFP will help ensure that meaningful and responsive proposals will be received and that the desired ends for the project will be achieved. The RFP must provide the offeror with a clear, unambiguous statement of work for the project, the rules for submitting responsive proposals, a detailed statement of the requirements and goals of the project, instructions on the preparation of the proposal, and the method and criteria for proposal evaluation.

**Guidelines:**

**A. RFP ADMINISTRATION AND PROCESS**

1. RFP Development

Purchasing shall confer with the requesting department in the development and review of the RFP specifications. The head of the requesting department shall be provided with a final draft of the RFP. After reviewing the final draft, the department head and Director of Purchasing shall sign the Specification Approval Form prior to advertisement of the legal notice and release of the solicitation.

The evaluation committee, evaluation criteria, and evaluation weights shall be determined prior to release of the solicitation. The weight for each evaluation criterion shall be determined by Purchasing, with the advice of the requesting department, and will be based on its importance to the overall evaluation of the submittals. Weights shall be percentage based, and the total weights for all the evaluation criteria shall equal 100%.

2. Forming a RFP Development Team

Assembling a competent development team at the outset of the process is essential. RFP development team members should be carefully selected on the basis of their individual skills and potential contributions. The team should consist of staff members of the department who have an interest or expertise in the services to be procured. The team should be given sufficient time and resources to participate in the planning and implementation process.

### 3. Forming the Evaluation Committee

Prior to solicitation, the requesting department, with advice from Purchasing, will form an “evaluation committee” of knowledgeable personnel to evaluate and recommend an award of the RFP. It should be made clear to evaluation committee members from the outset that their duties may require significant time and effort.

There is no restriction as to how many people there may be on the evaluation committee. It is recommended that a minimum of three (3) individuals be considered, and the committee should be diverse, with expertise and knowledge of the product or service being procured.

Prior to commencement of the evaluation process, each evaluation committee member will be provided with the RFP guidelines, a copy of the RFP specifications, the scoring criteria, and tally sheets for their review.

### 4. Purchasing’s Role

Purchasing’s knowledge, experience, influence, and consistency are critical to the successful completion of the RFP process. Purchasing personnel seldom serve as scoring members of the evaluation committee, but will facilitate the process and perform the following responsibilities:

- Collaborate with department staff in drafting the RFP specifications;
- Manage the entire RFP process;
- Issue all addenda in response to inquiries and questions;
- Instruct the evaluation committee members regarding the RFP process, the terms of the subject RFP, and the evaluation process detailed in the RFP, so that committee members understand the RFP process and their role and responsibilities in it;
- Facilitate and manage the proposal evaluation process;
- Oversee the review of technical proposals for responsiveness to mandatory requirements;
- Conduct and coordinate any oral presentations and written clarifications with proposers;
- Maintain the project file during the RFP process; and
- Organize the permanent file documenting the entire RFP process.

Protests, appeals and lawsuits may result from the RFP process. It shall be Purchasing’s responsibility to assist the County Attorney if one of these actions occurs. Such actions may or may not center on the activities of the evaluation committee. A protestor may review the scoring of the evaluation team. Therefore, it is essential that evaluators score the proposers in a consistent and explainable manner.

### 5. Role of the Evaluators

- Committee members are required to sign an Evaluation Committee Member Statement form prior to receiving the submitted proposals.
- Evaluators are instructed not to discuss any part of the proposals other than with the evaluations committee members.

- Members are to read and score each proposal independently, without conferring with other committee members.
- For uniformity in scoring, the evaluators are to use the evaluation form supplied by Purchasing.
- All scores must be supported by rational and sufficient documentation to substantiate the evaluators' judgment.
- A facilitator, usually the buyer managing the RFP, should be assigned to serve as a proctor for all meetings of the evaluation committee and to document all evaluation discussions, forms, scoring, and recommendations.
- After each of the evaluators has independently scored the proposals, the committee as a whole will meet to discuss the findings of each member, and to develop a composite score for each proposal. If one or more of the evaluators' scores differ greatly from the majority, the committee should discuss the resulting scoring to ascertain that the criteria were clear to all. If an evaluator feels at this point that he/she did not understand the criteria, or did not understand the proposal, he/she may, at his/her discretion, revise the evaluation. At the end of the process, all evaluation scoring forms are turned in to Purchasing to become part of the public record.

#### 6. Conflict of Interest

A conflict of interest exists whenever there is a situation in which an evaluation committee member, advisor or consultant may have a financial or other interest or prejudice through current or past association or relationship with any responding offeror. Any individual who believes a potential conflict of interest exists must inform Purchasing immediately. The Director of Purchasing may contact the Ulster County Board of Ethics and/or the County Attorney for an opinion, if the Director of Purchasing deems it necessary or prudent to do so.

#### 7. RFP Solicitation Phase

Legal Notices for RFP's shall be published in the official newspapers of Ulster County. Upon vendors' fax or email request, Purchasing can send RFPs to vendors via US Mail. When applicable, vendors can download RFPs directly from the HVMPG website.

Departments should compile a list of qualified potential vendors that they would like notified of the RFP, and should forward to Purchasing a written list containing the vendor name, contact person, mailing address, email address, phone number and fax number of each of those vendors. Purchasing no longer keeps potential vendor lists for any products or services.

#### 8. Local Economic Development

Each RFP will include Local Economic Development as an evaluation criterion. Local Economic Development will have a weighted score of five percent of the total evaluation score. Ulster County vendors will receive five points, vendors from a contiguous county will receive three points, and vendors from New York State will receive one point.

## **B. RFP LAYOUT AND CONTENT**

The layout and content of all RFPs will include information and requirements from both the department and from Purchasing. Details of the project to be described in the RFP will primarily be the responsibility of the department, while other information such as standard clauses and the form of the RFP will be Purchasing's responsibility. While RFPs will vary from project to project, they will typically follow a basic outline:

1. Background Information
2. Objectives and Technical Requirements (Scope of Work)
3. Cost/Budget Proposal Requirements
4. Contractual Terms and Conditions
5. Administrative Information
6. Proposal Format and Content
7. Proposal Evaluation Criteria
8. Relevant Attachments
9. Standard Returnable Documents

With the assistance of Purchasing, the department will be primarily responsible for developing the background information, objectives and technical requirements (scope of work), cost/budget proposal requirements and the evaluation criteria. The department is also responsible for any attachments to the RFP that may be required.

Purchasing will provide the language for the contractual terms and conditions, administrative information (e.g., contact and pre-bidder's conference information), proposal format and content (e.g., required proposal sections and their order), and standard submission return forms.

### **1. Background Information**

This section of the RFP contains background information for those interested in responding to the RFP (hereinafter "proposers"). Background information should include a description of the function of the department for which the services are required, a fairly detailed explanation of why the services are needed, a description of the method or system presently employed (including any existing deficiencies), the staff and resources available, and the objectives of the department. This is a reasonably brief summary of the existing problem and the approach to a solution preferred by the department. The details of tasks are reserved for the scope of work section. For human services RFPs, any current data and demographic information on the target population or utilization of services should also be included here.

### **2. Objectives and Technical Requirements - Scope of Work (SOW)**

This is a detailed description of the work to be performed by the proposer. A well-written SOW enhances the opportunity for all potential proposers to compete equally for County projects and serves as the standard for determining if the proposer meets the stated performance requirements. The SOW should specify in clear, understandable terms the work to be performed by a proposer. Preparation of an effective SOW requires both an understanding of the services that are needed to satisfy a particular requirement and an

ability to define what is required in specific, performance-based, quantitative terms. A SOW prepared in explicit terms will enable proposers to clearly understand the County's needs. This facilitates the preparation of responsive proposals and delivery of the required services while shifting the responsibility for preparing the SOW from the County to those responding to the RFP.

Any technical requirements that proposers must meet as an organization or comply with in their proposed program should be detailed in this section. This section should also include any regulatory or legal requirements that must be followed.

The department will need to develop the objectives that the selected proposal will be expected to accomplish. Note: Objectives are not simple benchmarks or milestones (e.g., X number of children receive treatment per month). They should be the outcomes you are looking to achieve (e.g., reduce by X% the number of children being hospitalized).

### 3. Cost/Budget Proposal Requirements

The department requesting the RFP will be responsible for the details in this section, although certain language is standard in all RFPs and will be provided by Purchasing. The department should describe the form and cost breakdown required for this particular project. If attaching a budget form for proposers to complete, it should be included in this section. Any funding information applicable to the project should be included in this section, even if it has been or will be included in other sections.

### 4. Contract Terms and Conditions

This section of the RFP includes any particular terms and conditions that apply specifically to the RFP. A sample contract template for the resulting award is included along with any additional paragraphs, agreements or other required contractual language pertinent to the RFP.

### 5. Administrative Information

All information regarding the RFP submission is included in this section. Details of date and time the RFP is due, address of the office receiving submissions, and contact information are listed. Instructions as to how and where questions are submitted (in writing) and answered (usually by the issuance of an addendum) are detailed. The date and time of any pre-bid meeting is included. If included, the Receipt Confirmation Form and any other instructions and information regarding the submission of a response to an RFP would be included in this section.

### 6. Proposal Format and Content

In order to have all responses in the same format to permit an organized evaluation of all proposals, a detailed format is provided to the proposers as to the form and order the proposals are to be written.

## 7. Proposal Evaluation Criteria

Proposers need to know the criteria upon which the proposals will be judged. Evaluation criteria should be carefully developed, well thought out, and should provide a comprehensive array of qualities on which to judge the proposers. Multiple criteria that are similar to one another, or criteria that can be ambiguous or unclear, should be avoided. Criteria should be chosen and weighted based upon importance to the project and the mission, and as a factor in successfully meeting the project objectives. Criteria that are not relevant or important to the project should not be included. The weight given to the criteria must be stated in the RFP

## 8. Relevant Attachments

Any document that provides additional information useful in the preparation of the proposer response relevant to the project or work to be undertaken is to be included as an attachment or appendix.

## 9. Standard returnable documents

Several Standard Purchasing Department Forms are required to be completed, signed and returned with all procurement submissions. These include Certification and Signature Form / Affidavit of Non-Collusion, Assumed Name Certification, Vendors Organization Information.

## **C. COMMUNICATION/CONTACT BETWEEN RFP PROPOSERS AND COUNTY**

### 1. Proposer Questions and/or Inquiries

Once the legal notice has been published, and the RFPs have been distributed, all proposer questions should be directed, in writing, to the Director of Purchasing. Under no circumstances should a department answer hypothetical or speculative “what if” questions.

Purchasing will answer all substantive written questions by issuing an addendum to the RFP.

### 2. Pre-Proposal Conferences

Based on the scope and technical requirements of a RFP, a pre-proposal conference may be required. If a pre-proposal conference is conducted, modifications to the RFP may result. The pre-proposal conference provides an opportunity to:

- Review the requirements;
- Facilitate a clear understanding of the scope of work; and
- Promote competition.

The pre-proposal conference is a meeting of potential respondents, Purchasing, and the requesting department’s technical representative. A sign-in sheet will be distributed to

collect the attendee names, company names, and phone numbers. Some questions may be answered immediately, while others may require additional analysis. For questions requiring additional analysis, Purchasing will indicate to the attendees that there will be a response in writing made in a timely manner before the scheduled opening, or if necessary, the opening will be rescheduled. All questions will be addressed in a subsequent addendum.

3. Addenda

If needed, addenda to the RFP may be issued to correct any inconsistencies in the RFP, revise elements of the RFP, and/or respond to inquiries by potential respondents. Purchasing will be responsible for coordination of the subject matter and for issuing the addenda. The addenda are sent to all vendors who are known to possess a copy of the RFP.

**D. POST RFP DEADLINE AND EVALUATION**

1. RFP Closing

After the proposal due date and time, names of the respondents may be released so long as an award has been made by the Director of Purchasing. Such awards shall be subject to contract approval by the County Executive, and in the case of contracts that are \$50,000 or more, by the County Legislature. No other information is given until the County has a signed contract with the awarded proposer. Unlike a bid, there is no public opening of the responses to a RFP.

2. RFP Evaluation

After the RFP has closed, Purchasing will distribute copies of all responses to the members of the evaluation committee, with the original responses kept in Purchasing's permanent file. Purchasing shall distribute copies of all responses, with the scoring matrix, to the evaluation committee members.

Prior to the initial evaluation committee meeting, each committee member is to score all proposals independently against the evaluation criteria identified in the RFP. No other criteria may be used in the scoring. Each committee member's scoring should provide written justification and/or explanations for each score given under each criterion. When all evaluation committee members have completed their scoring, the facilitator will tabulate the results and identify the top rated proposer(s) for award consideration.

3. Oral Presentations

Oral presentations are scheduled to clarify or verify the proposer's written proposal and should be used when appropriate. They may be restricted to only those proposers with the highest scores after the initial evaluation of all proposals. Purchasing, in coordination with the requesting department, shall develop discussion points and questions for the proposers to address during their presentations. All invited proposers will be afforded equal time for their presentations.

All members of the evaluation committee should attend each presentation. Details of competing proposals should not be discussed during presentations. The proposer's presentation and answers to the evaluation committee's questions may enhance the proposer's score in the evaluation areas of the RFP. The evaluation committee then again discusses the proposers' written submissions and oral presentations and may re-evaluate and make changes to the scores of the proposers based on the information received from the presentations.

#### 4. RFP Award Phase

After the responses to the RFP have been evaluated and tabulated, or re-evaluated after oral presentations, the committee shall make a formal written recommendation to Purchasing.

The facilitator will then prepare minutes of the evaluation process summarizing the committee's findings, and documenting the committee's conclusion.

Purchasing will issue a Notice of Award to the successful proposer, and will provide a copy of that vendor's Scope of Work and Fee Proposal to the department to be used to complete the contract. The department head shall process the tentative contract for approval through the County Attorney's Contract Management Division.

## **SECTION VI** **BID/RFP PROTEST PROCEDURES**

This Section sets forth the procedures for handling bid and/or RFP protests and appeals. In this Section VI, for the purpose of simplicity, the bidders and proposers will be referred to collectively as “bidders;” and the bids and RFPs will be referred to collectively as “bids.”

### **A. OVERVIEW**

Purchasing provides all bidders with the opportunity to administratively resolve complaints or inquiries related to bid solicitations or pending contract awards. The Director of Purchasing encourages bidders to seek resolution of complaints concerning the contract award process through consultation with Purchasing. All such matters will be accorded impartial and timely consideration.

### **B. INFORMAL COMPLAINTS/PROTESTS**

It is strongly recommended that staff encourage, be receptive to, and resolve issues, inquiries, questions and complaints on an informal basis, whenever possible. Information provided by any interested party should be fully reviewed by Purchasing’s Buying staff and the Director of Purchasing. As appropriate, the County’s responses to the inquirer should indicate the existence of a formal protest procedure available to them should the informal process fail to resolve the matter. Staff should document the subject matter and results of any informal inquiries.

### **C. FORMAL PROTESTS**

Bidders may file formal written protests. Final County determinations or recommendations for award may only be reconsidered in the context of a formal written protest.

Any potential bidder, who believes they have been aggrieved in the drafting or issuance of a bid solicitation, or by a pending contract award, may present to Purchasing, a formal complaint and request for administrative relief concerning such action (“Formal Protest”).

#### **1. Submission of Protests:**

- a. Concerning Bid Documents: Formal Protests that concern the drafting of bid solicitations must be received by Purchasing at least ten (10) business days before the date set in the solicitation for receipt of bids. If the date set in the solicitation for receipt of bids is less than ten (10) business days from the date of issue, Formal Protests concerning the bid document must be received by Purchasing at least twenty-four (24) hours before the time designated for receipt of bids.
- b. Concerning Proposed Contract Award: Formal Protests concerning a pending contract award must be received within ten (10) business days after the protesting party (“protester”) knows or should have known of the facts that form the basis of the Protest.

- c. A Formal Protest must be submitted in writing to Ulster County Purchasing Department by mail, facsimile transmission, or email to: [purchase@co.ulster.ny.us](mailto:purchase@co.ulster.ny.us).
- d. A Formal Protest must include:
  - (1) bid number and protester's contact information,
  - (2) a statement of all grounds for disagreement with a bid solicitation or procurement determination,
  - (3) a description of all remedies or relief requested, and
  - (4) all applicable supporting documentation.
- e. Protests should be delivered to the Director of Purchasing at the following address:

**U. C. Purchasing Department**  
**County of Ulster**  
244 Fair Street  
PO Box 1800  
Kingston, NY 12402-1800  
Facsimile: (845) 340-3434  
Phone: 845) 340-3400

## **2. Review and Determination**

- a. Protests may be resolved through verbal or written correspondence, and/or either the protester or the Director of Purchasing may request a meeting to discuss a Formal Protest, at which time the participants may present their concerns. Where further formal resolution is required, the Director of Purchasing shall assign another County Official not involved in the procurement action to determine and undertake the resolution or settlement of any Protest relative to bid solicitations or pending contract awards.
- b. Purchasing's staff person who drafted the solicitation documents will conduct a review of the records involved in the Protest and provide a memorandum to the Director of Purchasing summarizing the results of the review and her/his recommendation for resolution. The Director of Purchasing will evaluate the staff person's recommendation, the material presented by the protester, and, if necessary, consult with the County Attorney, and prepare a draft response to the Protest.
- c. Acceptable Activity Prior to Final Determination: When a Formal Protest is received by Purchasing, a final determination on the Protest should be made prior to approval of the award. However, during the pendency of the Protest, bid evaluation and review of the recommended award may continue to be conducted at the discretion of the Director of Purchasing.
- d. Notice of Decision: A copy of the decision, stating the basis for the decision and informing the protester of the right to appeal an unfavorable decision to the Director of Purchasing shall be sent to the protester or its agent within thirty (30) business days of

receipt of the Protest, except that upon notice to the protester such period may be extended. The Protest determination should be recorded and included in the Bid file.

- e. Purchasing reserves the right to waive or extend the time requirements for decisions and appeals herein prescribed when, in its sole judgment, circumstances so warrant.

Purchasing will consider all information relevant to the Protest, and may, at its discretion, suspend, modify, or cancel the protested procurement action including solicitation of bids, or withdrawal of the recommendation of contract award prior to issuance of a Formal Protest decision.

If Purchasing determines that there are compelling circumstances, including the need to proceed immediately with contract award in the best interest of the County, then these Protest procedures may be suspended and such determination shall be documented in the Bid file.

### **3. Appeals**

- a. Should the protester be dissatisfied with the Protest determination, a written appeal therefrom may be directed to:

**Ulster County Executive**  
244 Fair Street  
PO Box 1800  
Kingston, NY 12402-1800  
Facsimile: (845) 334-5724  
Telephone: (845) 340-3800

- b. Written notice of appeal of a determination regarding bid solicitations or a pending contract award must be received at the above address no more than fifteen (15) business days after the date the decision is sent to the protester. The decision of the Director of Purchasing shall be a final and conclusive agency determination unless appealed to the County Executive within such time period.
- c. The County Executive shall hear and make a final determination on all appeals. The County Executive may designate a person or persons to act on his/her behalf.
- d. A formal protest appeal may not introduce new facts unless responding to issues raised by the Director of Purchasing in the initial protest determination.

### **4. Records Retention**

All records related to bidder Protests and appeals shall be retained for at least one (1) year following resolution of the Protest. All other records shall be retained according to the Records Retention Policy in place at the time.

**SECTION VII**  
**CONTRACT APPROVAL**

Pursuant to the Ulster County Charter, which took effect January 1, 2009, contracts must be approved by the County Executive and/or the County Legislature, depending on the amount of the contract, and in some instances, the type of contract.

**A. COUNTY EXECUTIVE:**

Pursuant to Section C-25(m) of the Ulster County Charter and Section A3-4(x) of the Ulster County Administrative Code, the County Executive is empowered to approve and execute contracts in amounts less than fifty thousand dollars (<\$50,000.00) without Legislative approval. Under Section A3-4 (X) of the Ulster County Administrative Code, the approval procedure requires the County Executive to approve these contracts via an abstract process; and upon approval of the abstract by the County Executive, the Director of Purchasing shall have the authority to execute the contracts as provided in Section C-74(B)(2) of the County Charter.

**B. COUNTY LEGISLATURE:**

Pursuant to Section C-11(o) of the Ulster County Charter and Section A2-5(15) of the Ulster county Administrative Code, the County Legislature is empowered to approve contracts for execution by the County Executive in amounts equal to or greater than fifty thousand dollars ( $\geq$ \$50,000.00). Section A2-5(A)(15)(b) of the Ulster County Administrative Code provides for an approval procedure that requires the County Legislature to approve these contracts via a resolution. Upon subsequent approval of the resolution by the County Executive, the Director of Purchasing shall have the authority to execute the contracts as provided in Section C-74(B)(2) of the County Charter. In addition, Section A3-4(Y) of the Administrative Code provides that the County Legislature shall have the power, or may otherwise delegate such power to the County Executive, to approve contracts for (1) the sale, purchase or transfer of real property, or (2) the provision of facilities or rendering of services by or for any other government. Inter-municipal agreements are also subject to approval by the County Legislature pursuant to Section 119-o of New York's GML. Pursuant to Section C-11(I) of the County Charter, the Legislature has the power to approve all labor contracts.

**SECTION VIII**  
**PROCUREMENT CARDS**

Ulster County recognizes that the use of procurement cards is a practical alternative to the use of purchase orders or petty cash for high-volume, low-value purchases. The purpose of the procurement card program is to streamline and simplify the requisitioning, purchasing and payment process for small dollar transactions, non-recurring transactions and miscellaneous travel-related expenses.

**PROCEDURE:**

**A. Issuance**

1. Credit card request is made by the department head to the Program Administrator in Purchasing (334-5574) on form **I-02**. The Program Administrator shall be designated by the Director of Purchasing.
2. Credit cards will be in the custody of and managed by the department head and/or designee, whose responsibility shall include keeping records of all credit card use.

**B. Use**

**1. Procurement credit cards:**

A critical element of this program is the retention of all receipts and prompt reconciliation of statements to these receipts.

- a. Procurement cards should only be used if the vendor doesn't accept a purchase order for the following:
  - air fare
  - car rental
  - lodging
  - other travel expenses such as parking fees and tolls
  - gas
  - goods and services not otherwise obtainable
  - to take advantage of lower pricing and potential discounts
  - to prepay for conference attendance **ONLY AFTER** a Conference Attendance Approval form has been completed and approved.

When a conference attendance is required, a Conference Attendance Approval form must be completed and approved prior to booking and charging to the procurement card.

- b. The following is a partial list of items that may **not** be purchased with procurement cards regardless of the dollar amount. Any attempt to purchase these items will be declined by the procurement card company:
- Alcoholic beverages
  - Any items for personal use
  - Association dues/memberships: unless approved copy of SOP form **D-06** is provided
  - Cash advances
  - County contract items
  - Professional services
  - Entertainment

Equipment and commodities that currently go through the Executive Approval process must continue with that process. If you have a unique situation, contact the Program Administrator @ 334-5574 and an exception may be arranged.

- c. The County of Ulster is a tax-exempt organization. Therefore, **DO NOT** pay sales tax on purchases made with the procurement card.

NOTE: Cardholders are responsible for informing the vendors that Ulster County is exempt from New York State sales tax and New York State Occupancy Tax. The County's tax-exempt information is printed on the card. When using your card, if a vendor will not process the transaction as tax-exempt, do not complete the transaction. For an occupancy tax exemption form, go to [www.tax.state.ny.us](http://www.tax.state.ny.us) and search for form ST-129.

- d. Receipts are required for every purchase and shall immediately be given to the department head or designee. The card user must sign the receipt, print his/her name below the signature, and state a brief reason for the charge. When a purchase is made, the cardholder must obtain the customer's copy of the charge slip in addition to the detailed invoice/receipt. The charge slip or related cash register slip/receipt must show in sufficient detail the type and number of items purchased with the unit cost. Should a detailed receipt not be available, the cardholder shall submit a written detail along with the receipt.
- e. If for some reason the cardholder does not have documentation of the transaction to send with the statement, the cardholder must try to obtain a copy, and if this is not possible, a description of the purchase must be attached. This will include a description of each item, the number of items purchased, the unit cost, the date of purchase, the vendor's name, and the reason(s) why there is no supporting documentation. Continued incidents of missing documentation shall result in the cancellation of the employee procurement card(s) and further disciplinary action as may be needed.
- f. Refunds and exchanges must be credited directly back to the Procurement Card account. Under no circumstances shall cash be received for refunds or exchanges.

- g. The Procurement Card should be treated with the highest level of security as cardholders treat their personal credit cards. Lost or stolen cards shall be immediately reported to JP Morgan Chase Bank at 1-800-316-6056, the card user's Department Head, and the Program Administrator at (845) 334-5574.

Replacement cards may be authorized by the Department Head and the Program Administrator on form I-04.

### C. Conditions

1. The billing cycle for procurement cards begins on the 27<sup>th</sup> of each month through the 26<sup>th</sup> of the following month. A monthly statement will be printed with detail, signed by the Program Administrator as original, and mailed to each cardholder in a blue inter-office envelope after the 26<sup>th</sup> day of the month. The cardholder will reconcile all receipts with the monthly statement and forward it for approval to the Department Head or designee. After approval, all documentation and the New World invoice batch must be forwarded to Finance for payment **within five (5) calendar days from receipt of the statement**. If you are planning a vacation, you must submit all receipts to your Department Head or designee before you leave. Vacation, sickness, or time off are not an excuse for missing the submission deadline.
2. **If this information is not submitted on time, your card privileges will be canceled. There are substantial penalties to the County for late payment; therefore, late submissions will not be tolerated.**
3. Any unauthorized purchases or charges with or without receipts will be the responsibility of the person making the purchase. A check for payment in full, made out to the Ulster County Commissioner of Finance, should accompany the **current statement**. The employee is responsible for all late fees, interest and additional charges incurred due to failure to follow procedure.
4. Employees given the authority to use the procurement card(s) will acknowledge understanding of the rules and procedures by signing in the appropriate area on form **I-03** prior to use. **When you receive your procurement card, please write on the signatory line "REQUEST PHOTO ID".**
5. **Any employee violating any of the conditions of the procurement card program may be subject to disciplinary action up to and including termination and possible criminal prosecution.**

### D. Rules and Procedures

Purchasing, after consultation with the County Executive and the County Budget Director, is authorized to implement procedures for the use of procurement cards for the purchase of goods or services. This program shall be designed to shorten the approval process and reduce the paperwork or procurement procedures such as purchase orders, petty cash, check requests and

expense reimbursements. Notwithstanding this authority, such procedures must include the following provisions:

1. Each transaction shall be limited to One Thousand and 00/100 (\$1000.00) Dollars. This limit may only be exceeded with prior written approval of the Director of Purchasing or his/her designee. The limit may also be exceeded when used for approved out-of-County travel; however, the limit may only be exceeded for airplane fares, vehicle rental and other actual travel expenses (e.g., tolls, parking fees, etc.).
2. Procurement card(s) may not be used for the following:
  - a. Personal purchases of any kind;
  - b. Cash advances;
  - c. Items requiring technical review or subject to external approval (such as approval of computer equipment purchases); and
  - d. Travel expenses (except as otherwise noted).
3. Each department that requests procurement card(s) must:
  - a. send a completed Procurement Card Request Form (I-02), including department's Deputy County Executive approval, and forward it to the Program Administrator;
  - b. identify the employee(s) who will be authorized to use each procurement card, including designees;
  - c. upon receipt of their card, read and sign form **I-03**, Acknowledgement of Card Receipt and Card Holder Agreement, in the presence of the Program Administrator.

The above information must be provided for each procurement card issued to a department.

4. Purchasing shall also develop internal controls for each department to ensure proper use of each procurement card(s). These internal controls shall include the following:
  - a. Dollar limits on each transaction (not to exceed \$1,000, except as noted in paragraph 1 of this section), if deemed necessary;
  - b. Total monthly spending limits;
  - c. The number of transactions allowed per specified time period (limit may be daily, weekly or monthly), if deemed necessary;
  - d. Security measures to prevent theft, loss or unauthorized use, including procedures for obtaining, safeguarding and returning cards;
  - e. A system that tracks expenditures as they occur. Such a system must give up-to-date information on purchases and funds expended; and
  - f. The types of goods and services that are not authorized for procurement card purchases.

Such materials and information must be provided for each procurement card issued to a department.

5. The issuance of any procurement card(s) to a department must be approved by the Program Administrator and the Deputy County Executive responsible for this department..
6. Procurement card(s) must be kept in a secure (locked) location when not in use.
7. Only one employee will be authorized to use each procurement card. The Department Head may assign a designee to use the card if the cardholder is unavailable. The Program Administrator must be informed of said designee. Issuance to a specific employee must be approved by the employee's Department Head and the Director of Purchasing. Any unauthorized purchases made with a procurement card shall be the responsibility of said employee. Said employee must sign an acknowledgment and disclosure form prior to receiving a procurement card.
8. All procurement card purchases must receive prior approval by the employee's department head or his or her designee(s).
9. Any misuse of the procurement card or misrepresentation while using a procurement card shall (a) require the immediate suspension of all procurement card privileges by the relevant department and (b) be grounds for discipline up to and including termination of employment.
10. Each employee who is authorized to use a procurement card must reconcile his or her procurement card statement and purchases at least twice each month in order to verify that all charges are proper and the correct amounts have been charged. The Director of Purchasing shall determine the dates when such reconciliation statements must be submitted. The employee who is authorized to use a procurement card and his/her department head or the department head's designee shall sign the reconciliation statement to indicate approval and to insure that all charges are proper and the correct amounts have been charged. The reconciliation must include receipts for each use of the procurement card and a brief description of the good or service purchased. Original receipts, invoices and credit slips from each purchase must be provided for reconciliation and audits. Photocopies will not be acceptable. These documents should be attached to the appropriate monthly statement and retained for review. An approved Conference Travel Approval form must also accompany any receipts for expenses incurred during out-of-County travel. Upon request, an additional detailed and written explanation must be provided for any use of a procurement card.
11. It shall be the responsibility of each employee who is authorized to use a procurement card to contact the vendor and/or procurement card issuer directly regarding any discrepancies between the receipt and statement. The Director of Purchasing and the County Budget Director must also be notified of any discrepancies.
12. The department head and/or the Director of Purchasing may suspend or revoke the privilege of any employee to use a procurement card at any time. Further, the Director of Purchasing, with just cause, may suspend the privilege of procurement card use for any

department. For the purposes of this program, the term, "just cause" includes, but is not limited to, failure to comply with procedures regarding the use of procurement card(s).

13. The Director of Purchasing shall conduct a periodic review of each procurement card and supporting documentation and departmental procedures on a continuous basis to ensure compliance. The Director of Purchasing shall, after consultation with the County Comptroller and County Budget Director, develop and promulgate the practices and procedures for conducting these reviews. Failure to comply or cooperate with an audit may result in the suspension or revocation of the privilege of any employee or department to use procurement card(s).
14. In addition to the provisions contained herein and those implemented by the Director of Purchasing, a department head may implement additional rules regarding the use of procurement cards. Such additional rules shall not supersede the procedures implemented by the Director of Purchasing or contained herein.

#### **E. Termination or Transfer of Cardholder**

When an employee ends his or her County employment or is transferred to another department, the department head or designee must collect the procurement card. If the department is unable to collect the card when an employee terminates, the department head must immediately notify the Program Administrator in Purchasing, who will ensure that the card is cancelled.

**SECTION IX**  
**E-PROCUREMENT**

Purchasing participates in the ESPG (Empire State Purchasing Group) e-procurement system. This system provides one centralized bidding and registration system for vendors as a single point of contact with broader access to new business opportunities throughout our community. This system, developed in conjunction with a local company, BidNet, allows Ulster County and other local municipalities to post invitations to bid, informal quotes, requests for proposals, construction notices, addenda and awards all on one centralized system. It also allows bidders to file their bids electronically, and will safeguard the integrity of the sealed electronic bid until it is time to publicly open the bid. This type of system will save County taxpayers money, expand economic opportunities for businesses throughout the County, reduce time spent acquiring goods, and improve the customer service levels of the County purchasing function.

**SECTION X**  
**SALE OF COUNTY SURPLUS PERSONAL PROPERTY**

If a Department Head determines that an item or items of County property (other than real property) is no longer useful, the Director of Purchasing may utilize an electronic auctioning service such as eBay, or an equivalent service provider, to dispose of said property without notification in the official publications of the County. On-site auctions will require advertising legal notices in assigned newspapers.